

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 783 Session of
2001

INTRODUCED BY STOUT, HUGHES, COSTA, BODACK AND SCHWARTZ,
APRIL 5, 2001

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
APRIL 5, 2001

AN ACT

1 Regulating tanning facilities; providing for the registration of
2 persons operating tanning facilities and providing tanning
3 equipment services; requiring that certain warnings be given
4 and safeguards be taken; providing for powers and duties of
5 the Department of Health; imposing a penalty; and making a
6 repeal.

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6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Tanning
10 Facility Registration Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Consumer." An individual who is provided access to a
16 tanning facility which is required to be registered under this
17 act.

18 "Department." The Department of Health of the Commonwealth.

19 "Operator." An individual designated by a registrant to
20 operate or to assist and instruct a consumer in the operation
21 and use of the tanning facility or tanning equipment. The term
22 includes, but is not limited to, an individual who conducts one
23 or more of the following activities:

24 (1) Determining a consumer's skin type.

25 (2) Determining the suitability of prospective consumers
26 for tanning equipment use.

27 (3) Informing a consumer of dangers of ultraviolet
28 radiation exposure, including photoallergic reactions and
29 photosensitizing agents.

30 (4) Assuring that a consumer reads and properly signs

1 all required forms.

2 (5) Maintaining required consumer exposure records.

3 (6) Recognizing and reporting consumer injuries or
4 alleged injuries to the registrant.

5 (7) Determining a consumer's exposure schedule.

6 (8) Setting timers which control the duration of
7 exposure.

8 (9) Instructing the consumer in the proper use of
9 protective eyewear.

10 "Person." An individual, corporation, partnership, firm,
11 association, trust or estate and any legal successor,
12 representative, agent or agency of these entities.

13 "Registrant." A person who is registered with the Department
14 of Health as required by this act.

15 "Registration." Registration with the Department of Health
16 under this act.

17 "Tanning components." A constituent tanning equipment part,
18 including ballasts, starters, lamps, reflectors, acrylic
19 shields, timers and airflow cooling systems.

20 "Tanning equipment." Ultraviolet or other lamps and
21 equipment containing lamps intended to induce skin tanning
22 through the irradiation of any part of the living human body
23 with ultraviolet radiation. The term includes beds, booths,
24 facials and wands.

25 "Tanning equipment services." The term includes the
26 following:

27 (1) Installation, sales and servicing of tanning
28 equipment and associated tanning components.

29 (2) Calibration of equipment used in surveys to measure
30 radiation and timer accuracy.

(3) Tanning health physics consulting, such as radiation output measurements, design of safety programs, training seminars for tanning operators and service personnel.

"Tanning facility." A location, place, area, structure or business which provides consumers access to tanning equipment. Tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

"Ultraviolet radiation." Electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

Section 3. Exclusions.

This act shall not apply to any of the following:

(1) The use of equipment which emits ultraviolet radiation incidental to its proper operation, but which is not used to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of skin tanning.

(2) Tanning equipment owned exclusively for personal use.

(3) Tanning equipment while in transit or in storage incidental to transit.

(4) A phototherapy device used by or under the direct supervision of a licensed physician who is trained in the use of phototherapy devices.

Section 4. Application for registration.

(a) Existing facilities.--A person having a tanning facility on the effective date of this act shall apply for registration of the facility no later than 60 days following the effective date of this act.

1 (b) New facilities.--A person acquiring or establishing a
2 tanning facility after the effective date of this act shall
3 apply to the department for registration of the facility prior
4 to beginning operation.

5 (c) Application.--Application for registration shall be
6 completed on forms provided by the department. The department
7 shall require at least the following information on the forms
8 provided for applying for registration of tanning facilities:

9 (1) The name, physical address, mail address and
10 telephone number of the tanning facility.

11 (2) The name, mail address and telephone number of the
12 owner of the tanning facility.

13 (3) The name of the training facility operator with a
14 certification of each operator's training as provided in
15 section 10.

16 (4) The manufacturer, model number and type of
17 ultraviolet lamp or tanning equipment located at the tanning
18 facility.

19 (5) The name of the tanning equipment supplier,
20 installer and service agent.

21 (6) The geographic areas of this Commonwealth to be
22 covered, if the application is for a mobile tanning facility.

23 (7) Copies of any posted warnings or notices which are
24 not required by this act and which address the safety and
25 proper use of tanning equipment and protective devices.

26 (8) Copies of the consent forms and statements which the
27 consumer, parent or guardian will be required to sign under
28 section 10.

29 (9) Procedures which the operator will be required to
30 follow for the correct use of tanning equipment, including

1 the following:

2 (i) Instructions to the consumer.

3 (ii) Use of protective eyewear.

4 (iii) Suitability of prospective consumers for
5 tanning equipment use.

6 (iv) Determination of duration of tanning exposures.

7 (v) Periodic testing of tanning equipment and
8 timers.

9 (vi) Handling of complaints of injury from
10 consumers.

11 (vii) Records to be maintained on each consumer.

12 (10) Certification that the applicant has read and
13 understands the requirements of this act. The certification
14 shall be signed and dated by the manager and the owner of the
15 tanning facility.

16 (11) Certification that the person operating the tanning
17 facility will not allow any individual under 18 years of age
18 to be the operator of tanning equipment.

19 (12) Certification that the person operating the tanning
20 facility or tanning equipment meets one of the following
21 requirements:

22 (i) Has earned a high school diploma.

23 (ii) Has earned a high school equivalency
24 certificate.

25 (iii) Is able to demonstrate basic literacy skills.

26 Section 5. Certificate of registration.

27 (a) Issuance.--Upon determination that an application meets
28 the requirements of this act, the department shall issue a
29 certificate of registration. The department may incorporate in
30 the certificate of registration, at the time of issuance or

1 thereafter by appropriate order, such additional requirements
2 and conditions with respect to the registrant's receipt,
3 possession, use and transfer of tanning equipment and tanning
4 facilities as the department deems appropriate or necessary.

5 (b) Expiration.--Except as provided in subsection (c), each
6 certificate of registration shall expire at midnight on the
7 expiration date stated in the certificate.

8 (c) Renewal.--A registrant shall file an application for
9 renewal of a certificate of registration in accordance with
10 section 4. If a registrant files with the department an
11 application for renewal in proper form not less than 30 days
12 prior to the expiration date stated on the certificate of
13 registration, the certificate of registration shall not expire
14 pending final action on the application by the department.

15 (d) Report of changes.--A registrant shall notify the
16 department in writing before making any change which would
17 render the information contained in the application for
18 registration or the certificate of registration inaccurate.

19 (e) Transfer of certificate of registration.--A certificate
20 of registration may not be transferred from one person to
21 another person or from one tanning facility to another tanning
22 facility.

23 (f) Approval not implied.--A person shall not refer in an
24 advertisement to the fact that the person or person's facility
25 is registered with the department under this act, and a person
26 shall not state or imply that any activity under a registration
27 has been approved by the department.

28 Section 6. Denial, suspension or revocation of registration.

29 (a) Grounds.--The department may deny, suspend or revoke a
30 certificate of registration applied for or issued for any of the

1 following reasons:

2 (1) For a material false statement in the application
3 for registration or in any statement of fact required by this
4 act.

5 (2) Because of conditions revealed by the application or
6 report, record, inspection or other means which would warrant
7 the department to refuse to grant a certificate of
8 registration on an original application.

9 (3) For operation of the tanning facility in a manner
10 that causes or threatens to cause hazard to the public health
11 or safety.

12 (4) For failure to allow authorized representatives of
13 the department to enter the tanning facility at reasonable
14 times for the purpose of determining compliance with the
15 provisions of this act, conditions of the certificate of
16 registration or an order of the department.

17 (5) For violation of or failure to observe any of the
18 terms and conditions of the certificate of registration, the
19 provisions of this act or an order of the department.

20 (b) Notice of noncompliance.--Except in cases of willfulness
21 or those in which the public health, interest or safety requires
22 otherwise, prior to the institution of proceedings for
23 suspension or revocation of a certificate of registration, the
24 department shall:

25 (1) Call to the attention of the registrant in writing
26 the facts or conduct which may warrant actions by the
27 department.

28 (2) Provide reasonable opportunity for the registrant to
29 demonstrate or achieve compliance with all lawful
30 requirements.

1 (c) Procedure.--A person aggrieved by a decision by the
2 department to deny a certificate of registration or to suspend
3 or revoke a certificate of registration after issuance may
4 request a hearing under 2 Pa.C.S. Ch. 5. Subch. A (relating to
5 practice and procedure of Commonwealth agencies).

6 (d) Termination upon request.--The department may terminate
7 a certificate of registration upon receipt of a written request
8 for termination from the registrant.

9 Section 7. Warning signs required.

10 (a) Posting.--The registrant shall post the warning sign
11 described in subsection (b) within one meter of each tanning
12 station and in such a manner that the sign is clearly visible,
13 not obstructed by any barrier, equipment or other object, and
14 can be easily viewed by the consumer before the tanning
15 equipment is energized.

16 (b) Contents.--The warning sign shall use upper and lower
17 case letters which are at least ten millimeters and five
18 millimeters in height, respectively, and shall have the
19 following wording:

20 DANGER - ULTRAVIOLET RADIATION

21 Follow instructions.

22 Avoid overexposure. As with natural sunlight,
23 overexposure can cause eye and skin injury and allergic
24 reactions. Repeated exposure may cause premature aging of
25 the skin and skin cancer. Wear protective eyewear.

26 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN

27 SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

28 Medications or cosmetics may increase your sensitivity to
29 the ultraviolet radiation. Consult a physician before
30 using sunlamp or tanning equipment if you are using

1 medication or have a history of skin problems or believe
2 yourself to be especially sensitive to sunlight. If you
3 do not tan in the sun, you are unlikely to tan from the
4 use of this product.

5 Section 8. Equipment and construction requirements.

6 (a) Standards.--The registrant shall use only tanning
7 equipment manufactured in accordance with the specifications set
8 forth in 21 CFR 1040.20 (relating to sunlamp products and
9 ultraviolet lamps intended for use in sunlamp products). The
10 standard of compliance shall be the standards in effect at the
11 time of manufacture as shown on the equipment identification
12 label required by 21 CFR 1010.3 (relating to identification).

13 (b) Single use.--Each assembly of tanning equipment shall be
14 designed for use by only one consumer at a time.

15 (c) Timer.--Each assembly of tanning equipment shall be
16 equipped with a timer which complies with the requirements of 21
17 CFR 1040.20(c)(2). The maximum timer interval shall not exceed
18 the manufacturer's maximum recommended exposure time. A timer
19 interval shall not have an error exceeding plus or minus 10% of
20 the maximum timer interval for the product.

21 (d) Lamp protection.--Tanning equipment shall include
22 physical barriers to protect consumers from injury induced by
23 touching or breaking the lamps.

24 (e) Legible labeling.--All tanning equipment labeling
25 required under subsection (a) shall be legible and accessible to
26 view.

27 (f) Additional requirements for stand-up booths.--Tanning
28 booths designed for stand-up use shall also comply with the
29 following additional requirements:

30 (1) Booths shall have physical barriers or other means,

1 such as handrails or floor markings, to indicate the proper
2 exposure distance between ultraviolet lamps and the
3 consumer's skin.

4 (2) Booths shall be constructed with sufficient strength
5 and rigidity to withstand the stress of use and the impact of
6 a falling person.

7 (3) Access to booths shall be of rigid construction with
8 doors which are nonlatching and open outwardly.

9 (4) Booths shall be equipped with handrails and nonslip
10 floors.

11 Section 9. Protective eyewear required.

12 (a) Use.--The registrant shall provide protective eyewear to
13 each consumer for use during any use of tanning equipment. The
14 protective eyewear shall meet the requirements of 21 CFR
15 1040.20(c)(5) (relating to sunlamp products and ultraviolet
16 lamps intended for use in sunlamp products).

17 (b) Monitoring use.--Tanning facility operators shall ensure
18 that consumers wear the protective eyewear required by this
19 section by means of postexposure observation.

20 (c) Sanitizing.--The registrant shall ensure that the
21 protective eyewear is properly sanitized before each use and
22 shall not rely upon exposure to the ultraviolet radiation
23 produced by the tanning equipment itself to provide sanitizing.

24 Section 10. Reports and operating requirements.

25 (a) Acknowledgment of warning.--Prior to initial exposure,
26 the tanning facility operator shall provide each consumer the
27 opportunity to read a copy of the warning specified in section 7
28 and request that the consumer sign a statement that the
29 information has been read and understood. For illiterate persons
30 or visually impaired persons unable to sign their name, the

1 warning statement shall be read by the operator, in the presence
2 of a witness, and the witness and the operator shall sign the
3 statement.

4 (b) Record of visits.--The registrant shall maintain a
5 record of each consumer's total number of tanning visits,
6 including dates and durations of tanning exposures.

7 (c) Report of injury.--The registrant shall submit to the
8 department a written report of injury for which medical
9 attention was sought or obtained from the use of registered
10 tanning equipment within five working days after occurrence. The
11 report shall include:

12 (1) The name of the affected individual.

13 (2) The name and location of the tanning facility
14 involved.

15 (3) The nature of the actual or alleged injury.

16 (4) Any other information relevant to the actual or
17 alleged injury, including the date and duration of exposure
18 and any documentation of medical attention sought or
19 obtained.

20 (d) Use by minors.--The registrant shall not allow
21 individuals under 18 years of age to use tanning equipment
22 unless the individual provides a consent form and a statement,
23 described in subsection (a), signed by that individual's parent
24 or legal guardian.

25 (e) Replacement of lamps and other parts.--

26 (1) The registrant shall replace defective or burned out
27 lamps, bulbs or filters with a type intended for use in the
28 affected tanning equipment as specified by the manufacturer's
29 product label and having the same spectral distribution
30 (certified equivalent lamp).

1 (2) The registrant shall replace ultraviolet lamps and
2 bulbs, which are not otherwise defective or damaged, at such
3 frequency or after such duration of use as may be recommended
4 by the manufacturer of the lamps and bulbs.

5 (f) Training.--

6 (1) The registrant shall certify that all tanning
7 equipment operators are adequately trained in at least the
8 following:

9 (i) The requirements of this act.

10 (ii) Procedures for correct operation of the tanning
11 facility and tanning equipment.

12 (iii) Recognition of injury or overexposure to
13 ultraviolet radiation.

14 (iv) The tanning equipment manufacturer's procedures
15 for operation and maintenance of the tanning equipment.

16 (v) The determination of skin type of consumers and
17 appropriate determination of duration of exposure to
18 tanning equipment.

19 (vi) Emergency procedures to be followed in case of
20 injury.

21 (2) Effective January 1, 2001, the registrant shall
22 allow operation of tanning equipment only by persons who have
23 successfully completed formal training courses which cover
24 the topics in subparagraphs (i) to (vi) and have been
25 approved by the department.

26 (3) The registrant shall maintain a record of operator
27 training required for inspection by authorized
28 representatives of the department.

29 (g) Expose of minors to emissions.--A registrant shall not
30 possess, use, operate or transfer tanning equipment or their

1 ultraviolet radiation sources in such a manner as to cause any
2 individual under 18 years of age to be exposed to radiation
3 emissions from such equipment except in accordance with
4 subsection (d).

5 Section 11. Application for registration of servicing or
6 services.

7 (a) Registration required.--Each person who offers tanning
8 equipment services to any registrant shall apply for
9 registration of the services with the department within 60 days
10 following the effective date of this act or, thereafter, prior
11 to furnishing or offering to furnish any of these services.

12 (b) Form.--The application for registration shall be
13 completed on an approved department form.

14 (c) Certification.--Persons applying for registration under
15 this section shall certify that they have read and understand
16 the requirements of this act.

17 (d) Proposed servicing.--Effective August 1, 2001, a
18 registrant shall prohibit a person from furnishing tanning
19 equipment services to a tanning equipment or facility until the
20 person provides evidence of registration under this section.

21 Section 12. Reports of tanning equipment service providers.

22 Persons registered under section 11 who sell, lease,
23 transfer, lend, dispose of, assemble or install tanning
24 equipment in this Commonwealth shall, within 30 days after each
25 calendar quarter, notify the department of the following:

26 (1) Any tanning equipment which was installed,
27 transferred or disposed of during the calendar quarter.

28 (2) The name and address of persons who receive tanning
29 equipment during the calendar quarter.

30 (3) The manufacturer, model and serial number of tanning

1 equipment transferred or otherwise disposed of.

2 (4) The date of transfer of any tanning equipment.

3 Section 13. Rules and regulations.

4 The department shall promulgate rules and regulations to
5 administer and enforce the provisions of this act. By
6 regulation, the department shall set the amount of annual
7 registration fees for registrants and providers of tanning
8 equipment services. The fees shall be set so as to cover the
9 department's costs to administer and enforce this act.

10 Section 14. Penalty.

11 A violation of this act constitutes a misdemeanor of the
12 third degree. Each day a violation continues shall be considered
13 a separate offense.

14 Section 15. Repeal.

15 Section 14.1 of the act of May 3, 1933 (P.L.242, No.86),
16 referred to as the Cosmetology Law, is repealed insofar as it is
17 inconsistent with this act.

18 Section 16. Effective date.

19 This act shall take effect in 60 days.