
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 109 Session of
2003

INTRODUCED BY E. Z. TAYLOR, BARD, ROSS, HERSHEY, THOMAS,
YOUNGBLOOD, HENNESSEY, KIRKLAND, READSHAW, BEBKO-JONES,
PISTELLA, HORSEY, SAINATO, SATHER, GANNON, FREEMAN, MELIO,
SHANER, SOLOBAY, PRESTON, RUBLEY, CIVERA AND YUDICHAK,
FEBRUARY 4, 2003

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, IN SENATE, AS AMENDED, NOVEMBER 9, 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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4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Tanning
8 Facilities Act.

9 Section 2. Definitions.

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

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

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

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

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

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

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

30 "Ultraviolet lamp." Any lamp which produces ultraviolet

1 radiation in the wavelength interval of 200 to 400 nanometers in
2 air and which is intended for use in tanning devices.

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

5 Section 3. Registration required.

6 (a) Registration of tanning facilities.--A person shall not
7 operate a tanning facility without first having registered with
8 the department. Registration shall be renewed annually.

9 ~~Applications for registration and renewal of registration shall~~ <—
10 ~~be in such form as the department shall prescribe.~~ THE OWNER OF <—
11 THE FACILITY SHALL FILE AN APPLICATION FOR REGISTRATION WITH THE
12 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT THAT SHALL
13 INCLUDE AT LEAST THE FOLLOWING:

14 (1) APPLICANT'S OR OWNER'S NAME, ADDRESS AND TELEPHONE
15 NUMBER.

16 (2) NAME OF THE TANNING FACILITY, ADDRESS AND TELEPHONE
17 NUMBER.

18 (3) TYPE AND YEAR OF ULTRAVIOLET LAMPS OR TANNING
19 DEVICE.

20 (4) NAME OF ULTRAVIOLET LAMP AND TANNING DEVICE
21 MANUFACTURER.

22 (5) PRIMARY FUNCTION OF THE BUSINESS IN WHICH THE
23 TANNING FACILITY IS LOCATED.

24 (6) SIGNED AND DATED CERTIFICATION THAT THE APPLICANT
25 HAS READ AND UNDERSTANDS THE REGULATIONS PROMULGATED PURSUANT
26 TO THIS ACT.

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

30 (C) SANCTIONS.--REGISTRATION MAY BE DENIED, SUSPENDED, <—

1 REVOKED, OR THE RENEWAL OF A LICENSE MAY BE DENIED FOR ANY OF
2 THE FOLLOWING REASONS:

3 (1) VIOLATION OF ANY OF THE PROVISIONS OF THIS ACT OR
4 THE REGULATIONS ADOPTED BY THE DEPARTMENT.

5 (2) CONVICTION OF AN APPLICANT OR REGISTRATION HOLDER OF
6 AN OFFENSE ARISING FROM FALSE, FRAUDULENT, DECEPTIVE OR
7 MISLEADING ADVERTISING. THE RECORD OF CONVICTION OR A
8 CERTIFIED COPY SHALL BE CONCLUSIVE EVIDENCE OF THE
9 CONVICTION.

10 (D) ADMINISTRATIVE FINE.--IN ADDITION TO ANY OTHER PENALTY
11 PROVIDED BY LAW, THE DEPARTMENT MAY LEVY AN ADMINISTRATIVE FINE
12 OF NOT MORE THAN \$1,000 FOR A VIOLATION OF THE ACT.

13 Section 4. Compliance with Federal laws and regulations.

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

16 Section 5. Warning statement required.

17 A tanning facility shall give each customer a written
18 statement warning that:

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

21 (2) Overexposure causes burns.

22 (3) Repeated ~~exposure~~ OVEREXPOSURE may cause premature
23 aging of the skin and skin cancer.

24 (4) Abnormal skin sensitivity or burning may be caused
25 by certain:

26 (i) Foods.

27 (ii) Cosmetics.

28 (iii) Medications, including, but not limited to,
29 the following:

30 (A) Tranquilizers.

- 1 (B) Diuretics.
- 2 (C) Antibiotics.
- 3 (D) High blood pressure medicines.
- 4 (E) Birth control pills.

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

8 Section 6. Warning sign required.

9 ~~A tanning facility shall post a warning sign in any area~~ <—
10 ~~where a tanning device is used. The sign shall read as follows:~~

11 ~~DANGER: ULTRAVIOLET RADIATION~~

12 ~~1. Follow instructions.~~

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

19 ~~3. Wear protective eyewear.~~

20 ~~FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE~~
21 ~~BURNS OR LONG TERM INJURY TO THE EYES.~~

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

25 ~~5. Medications or cosmetics may increase your~~
26 ~~sensitivity to ultraviolet radiation. Consult a physician~~
27 ~~before using a sunlamp if you are using medications, have~~
28 ~~a history of skin problems or believe you are especially~~
29 ~~sensitive to sunlight. Pregnant women or women on birth~~
30 ~~control pills who use this product may develop discolored~~

1 ~~skin.~~

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

4 (A) FACILITY SIGN.--A TANNING FACILITY SHALL POST A WARNING <—
5 SIGN IN A CONSPICUOUS LOCATION WHERE IT IS READILY READABLE BY
6 PERSONS ENTERING THE ESTABLISHMENT. THE SIGN SHALL CONTAIN THE
7 FOLLOWING WARNING:

8 DANGER: ULTRAVIOLET RADIATION

9 REPEATED EXPOSURE TO ULTRAVIOLET RADIATION MAY CAUSE
10 CHRONIC SUN DAMAGE TO THE SKIN CHARACTERIZED BY
11 WRINKLING, DRYNESS, FRAGILITY, BRUISING OF THE SKIN, AND
12 SKIN CANCER.

13 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN
14 SEVERE BURNS OR PERMANENT INJURY TO THE EYES.

15 MEDICATIONS OR COSMETICS MAY INCREASE YOUR
16 SENSITIVITY TO ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN
17 BEFORE USING A SUNLAMP IF YOU ARE USING MEDICATIONS, HAVE
18 A HISTORY OF SKIN PROBLEMS, OR BELIEVE YOU ARE ESPECIALLY
19 SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN TAKING
20 ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP
21 DISCOLORED SKIN.

22 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM

23 USE OF AN ULTRAVIOLET SUNLAMP

24 (B) DEVICE SIGN.--A TANNING FACILITY SHALL POST A WARNING
25 SIGN, ONE SIGN FOR EACH TANNING DEVICE, IN A CONSPICUOUS
26 LOCATION THAT IS READILY READABLE TO A PERSON ABOUT TO USE THE
27 DEVICE. THE SIGN SHALL CONTAIN THE FOLLOWING:

28 DANGER: ULTRAVIOLET RADIATION

29 (1) FOLLOW THE MANUFACTURER'S INSTRUCTIONS FOR USE OF
30 THIS DEVICE.

1 (2) AVOID TOO FREQUENT OR LENGTHY EXPOSURE. AS WITH
2 NATURAL SUNLIGHT, EXPOSURE CAN CAUSE SERIOUS EYE AND SKIN
3 INJURIES AND ALLERGIC REACTIONS. REPEATED EXPOSURE MAY CAUSE
4 SKIN CANCER.

5 (3) WEAR PROTECTIVE EYEWEAR. FAILURE TO USE PROTECTIVE
6 EYEWEAR MAY RESULT IN SEVERE BURNS OR PERMANENT DAMAGE TO THE
7 EYES.

8 (4) DO NOT SUNBATHE BEFORE OR AFTER EXPOSURE TO
9 ULTRAVIOLET RADIATION FROM SUNLAMPS.

10 (5) MEDICATION OR COSMETICS MAY INCREASE YOUR
11 SENSITIVITY TO ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN
12 BEFORE USING A SUNLAMP IF YOU ARE USING MEDICATION, HAVE A
13 HISTORY OF SKIN PROBLEMS OR BELIEVE YOU ARE ESPECIALLY
14 SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN USING ORAL
15 CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP DISCOLORED
16 SKIN.

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

19 Section 7. General requirements.

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

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

26 (2) Before each use of a tanning device, provide each
27 customer with properly sanitized protective eyewear that
28 protects the eyes from ultraviolet radiation and allows
29 adequate vision to maintain balance; and not allow a person
30 to use a tanning device if that person does not use the

1 protective eyewear.

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

6 (4) Use a timer that has an accuracy of plus or minus
7 10% of any selected timer interval.

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

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

12 (b) Persons using tanning facilities.--

13 (1) Every person who uses a tanning facility shall sign
14 a written statement acknowledging that he or she has read and
15 understood the warnings under sections 5 and 6 before using
16 the device and agrees to use the protective eyewear that the
17 tanning facility provides. The statement of acknowledgment
18 shall be retained by the tanning facility until the end of
19 the calendar year, at which time each person who is a current
20 customer of the facility shall be required to renew that
21 acknowledgment.

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

24 (3) Before any person between 14 and 18 years of age
25 uses a tanning device, he or she shall give the tanning
26 facility a statement, signed by his or her parent or legal
27 guardian, stating that the parent or legal guardian has read
28 and understood the warnings given by the tanning facility,
29 consents to the minor's use of a tanning device and agrees
30 that the minor will use the protective eyewear that the

1 tanning facility provides.

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

5 ~~(5) Before any person uses a tanning device in a tanning~~ <—
6 ~~facility, he shall complete a form prescribed by the~~
7 ~~department, listing all prescriptions and over the counter~~
8 ~~medications currently being taken. The facility shall advise~~
9 ~~the customer in writing of those medications which are~~
10 ~~photosensitive, in accordance with a listing provided by the~~
11 ~~department, prior to permitting the use of a tanning device.~~

12 Section 8. Certain claims prohibited.

13 A tanning facility shall not claim or distribute promotional
14 materials that claim that using a tanning device is safe or free
15 from risk.

16 Section 9. Injured patrons.

17 (a) Reports.--If a patron ~~is injured~~ SUSTAINS AN INJURY <—
18 RELATED TO EXPOSURE TO ULTRAVIOLET LIGHT and, whereupon, he or
19 she must seek medical attention, a tanning facility shall do the
20 following:

21 (1) Report any injury to the department.

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

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

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

29 ~~Section 10. Exclusion.~~ <—

30 ~~This act does not apply to a phototherapy device used by or~~

~~under the direct supervision of a licensed physician who is
trained in the use of phototherapy devices.~~

SECTION 10. EXCLUSIONS.

THIS ACT DOES NOT APPLY TO:

(1) PHOTOTHERAPY DEVICES UTILIZED BY APPROPRIATE HEALTH
CARE PROFESSIONALS UNDER THE DIRECT SUPERVISION OF A
PHYSICIAN WHO IS TRAINED IN THE USE OF PHOTOTHERAPY DEVICES.

(2) PERSONAL USE IN PRIVATE RESIDENCES OF DEVICES
INTENDED FOR PURPOSES OTHER THAN THE IRRADIATION OF HUMAN
SKIN.

Section 11. Powers and duties of department.

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

(1) Adequate training of tanning device operators.

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

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

(b) Use of guidelines.--In order to facilitate the prompt
implementation of this act, the department shall have the power
and authority to promulgate, adopt and use guidelines to
implement the provisions of this act. Such guidelines shall be
published in the Pennsylvania Bulletin. The guidelines shall not
be subject to review pursuant to section 205 of the act of July
31, 1968 (P.L.769, No.240), referred to as the Commonwealth
Documents Law, sections 204(b) and 301(10) of the act of October
15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys
Act, or the act of June 25, 1982 (P.L.633, No.181), known as the
Regulatory Review Act, and shall be effective for a period of
not more than two years from the effective date of this act.

1 After the expiration of the two-year period, the guidelines
2 shall expire and shall be replaced by regulations which shall
3 have been promulgated, adopted and published as provided by law.

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

7 Section 12. Penalty.

8 ~~A violation of this act constitutes a misdemeanor of the~~ <—
9 ~~third degree. Each day a violation continues constitutes a~~
10 ~~separate offense.~~

11 IN ADDITION TO ADMINISTRATIVE ACTION BY THE DEPARTMENT, A <—
12 VIOLATION OF THIS ACT SHALL BE CONSIDERED A VIOLATION OF THE ACT
13 OF DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS THE UNFAIR
14 TRADE PRACTICES AND CONSUMER PROTECTION LAW.

15 Section 13. Repeal.

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

19 Section 14. Effective date.

20 This act shall take effect as follows:

21 (1) Section 11 of this act shall take effect
22 immediately.

23 (2) This section shall take effect immediately.

24 (3) The remainder of this act shall take effect in 180
25 days.