

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

661Q0530

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 139** - 2/4/2009

Introduced by: Senators Miles, Ahlers, Bradford, Hunhoff (Jean), Kloucek, and Schmidt and
Representatives Gosch, Curd, Deadrick, Elliott, Kirschman, Krebs,
McLaughlin, Nygaard, Pitts, Rausch, Schlekeway, Solum, Sorenson, Steele,
Thompson, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to provide for certain restrictions for the use of tanning
2 devices by minors.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may permit a minor to use a tanning device at a tanning facility without the
7 consent of a parent or legal guardian. A violation of this section is a Class 2 misdemeanor.

8 Section 2. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The consent required pursuant to section 1 of this Act shall be evidenced by either of the
11 following written documents:

12 (1) A notarized statement of consent signed and dated by a parent or legal guardian; or

13 (2) A statement of consent signed and dated by a parent or legal guardian in the presence



1 of any person responsible for the operation of the tanning device at the tanning
2 facility.

3 Section 3. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Terms used in this Act mean:

6 (1) "Tanning device," equipment that emits electromagnetic radiation having
7 wavelengths in the air between two hundred and four hundred nanometers and that
8 is used for tanning human skin. The term does not include a phototherapy device
9 used by a physician licensed pursuant to chapter 36-4 that emits ultraviolet radiation
10 and is used in treating disease;

11 (2) "Tanning facility," a place or business that provides persons access to a tanning
12 device.

13 Section 4. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Any person charged with a violation of section 1 of this Act may offer evidence, as a
16 defense, that the person made a reasonable attempt to investigate the age of the person by
17 examining an age-bearing identification document that would have appeared valid to a
18 reasonable and prudent person or relied upon a consent document that would have appeared
19 valid to a reasonable and prudent person.