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SENATE BILL NO. 1231

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 59.1-310.1, 59.1-310.3, and 59.1-310.5 of the Code of Virginia, relating to the operation of tanning facilities.

Patrons—Howell and O'Brien; Delegates: Callahan, Caputo, Plum and Scott, J.M.

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-310.1, 59.1-310.3, and 59.1-310.5 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-310.1. Definitions.

As used in this chapter unless the context requires otherwise:

"Fitzpatrick scale" means the following scale for classifying a skin type, based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

Skin Type:	Sunburning and Tanning History
1	Always burns easily; never tans
2	Always burns easily; tans minimally
3	Burns moderately; tans gradually
4	Burns minimally; always tans well
5	Rarely burns; tans profusely
6	Never burns; deeply pigmented

"Owner" means a person who owns or operates a tanning facility.

"Person" means an individual, partnership, corporation, *limited liability company* or association.

"Phototherapy device" means a piece of equipment that emits ultraviolet radiation and that is used by a health care professional provider in the treatment of a disease.

"Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin, including a sunlamp, tanning booth, or tanning bed. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails.

"Tanning facility" means a business that provides persons access to tanning devices.

§ 59.1-310.3. Notice to customers; liability.

A. A tanning facility shall give each customer a written statement warning that:

1. Failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes;

2. Overexposure to ultraviolet light causes burns;

3. Repeated exposure may result in premature aging of the skin and skin cancer;

4. Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain (i) foods; (ii) cosmetics; or (iii) medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, or birth control pills; and

5. Any person taking a prescription or over-the-counter drug should consult a physician prior to using a tanning device.

B. Prior to allowing a prospective customer to use a tanning device, the owner or his designee shall obtain on the written statement the signature of each customer on a duplicate of the written statement provided to the customer under subsection A. In addition, the owner or his designee shall obtain the signature of the parent or legal guardian of a prospective customer who is under the age of 18 and is not emancipated under Virginia law.

C. Compliance with the notice requirements does not affect the liability of a tanning facility operator owner or a manufacturer of a tanning device.

D. Compliance with the notice requirements shall not affect the liability of an owner in the event that a customer is injured or incurs damage as a result of his failing to comply with warnings on the written statement.

E. The owner shall maintain for not less than three years following the date of service, at the location where services were rendered, the written statements provided under subsection A with the

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58 *signatures thereon of the customer and, when required, the parent or legal guardian of the customer.*

59 § 59.1-310.5. Operational requirements.

60 A. A tanning facility shall have an operator present during operating hours. The operator shall be
61 sufficiently knowledgeable in the correct operation of the tanning devices used at the facility and shall
62 inform and assist each customer in the proper use of the tanning device.

63 B. *The owner or his designee shall identify the skin type of the customer based on the Fitzpatrick*
64 *scale, document the skin type of the customer, and advise the customer of the customer's maximum time*
65 *of recommended exposure in the tanning device.*

66 C. Before each use of a tanning device, the operator shall provide the customer with properly
67 sanitized protective eyewear that protects the eyes from ultraviolet radiation and allows adequate vision
68 to maintain balance. The operator shall not allow a person to use a tanning device if that person has not
69 been provided protective eyewear. The operator shall also instruct each customer how to use suitable
70 physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as
71 recommended by the manufacturer of the tanning device.

72 D. *After each use of a tanning device, the owner or his designee shall clean the device with a*
73 *cleaner or sanitizer capable of killing bacteria from any previous use.*

74 CE. The tanning facility shall use a timer with an accuracy of at least plus or minus ten percent of
75 any selected time interval. The facility shall limit the exposure time of a customer on a tanning device
76 to the maximum exposure time recommended by the manufacturer. The facility shall control the interior
77 temperature of a tanning device so that it may not exceed 100 degrees Fahrenheit.

78 DF. Either each time a customer uses a tanning facility or each time a person executes or renews a
79 contract to use a tanning facility, the person shall sign a written statement acknowledging that the person
80 has read and understood the required warnings before using the device and agrees to use the protective
81 eyewear that the tanning facility provides.

82 G. *An owner shall not allow a prospective customer under the age of 14 to use a tanning device*
83 *unless such use is authorized in writing by a licensed doctor of medicine or osteopathy.*

84 H. *An owner shall not allow a prospective customer who has attained the age of 14 but is under the*
85 *age of 18 and is not emancipated under Virginia law to use a tanning device unless such prospective*
86 *customer's parent or legal guardian remains with such customer at the tanning facility for the duration*
87 *of each visit.*

88 I. *The owner shall be responsible for ensuring that each customer using the tanning facility is of*
89 *legal age to do so.*

90 J. *A tanning facility shall not claim, or distribute promotional material that claims that the use of a*
91 *tanning device is safe, is without risk, or will result in medical or health benefits.*