

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1225 Session of
1997

INTRODUCED BY STOUT, COSTA, BELAN, LEMMOND AND SCHWARTZ,
DECEMBER 10, 1997

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
DECEMBER 10, 1997

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; providing a penalty; and making a
6 repeal.

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8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Tanning
12 Facility Registration Act.

13 Section 2. Definitions.

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

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

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

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

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

27 (2) Determining the suitability of prospective consumers
28 for tanning equipment use.

29 (3) Informing a consumer of dangers of ultraviolet
30 radiation exposure, including photoallergic reactions and

1 photosensitizing agents.

2 (4) Assuring that a consumer reads and properly signs
3 all required forms.

4 (5) Maintaining required consumer exposure records.

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

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

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

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

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

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

17 "Registration." Registration with the Department of Health
18 under this act.

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

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

27 "Tanning equipment services." The term includes the
28 following:

29 (1) Installation, sales and servicing of tanning
30 equipment and associated tanning components.

(2) Calibration of equipment used in surveys to measure 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

1 of the facility no later than 60 days following the effective
2 date of this act.

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

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

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

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

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

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

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

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

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

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

1 (9) Procedures which the operator will be required to
2 follow for the correct use of tanning equipment, including
3 the following:

4 (i) Instructions to the consumer.

5 (ii) Use of protective eyewear.

6 (iii) Suitability of prospective consumers for
7 tanning equipment use.

8 (iv) Determination of duration of tanning exposures.

9 (v) Periodic testing of tanning equipment and
10 timers.

11 (vi) Handling of complaints of injury from
12 consumers.

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

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

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

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

24 (i) Has earned a high school diploma.

25 (ii) Has earned a high school equivalency
26 certificate.

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

28 Section 5. Certificate of registration.

29 (a) Issuance.--Upon determination that an application meets
30 the requirements of this act, the department shall issue a

1 certificate of registration. The department may incorporate in
2 the certificate of registration, at the time of issuance or
3 thereafter by appropriate order, such additional requirements
4 and conditions with respect to the registrant's receipt,
5 possession, use and transfer of tanning equipment and tanning
6 facilities as the department deems appropriate or necessary.

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

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

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

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

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

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

1 (a) Grounds.--The department may deny, suspend or revoke a
2 certificate of registration applied for or issued for any of the
3 following reasons:

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

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

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

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

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

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

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

30 (2) Provide reasonable opportunity for the registrant to

1 demonstrate or achieve compliance with all lawful
2 requirements.

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

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

11 Section 7. Warning signs required.

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

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

22 DANGER - ULTRAVIOLET RADIATION

23 Follow instructions.

24 Avoid overexposure. As with natural sunlight,
25 overexposure can cause eye and skin injury and allergic
26 reactions. Repeated exposure may cause premature aging of
27 the skin and skin cancer.

28 Wear protective eyewear.

29 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN

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

1 Medications or cosmetics may increase your sensitivity to
2 the ultraviolet radiation. Consult a physician before
3 using sunlamp or tanning equipment if you are using
4 medication or have a history of skin problems or believe
5 yourself to be especially sensitive to sunlight.

6 If you do not tan in the sun, you are unlikely to tan
7 from the use of this product.

8 Section 8. Equipment and construction requirements.

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

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

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

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

27 (e) Legible labeling.--All tanning equipment labeling
28 required under subsection (a) shall be legible and accessible to
29 view.

30 (f) Additional requirements for stand-up booths.--Tanning

booths designed for stand-up use shall also comply with the following additional requirements:

(1) Booths shall have physical barriers or other means, such as handrails or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.

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

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

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

Section 9. Protective eyewear required.

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

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

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

Section 10. Reports and operating requirements.

(a) Acknowledgment of warning.--Prior to initial exposure, the tanning facility operator shall provide each consumer the opportunity to read a copy of the warning specified in section 7

1 and request that the consumer sign a statement that the
2 information has been read and understood. For illiterate persons
3 or visually impaired persons unable to sign their name, the
4 warning statement shall be read by the operator, in the presence
5 of a witness, and the witness and the operator shall sign the
6 statement.

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

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

15 (1) The name of the affected individual.

16 (2) The name and location of the tanning facility
17 involved.

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

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

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

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

29 (1) The registrant shall replace defective or burned out
30 lamps, bulbs or filters with a type intended for use in the

1 affected tanning equipment as specified by the manufacturer's
2 product label and having the same spectral distribution
3 (certified equivalent lamp).

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

8 (f) Training.--

9 (1) The registrant shall certify that all tanning
10 equipment operators are adequately trained in at least the
11 following:

12 (i) The requirements of this act.

13 (ii) Procedures for correct operation of the tanning
14 facility and tanning equipment.

15 (iii) Recognition of injury or overexposure to
16 ultraviolet radiation.

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

19 (v) The determination of skin type of consumers and
20 appropriate determination of duration of exposure to
21 tanning equipment.

22 (vi) Emergency procedures to be followed in case of
23 injury.

24 (2) Effective January 1, 1999, the registrant shall
25 allow operation of tanning equipment only by persons who have
26 successfully completed formal training courses which cover
27 the topics in subparagraphs (i) to (vi) and have been
28 approved by the department.

29 (3) The registrant shall maintain a record of operator
30 training required for inspection by authorized

representatives of the department.

(g) Expose of minors to emissions.--A registrant shall not possess, use, operate or transfer tanning equipment or their ultraviolet radiation sources in such a manner as to cause any individual under 18 years of age to be exposed to radiation emissions from such equipment except in accordance with subsection (d).

Section 11. Application for registration of servicing or services.

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

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

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

(d) Proposed servicing.--Effective August 1, 1998, a registrant shall prohibit a person from furnishing tanning equipment services to a tanning equipment or facility until the person provides evidence of registration under this section.

Section 12. Reports of tanning equipment service providers.

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

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

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

3 (3) The manufacturer, model and serial number of tanning
4 equipment transferred or otherwise disposed of.

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

6 Section 13. Rules and regulations.

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

13 Section 14. Penalty.

14 A violation of this act constitutes a misdemeanor of the
15 third degree. Each day a violation continues shall be considered
16 a separate offense.

17 Section 15. Repeal.

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

21 Section 16. Effective date.

22 This act shall take effect in 60 days.