LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 838

Introduced by Wishart, 27; Howard, 9.
Read first time January 04, 2018
Committee: Health and Human Services

A BILL FOR AN ACT relating to the Indoor Tanning Facility Act; to amend sections 71-3902, 71-3904, 71-3905, 71-3906, and 71-3907, Revised Statutes Cumulative Supplement, 2016; to define a term; to change provisions relating to age and signed agreements; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 71-3902, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-3902 For purposes of the Indoor Tanning Facility Act:

(1) Board means the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;

(2) Department means the Division of Public Health of the Department of Health and Human Services;

(3) Operator means a person designated by the tanning facility owner or tanning equipment lessee to operate, or to assist and instruct in the operation and use of, the tanning facility or tanning equipment;

(4) Phototherapy means the use of equipment that emits ultraviolet radiation for the diagnosis or treatment of disease or injury;

(5) Tanning equipment means any device that emits electromagnetic radiation with wavelengths in the air between two hundred nanometers and four hundred nanometers and that is used for tanning of the skin. Tanning equipment includes, but is not limited to, a sunlamp, tanning booth, or tanning bed; and

(6) Tanning facility means a location, place, area, structure, or business that provides access to tanning equipment. Tanning facility includes, but is not limited to, any tanning business, salon, health club, apartment, or condominium, which has tanning equipment that is made available for public or commercial use, regardless of whether a fee is charged for access to the tanning equipment.

Sec. 2. Section 71-3904, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-3904 The Indoor Tanning Facility Act does not apply to:

(1) A physician licensed under the Uniform Credentialing Act who uses phototherapy in the practice of medicine, medical diagnostic and therapeutic equipment that emits ultraviolet radiation;

(2) Any individual who owns tanning equipment exclusively for personal, noncommercial use.
Sec. 3. Section 71-3905, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-3905 It shall be unlawful for an operator, an owner of a tanning facility, or a lessee of a tanning facility to allow any person less than eighteen years of age to use tanning equipment at the tanning facility unless the person is accompanied by a parent or legal guardian.

Before each use of tanning equipment by any person less than sixteen years of age, the operator, owner, or lessee shall secure a statement signed at the tanning facility by the minor's parent or legal guardian stating that the person signing the statement is the minor's parent or legal guardian, that the parent or legal guardian has read and understood the warnings given by the tanning facility, that the parent or legal guardian consents to the minor's use of tanning equipment, and that the parent or legal guardian agrees that the minor will use protective eyewear while using the tanning equipment. The operator, owner, or lessee shall require proof of age from each person before allowing the person access to tanning equipment. For purposes of this section, proof of age shall include, but not be limited to, a driver's license or other government-issued identification containing the person's date of birth and photograph or digital image.

Sec. 4. Section 71-3906, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-3906 Any operator, owner of a tanning facility, or lessee of a tanning facility who allows any person less than eighteen years of age to use tanning equipment at the tanning facility without being accompanied by the parent or legal guardian who signed the statement required under section 71-3905 shall be subject to a civil penalty of one hundred dollars to be imposed and collected by the department. The department shall remit the civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.
Sec. 5. Section 71-3907, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-3907 (1) An operator, an owner of a tanning facility, or a lessee of a tanning facility shall post a warning sign in a conspicuous location in the tanning facility where it is readily visible by any person entering the tanning facility. The warning sign shall have black letters which are at least one-fourth inch in height.

(2) The warning sign shall include the following information:

DANGER — Ultraviolet Radiation

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injuries and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.

WEAR PROTECTIVE EYEWEAR — Failure to do so may result in severe burns or long-term injury to eyes.

Medicines or cosmetics can increase your sensitivity to ultraviolet radiation. Consult your physician before using sunlamps if you are using medication or have a history of skin problems or believe yourself to be especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of tanning equipment.

It is unlawful for a tanning facility to allow a person under eighteen years of age to use tanning equipment without being accompanied by the person’s parent or legal guardian.

Any person may report a violation of the Indoor Tanning Facility Act to the Department of Health and Human Services.

Sec. 6. Original sections 71-3902, 71-3904, 71-3905, 71-3906, and 71-3907, Revised Statutes Cumulative Supplement, 2016, are repealed.