

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 464

(SENATORS STOLLINGS, BEACH, WELLS,
KESSLER (MR. PRESIDENT), YOST AND UNGER,
ORIGINAL SPONSORS)

[PASSED APRIL 13, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

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(SENATORS STOLLINGS, BEACH, WELLS,
KESSLER (MR. PRESIDENT), YOST AND UNGER, *original sponsors*)

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-45-1, §16-45-2, §16-45-3, §16-45-4, §16-45-5 and §16-45-6, all relating generally to regulation of tanning facilities; defining terms; setting forth requirements for registration, inspection and obtaining a permit; requiring a consent form; setting forth consent form language; creating operating standards; prohibiting the use of tanning devices by anyone under the age of eighteen; granting rule-making authority to the Department of Health and Human Resources to regulate tanning facilities; setting forth minimum requirements for the rule; allowing fees; and establishing criminal penalties.

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 §16-45-1, §16-45-2, §16-45-3, §16-45-4 and §16-45-5, all to read as follows:

ARTICLE 45. TANNING FACILITIES.

§16-45-1. Definitions.

1 As used in this article:

2 (1) "Photo therapy device" means a device used for
3 exposure to daylight or to specific wavelengths of light using
4 lasers, light-emitting diodes, fluorescent lamps, dichroic
5 lamps or very bright, full-spectrum light, usually controlled
6 with various devices.

7 (2) "Tanning device" means any equipment that emits
8 radiation used for tanning of the skin, such as a sun lamp,
9 tanning booth or tanning bed, and includes any
10 accompanying equipment, such as protective eye wear, timers
11 and handrails.

12 (3) "Tanning facility" means any commercial location,
13 place, area, structure or business where a tanning device is
14 used for a fee, membership dues or other compensation.

§16-45-2. Exception for health care providers.

1 Nothing in this article may be construed as prohibiting
2 any health care provider licensed under chapter thirty of this
3 code from performing any action within the scope of his or
4 her practice that results in prescribing the use of a photo
5 therapy device to a patient regardless of the patient's age for
6 treatment of a medical condition.

§16-45-3. Operation standards.

1 (a) A tanning facility shall provide to any patron who
2 wishes to use a tanning device located within its tanning
3 facility a disclosure and consent form relating to use of a
4 tanning device that contains the current United States Food
5 and Drug Administration warning as follows: "Danger.
6 Ultraviolet Radiation. Follow instructions. Avoid
7 overexposure. As with natural sunlight, overexposure can
8 cause eye and skin injury and allergic reactions. REPEATED

9 EXPOSURE MAY CAUSE PREMATURE AGING OF THE
10 SKIN AND SKIN CANCER. WEAR PROTECTIVE
11 EYEWEAR; FAILURE TO DO SO MAY RESULT IN
12 SEVERE BURNS OR LONG-TERM INJURY TO THE
13 EYES. Medications or cosmetics may increase your
14 sensitivity to the ultraviolet radiation. Consult physician
15 before using tanning device if you are using medications or
16 have a history of skin problems or believe yourself especially
17 sensitive to sunlight. If you do not tan in the sun, you are
18 unlikely to tan from use of this product.”

19 The disclosure and consent form must have a place for
20 the patron’s signature and the date. A signed and dated copy
21 of the disclosure and consent form shall be maintained by the
22 tanning facility and remains valid for one year from the date
23 it was signed.

24 (b) All patrons are required to present proof of age prior
25 to use of a tanning device. Proof of age shall be satisfied
26 with a driver’s license or other government-issued
27 identification containing the date of birth and a photograph of
28 the individual. Persons under the age of eighteen may not be
29 permitted to use a tanning device without the prior written
30 consent of the person’s parent or legal guardian.
31 Photographic identification of the parent or legal guardian is
32 required. A copy of the signed parental or legal guardian
33 consent shall be maintained by the tanning facility and
34 remains valid for one year from the date it was signed.
35 Persons under the age of fourteen may not be permitted to use
36 a tanning device.

§16-45-4. Local health department authority to inspect.

1 Local health departments shall have the authority to enter
2 and inspect a tanning facility to determine compliance with
3 the requirements of this article.

§16-45-5. Violations and penalties.

1 (a) Any owner of a tanning facility who fails to obtain
2 parental consent for a minor under the age of eighteen or
3 otherwise violates the requirements of this article is guilty of
4 a misdemeanor and, upon conviction thereof, for a first
5 offense, shall be fined \$100.

6 (b) For a second offense, the owner is guilty of a
7 misdemeanor and, upon conviction thereof, shall be fined not
8 less than \$250 nor more than \$500.

9 (c) For a third offense or subsequent offense, the owner
10 is guilty of a misdemeanor and, upon conviction thereof, shall
11 be fined not less than \$500 nor more than \$1,000.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2013.

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Governor