



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 74
(2012, chapter 16)

An Act to prevent skin cancer caused by artificial tanning

Introduced 15 May 2012
Passed in principle 22 May 2012
Passed 5 June 2012
Assented to 6 June 2012

Québec Official Publisher
2012

EXPLANATORY NOTES

This Act is intended mainly to prevent skin cancer caused by artificial tanning. It therefore prohibits minors from having access to the artificial tanning services offered by tanning salons.

Advertising that promotes artificial tanning is also prohibited if it is directed at minors or likely to create an erroneous impression about the health effects or health risks of artificial tanning, especially if it suggests that artificial tanning equipment is harmless.

Penal offences are prescribed and inspections are provided for. The posting in tanning salons of a warning about the adverse health effects of artificial tanning is made mandatory and tanning salon operators are required to declare artificial tanning service activities in the enterprise register kept in accordance with the Act respecting the legal publicity of enterprises.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 74

AN ACT TO PREVENT SKIN CANCER CAUSED BY ARTIFICIAL TANNING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

INTERPRETATION AND SCOPE

1. For the purposes of this Act,

“artificial tanning” means tanning induced by the use of ultraviolet radiation emitting (UV) equipment such as a tanning bed or a tanning booth;

“tanning salon” means any premises where artificial tanning services are provided in the course of a business.

2. Private health facilities or specialized medical centres within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) where physicians use UV equipment to treat minors for skin conditions are not subject to this Act.

DIVISION II

OBLIGATIONS AND PROHIBITIONS

3. A tanning salon operator may not provide artificial tanning services to a minor or allow a minor to use such services or have access, without a legitimate excuse, to a tanning salon room where UV equipment used for artificial tanning is installed.

A tanning salon operator who contravenes the first paragraph is guilty of an offence and liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,500 to \$15,000 in any other case.

4. A person wishing to obtain artificial tanning services in a tanning salon or have access to a tanning salon room where UV equipment used for artificial tanning is installed may be required to provide proof that he or she is of full age.

When required to provide proof under the first paragraph, a person must produce photo identification issued by a government or a government department or public body and showing the person's name and date of birth.

5. In proceedings for a contravention of section 3, no penalty may be imposed on a defendant who shows that a reasonable effort was made to verify the minor's age and there were reasonable grounds to believe that the minor was of full age.

6. A minor is prohibited from

(1) purchasing for himself or herself artificial tanning services provided by a tanning salon, using such services or purchasing them for others;

(2) being found in a tanning salon room where UV equipment used for artificial tanning is installed, without a legitimate excuse; and

(3) falsely holding himself or herself out to be of full age in order to obtain artificial tanning services or have access to a room described in subparagraph 2.

A minor who contravenes this section is guilty of an offence and liable to a maximum fine of \$100.

In proceedings for a contravention of this section, the burden is on the defendant to prove that he or she was of full age at the time.

7. Direct or indirect advertising promoting artificial tanning is prohibited if

(1) it is directed at minors; or

(2) it is false or misleading, or is likely to create an erroneous impression about the health effects or health risks of artificial tanning, especially if it suggests that artificial tanning equipment is harmless.

The prohibition in the first paragraph applies in particular to the name under which a tanning salon is operated.

All advertising promoting artificial tanning must clearly state the prohibition against providing artificial tanning services to minors, and must include the Minister's warning prescribed by regulation about the adverse health effects of artificial tanning.

In addition to prescribing the warning about the adverse health effects of artificial tanning, the Minister may make regulations determining the standards applicable to the warning and to the prohibition referred to in the second paragraph.

The operator or, if there is no operator, the owner of the premises or advertising space or of any media where unlawful advertising is disseminated,

as well as the person who paid for the dissemination of such advertising and, if party to the dissemination contract, the tanning salon operator, are guilty of an offence and liable to a fine of \$500 to \$5,000 in the case of a natural person or \$1,500 to \$15,000 in any other case, unlawful advertising being advertising that contravenes this section or a regulation made under this section.

8. A tanning salon operator must post a sign prohibiting the provision of artificial tanning services to minors and another sign bearing the Minister's warning about the adverse health effects of artificial tanning as soon as such signs are provided by the Minister. The signs must be posted in public view, on the outside of each door providing access to the salon and on or next to each cash register used for the payment of artificial tanning services.

Removing or defacing such signs is prohibited.

The Minister may make regulations determining the standards applicable to such signs.

A tanning salon operator who contravenes the first paragraph or a regulation made under the third paragraph and anyone who contravenes the second paragraph is guilty of an offence and liable to a fine of \$250 to \$2,500 in the case of a natural person and \$750 to \$7,500 in any other case.

9. The provision of artificial tanning services is an activity that must be declared in the enterprise register kept in accordance with the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1) within 30 days after the tanning salon begins operations.

The discontinuance of that activity must also be declared in the same register within 30 days after its occurrence.

DIVISION III

INSPECTIONS

10. For the purposes of this Act, the following may appoint someone to act as inspector:

(1) the Minister;

(2) a health and social services agency established under the Act respecting health services and social services that is responsible, under the second paragraph of section 371 of that Act, for overseeing the enforcement of this Act, for its region or any other region that the Minister determines; and

(3) a local municipality, for its territory.

A municipality that appoints an inspector must inform the Minister of the appointment.

11. An inspector must, on request, provide identification and produce a certificate of authority signed, as applicable, by the Minister, the president and executive director of the agency, the person designated by either of them or the clerk or secretary-treasurer of the local municipality.

The inspector's responsibilities must be specified in the act of appointment.

12. In order to ascertain compliance with this Act and the regulations, an inspector may, at any reasonable time, enter a tanning salon or any premises where information relating to advertising promoting artificial tanning is kept and

(1) require the production of any document or file for examination or for the purpose of making copies, if the inspector has reasonable grounds to believe that they contain information related to the enforcement of this Act or a regulation; or

(2) in the case of a tanning salon, require any person entering or leaving a room where UV equipment is installed to prove that he or she is of full age by producing identification compliant with the second paragraph of section 4.

To require proof of full age from a person referred to in subparagraph 2 of the first paragraph, the inspector must be reasonably convinced that the person is entering the room to receive artificial tanning services or leaving the room after having obtained such services.

An inspector may also, in a written request, require the owner or operator of the premises, advertising space or media to submit any information or document relating to the enforcement of section 7 within a specified reasonable time.

13. A person who in any way hinders an inspector carrying out the functions of office, misleads the inspector by concealment or false declarations, or refuses to hand over a document or information the inspector may demand under this Act is guilty of an offence and liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,500 to \$15,000 in any other case.

14. An inspector may not be prosecuted for an act performed in good faith while carrying out the functions of office.

DIVISION IV

MISCELLANEOUS PROVISIONS

15. A person who, by an act or omission, assists another person in committing an offence under this Act or, by encouragement, advice or consent or by an authorization or an order, induces another person to commit such an offence is guilty of the same offence.

In the absence of any evidence to the contrary, in any proceedings under this Act, proof that an offence was committed by a person in the employ of a tanning salon operator is proof that the person committed the offence with the tanning salon operator's authorization or consent.

16. If an offence under Division II or III is committed by a natural person who is a director or officer of a legal person or partnership, the minimum and maximum fines that would apply in the case of a natural person are doubled.

17. The minimum and maximum fines prescribed in Divisions II and III are doubled for a subsequent offence.

18. Penal proceedings for an offence under Division II, Division III or a regulation made under this Act may be instituted by a local municipality if the offence was committed in its territory. Such proceedings may be instituted before the competent municipal court.

Fines imposed under this section belong to the municipality.

The costs relating to proceedings instituted before a municipal court belong to the municipality in which the court has jurisdiction, except the part of the costs remitted by the collector to another prosecuting party under article 345.2 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), and the costs remitted to the defendant or imposed on the prosecuting municipality under article 223 of the Code.

DIVISION V

AMENDING PROVISIONS

ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

19. Section 21 of the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1) is amended by replacing the second paragraph by the following paragraph:

“Despite subparagraph 1 of the first paragraph, natural persons who operate either of the following under a name that includes their surname and given name are also required to be registered:

(1) a tobacco retail outlet within the meaning of the Tobacco Act (chapter T-0.01); or

(2) a tanning salon within the meaning of the Act to prevent skin cancer caused by artificial tanning (2012, chapter 16).”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

20. Section 371 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by adding the following paragraph at the end:

“At the Minister’s request, the agency must also oversee the enforcement of the Act to prevent skin cancer caused by artificial tanning (2012, chapter 16) in its region or in any other region that the Minister determines.”

DIVISION VI

TRANSITIONAL AND FINAL PROVISIONS

21. The operator of a tanning salon in operation on (*insert the date of coming into force of section 9 of this Act*) must, not later than (*insert the date that occurs six months after the date of coming into force of section 9 of this Act*), declare, in the enterprise register kept in accordance with the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1), the name and address of any establishment where artificial tanning services are provided as an activity within the meaning of section 9 of this Act.

A tanning salon operator who fails to declare that information in accordance with the first paragraph is guilty of an offence and liable to the fine prescribed in section 159 of that Act.

22. A natural person who, on (*insert the date of coming into force of section 19 of this Act*), operates a tanning salon under a name that includes his or her surname and given name must, not later than (*insert the date that occurs six months after the date of coming into force of section 19 of this Act*), register in accordance with the Act respecting the legal publicity of enterprises.

A natural person who fails to register in accordance with the first paragraph is guilty of an offence and liable to the fine prescribed in section 159 of that Act.

23. No penal proceedings may be brought against a person on the grounds that, in the year following (*insert the date of coming into force of the second paragraph of section 7 of this Act*), the prohibition in the first paragraph of section 7 applied to the name of the tanning salon the person operates.

24. The Minister must, not later than (*insert the date that occurs five years after the date of coming into force of section 3 of this Act*) and subsequently every five years, report to the Government on the carrying out of this Act and the advisability of amending it.

A report under the first paragraph is tabled by the Minister in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the competent committee of the National Assembly in the year following the date of its tabling.

25. The Minister of Health and Social Services is responsible for the administration of this Act.

26. The provisions of this Act come into force on 6 June 2013, unless the Government sets an earlier date or earlier dates for their coming into force.

