
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 460 Session of
2009

INTRODUCED BY BROWNE, ERICKSON, ALLOWAY, COSTA, STOUT, BRUBAKER,
WASHINGTON, LOGAN, O'PAKE AND WONDERLING, MARCH 2, 2009

REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 2, 2009

AN ACT

1 Providing for the regulation of indoor tanning facilities and
2 for penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Indoor
7 Tanning Regulation Act.

8 Section 2. Definitions.

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

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

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

18 "Fitzpatrick scale." A scale for classifying a skin type,

1 based on the skin's reaction to the first ten to 45 minutes of
2 sun exposure after the winter season as follows:

3	Skin Type	Sunburning and Tanning History
4	1	Always burns easily, never tans
5	2	Always burns easily, tans minimally
6	3	Burns moderately, tans gradually
7	4	Burns minimally, always tans well
8	5	Rarely burns, tans profusely
9	6	Never burns, deeply pigmented

10 "Operator." An individual designated by the licensee to
11 control operation of the tanning facility and to instruct and
12 assist the customer in the proper operation of the tanning
13 equipment.

14 "Person." An individual, partnership, corporation or
15 association.

16 "Phototherapy device." Equipment that emits ultraviolet
17 radiation and is used by health care professionals in the
18 treatment of disease. The term shall not include any of the
19 following:

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

23 (2) Devices used for personal use in a private
24 residence.

25 (3) Devices intended for purposes other than the
26 irradiation of human skin.

27 "Tanning equipment or device." Equipment that emits
28 radiation used for tanning of the skin, such as a sunlamp,
29 tanning booth or tanning bed that emits electromagnetic
30 radiation with wavelengths in the air between 200 and 400

1 nanometers. The term includes any accompanying equipment, such
2 as protective eyewear, timers and handrails.

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

5 "Ultraviolet radiation." Electromagnetic radiation with
6 wavelengths between 200 and 400 nanometers.

7 Section 3. Licensing and fees.

8 (a) Requirement.--No person shall establish, maintain,
9 operate or hold itself out as authorized to establish, maintain
10 or operate a tanning facility without first having obtained a
11 license issued by the department.

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

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

18 (2) The manufacturer, model number and type of each
19 ultraviolet lamp or tanning device used in the tanning
20 facility.

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

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

26 (5) A copy of the operating and safety procedures of the
27 tanning facility.

28 (6) Any additional information required by the
29 department.

30 (c) Determination.--The department shall issue a license to

1 an applicant upon determination that the applicant meets all of
2 the requirements of this act.

3 (d) Fee.--An applicant shall be required to pay a license
4 fee of \$250 per salon and \$50 per additional bed, based on the
5 number of tanning devices, in an amount sufficient to cover the
6 cost of annual inspection and administration of this act.

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

9 (f) Expiration.--A license shall expire annually on the date
10 specified in the license.

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

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

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

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

20 (i) Submission of false statements in application,
21 reports, plans or specifications.

22 (ii) For conditions which violate this act.

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

25 (iv) Failure to allow the department to enter the
26 tanning facility at reasonable hours for inspection or
27 investigation.

28 (v) Failure to pay license fees.

29 (2) Except in cases involving public health and safety,
30 the department shall, prior to suspension or revocation of a

1 license, provide written notice to the licensee of the facts
2 or conduct which may warrant suspension or revocation and
3 shall provide the licensee with an opportunity to demonstrate
4 or achieve compliance. The licensee may request an
5 administrative hearing upon receipt of the written notice.

6 Section 4. Inspection.

7 (a) Time.--The department shall conduct an initial
8 inspection, after receipt of an application for a license under
9 section 3 and before the license is granted, of a tanning
10 facility and may inspect each year thereafter.

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

13 (1) The construction and operation of the tanning
14 facility.

15 (2) Review of required records and training
16 documentation.

17 (3) Operator understanding and competency.

18 (4) Any other area concerning a requirement of this act.

19 Section 5. Warning signs and statements.

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

26 (1) The wording, "DANGER--ULTRAVIOLET RADIATION", in
27 letters at least 0.5 inches high.

28 (2) Follow the manufacturer's instructions for use of
29 this device.

30 (3) Avoid overexposure. As with natural sunlight,

1 overexposure can cause eye and skin injury and allergic
2 reactions. Repeated exposure to ultraviolet radiation may
3 cause chronic sun damage characterized by wrinkling, dryness,
4 fragility, bruising of the skin and skin cancer.

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

7 (5) Wear protective eyewear. Failure to use protective
8 eyewear may result in severe burns or permanent injury to the
9 eyes.

10 (6) Medications or cosmetics may increase your
11 sensitivity to the ultraviolet radiation. Consult a physician
12 before using a sunlamp if you are using medications, have a
13 history of skin problems or believe you are especially
14 sensitive to sunlight. Women who are pregnant or are taking
15 oral contraceptives who use this product may develop
16 discolored skin.

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

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

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

26 (c) Written warning statement.--Each customer shall be
27 provided with a written warning statement requiring their
28 signature prior to initial exposure and before renewals of
29 contracts. The warning statement shall include all of the
30 following:

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

4 (2) Overexposure to ultraviolet light causes burns.

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

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

9 (i) foods;

10 (ii) cosmetics; or

11 (iii) medications, including:

12 (A) tranquilizers;

13 (B) diuretics;

14 (C) antibiotics;

15 (D) high blood pressure medicines; or

16 (E) birth control pills.

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

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

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

24 (d) Liability.--The warning statement provided under
25 subsection (c) shall not affect the liability of the owner,
26 manager or operator of a tanning facility in the event that a
27 customer fails to follow the warning statement and incurs
28 damages.

29 Section 6. Tanning devices.

30 (a) Federal certification.--Only tanning devices

1 manufactured and certified under 21 CFR 1040.20 (relating to
2 sunlamp products and ultraviolet lamps intended for use in
3 sunlamp products) may be used in tanning facilities.

4 (b) Device labeling.--Each tanning device shall be
5 permanently labeled in a conspicuous place with the following
6 information:

7 (1) The warning statement required under section 5(c).

8 (2) Recommended exposure positions.

9 (3) Recommended duration and frequency of exposure.

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

11 (5) Lamp types.

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

14 (1) Compliance with 21 CFR 1040.20.

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

17 (3) Permit manual control for customer in order to
18 terminate radiation emission.

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

22 (e) Privacy.--A facility shall adopt and instruct all
23 employees in procedures to ensure the reasonable privacy of
24 customers.

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

27 (1) Meet the National Fire Protection Association's
28 National Electrical Code and any other State or local
29 electrical codes.

30 (2) Have physical barriers to protect customers from

1 injury due to touching or breaking lamps.

2 (3) Be maintained in good repair.

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

5 (1) Have physical barriers or other means to indicate
6 proper exposure distance.

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

9 (3) Access shall be of rigid construction, doors must
10 open outwardly and handrails and nonslip floors must be
11 provided.

12 (h) Protective eyewear.--Operators shall require customers
13 to wear protective eyewear in order to use a tanning device.

14 When a tanning device is in use, no other person shall be
15 allowed to remain in the area unless the person wears protective
16 eyewear. Protective eyewear shall do all of the following:

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

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

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

23 Section 7. Operation.

24 (a) Presence.--A trained operator must be present when
25 tanning equipment is operated. The operator must be within
26 hearing distance to allow the customer to easily summon help if
27 necessary or the customer must have access to an intercom or
28 buzzer for the operator and the operator must be able to reach
29 the customer in 30 seconds.

30 (b) Control.--Tanning equipment must have a control that

1 enables the user to manually terminate radiation without pulling
2 the electrical plug or coming in contact with the ultraviolet
3 lamp.

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

6 (1) The proper position to maintain relative to the
7 equipment.

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

9 (3) The operation of the manual switching device to
10 terminate radiation.

11 (4) The maximum time of exposure.

12 (d) Skin type.--Operators must be able to recognize the skin
13 type of the customer based on the Fitzpatrick scale and advise
14 the customer accordingly in regard to maximum time of exposure.

15 (e) Customer records.--A record shall be kept of each
16 customer's total number of tanning visits, date, time and
17 duration of each, as well as medications taken and any injuries
18 or illness resulting from the use of the device.

19 (f) Reports of injuries.--A written or oral report of any
20 tanning injury must be provided to the department by the end of
21 the next working day after its occurrence or upon gaining
22 knowledge of the accident. The report shall include the name of
23 the affected individual, the name and location of tanning
24 facility, the nature of injury, the name and address of a health
25 care provider, if applicable, and any other relevant
26 information. The department shall send reports of all injuries
27 to the United States Food and Drug Administration.

28 (g) Bulbs.--At intervals required by the manufacturer, bulbs
29 shall be replaced with a kind intended for use in that device or
30 with lamps or filters considered equivalent under United States

1 Food and Drug Administration regulations at the time of
2 manufacture. Records shall be maintained and accessible to
3 customers. Facilities must also post dates of bulb changing
4 where visible on every tanning device. The requirements of this
5 subsection shall also apply to defective or burned-out lamps or
6 filters.

7 (h) Sanitation.--Contact surfaces of tanning devices must be
8 cleansed between uses by the tanning facility with a cleansing
9 agent approved by the department. After cleansing each time, a
10 visible sign must be placed on the bed or booth indicating that
11 it has been properly cleaned. Bathrooms and dressing rooms must
12 also be properly sanitized and customers must be provided with
13 clean towels and washcloths.

14 (i) Records.--All records or documentation required by this
15 act shall be maintained in the tanning facility for a minimum of
16 three years. Records on computer must be backed up on storage
17 media other than the hard drive at least monthly and must be
18 retrievable as a printed copy. Records shall be accessible by
19 the department during an inspection.

20 (j) Duration and frequency.--Operators shall limit session
21 duration and frequency to maximums recommended by the
22 manufacturer.

23 Section 8. Restrictions on use by minors.

24 (a) Accompaniment.--All minors 14 to 18 years of age shall
25 be accompanied by their parent or legal guardian in order to use
26 a tanning device.

27 (b) Identification.--Before each use by a minor 14 to 18
28 years of age, the owner or operator shall witness the parent's
29 or legal guardian's signing and dating of the warning statement
30 required under section 5(c). The parent or legal guardian shall

1 also sign a statement stating the relationship with a child who
2 is under 14 years of age.

3 (c) Medical permission.--Persons under 14 years of age may
4 not use a tanning device unless they present written permission
5 by a properly licensed doctor of medicine or doctor of
6 osteopathic medicine.

7 (d) Duty.--It shall be the duty of the tanning facility
8 owner to ensure that each customer utilizing the tanning
9 facility is of legal age to do so. The tanning facility owner
10 shall be held responsible for the use of the tanning facility by
11 anyone under 18 years of age who is not accompanied by a parent
12 or legal guardian. Failure to ensure that a customer is of legal
13 age to utilize the tanning facility shall result in permanent
14 revocation of the license.

15 (e) Records.--Records of parental consent shall be
16 maintained for all minor customers of the tanning facility for a
17 period of at least three years.

18 Section 9. Training.

19 (a) Operators.--An individual shall satisfactorily complete
20 a training program before the individual can function as an
21 operator. The training program shall include all of the
22 following:

- 23 (1) The requirements of this act.
- 24 (2) Procedures for correct operation of the tanning
25 facility and devices.
- 26 (3) The determination of skin type of customers,
27 including skin types based on the Fitzpatrick scale.
- 28 (4) The duration and frequency of exposure.
- 29 (5) Recognition of reaction, injury or overexposure.
- 30 (6) The manufacturer's procedures for operation and

1 maintenance of tanning devices.

2 (7) Health risks.

3 (8) Emergency procedures in case of injury.

4 (9) Customer refusal tactics.

5 (b) Owners and managers.--Owners and managers shall do all
6 of the following:

7 (1) Complete formal training and pass a certification
8 examination, approved by the department, before operating a
9 tanning facility or training employees.

10 (2) Train operators under subsection (a) and provide
11 review as necessary.

12 (c) Inspections.--The department shall investigate the level
13 of an individual's understanding and competency during
14 inspections.

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

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

21 Section 10. Promotional materials.

22 A tanning facility may not claim or distribute promotional
23 materials that claim that using a tanning device is safe or free
24 from risk or that the use of a tanning device will result in
25 medical or health benefits. A tanning facility may only claim or
26 distribute promotional materials that claim that a tanning
27 device is for cosmetic use only.

28 Section 11. Inspections, violations and injunctions.

29 (a) Access.--The department shall have access at reasonable
30 times to any tanning facility, including its records, to inspect

1 and determine whether a violation of this act has or will occur.

2 (b) Penalty.--A person who operates a tanning facility in
3 violation of this act commits a misdemeanor and shall be subject
4 to suspension or revocation of the tanning facility's license. A
5 person who operates or uses a tanning device in violation of
6 this act commits a misdemeanor.

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

11 (d) Procedure.--

12 (1) The department may take the following steps in
13 writing or use any other acts and regulations to enforce the
14 provisions of this act:

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

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

18 (iii) Require a corrective action plan, including a
19 reasonable time schedule for completion. The department
20 shall review the corrective action plan and approve or
21 require modification of the plan.

22 (2) If a tanning facility fails to comply with
23 conditions of the written notice provided under paragraph
24 (1), the department shall notify the owner, manager or
25 operator, by certified mail, that unless action is taken
26 within five days of receipt of the written notice, the
27 tanning facility's license shall be suspended or revoked.

28 Section 20. Severability.

29 The provisions of this act are severable. If any provision of
30 this act or its application to any person or circumstance is

1 held invalid, the invalidity shall not affect other provisions
2 or applications of this act which can be given effect without
3 the invalid provision or application.

4 Section 30. Effective date.

5 This act shall take effect in 180 days.