

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:

- 1 A BILL FOR AN ACT relating to the Indoor Tanning Facility Act; to amend
- 2 sections 71-3902, 71-3904, 71-3905, 71-3906, and 71-3907, Revised
- 3 Statutes Cumulative Supplement, 2016; to define a term; to change
- 4 provisions relating to age and signed agreements; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-3902, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 71-3902 For purposes of the Indoor Tanning Facility Act:

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

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

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

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

13 (5) ~~(4)~~ Tanning equipment means any device that emits  
14 electromagnetic radiation with wavelengths in the air between two hundred  
15 nanometers and four hundred nanometers and that is used for tanning of  
16 the skin. Tanning equipment includes, but is not limited to, a sunlamp,  
17 tanning booth, or tanning bed; and

18 (6) ~~(5)~~ Tanning facility means a location, place, area, structure,  
19 or business that provides access to tanning equipment. Tanning facility  
20 includes, but is not limited to, any tanning business, salon, health  
21 club, apartment, or condominium, which has tanning equipment that is made  
22 available for public or commercial use, regardless of whether a fee is  
23 charged for access to the tanning equipment.

24 Sec. 2. Section 71-3904, Revised Statutes Cumulative Supplement,  
25 2016, is amended to read:

26 71-3904 The Indoor Tanning Facility Act does not apply to:

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

30 (2) Any individual who owns tanning equipment exclusively for  
31 personal, noncommercial use.

1           Sec. 3. Section 71-3905, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           71-3905 It shall be unlawful for an operator, an owner of a tanning  
4 facility, or a lessee of a tanning facility to allow any person less than  
5 eighteen ~~sixteen~~ years of age to use tanning equipment at the tanning  
6 facility ~~unless the person is accompanied by a parent or legal guardian.~~  
7 ~~Before each use of tanning equipment by any person less than sixteen~~  
8 ~~years of age, the operator, owner, or lessee shall secure a statement~~  
9 ~~signed at the tanning facility by the minor's parent or legal guardian~~  
10 ~~stating that the person signing the statement is the minor's parent or~~  
11 ~~legal guardian, that the parent or legal guardian has read and understood~~  
12 ~~the warnings given by the tanning facility, that the parent or legal~~  
13 ~~guardian consents to the minor's use of tanning equipment, and that the~~  
14 ~~parent or legal guardian agrees that the minor will use protective~~  
15 ~~eyewear while using the tanning equipment.~~ The operator, owner, or lessee  
16 shall require proof of age from each person before allowing the person  
17 access to tanning equipment. For purposes of this section, proof of age  
18 shall include, but not be limited to, a driver's license or other  
19 government-issued identification containing the person's date of birth  
20 and photograph or digital image.

21           Sec. 4. Section 71-3906, Revised Statutes Cumulative Supplement,  
22 2016, is amended to read:

23           71-3906 Any operator, owner of a tanning facility, or lessee of a  
24 tanning facility who allows any person less than eighteen ~~sixteen~~ years  
25 of age to use tanning equipment at the tanning facility ~~without being~~  
26 ~~accompanied by the parent or legal guardian who signed the statement~~  
27 ~~required under section 71-3905~~ shall be subject to a civil penalty of one  
28 hundred dollars to be imposed and collected by the department. The  
29 department shall remit the civil penalty to the State Treasurer for  
30 distribution in accordance with Article VII, section 5, of the  
31 Constitution of Nebraska.

1           Sec. 5. Section 71-3907, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           71-3907 (1) An operator, an owner of a tanning facility, or a lessee  
4 of a tanning facility shall post a warning sign in a conspicuous location  
5 in the tanning facility where it is readily visible by any person  
6 entering the tanning facility. The warning sign shall have black letters  
7 which are at least one-fourth inch in height.

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

9           DANGER – Ultraviolet Radiation

10          Follow instructions.

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

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

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

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

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

26          Sec. 6. Original sections 71-3902, 71-3904, 71-3905, 71-3906, and  
27 71-3907, Revised Statutes Cumulative Supplement, 2016, are repealed.