

9211

2009-2010 Regular Sessions

I N   A S S E M B L Y

October 21, 2009

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Introduced by M. of A. ZEBROWSKI, FIELDS -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to restricting the use of tanning facilities by persons under eighteen years of age

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 3555 of the public health law, as added by chapter  
2     573 of the laws of 2006, is amended to read as follows:  
3     S 3555. Restrictions on the use of ultraviolet radiation devices. 1.  
4     No owner, operator, or employee of a tanning facility shall permit the  
5     use of the tanning facility by a person eighteen years of age or older  
6     until such person provides a driver's license or other photographic  
7     identification card issued by a government entity or educational insti-  
8     tution indicating that the individual is at least eighteen years of age  
9     and the facility has on file a signed written statement, in a form  
10    prescribed by the commissioner, acknowledging that such person has read  
11    the warnings required under subdivision two of section thirty-five  
12    hundred fifty-four of this article and agrees to wear safety goggles  
13    before using an ultraviolet radiation device. Such signed statement of  
14    acknowledgment may be retained by the tanning facility off premises  
15    provided that an electronic image or facsimile of the original signed  
16    statement of acknowledgment is readily available by the owner or employ-  
17    ee responsible for the operation of the ultraviolet radiation device of  
18    such facility.  
19    2. No owner, operator, or employee of a tanning facility shall permit  
20    the use of an ultraviolet radiation device by a person fourteen to eigh-  
21    teen years of age [until such person provides the tanning facility with  
22    the written consent, in a form prescribed by the commissioner, of a  
23    parent or legal guardian to use such tanning facility. The parent or  
24    legal guardian shall sign such consent form in the presence of the owner  
25    of the tanning facility or an employee responsible for the operation of

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 the ultraviolet radiation device of such facility indicating that such  
2 parent or guardian has read the warnings required under subdivision two  
3 of section thirty-five hundred fifty-four of this article and that the  
4 person fourteen to eighteen years of age agrees to wear safety goggles  
5 before using an ultraviolet radiation device. Such original written  
6 consent shall be retained by the tanning facility for a period of twelve  
7 months and may be retained off premises provided that an electronic  
8 image or facsimile of the original signed consent form is readily avail-  
9 able by the owner or employee responsible for the operation of the  
10 ultraviolet radiation device of such facility] UNLESS SUCH PERSON IS  
11 ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN.

12 3. [A written consent form signed by a parent or legal guardian pursu-  
13 ant to subdivision two of this section shall expire twelve months from  
14 the date it is signed by the parent or legal guardian. Upon the expira-  
15 tion of a written consent form, a new written consent shall be provided  
16 in the manner prescribed in subdivision two of this section prior to the  
17 use of an ultraviolet radiation device by any person fourteen to eigh-  
18 teen years of age.] THE PARENT OR LEGAL GUARDIAN OF A PERSON UNDER THE  
19 AGE OF EIGHTEEN AND SUCH PERSON, MUST SIGN A WRITTEN STATEMENT, IN A  
20 FORM PRESCRIBED BY THE COMMISSIONER, ACKNOWLEDGING THAT SUCH PARENT OR  
21 LEGAL GUARDIAN AND PERSON HAS READ THE WARNINGS REQUIRED UNDER SUBDIVI-  
22 SION TWO OF SECTION THIRTY-FIVE HUNDRED FIFTY-FOUR OF THIS ARTICLE AND  
23 AGREES TO WEAR SAFETY GOGGLES BEFORE USING AN ULTRAVIOLET RADIATION  
24 DEVICE. SUCH SIGNED STATEMENT OF ACKNOWLEDGMENT MAY BE RETAINED BY THE  
25 TANNING FACILITY OFF PREMISES PROVIDED THAT AN ELECTRONIC IMAGE OR  
26 FACSIMILE OF THE ORIGINAL SIGNED STATEMENT OF ACKNOWLEDGEMENT IS READILY  
27 AVAILABLE BY THE OWNER OR EMPLOYEE RESPONSIBLE FOR THE OPERATION OF THE  
28 ULTRAVIOLET RADIATION DEVICE OF SUCH FACILITY.

29 4. A PERSON FOURTEEN TO EIGHTEEN YEARS OF AGE MAY BE PERMITTED TO USE  
30 AN ULTRAVIOLET RADIATION DEVICE WITHOUT ACCOMPANIMENT BY A PARENT OR  
31 LEGAL GUARDIAN IF SUCH PERSON HAS WRITTEN RECOMMENDATION FROM A MEDICAL  
32 DOCTOR STATING THE USE OF AN ULTRAVIOLET RADIATION DEVICE IS FOR THE  
33 TREATMENT OF MEDICAL CONDITIONS.

34 5. No owner, operator, or employee of a tanning facility shall permit  
35 the use of an ultraviolet radiation device by persons under fourteen  
36 years of age.

37 [5.] 6. This section shall be exclusive and shall preempt any contrary  
38 local law or ordinance, except that this section shall not preempt or  
39 supersede local laws or ordinances imposing additional stricter  
40 restrictions on the use and operation of ultraviolet radiation devices  
41 at tanning facilities which are in effect prior to the effective date of  
42 this section.

43 S 2. This act shall take effect on the ninetieth day after it shall  
44 have become a law.