STATE OF NEW YORK

5585

2017-2018 Regular Sessions

IN SENATE

April 18, 2017

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

1-a. "Phototherapy device" means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.

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

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

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

§ 3555. Restrictions on the use of ultraviolet radiation devices. 1. **This section shall not apply to any physician who is duly licensed to 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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uses or prescribes to be used a phototherapy device with respect to a patient of any age.

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

[~~2.~~] 3. No owner, operator, or employee of a tanning facility shall permit the use of an ultraviolet radiation device by a person [~~seventeen to~~] under eighteen years of age [~~until such person provides the tanning facility with the written consent, in a form prescribed by the commissioner, of a parent or legal guardian to use such tanning facility. The parent or legal guardian shall sign such consent form in the presence of the owner of the tanning facility or an employee responsible for the operation of the ultraviolet radiation device of such facility indicating that such parent or guardian has read the warnings required under subdivision two of section thirty-five hundred fifty-four of this article and that the person seventeen to eighteen years of age agrees to wear safety goggles before using an ultraviolet radiation device. Such original written consent shall be retained by the tanning facility for a period of twelve months and may be retained off premises provided that an electronic image or facsimile of the original signed consent form is readily available by the owner or employee responsible for the operation of the ultraviolet radiation device of such facility.~~

~~3. A written consent form signed by a parent or legal guardian pursuant to subdivision two of this section shall expire twelve months from the date it is signed by the parent or legal guardian. Upon the expiration of a written consent form, a new written consent shall be provided in the manner prescribed in subdivision two of this section prior to the use of an ultraviolet radiation device by any person seventeen to eighteen years of age.~~

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

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

§ 3. This act shall take effect immediately.