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Sponsors:	Betsy Gotbaum, Maria Baez, Gale A. Brewer, Leroy G. Comrie, Jr., James F. Gennaro, Vincent J. Gentile, Alan J. Gerson, Robert Jackson, G. Oliver Koppell, Michael C. Nelson, James Sanders, Jr., Larry B. Seabrook, Kendall Stewart, David I. Weprin				
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Int. No. 725

By The Public Advocate (Ms. Gotbaum) and Council Members Baez, Brewer, Comrie, Gennaro, Gentile, Gerson, Jackson, Koppell, Nelson, Sanders Jr., Seabrook, Stewart and Weprin

A Local Law to amend the administrative code of the city of New York, in relation to establishing restrictions on the use of ultraviolet radiation devices at tanning facilities.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. According to the United States Food and Drug Administration (FDA) and numerous health care organizations, approximately one million Americans are stricken with skin cancer, a potentially deadly disease, each year. Skin cancer is more common than any other type of cancer among women between 25 and 29 years of age.

The United States Food and Drug Administration (FDA), the National Institutes of Health (NIH), the United States Centers for Disease Control and Prevention (CDC) and numerous health care organizations discourage the use of tanning beds, tanning booths and sunlamps, and conclude that indoor tanning can be as

harmful as outdoor tanning in causing skin cancer. Recent studies suggest a strong correlation between artificial tanning devices and skin cancer. A 2002 Dartmouth study found that people who had used an artificial tanning device at least once in their life were 2.5 times more likely than people who did not use such a device to develop squamous cell skin cancer, and 1.5 times more likely to develop basal cell skin cancer. A 2003 study published in the *Journal of the National Cancer Institute* found that women between the ages of 30 and 50 who use artificial tanning devices at least once a month have increased their risk of developing melanoma (a form of skin cancer) by 55%, and that this risk is further increased to 150% for women between the ages of 20 and 29 who use such devices at least once a month.

Despite the potential harmful effects of using artificial tanning devices, the *Archives of Pediatric and Adolescent Medicine* reported that, in a survey of 7,000 teenagers, one in three girls and 11% of boys reported having used an indoor tanning bed at least once. Given that there are currently no repair treatments available for reversing the brutal effects of ultraviolet light, type A (UVA) and type B (UVB) rays on the skin, and the risk of developing skin cancer is greater for adolescents and young adults, public education and greater regulation is necessary to prevent damage from UVA and UVB rays and protect the public health of the citizens of New York City.

§2. Chapter one of title seventeen of the administrative code of the city of New York is amended by adding a new section 17-190 to read as follows:

§17-190 Restrictions on the use of ultraviolet radiation devices by minors. a. Definitions. For purposes of this section, the following terms shall have the following meanings:

1. “Tanning facility” shall mean any establishment where ultraviolet radiation devices are used, offered or made available for use by any person, for which a fee is charged, but shall not include any facility where such devices are used by a qualified health care professional for the treatment of medical conditions.

2. “Ultraviolet radiation device” shall mean 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, any sunlamp, tanning booth or tanning bed.

b. Restrictions and prohibitions. 1. No person under fourteen years of age shall be permitted to use an ultraviolet radiation device in a tanning facility.

2. No person fourteen to seventeen years of age shall be permitted to use an ultraviolet radiation device in a tanning facility unless such person is accompanied by a parent or legal guardian or provides such facility with written consent of such parent or legal guardian. Such consent shall be (i) executed by such parent or legal guardian in the presence of an owner or employee of the tanning facility and (ii) state the period of time not to exceed one year for which an individual shall be permitted to use such device in such facility.

c. Records. An owner of a tanning facility shall (i) retain any consent written by a parent or legal guardian pursuant to paragraph 2 of subdivision b of this section for the duration of such consent and (ii) present any such consent to the department or department of consumer affairs upon request.

d. Violations and penalties. 1. Where an owner or employee of a tanning facility violates subdivision b of this section, the owner of such facility shall be liable for a civil penalty not to exceed two hundred and fifty dollars for each violation, provided that for a first such violation, such owner may be issued a written warning in lieu of such civil penalty.

2. Notwithstanding any provision of law to the contrary, any owner or employee of a tanning facility who intentionally or knowingly violates subdivision b of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by (i) a fine of not more than five hundred dollars for each violation, or by imprisonment not to exceed six months, or both, and (ii) a civil penalty of not more than five hundred dollars for each violation.

e. Enforcement. The department and the department of consumer affairs shall enforce the provisions of this section. A proceeding to recover any civil penalty authorized pursuant to subdivision d of this section shall be commenced by the service of a notice of violation returnable to the administrative tribunal established by the

board of health where the department issues such notice or to the adjudication division of the department of consumer affairs where such department issues such notice. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. The administrative tribunal of the board of health and the adjudication division of the department of consumer affairs shall have the power to render decisions and to impose the remedies and penalties provided for in subdivision d of this section, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

f. Rules. The commissioner of the department and the commissioner of the department of consumer affairs may promulgate any rules as may be necessary for the purposes of carrying out the provisions of this section.

§3. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall remain in full force and effect.

§4. This local law shall take effect one hundred and eighty days after its enactment into law.

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