

2015 Bill 22

Third Session, 28th Legislature, 64 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

SKIN CANCER PREVENTION (ARTIFICIAL TANNING) ACT

MR. QUEST

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22
Mr. Quest

BILL 22

2015

SKIN CANCER PREVENTION (ARTIFICIAL TANNING) ACT

(Assented to , 2015)

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “artificial tanning” means exposing human skin to the ultraviolet light emitted by operating artificial tanning equipment;

- (b) “artificial tanning equipment” means a device that is equipped with one or more ultraviolet lamps and is designed to emit ultraviolet light for the purposes of skin tanning;
- (c) “artificial tanning facility” means premises where artificial tanning services are sold, offered for sale or provided;
- (d) “artificial tanning services” means services provided for the purpose of artificial tanning;
- (e) “enforcement officer” means an individual designated or within a class of individuals designated by the Minister under section 6(1);
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (g) “owner” means, except where the context requires otherwise, the person who has care and control of artificial tanning equipment or an artificial tanning facility but does not include an employee working in an artificial tanning facility;
- (h) “prescribed” means prescribed by regulation;
- (i) “provide” in the context of artificial tanning services means to provide artificial tanning services for consideration or other compensation, regardless of who furnishes the consideration or other compensation;
- (j) “unsupervised artificial tanning equipment” means artificial tanning equipment that
 - (i) is located in an artificial tanning facility, and
 - (ii) can be used by an individual without an owner or an employee of an owner
 - (A) verifying the age of the individual in accordance with this Act, and
 - (B) giving access to the equipment.

Prohibitions, non-application, defences

2(1) No person shall sell, offer for sale or provide artificial tanning services to a minor, even if the minor has the consent of his or her parent or guardian to purchase or use artificial tanning services.

(2) No person shall sell, offer for sale or provide artificial tanning services to an individual who appears to be less than 25 years of age unless the person

- (a) has required the individual to produce a prescribed form of identification, and
- (b) is satisfied that the individual is at least 18 years of age.

(3) The prohibitions in subsections (1) and (2) do not apply where the following requirements are met:

- (a) the individual seeking artificial tanning services produces
 - (i) a prescribed form of identification, and
 - (ii) a current written prescription for therapeutic ultraviolet treatment issued to that individual by a physician;
- (b) the artificial tanning services are provided in accordance with the prescription.

(4) It is a defence to a charge under subsection (1) that the charged person reasonably believed the individual to be at least 18 years of age because

- (a) the individual produced a prescribed form of identification showing his or her age as being 18 years or more, and
- (b) there was no apparent reason to doubt the authenticity of the identification or that it was issued to the individual producing it.

Prohibition on unsupervised artificial tanning services

3(1) No owner of an artificial tanning facility shall permit artificial tanning services through the use of unsupervised artificial tanning equipment to be sold, offered for sale or provided.

(2) No owner of premises or a business shall permit artificial tanning services through the use of unsupervised artificial tanning equipment to be sold, offered for sale or provided in or through the premises or business.

Prohibitions, duties respecting advertising

4(1) No person who advertises artificial tanning services shall

- (a) direct the advertising to minors, or
- (b) advertise using contents, locations or manners of advertising designated by the regulations as prohibited.

(2) A person who advertises artificial tanning services shall ensure that the advertising prominently discloses the following information, in accordance with the regulations:

- (a) the prohibitions under section 2 on the sale, offering for sale and provision of artificial tanning services to minors;
- (b) the health risks of artificial tanning;
- (c) any other prescribed information.

Prohibitions, duties respecting information, signage, materials

5(1) No person shall sell, offer for sale or provide artificial tanning services unless information and signage respecting the health risks of artificial tanning and the prohibitions under section 2 are provided and displayed in accordance with the regulations.

(2) A person who sells, offers for sale or provides artificial tanning services shall ensure that documents and other materials that are made available to clients and potential clients in respect of those services contain the prescribed information.

Enforcement officers, inspections and investigations

6(1) The Minister may, by order, designate an individual as an enforcement officer or, by regulation, designate individuals within a class of individuals as enforcement officers for the purposes of this Act or the regulations.

(2) An enforcement officer may conduct an inspection or investigation with respect to any matter for any purpose related to the administration of this Act or the regulations.

(3) An enforcement officer may, without a warrant, enter premises, other than a private dwelling, that contain an artificial tanning facility or are believed to contain an artificial tanning facility at a reasonable time and inspect the premises to ensure compliance with this Act and the regulations.

(4) An enforcement officer who has reasonable grounds to believe that a person has committed an offence under this Act may, at a reasonable time, enter any premises, other than a private dwelling, to conduct an investigation.

(5) An enforcement officer who has reasonable grounds to believe that a person has committed an offence under this Act in a private dwelling may, with the consent of the occupant of the private dwelling or pursuant to an order under subsection (6), enter the private dwelling at a reasonable time to conduct an investigation.

(6) If the consent required under subsection (5) is refused or cannot reasonably be obtained, the enforcement officer may apply to a judge of the Court of Queen's Bench for an order directing the occupant to permit the enforcement officer to enter the private dwelling to carry out the enforcement officer's powers, and the judge may make the order accordingly.

(7) An enforcement officer who enters any premises under the authority of this Act or the regulations shall, on request,

- (a) produce a document that identifies the person as an enforcement officer under this Act, and
- (b) explain the enforcement officer's reason for entering the premises.

(8) An enforcement officer may, for the purposes of the administration of this Act or the regulations, do the following:

- (a) make test purchases of artificial tanning services or make test access to artificial tanning equipment;
- (b) oversee test purchases of artificial tanning services or test access to artificial tanning equipment

- (i) by a person, other than a minor, who appears to be under 25 years of age, or
- (ii) by a minor who is hired by or volunteers for the employer of the enforcement officer;
- (c) make tests, take photographs or make recordings in respect of an artificial tanning facility;
- (d) interview any person to determine if there has been compliance with this Act and the regulations;
- (e) demand the production within a reasonable time of any information, record, document or thing pertaining in any manner to compliance with this Act and the regulations and, on giving a receipt for it, remove it for a reasonable period of time for the purpose of making copies of it;
- (f) exercise or perform any other prescribed powers, duties and functions.

(9) Where a person refuses to allow an enforcement officer to exercise the enforcement officer's powers under subsections (2), (3), (4) or (8), the enforcement officer may apply to a judge of the Court of Queen's Bench for an order directing the person to do or refrain from doing anything as the judge considers necessary in order to enable the enforcement officer to exercise the enforcement officer's powers, and the judge may make the order accordingly.

(10) A copy of a document made during an inspection or investigation under this Act and certified to be a true copy by the enforcement officer who conducted the inspection or investigation is admissible in evidence without proof of the signature or appointment of the enforcement officer who signed the certificate and, in the absence of evidence to the contrary, the copy has the same probative force as the original.

Assistance to enforcement officers

7 An owner, an employee of an owner, a person who advertises artificial tanning services and an employee of a person who advertises artificial tanning services shall give an enforcement officer all reasonable assistance to enable the enforcement officer to exercise powers or carry out duties under this Act or the regulations.

Interference with enforcement officer prohibited

8 No person shall interfere with or obstruct an enforcement officer in the exercise of powers, duties or functions under this Act or the regulations.

Offences, vicarious and director liability

9(1) A person who contravenes or fails to comply with this Act or the regulations commits an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$500,
- (b) in the case of a corporation, to a fine of
 - (i) not more than \$2000 for the first offence,
 - (ii) not more than \$5000 for the 2nd offence, and
 - (iii) not more than \$10 000 for the 3rd and any subsequent offence.

(2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for or convicted of the offence, unless the accused establishes that the offence was committed without the accused's knowledge and that the accused took all responsible steps to prevent its commission.

(3) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of that offence and liable to the penalty provided for the offence whether or not the corporation has been prosecuted for or convicted of that offence.

Regulations

10(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the powers, duties and functions of enforcement officers;
- (b) respecting inspections and investigations.

(2) The Minister may make regulations

- (a) prescribing the forms of identification that are acceptable for the purposes of section 2;
- (b) respecting the duties of owners of artificial tanning equipment or of artificial tanning facilities;
- (c) for the purposes of section 4, respecting advertising directed to minors, including, without limitation, defining or describing what constitutes advertising directed to minors;
- (d) for the purposes of section 4, designating prohibited contents, locations or manners of advertising;
- (e) for the purposes of section 4, respecting the disclosure of the health risks of artificial tanning, prohibitions under section 2 and other information to be disclosed in the advertising of artificial tanning services;
- (f) for the purposes of section 5, respecting the provision and display of information and signage respecting the health risks of artificial tanning and prohibitions under section 2;
- (g) for the purposes of section 5, respecting the information to be included in documents and other materials, relating to artificial tanning services, made available to current and potential clients of an artificial tanning facility;
- (h) respecting the designation of individuals within a class of individuals as enforcement officers;
- (i) respecting the registration of artificial tanning facilities;
- (j) exempting a service or class of service, an item of artificial tanning equipment or a class of artificial tanning equipment from the application of this Act or of specified provisions of this Act or the regulations;
- (k) respecting the operation and use of artificial tanning equipment;
- (l) respecting the training of owners of artificial tanning facilities and employees of owners respecting any matters under this Act;

- (m) defining for the purposes of this Act any term or expression that is used but not defined in this Act;
- (n) prescribing any matter that this Act authorizes or requires to be prescribed;
- (o) respecting any other matter or thing that the Minister considers necessary to carry out the purposes of this Act.

Incorporation by reference

11(1) A regulation under section 10(2) may adopt or incorporate in whole or in part or with modifications any code, standard or other body of rules of any government, organization or person, including, without limitation, any code, standard or other body of rules developed by the Minister under section 12, as it reads at a particular time or as amended or replaced from time to time relating to any matter in respect of which a regulation may be made under section 10(2).

(2) Where a code, standard or other body of rules is adopted or incorporated by a regulation made under section 10(2), the Minister shall ensure that a copy of the code, standard or other body of rules is made available to the public.

Codes, standards

12 The Minister may develop a code, standard or other body of rules relating to any matter in respect of which a regulation may be made under section 10(2).

Coming into force

13 This Act comes into force on Proclamation.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
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