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SENATE BILL NO. 479

Offered January 8, 2014
Prefiled January 8, 2014

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

Patron—Barker

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

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

§ 59.1-310.3. Notice to customers; liability.

A. A tanning facility shall give each customer, *and the parent or guardian of a prospective customer age 15, 16, or 17 years and not emancipated under Virginia law who is required to provide written consent to such individual's use of a tanning device,* a written statement ~~warning~~. *The written statement shall include (i) information in a form developed or approved by the Department of Health regarding health risks associated with the use of a tanning device and (ii) warnings* 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, ~~every six months~~ *prior to allowing a prospective customer who is age 15, 16, or 17 years and not emancipated under Virginia law to use a tanning device,* the ~~signature~~ *written consent* of the parent or legal guardian of *such* a prospective customer ~~who is under the age of 15 and is not emancipated under Virginia law~~ *as required by subdivision G 2 of § 59.1-310.5*.

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

D. The signed duplicates of the written statements provided under subsection A *and written consent provided under subsection B* may be retained at a location other than the tanning facility if an electronic or facsimile image of the original is readily available at each of an owner's tanning facilities.

§ 59.1-310.5. Operational requirements.

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

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

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

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

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

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

G. *An individual who is:*

1. Age 14 years or younger shall not be allowed to use a tanning device at a tanning facility;

2. Age 15, 16, or 17 and not emancipated under Virginia law shall not be permitted to use a tanning device at a tanning facility unless the individual's parent or legal guardian has (i) presented the owner with identification that verifies that he or she is the individual's parent or legal guardian and (ii) consented in writing to the individual's use of the tanning device pursuant to subsection B of § 59.1-310.3.

The owner shall be responsible for ensuring that each customer using the tanning facility is of legal age to do so *and that a parent or legal guardian of an individual described in subdivision 2 has consented in writing to the individual's use of the tanning device*.

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