

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 109 Session of
2003

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FEBRUARY 4, 2003

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 16, 2004

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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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Short title.

20 This act shall be known and may be cited as the Tanning
21 Facilities Act.

22 ~~Section 2. Legislative findings and declarations.~~ <—

23 ~~The General Assembly finds and declares as follows:~~

24 ~~(1) Many physicians and scientists now warn that the~~
25 ~~risks associated with suntanning are greater when tanning~~
26 ~~with artificial ultraviolet light.~~

27 ~~(2) These risks include, but are not limited to,~~
28 ~~sunburn, premature aging, skin cancer, retinal damage,~~
29 ~~formation of cataracts, suppression of the immune system and~~
30 ~~damage to the vascular system.~~

~~(3) Certain medications, cosmetics and foods are
"photosensitizing," which means that in some people they
react unfavorably with ultraviolet light to produce skin
rashes or burns.~~

~~(4) Sunlamps and other artificial sources of ultraviolet
light are known to intensify these effects.~~

~~(5) The creation of State law to protect and promote the
public health, safety and welfare is needed concerning
tanning with artificial ultraviolet light.~~

Section 3 2. Definitions. <—

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

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

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

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

"Tanning device." Any equipment that emits ultraviolet
radiation with wavelengths in the air between 200 and 400
nanometers and that is used for tanning of the skin. The term
includes, but is not limited to, a sunlamp, tanning unit,
tanning booth or tanning bed.

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

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

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

4 "Ultraviolet radiation." Electromagnetic radiation with
5 wavelengths in air between 200 to 400 nanometers.

6 Section 4 3. Registration required. <—

7 (a) Registration of tanning facilities.--A person shall not
8 operate a tanning facility without first having registered with
9 the department. Registration shall be renewed annually.
10 Applications for registration and renewal of registration shall
11 be in such form as the department shall prescribe.

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

15 Section 5 4. Compliance with Federal laws and regulations. <—

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

18 Section 6 5. Warning statement required. <—

19 A tanning facility shall give each customer a written
20 statement warning that:

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

23 (2) Overexposure causes burns.

24 (3) Repeated exposure may cause premature aging of the
25 skin and skin cancer.

26 (4) Abnormal skin sensitivity or burning may be caused
27 by certain:

28 (i) Foods.

29 (ii) Cosmetics.

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

1 the following:

2 (A) Tranquilizers.

3 (B) Diuretics.

4 (C) Antibiotics.

5 (D) High blood pressure medicines.

6 (E) Birth control pills.

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

10 Section 7 6. Warning sign required.

<—

11 A tanning facility shall post a warning sign in any area
12 where a tanning device is used. The sign shall read as follows:

13 DANGER: ULTRAVIOLET RADIATION

14 1. Follow instructions.

15 2. Avoid too frequent or too lengthy exposure. As with
16 natural sunlight, exposure can cause eye and skin injury
17 and allergic reactions. Repeated exposure may cause
18 chronic sun damage characterized by wrinkling, dryness,
19 fragility and bruising of the skin and may cause skin
20 cancer.

21 3. Wear protective eyewear.

22 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE
23 BURNS OR LONG-TERM INJURY TO THE EYES.

24 4. Ultraviolet radiation from sunlamps will aggravate
25 the effects of the sun. Therefore, do not sunbathe before
26 or after exposure to ultraviolet radiation.

27 5. Medications or cosmetics may increase your
28 sensitivity to ultraviolet radiation. Consult a physician
29 before using a sunlamp if you are using medications, have
30 a history of skin problems or believe you are especially

1 sensitive to sunlight. Pregnant women or women on birth
2 control pills who use this product may develop discolored
3 skin.

4 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE
5 OF THIS DEVICE.

6 Section 8 7. General requirements. <—

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

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

13 (2) Before each use of a tanning device, provide each
14 customer with properly sanitized protective eyewear that
15 protects the eyes from ultraviolet radiation and allows
16 adequate vision to maintain balance; and not allow a person
17 to use a tanning device if that person does not use the
18 protective eyewear.

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

23 (4) Use a timer that has an accuracy of plus or minus
24 10% of any selected timer interval.

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

27 (6) Control the interior temperature of a tanning
28 facility so that it does not exceed 100 degrees Fahrenheit.

29 (b) Persons using tanning facilities.--

30 (1) Every person who uses a tanning facility shall sign

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

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

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

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

22 (5) Before any person uses a tanning device in a tanning
23 facility, he shall complete a form prescribed by the
24 department, listing all prescriptions and over-the-counter
25 medications currently being taken. The facility shall advise
26 the customer in writing of those medications which are
27 photosensitive, in accordance with a listing provided by the
28 department, prior to permitting the use of a tanning device.

29 Section 9 8. Certain claims prohibited. <—

30 A tanning facility shall not claim or distribute promotional

1 materials that claim that using a tanning device is safe or free
2 from risk.

3 Section ~~10~~ 9. Injured patrons. <—

4 (a) Reports.--If a patron is injured and, whereupon, he or
5 she must seek medical attention, a tanning facility shall do the
6 following:

7 (1) Report any injury to the department.

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

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

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

15 Section ~~11~~ 10. Exclusion. <—

16 This act does not apply to a phototherapy device used by or
17 under the direct supervision of a licensed physician who is
18 trained in the use of phototherapy devices.

19 Section ~~12~~ 11. Powers and duties of department. <—

20 (a) Regulations.--The department shall promulgate
21 regulations providing for:

22 (1) Adequate training of tanning device operators.

23 (2) Proper sanitation of tanning equipment to prevent
24 skin disease transmissions.

25 (3) Additional rules and regulations as it may deem
26 necessary to carry out the provisions of this act.

27 (b) Use of guidelines.--In order to facilitate the prompt
28 implementation of this act, the department shall have the power
29 and authority to promulgate, adopt and use guidelines to
30 implement the provisions of this act. Such guidelines shall be

1 published in the Pennsylvania Bulletin. The guidelines shall not
2 be subject to review pursuant to section 205 of the act of July
3 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
4 Documents Law, sections 204(b) and 301(10) of the act of October
5 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys
6 Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
7 Regulatory Review Act, and shall be effective for a period of
8 not more than two years from the effective date of this act.
9 After the expiration of the two-year period, the guidelines
10 shall expire and shall be replaced by regulations which shall
11 have been promulgated, adopted and published as provided by law.

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

15 Section ~~13~~ 12. Penalty.

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16 A violation of this act constitutes a misdemeanor of the
17 third degree. Each day a violation continues constitutes a
18 separate offense.

19 Section ~~14~~ 13. Repeal.

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

23 Section ~~15~~ 14. Effective date.

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24 This act shall take effect as follows:

25 (1) Section ~~12~~ 11 of this act shall take effect
26 immediately.

<—

27 (2) This section shall take effect immediately.

28 (3) The remainder of this act shall take effect in 180
29 days.