

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 548 Session of
2005

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SATHER, SCHRODER, THOMAS, TIGUE, WALKO, WASHINGTON,
YOUNGBLOOD, O'NEILL, CORRIGAN, SAINATO, CIVERA, MAHER AND
KILLION, FEBRUARY 15, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 28, 2006

AN ACT

1 Regulating tanning facilities; providing for the registration of
2 persons operating tanning facilities; requiring that certain
3 warnings be given and safeguards be taken; imposing
4 penalties; and making a repeal.

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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Tanning
16 Facilities Act.

17 Section 2. Definitions.

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

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

22 "Phototherapy device." Equipment that emits ultraviolet
23 radiation used by a health care professional in the treatment of
24 disease.

25 "Protective eyewear." Any device designed to be worn by
26 users of a tanning device to reduce exposure of the eyes to
27 radiation emitted by the device.

28 "Tanning device." Any equipment that emits ultraviolet
29 radiation with wavelengths in the air between 200 and 400
30 nanometers and that is used for tanning of the skin. The term

1 includes, but is not limited to, a sunlamp, tanning unit,
2 tanning booth or tanning bed.

3 "Tanning facility." Any location, place, area, structure or
4 business which provides persons access to any tanning device for
5 compensation.

6 "Timer." Any device incorporated into a tanning device which
7 terminates radiation emission after a preset time interval.

8 "Ultraviolet lamp." Any lamp which produces ultraviolet
9 radiation in the wavelength interval of 200 to 400 nanometers in
10 air and which is intended for use in tanning devices.

11 "Ultraviolet radiation." Electromagnetic radiation with
12 wavelengths in air between 200 to 400 nanometers.

13 Section 3. Registration required.

14 (a) Registration of tanning facilities.--A person shall not
15 operate a tanning facility without first having registered with
16 the department. Registration shall be renewed annually. The
17 owner of the facility shall file an application for registration
18 with the department on a form prescribed by the department that
19 shall include at least the following:

20 (1) Applicant's or owner's name, address and telephone
21 number.

22 (2) Name of the tanning facility, address and telephone
23 number.

24 (3) Type and year of ultraviolet lamps or tanning
25 device.

26 (4) Name of ultraviolet lamp and tanning device
27 manufacturer.

28 (5) Primary function of the business in which the
29 tanning facility is located.

30 (6) Signed and dated certification that the applicant

1 has read and understands the regulations promulgated pursuant
2 to this act.

3 (b) Registration fees.--Unless changed by the department by
4 regulation, the initial registration fee shall be \$35 and the
5 annual registration renewal fee shall be \$25.

6 (c) Sanctions.--Registration may be denied, suspended,
7 revoked, or the renewal of a license may be denied for any of
8 the following reasons:

9 (1) Violation of any of the provisions of this act or
10 the regulations adopted by the department.

11 (2) Conviction of an applicant or registration holder of
12 an offense arising from false, fraudulent, deceptive or
13 misleading advertising. The record of conviction or a
14 certified copy shall be conclusive evidence of the
15 conviction.

16 (d) Administrative fine.--In addition to any other penalty
17 provided by law, the department may levy an administrative fine
18 of not more than \$1,000 for a violation of the act.

19 Section 4. Compliance with Federal laws and regulations.

20 Any tanning device used by a tanning facility shall comply
21 with all applicable Federal laws and regulations.

22 Section 5. Warning statement required.

23 A tanning facility shall give each customer a written
24 statement warning that:

25 (1) Not wearing the eye protection provided to the
26 customer by the tanning center may cause damage to the eyes.

27 (2) Overexposure causes burns.

28 (3) Repeated overexposure may cause premature aging of
29 the skin and skin cancer.

30 (4) Abnormal skin sensitivity or burning may be caused

by certain:

(i) Foods.

(ii) Cosmetics.

(iii) Medications, including, but not limited to,

the following:

(A) Tranquilizers.

(B) Diuretics.

(C) Antibiotics.

(D) High blood pressure medicines.

(E) Birth control pills.

(5) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.

~~Section 6. Warning sign required.~~

<—

~~(a) Facility sign. A tanning facility shall post a warning sign in a conspicuous location where it is readily readable by persons entering the establishment. The sign shall contain the following warning:~~

~~DANGER: ULTRAVIOLET RADIATION~~

~~Repeated exposure to ultraviolet radiation may cause chronic sun damage to the skin characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.~~

~~Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.~~

~~Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking~~

~~oral contraceptives who use this product may develop
discolored skin.~~

~~IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM
USE OF AN ULTRAVIOLET SUNLAMP~~

~~(b) Device sign. A tanning facility shall post a warning
sign, one sign for each tanning device, in a conspicuous
location that is readily readable to a person about to use the
device. The sign shall contain the following:~~

~~DANGER: ULTRAVIOLET RADIATION~~

~~(1) Follow the manufacturer's instructions for use of
this device.~~

~~(2) Avoid too frequent or lengthy exposure. As with
natural sunlight, exposure can cause serious eye and skin
injuries and allergic reactions. Repeated exposure may cause
skin cancer.~~

~~(3) Wear protective eyewear. Failure to use protective
eyewear may result in severe burns or permanent damage to the
eyes.~~

~~(4) Do not sunbathe before or after exposure to
ultraviolet radiation from sunlamps.~~

~~(5) Medication or cosmetics may increase your
sensitivity to ultraviolet radiation. Consult a physician
before using a sunlamp if you are using medication, have a
history of skin problems or believe you are especially
sensitive to sunlight. Pregnant women or women using oral
contraceptives who use this product may develop discolored
skin.~~

~~IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN
FROM USE OF THIS DEVICE~~

Section 7 6. General requirements.

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(a) Tanning facilities.--A tanning facility shall:

(1) Have an operator present during NORMAL BUSINESS operating hours who is sufficiently knowledgeable in the correct operation of the tanning devices used at the facility so that he or she is able to inform and assist each customer in the proper use of the tanning devices.

(2) HAVE AN OPERATOR PRESENT DURING NON-NORMAL BUSINESS OPERATING HOURS WHO SATISFIES THE KNOWLEDGE REQUIREMENT UNDER PARAGRAPH (1) IF PERSONS UNDER 18 YEARS OF AGE ARE PERMITTED TO USE THE FACILITY DURING NON-NORMAL BUSINESS OPERATING HOURS.

~~(2)~~ (3) Before each use of a tanning device, ~~provide~~ MAKE CERTAIN THAT each customer ~~with~~ HAS properly sanitized protective eyewear that protects the eyes from ultraviolet radiation and allows adequate vision to maintain balance; and not allow a person to use a tanning device if that person does not use the protective eyewear.

~~(3)~~ (4) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer.

~~(4)~~ (5) Use a timer that has an accuracy of plus or minus 10% of any selected timer interval.

~~(5)~~ (6) Limit each customer to the maximum exposure time as recommended by the manufacturer.

~~(6)~~ (7) Control the interior temperature of a tanning device so that it does not exceed 100 degrees Fahrenheit.

(b) Persons using tanning facilities.--

(1) Every person who uses a tanning facility shall sign a written statement acknowledging that he or she has read and

1 understood the warnings under ~~sections 5 and 6~~ SECTION 5 <—
2 before using the device and agrees to use the protective
3 eyewear. ~~that the tanning facility provides. The statement of~~ <—
4 ~~acknowledgment shall be retained by the tanning facility~~
5 ~~until the end of the calendar year, at which time each person~~
6 ~~who is a current customer of the facility shall be required~~
7 ~~to renew that acknowledgment.~~

8 ~~(2) Whenever using a tanning device, a person shall use~~
9 ~~the protective eyewear that the tanning facility provides.~~

10 ~~(3)~~ (2) Before any person between 14 and 18 years of age <—
11 uses a tanning device, he or she shall give the tanning
12 facility a statement, signed by his or her parent or legal
13 guardian, stating that the parent or legal guardian has read
14 and understood the warnings given by the tanning facility,
15 consents to the minor's use of a tanning device and agrees
16 that the minor will use the protective eyewear that the
17 tanning facility provides.

18 ~~(4)~~ (3) A person 14 years of age or younger shall be <—
19 accompanied by a parent or legal guardian when using a
20 tanning device.

21 Section 8 7. Certain claims prohibited. <—

22 A tanning facility shall not claim or distribute promotional
23 materials that claim that using a tanning device is safe or free
24 from risk.

25 Section 9 8. Injured patrons. <—

26 (a) Reports.--If a patron sustains an injury AT AN INDOOR <—
27 TANNING FACILITY related to exposure to ultraviolet light ~~and,~~ <—
28 ~~whereupon,~~ WHEREUPON he or she must seek medical attention, a <—
29 tanning facility shall do the following:

30 (1) Report any injury to the department.

1 (2) Send a copy of the injury report to the person who
2 is injured.

3 (3) Send a copy of the injury report to the Federal Food
4 and Drug Administration.

5 (b) Liability.--Nothing in this act shall be construed to
6 diminish any right of recovery by a consumer which exists under
7 any other statute or judicial decision.

8 Section ~~10~~ 9. Exclusions. <—

9 This act does not apply to:

10 (1) Phototherapy devices utilized by appropriate health
11 care professionals under the direct supervision of a
12 physician who is trained in the use of phototherapy devices.

13 (2) Personal use in private residences of devices
14 intended for purposes other than the irradiation of human
15 skin.

16 Section ~~11~~ 10. Powers and duties of department. <—

17 (a) Regulations.--The department shall promulgate
18 regulations providing for:

19 ~~(1) Adequate training of tanning device operators.~~ <—

20 ~~(2)~~ (1) Proper sanitation of tanning equipment to <—
21 prevent skin disease transmissions.

22 ~~(3)~~ (2) Additional rules and regulations as it may deem <—
23 necessary to carry out the provisions of this act.

24 (b) Use of guidelines.--In order to facilitate the prompt
25 implementation of this act, the department shall have the power
26 and authority to promulgate, adopt and use guidelines to
27 implement the provisions of this act. Such guidelines shall be
28 published in the Pennsylvania Bulletin. The guidelines shall not
29 be subject to review pursuant to section 205 of the act of July
30 31, 1968 (P.L.769, No.240), referred to as the Commonwealth

1 Documents Law, sections 204(b) and 301(10) of the act of October
2 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys
3 Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
4 Regulatory Review Act, and shall be effective for a period of
5 not more than two years from the effective date of this act.
6 After the expiration of the two-year period, the guidelines
7 shall expire and shall be replaced by regulations which shall
8 have been promulgated, adopted and published as provided by law.

9 (c) Inspections.--The department shall have the authority to
10 provide for the inspection of tanning facilities to ensure
11 compliance with this act.

12 Section ~~12~~ 11. Penalty.

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13 In addition to administrative action by the department, a
14 violation of this act shall be considered a violation of the act
15 of December 17, 1968 (P.L.1224, No.387), known as the Unfair
16 Trade Practices and Consumer Protection Law.

17 Section ~~13~~ 29. Repeal.

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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 the provisions of this act.

21 Section ~~14~~ 30. Effective date.

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22 This act shall take effect as follows:

23 (1) Section ~~11~~ 10 of this act shall take effect
24 immediately.

<—

25 (2) This section shall take effect immediately.

26 (3) The remainder of this act shall take effect in 180
27 days.