

# STATE OF NEW YORK

7218

2017-2018 Regular Sessions

## IN ASSEMBLY

April 12, 2017

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

AN ACT to amend the public health law, in relation to tanning facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3550 of the public health law, as added by chapter  
2 378 of the laws of 1990, is amended to read as follows:

3 § 3550. Definitions. When used in this article, the following words  
4 and phrases shall have the meanings ascribed to them in this section:

5 1. "Tanning facility" shall mean any establishment where one or more  
6 ultraviolet radiation device is used, offered, or made available for use  
7 by any human being, [~~for which~~] whether or not a fee is charged[~~r~~  
8 ~~directly or indirectly, but shall not include any facility where any~~  
9 ~~such device is used by a qualified health care professional for treat-~~  
10 ~~ment of medical conditions~~].

11 1-a. "Phototherapy device" means equipment that emits ultraviolet  
12 radiation and is used in the diagnosis or treatment of disease or inju-  
13 ry.

14 2. "Ultraviolet radiation device" shall mean any equipment which is  
15 designed to emit electromagnetic radiation in the wavelength interval of  
16 two hundred to four hundred nanometers in air, and which is intended to  
17 induce tanning of the human skin through irradiation, including, but not  
18 limited to, a sunlamp, tanning booth, or tanning bed.

19 3. "Person" shall mean an individual, corporation, partnership, joint  
20 venture, or any business entity.

21 § 2. Section 3555 of the public health law, as amended by chapter 105  
22 of the laws of 2012, is amended to read as follows:

23 § 3555. Restrictions on the use of ultraviolet radiation devices. 1.  
24 This section shall not apply to any physician who is duly licensed to  
25 practice medicine in this state and who, in the practice of medicine,

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

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1 uses or prescribes to be used a phototherapy device with respect to a  
2 patient of any age.

3 2. No owner, operator, or employee of a tanning facility shall permit  
4 the use of the tanning facility by a person eighteen years of age or  
5 older until such person provides a driver's license or other photograph-  
6 ic identification card issued by a government entity or educational  
7 institution indicating that the individual is at least eighteen years of  
8 age and the facility has on file a signed written statement, in a form  
9 prescribed by the commissioner, acknowledging that such person has read  
10 the warnings required under subdivision two of section thirty-five  
11 hundred fifty-four of this article and agrees to wear safety goggles  
12 before using an ultraviolet radiation device. Such signed statement of  
13 acknowledgment may be retained by the tanning facility off premises  
14 provided that an electronic image or facsimile of the original signed  
15 statement of acknowledgment is readily available by the owner or employ-  
16 ee responsible for the operation of the ultraviolet radiation device of  
17 such facility.

18 [~~2.~~] 3. No owner, operator, or employee of a tanning facility shall  
19 permit the use of an ultraviolet radiation device by a person [~~seventeen~~  
20 ~~to~~] under eighteen years of age [~~until such person provides the tanning~~  
21 ~~facility with the written consent, in a form prescribed by the commis-~~  
22 ~~sioner, of a parent or legal guardian to use such tanning facility. The~~  
23 ~~parent or legal guardian shall sign such consent form in the presence of~~  
24 ~~the owner of the tanning facility or an employee responsible for the~~  
25 ~~operation of the ultraviolet radiation device of such facility indicat-~~  
26 ~~ing that such parent or guardian has read the warnings required under~~  
27 ~~subdivision two of section thirty five hundred fifty four of this arti-~~  
28 ~~cle and that the person seventeen to eighteen years of age agrees to~~  
29 ~~wear safety goggles before using an ultraviolet radiation device. Such~~  
30 ~~original written consent shall be retained by the tanning facility for a~~  
31 ~~period of twelve months and may be retained off premises provided that~~  
32 ~~an electronic image or facsimile of the original signed consent form is~~  
33 ~~readily available by the owner or employee responsible for the operation~~  
34 ~~of the ultraviolet radiation device of such facility.~~

35 ~~3. A written consent form signed by a parent or legal guardian pursu-~~  
36 ~~ant to subdivision two of this section shall expire twelve months from~~  
37 ~~the date it is signed by the parent or legal guardian. Upon the expira-~~  
38 ~~tion of a written consent form, a new written consent shall be provided~~  
39 ~~in the manner prescribed in subdivision two of this section prior to the~~  
40 ~~use of an ultraviolet radiation device by any person seventeen to eigh-~~  
41 ~~teen years of age.~~

42 ~~4. No owner, operator, or employee of a tanning facility shall permit~~  
43 ~~the use of an ultraviolet radiation device by persons sixteen years of~~  
44 ~~age and under].~~

45 [~~3.~~] 4. This section shall be exclusive and shall preempt any contrary  
46 local law or ordinance, except that this section shall not preempt or  
47 supersede local laws or ordinances imposing additional stricter  
48 restrictions on the use and operation of ultraviolet radiation devices  
49 at tanning facilities which are in effect prior to the effective date of  
50 this section.

51 § 3. This act shall take effect immediately.