

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 78

(By Senators Foster, Stollings, Hall and Klempa)

[Originating in the Committee on the Judiciary;
reported February 3, 2011.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-43-1, §16-43-2 and §16-43-3, all relating to tanning facilities use by minors; defining terms; requiring consent for minors aged fourteen to seventeen to use tanning devices within tanning facilities; requiring parental accompaniment for minors under age fourteen to use tanning devices within tanning facilities; and specifying warning language and consent form language.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-43-1, §16-43-2 and §16-43-3, all to read as follows:

ARTICLE 43. TANNING FACILITIES.

§16-43-1. Definitions.

1 As used in this article:

2 (1) "Tanning device" means any equipment that emits
3 radiation used for tanning of the skin, such as a sun lamp,
4 tanning booth or tanning bed, and includes any accompany-
5 ing equipment, such as protective eyewear, timers and
6 handrails.

7 (2) "Tanning facility" means any commercial location,
8 place, area, structure or business where a tanning device is
9 used for a fee, membership dues or other compensation.

**§16-43-2. Consent required for minor using tanning device within
a tanning facility.**

1 (a) Before any person who has reached his or her four-
2 teenth birthday and has not passed his or her eighteenth
3 birthday uses a tanning device within a tanning facility, he
4 or she shall give the tanning facility a copy of the consent
5 form described in section three of this article, signed by his
6 or her parent or legal guardian, stating that the parent or
7 legal guardian has read and understood the statement of
8 warning given by the tanning facility and that they consent
9 to the minor's use of the tanning device and agree that the

10 minor will use protective eyewear. This parental consent is
11 valid for one calendar year and shall be kept on file by the
12 tanning facility for at least one calendar year.

13 (b) A person under the age of fourteen shall be accompa-
14 nied by a parent or legal guardian when using a tanning
15 device within a tanning facility. The parent or legal guardian
16 accompanying the person under the age of fourteen to the
17 tanning facility shall be given a copy of the consent form
18 described in section three of this article on the minor's first
19 visit to the tanning facility. This consent form shall be signed
20 by the minor's parent or legal guardian, stating that the
21 parent or legal guardian has read and understood the
22 statement of warning given by the tanning facility and that
23 they consent to the minor's use of the tanning device and
24 agree that the minor will use protective eyewear. This
25 parental consent is valid for one calendar year when the
26 person under the age of fourteen is accompanied by the
27 minor's parent or guardian, and shall be kept on file by the
28 tanning facility for at least one year.

§16-43-3. Consent Form

1 (a) A tanning facility shall give each person under age
2 eighteen who wishes to use a tanning device located within

3 its tanning facility a consent form relating to use of a tanning
4 device that must include, at a minimum, the following
5 warning: “Repeated exposure or overexposure in a tanning
6 device may cause health problems including, but not limited
7 to, burns, eye damage, skin sensitivity, premature aging of
8 the skin or skin cancer. Any person who takes a prescription
9 or over-the-counter medication should consult a physician
10 before using a tanning device.”

11 (b) Below the warning listed in subsection (a) of this
12 section, the consent form must include the following lan-
13 guage: “I, _____, confirm that I am the parent
14 or legal guardian of _____, who is ____
15 years old and was born on _____. I have read
16 and understood the warning listed above and hereby give my
17 consent that the minor whose name is listed above may use
18 a tanning device at this tanning facility with the use of
19 protective eyewear.” Thereafter, the consent form must have
20 a place for the parent or guardian’s signature and the date.
21 Below the signature and date line, the consent form must
22 state: “This consent form is valid for one year from the date
23 of consent, as listed above.”

(NOTE: The purpose of this bill is to require parental consent for minors to use a tanning device within a tanning facility and parental accompaniment for minors under the age of fourteen while using a tanning device within a tanning facility.

This article is new; therefore, strike-throughs and underscoring have been omitted.)