

RESOLUTION NO. 2010192

RE: LOCAL LAW BANNING THE USE OF INDOOR TANNING
FACILITIES BY THOSE UNDER THE AGE OF 18

Legislators FLESLAND, HORTON, and TYNER offer the following and move its adoption:

WHEREAS, This Legislature hereby finds and determines that the United States Food and Drug Administration (FDA) and numerous leading United States health-care organizations estimate that approximately 1,000,000 Americans each year will be stricken with skin cancer, a potentially deadly disease, and the most common of all types of cancers, and

WHEREAS, melanoma is more common than any non-skin cancer among women between 25 and 29 years of age and nationally, one person dies of melanoma every hour, and

WHEREAS, the FDA, joined by the National Institutes of Health (NIH), the United States Centers for Disease Control and Prevention (CDC), and numerous leading United States and international health-care organizations, discourages the use of tanning beds and sunlamps, and has concluded that indoor tanning can be as harmful as outdoor tanning, and that perhaps more than 1,000,000 people in the United States alone visit tanning salons each day on the average, and

WHEREAS, This Legislature finds that tanning devices in salons, tanning parlors, spas, and similar settings that emit mostly UVA light are in no way less harmful alternatives to the sun's rays, insofar as UVA rays penetrate deeper than UVB rays, causing damage to the underlying connective tissue as well as to the skin's surface, and

WHEREAS, In July 2009, the International Agency for Research on Cancer (IARC), part of the World Health Organization, concluded that tanning devices that emit UV radiation are more dangerous than previously thought. IARC moved these devices into the highest cancer risk category: "carcinogenic to humans." Previously, it had categorized the devices as "probably carcinogenic to humans," and

WHEREAS, Development of cancer is a long process that may take decades. Therefore, IARC also recommended banning commercial indoor tanning for those younger than 18 years to protect them from the increased risk for melanoma and other skin cancers. The IARC conclusions, frequently cited by the FDA, were based on the information of 19 studies over the period of 25 years also concluded that the risk of melanoma of the skin increasing by 75 percent when tanning bed use started before age 35, and

WHEREAS, there is no repair treatment available for reversing the brutal effects of UVA and UVB rays on the skin, and that basic, minimally intrusive, public education to prevent such damage before it occurs is the best approach to maintaining public health of the citizens of Dutchess County, now, therefore be it

RESOLVED, that this Legislature of the County of Dutchess adopt Local Law ___ of 2010, which has been submitted this day for consideration by said Legislature.

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 9th day of August 2010, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 9th day of August 2010.

PATRICIA J. HOHMANN, CLERK OF THE LEGISLATURE

LOCAL LAW NO. OF 2010

RE: A LOCAL LAW BANNING THE USE OF INDOOR TANNING
 FACILITIES BY THOSE UNDER THE AGE OF 18

BE IT ENACTED by the County Legislature of the County of Dutchess as follows:

Section 1: Legislative Intent

The Food and Drug Administration (FDA), joined by the National Institutes of Health (NIH), the United States Centers for Disease Control and Prevention (CDC), and numerous leading United States and international health-care organizations, discourages the use of tanning beds and sunlamps, and has concluded that indoor tanning can be as harmful as outdoor tanning, and that perhaps more than 1,000,000 people in the United States alone visit tanning salons each day on the average. FDA, National Cancer Institute (NCI), the American Academy of Dermatology, and other health organizations advise limiting exposure to natural UV radiation from the sun and avoiding artificial UV sources such as tanning beds entirely.

The FDA, in multiple written reports is particularly concerned about children and teens being exposed to UV rays. Intermittent exposures to intense UV radiation leading to sunburns, especially in childhood and teen years, increase the risk of melanoma, according to the NCI. The NCI reports that women who use tanning beds more than once a month are 55 percent more likely to develop melanoma than those who do not use tanning beds. Teenage girls and young women make up a growing number of tanning bed customers both nationally and locally.

According to the FDA, “Advocates of tanning devices sometimes argue that using these devices is less dangerous than sun tanning because the intensity of UV radiation and the time spent tanning can be controlled. But there is no evidence to support these claims. In fact, sunlamps may be more dangerous than the sun because they can be used at the same high intensity every day of the year—unlike the sun whose intensity varies with the time of day, the season, and cloud cover.” Therefore, the purpose of this legislation is to prohibit the use of tanning facilities by persons under 18 years of age.

Section 2: Definitions

PERSON -- Individual.

TANNING FACILITY -- Any establishment where one or more ultraviolet radiation device is used, offered, or made available for use by any human being, for which a fee is charged, directly or indirectly, but shall not include any facility where any such device is used by a qualified health-care professional for treatment of medical conditions.

ULTRAVIOLET RADIATION DEVICE -- Any equipment which is designed to emit electromagnetic radiation in the wavelength interval of two hundred to four hundred nanometers in air, and which is intended to induce tanning of the human skin through irradiation, including, but not limited to, a sunlamp, tanning booth, or tanning bed.

Section 3: Applicability

This law shall apply to all actions occurring on or after the effective date of this law.

No person under 18 years of age shall be permitted to use a tanning device in a tanning facility in the County of Dutchess, NY.

Requirements for Tanning Facilities:

A. Each tanning facility must comply with the provisions of state law, as it relates to the posting of warning signs, the availability of educational information on the health risks associated with the use of a tanning facility, and the use of proper eye protection by each patron, and shall post a sign advising patrons of the prohibitions contained in this chapter, which sign shall contain letters of no less than 1/2 inch on a contrasting background.

B. Any advertisement, coupon, flyer or other printed material paid for, produced, published or distributed by, or on the behalf of, any tanning facility shall contain the following warning: "Tanning Increases Your Risk of Skin Cancer." This warning shall be displayed conspicuously on the advertisement, coupon, flyer or other printed material in such a way as to be clearly legible.

Section 4: Exceptions

This law will not apply to any facility where any such ultraviolet radiation device is used by a licensed healthcare provider for the treatment of medical conditions.

Section 5: Violations and Penalties

Any tanning facility which violates this chapter shall be subject to a fine of up to \$250 for the first offense, \$500 for a second offense, and \$1000 for the third and for each subsequent offense.

Section 6: Reverse preemption

This chapter shall be null and void on the day that statewide or federal legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Dutchess. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide legislation has been enacted of the purposes of triggering the provision of this section.

Section 7: Promulgation of rules and regulations

The Dutchess County Department of Health and the Dutchess County Department of Consumer Affairs shall promulgate such rules and regulations as it deems necessary and appropriate for the implementation and enforcement of any provisions of this chapter.

Section 8: Separability

If any word, phrase, clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the words, phrase, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9: Effective Date

This law shall take effect September 1, 2010