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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2048 Session of  
2009

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HORNAMAN, OCTOBER 14, 2009

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REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, OCTOBER 14,  
2009

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AN ACT

1 Providing for the regulation of indoor tanning facilities and  
2 for powers and duties of the Department of Health; and  
3 prescribing penalties.

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 Indoor  
8 Tanning Regulation 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 "Customer." A member of the public who is provided access to  
14 a tanning facility in exchange for a fee or other compensation  
15 or any individual who, in exchange for a fee or other  
16 compensation, is afforded use of a tanning facility as a  
17 condition or benefit of membership or access.

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

2 "Minor." An individual 18 years of age or younger.

3 "Operator." An individual designated by the licensee to  
4 control operation of the tanning facility and to instruct and  
5 assist the customer in the proper operation of the tanning  
6 equipment.

7 "Person." An individual, partnership, corporation or  
8 association.

9 "Phototherapy device." Equipment that emits ultraviolet  
10 radiation and is used by health care professionals in the  
11 treatment of disease. The term shall not include any of the  
12 following:

13 (1) Devices utilized by appropriate health care  
14 professionals under the direct supervision of a physician who  
15 is trained in the use of phototherapy devices.

16 (2) Devices used for personal use in a private  
17 residence.

18 (3) Devices intended for purposes other than the  
19 irradiation of human skin.

20 "Tanning equipment or device." Equipment that emits  
21 radiation used for tanning of the skin, such as a sunlamp,  
22 tanning booth or tanning bed that emits electromagnetic  
23 radiation with wavelengths in the air between 200 and 400  
24 nanometers. The term includes any accompanying equipment, such  
25 as protective eyewear, timers and handrails.

26 "Tanning facility." Any place where a tanning device is used  
27 for a fee, membership dues or any other compensation.

28 "Ultraviolet radiation." Electromagnetic radiation with  
29 wavelengths between 200 and 400 nanometers.

30 Section 3. Licensing and fees.

1 (a) Requirement.--No person may establish, maintain, operate  
2 or hold itself out as authorized to establish, maintain or  
3 operate a tanning facility without first having obtained a  
4 license issued by the department.

5 (b) Application.--A person may apply for a license required  
6 under subsection (a) by submitting an application to the  
7 department on a form prescribed by the department. The form  
8 shall require all of the following information:

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

11 (2) The manufacturer, model number and type of each  
12 ultraviolet lamp or tanning device used in the tanning  
13 facility.

14 (3) The name of the equipment supplier, installer and  
15 service agent of each ultraviolet lamp or tanning device used  
16 in the tanning facility.

17 (4) A signed and dated certification that the applicant  
18 has read and understands the requirements of this act.

19 (5) A copy of the operating and safety procedures of the  
20 tanning facility.

21 (6) Any additional information required by the  
22 department.

23 (c) Determination.--The department shall issue a license to  
24 an applicant upon determination that the applicant meets all of  
25 the requirements of this act.

26 (d) Fee.--An applicant shall be required to pay a license  
27 fee of \$250 per tanning facility and \$50 per tanning device.

28 (e) Posting.--A licensee shall post its license in a  
29 location clearly visible to its customers.

30 (f) Expiration.--A license shall expire annually on the date

1 specified in the license.

2 (g) Renewal.--A licensee must file an application for  
3 renewal on a form prescribed by the department prior to  
4 expiration of its current license.

5 (h) Transfer.--A license shall not be transferable from one  
6 person or one tanning facility to another.

7 (i) Denial, suspension or revocation.--The following shall  
8 apply to the denial, suspension or revocation of a license:

9 (1) The department shall have the authority to deny,  
10 suspend or revoke licensure for any of the following reasons:

11 (i) Submission of false statements in the  
12 application, reports, plans or specifications required  
13 under this act.

14 (ii) For conditions that violate this act.

15 (iii) Operation of the tanning facility in a manner  
16 that threatens public health or safety.

17 (iv) Failure to allow the department to enter the  
18 tanning facility at reasonable hours for inspection or  
19 investigation.

20 (v) Failure to pay license fees.

21 (2) Except in cases involving public health and safety,  
22 the department shall, prior to suspension or revocation of a  
23 license, provide written notice to the licensee of the facts  
24 or conduct which may warrant suspension or revocation and  
25 shall provide the licensee with an opportunity to demonstrate  
26 or achieve compliance. The licensee may request an  
27 administrative hearing upon receipt of the written notice.

28 Section 4. Inspection.

29 (a) Time.--The department shall conduct an initial  
30 inspection of a tanning facility after receipt of an application

1 for a license under section 3 and before the license is granted.

2 (b) Conduct.--Inspections conducted by the department under  
3 this section shall encompass all of the following matters:

4 (1) The construction and operation of the tanning  
5 facility.

6 (2) Review of required records and training  
7 documentation.

8 (3) Operator understanding and competency.

9 (4) Any other area relating to a requirement of this  
10 act.

11 Section 5. Warning signs and statements.

12 (a) Warning signs and statements describing hazards.--A  
13 tanning facility shall post a warning sign in a place readily  
14 visible to persons entering the establishment. The sign shall  
15 have dimensions not less than 11 inches by 17 inches. Lettering  
16 must be clear, legible and at least 0.25 inches high, with all  
17 of the following provisions on the sign:

18 (1) The wording, "DANGER--ULTRAVIOLET RADIATION IS  
19 CARCINOGENIC TO HUMANS," in letters at least 0.5 inches high.

20 (2) Follow the manufacturer's instructions for use of  
21 this equipment.

22 (3) Avoid overexposure. As with natural sunlight,  
23 overexposure can cause eye and skin injury and allergic  
24 reactions. Repeated exposure to ultraviolet radiation may  
25 cause chronic sun damage characterized by wrinkling, dryness,  
26 fragility, bruising of the skin and skin cancer.

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

29 (5) Wear protective eyewear. Failure to use protective  
30 eyewear may result in severe burns or permanent injury to the

1 eyes.

2 (6) Medications or cosmetics may increase your  
3 sensitivity to the ultraviolet radiation. Consult a physician  
4 before using a sunlamp if you are using medications, have a  
5 history of skin problems or believe you are especially  
6 sensitive to sunlight. Women who are pregnant or are taking  
7 oral contraceptives who use this product may develop  
8 discolored skin.

9 (7) A customer may call the Department of Health at  
10 (insert telephone number) to report an alleged injury  
11 regarding this tanning facility.

12 (8) The wording, "IF YOU DO NOT TAN IN THE SUN, YOU ARE  
13 UNLIKELY TO TAN FROM USE OF AN ULTRAVIOLET LAMP OR SUNLAMP."

14 (b) Posting.--The sign under subsection (a) shall also be  
15 posted within three feet of each tanning device, in a  
16 conspicuous location that is readily visible to a person about  
17 to use the device with no obstruction.

18 (c) Written warning statement.--A customer shall be provided  
19 with a written warning statement requiring the customer's  
20 signature prior to initial exposure and before renewals of  
21 contracts. The warning statement shall include all of the  
22 following:

23 (1) Failure to use the eye protection provided to the  
24 customer by the tanning facility may result in damage to the  
25 eyes.

26 (2) Overexposure to ultraviolet light causes burns.

27 (3) Repeated exposure may result in premature aging of  
28 the skin and skin cancer.

29 (4) Abnormal skin sensitivity or burning may be caused  
30 by reactions of ultraviolet light to certain:

- 1 (i) foods;
- 2 (ii) cosmetics; or
- 3 (iii) medications, including:
  - 4 (A) tranquilizers;
  - 5 (B) diuretics;
  - 6 (C) antibiotics;
  - 7 (D) high blood pressure medicines; or
  - 8 (E) birth control pills.

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

12 (6) A person with skin that always burns easily and  
13 never tans should avoid a tanning device.

14 (7) A person with a family or past medical history of  
15 skin cancer should avoid a tanning device.

16 (d) Liability.--The warning statement provided under  
17 subsection (c) shall not affect the liability of the owner,  
18 manager or operator of a tanning facility in the event that a  
19 customer fails to follow the warning statement and incurs  
20 damages.

21 Section 6. Tanning devices.

22 (a) Federal certification.--Only tanning devices  
23 manufactured and certified under 21 CFR 1040.20 (relating to  
24 sunlamp products and ultraviolet lamps intended for use in  
25 sunlamp products) may be used in tanning facilities.

26 (b) Device labeling.--A tanning device shall be permanently  
27 labeled in a conspicuous place with the following information:

- 28 (1) The warning statement required under section 5(c).
- 29 (2) Recommended exposure positions.
- 30 (3) Recommended duration and frequency of exposure.

1 (4) The length of time before expected results appear.

2 (5) Lamp types.

3 (c) Tanning device timers.--Tanning device timers shall meet  
4 all of the following requirements:

5 (1) Compliance with 21 CFR 1040.20.

6 (2) Permit remote timer control by operators so that  
7 customers may not reset the timer.

8 (3) Permit manual control for customer in order to  
9 terminate radiation emission.

10 (d) Facility temperature.--An operator shall control the  
11 interior of a tanning facility so that it does not exceed 100  
12 degrees Fahrenheit.

13 (e) Privacy.--A tanning facility shall adopt and instruct  
14 all employees in procedures to ensure the reasonable privacy of  
15 customers.

16 (f) Condition.--All tanning devices shall do all of the  
17 following:

18 (1) Meet the National Fire Protection Association's  
19 National Electrical Code and any other State or local  
20 electrical codes.

21 (2) Have physical barriers to protect customers from  
22 injury due to touching or breaking lamps.

23 (3) Be maintained in good repair.

24 (g) Stand-up booths.--Stand-up booths shall meet all of the  
25 following conditions:

26 (1) Have physical barriers or other means to indicate  
27 proper exposure distance.

28 (2) Be constructed rigidly enough to withstand stress of  
29 use and impact of a falling person.

30 (3) Access shall be of rigid construction, doors must



1 open outwardly and handrails and nonslip floors must be  
2 provided.

3 (h) Protective eyewear.--Operators shall require customers  
4 to wear protective eyewear in order to use a tanning device.  
5 When a tanning device is in use, no other person shall be  
6 allowed to remain in the area unless the person wears protective  
7 eyewear. Protective eyewear shall do all of the following:

8 (1) Be provided free of charge, along with instructions  
9 for use. Customers may also be given the option to purchase  
10 their own eyewear.

11 (2) Meet the requirements of 21 CFR 1040.20.

12 (3) Be properly sanitized before each use. Ultraviolet  
13 rays shall not be considered a sanitizing agent.

14 Section 7. Operation.

15 (a) Presence.--A trained operator must be present when  
16 tanning equipment is operated. The operator must be within  
17 hearing distance to allow the customer to easily summon help if  
18 necessary or the customer must have access to an intercom or  
19 buzzer for the operator and the operator must be able to reach  
20 the customer in 30 seconds.

21 (b) Control.--Tanning equipment must have a control that  
22 enables the user to manually terminate radiation without pulling  
23 the electrical plug or coming in contact with the ultraviolet  
24 lamp.

25 (c) Instruction.--Operators shall instruct customers in  
26 regard to all of the following:

27 (1) The proper position to maintain relative to the  
28 equipment.

29 (2) The position of the safety railing, if applicable.

30 (3) The operation of the manual switching device to

1 terminate radiation.

2 (4) The maximum time of exposure.

3 (d) Customer records.--A record shall be kept of each  
4 customer's total number of tanning visits, date, time and  
5 duration of each, as well as medications taken and any injuries  
6 or illness resulting from the use of the device.

7 (e) Reports of injuries.--A written or oral report of any  
8 tanning injury must be provided to the department by the end of  
9 the next working day after its occurrence or upon gaining  
10 knowledge of the accident. The report shall include the name of  
11 the affected individual, the name and location of the tanning  
12 facility, the nature of injury, the name and address of a health  
13 care provider, if applicable, and any other relevant  
14 information. The department shall send reports of all injuries  
15 to the United States Food and Drug Administration.

16 (f) Bulbs.--At intervals required by the manufacturer, bulbs  
17 shall be replaced with a kind intended for use in that device or  
18 with lamps or filters considered equivalent under United States  
19 Food and Drug Administration regulations at the time of  
20 manufacture. Records shall be maintained and accessible to  
21 customers. Facilities must also post dates of bulb changing  
22 where visible on every tanning device. The requirements of this  
23 subsection shall also apply to defective or burned-out lamps or  
24 filters.

25 (g) Sanitation.--Contact surfaces of tanning devices must be  
26 cleansed between uses by the tanning facility with a cleansing  
27 agent approved by the department. After cleansing each time, a  
28 visible sign must be placed on the bed or booth indicating that  
29 it has been properly cleaned. Bathrooms and dressing rooms must  
30 also be properly sanitized and customers must be provided with

1 clean towels and washcloths.

2 (h) Records.--All records or documentation required by this  
3 act shall be maintained in the tanning facility for a minimum of  
4 three years. Records on computer must be backed up on storage  
5 media other than the hard drive at least monthly and must be  
6 retrievable as a printed copy. Records shall be accessible by  
7 the department during an inspection.

8 (i) Duration and frequency.--Operators shall limit session  
9 duration and frequency to maximums recommended by the  
10 manufacturer.

11 Section 8. Restrictions on use by minors.

12 (a) Consent.--A tanning facility shall not permit a minor  
13 between 14 and 18 years of age to use any tanning equipment  
14 unless the minor provides a consent form signed by the minor's  
15 parent or legal guardian at the time of first exposure and the  
16 signature of the consent form is witnessed by an operator. The  
17 department shall promulgate consistent with subsection (b)  
18 appropriate model language for the consent form to be used by  
19 tanning facilities.

20 (b) Form.--The consent form shall include the following  
21 warnings:

22 (1) Failure to use eye protection may result in damage  
23 to the eyes.

24 (2) Overexposure to ultraviolet light causes burns.

25 (3) Repeated exposure may result in premature aging of  
26 the skin and skin cancer.

27 (4) Abnormal skin sensitivity or burning may be caused  
28 by reactions of ultraviolet light to certain:

29 (i) Foods.

30 (ii) Cosmetics.

1 (iii) Medications, including:

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 tanning  
9 equipment.

10 (6) A person with skin that always burns easily and  
11 never tans should avoid tanning equipment.

12 (7) A person with a family or past medical history of  
13 skin cancer should avoid tanning equipment.

14 (c) Medical necessity.--A minor under 14 years of age may  
15 not use tanning equipment unless deemed medically necessary as  
16 evidenced by a prescription from a health care professional  
17 authorized and licensed by law to prescribe drugs.

18 (d) Withdrawal of consent.--The minor's parent or legal  
19 guardian may withdraw the consent form at any time. Unless so  
20 withdrawn, the consent form shall expire one year from  
21 signature. A new consent form as prescribed by this section  
22 shall be provided by the minor at the expiration of one year  
23 following the signing of the consent form for the minor to use a  
24 tanning facility.

25 (e) Liability.--The consent form provided under this section  
26 shall not affect the liability of the owner, manager or  
27 operators of a tanning facility in the event that a customer  
28 incurs damages.

29 (f) Records of parental consent.--Records of parental  
30 consent shall be maintained for all minor customers of the

1 tanning facility for a period of at least three years from the  
2 date of signature. Records shall be maintained on the premises  
3 and made available for review by the department upon request.

4 Section 9. Training.

5 (a) Operators.--An individual shall satisfactorily complete  
6 a training program before the individual can function as an  
7 operator. The training program shall include all of the  
8 following:

9 (1) The requirements of this act.

10 (2) Procedures for correct operation of the tanning  
11 facility and devices.

12 (3) The duration and frequency of exposure.

13 (4) Recognition of reaction, injury or overexposure.

14 (5) The manufacturer's procedures for operation and  
15 maintenance of tanning devices.

16 (6) Health risks.

17 (7) Emergency procedures in case of injury.

18 (8) Customer refusal tactics.

19 (b) Owners and managers.--Owners and managers shall do all  
20 of the following:

21 (1) Complete formal training and pass a certification  
22 examination, approved by the department, before operating a  
23 tanning facility or training employees.

24 (2) Train operators under subsection (a) and provide  
25 review as necessary.

26 (c) Inspections.--The department shall investigate the level  
27 of an individual's understanding and competency during  
28 inspections.

29 (d) Proof.--Proof of training for owners, managers and  
30 employees shall be maintained and available for inspection.

1 (e) Training classes.--If an operator or owner took training  
2 classes in the year prior to the effective date of this section,  
3 the operator or owner shall not be required to take courses but  
4 must show proof of passing the class to the department.

5 Section 10. Promotional materials.

6 A tanning facility shall not claim or distribute promotional  
7 materials which claim that using a tanning device is safe or  
8 free from risk or that the use of a tanning device will result  
9 in medical or health benefits. A tanning facility may only claim  
10 or distribute promotional materials which claim that a tanning  
11 device is for cosmetic use only.

12 Section 11. Inspections, violations and injunctions.

13 (a) Access.--The department shall have access at reasonable  
14 times to a tanning facility, including its records, to inspect  
15 and determine whether a violation of this act has or will occur.

16 (b) Penalty.--A person who operates a tanning facility in  
17 violation of this act commits a misdemeanor and shall be subject  
18 to suspension or revocation of the tanning facility's license. A  
19 licensee shall be assessed the following fines by the department  
20 for a violation of this act:

21 (1) For a first violation, \$250.

22 (2) For a second violation, \$500.

23 (3) For a third or subsequent violation, \$1,000.

24 (c) Suspension or revocation.--If the department finds a  
25 violation of this act that creates an immediate threat to the  
26 health and safety of the public, the department may suspend or  
27 revoke the tanning facility's license to operate.

28 (d) Procedure.--

29 (1) The department may take the following steps in  
30 writing or use any other acts and regulations to enforce the

1 provisions of this act:

2 (i) Cite each section of the act violated.

3 (ii) Specify the manner in which the owner, manager  
4 or operator failed to comply with this act.

5 (iii) Require a corrective action plan, including a  
6 reasonable time schedule for completion. The department  
7 shall review the corrective action plan and approve or  
8 require modification of the plan.

9 (2) If a tanning facility fails to comply with  
10 conditions of the written notice provided under paragraph  
11 (1), the department shall notify the owner, manager or  
12 operator, by certified mail, that unless action is taken  
13 within five days of receipt of the written notice, the  
14 tanning facility's license shall be suspended or revoked.

15 Section 12. Effective date.

16 This act shall take effect in 60 days.