

1 "Fitzpatrick scale." A scale for classifying a skin type,
2 based on the skin's reaction to the first ten to 45 minutes of
3 sun exposure after the winter season as follows:

4	Skin Type	Sunburning and Tanning History
5	1	Always burns easily, never tans
6	2	Always burns easily, tans minimally
7	3	Burns moderately, tans gradually
8	4	Burns minimally, always tans well
9	5	Rarely burns, tans profusely
10	6	Never burns, deeply pigmented

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

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

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

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

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

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

28 "Tanning equipment or device." Equipment that emits
29 radiation used for tanning of the skin, such as a sunlamp,
30 tanning booth or tanning bed that emits electromagnetic

1 radiation with wavelengths in the air between 200 and 400
2 nanometers. The term includes any accompanying equipment, such
3 as protective eyewear, timers and handrails.

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

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

8 Section 3. Licensing and fees.

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

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

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

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

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

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

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

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

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

4 (d) Fee.--An applicant shall be required to pay a license
5 fee of ~~\$250 per salon and \$50 per additional bed, based on the~~ ←
6 ~~number of tanning devices~~ \$300 PER SALON, INCLUDING TEN DEVICES, ←
7 AND \$20 PER ADDITIONAL BED, in an amount sufficient to cover the
8 cost of annual inspection and administration of this act.

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

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

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

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

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

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

22 (i) Submission of false statements in application,
23 reports, plans or specifications.

24 (ii) For conditions which violate this act.

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

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

30 (v) Failure to pay license fees.

1 (2) Except in cases involving public health and safety,
2 the department shall, prior to suspension or revocation of a
3 license, provide written notice to the licensee of the facts
4 or conduct which may warrant suspension or revocation and
5 shall provide the licensee with an opportunity to demonstrate
6 or achieve compliance. The licensee may request an
7 administrative hearing upon receipt of the written notice.

8 Section 4. Inspection.

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

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

15 (1) The construction and operation of the tanning
16 facility.

17 (2) Review of required records and training
18 documentation.

19 (3) Operator understanding and competency.

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

21 Section 5. Warning signs and statements.

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

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

30 (2) Follow the manufacturer's instructions for use of

1 this device.

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

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

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

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

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

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

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

28 (c) ~~Written warning statement.--Each customer shall be~~
29 ~~provided with a written warning statement requiring their~~
30 ~~signature prior to initial exposure and before renewals of~~ ←

1 ~~contracts~~. The warning statement shall include all of the
2 following:

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

6 (2) Overexposure to ultraviolet light causes burns.

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

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

11 (i) foods;

12 (ii) cosmetics; or

13 (iii) medications, including:

14 (A) tranquilizers;

15 (B) diuretics;

16 (C) antibiotics;

17 (D) high blood pressure medicines; or

18 (E) birth control pills.

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

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

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

26 ~~(d)~~ (C) Liability.--The warning statement provided under ←
27 subsection ~~(e)~~ (B) shall not affect the liability of the owner, ←
28 manager or operator of a tanning facility in the event that a
29 customer fails to follow the warning statement and incurs
30 damages.

1 Section 6. Tanning devices.

2 (a) Federal certification.--Only tanning devices
3 manufactured and certified under 21 CFR 1040.20 (relating to
4 sunlamp products and ultraviolet lamps intended for use in
5 sunlamp products) may be used in tanning facilities.

6 ~~(b) Device labeling. Each tanning device shall be~~ ←
7 ~~permanently labeled in a conspicuous place with the following~~
8 ~~information:~~

- 9 ~~(1) The warning statement required under section 5(c).~~
10 ~~(2) Recommended exposure positions.~~
11 ~~(3) Recommended duration and frequency of exposure.~~
12 ~~(4) The length of time before expected results appear.~~
13 ~~(5) Lamp types.~~

14 ~~(c) Tanning device timers. Tanning device timers shall meet~~
15 ~~all of the following requirements:~~

- 16 ~~(1) Compliance with 21 CFR 1040.20.~~
17 ~~(2) Permit remote timer control by operators so that~~
18 ~~customers may not reset the timer.~~
19 ~~(3) Permit manual control for customer in order to~~
20 ~~terminate radiation emission.~~

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

24 ~~(e) Privacy. A facility shall adopt and instruct all~~
25 ~~employees in procedures to ensure the reasonable privacy of~~
26 ~~customers.~~

27 ~~(f) (B) Condition.--All tanning devices shall do all of the~~ ←
28 ~~following:~~

- 29 (1) Meet the National Fire Protection Association's
30 National Electrical Code and any other State or local

1 electrical codes.

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

4 (3) Be maintained in good repair.

5 ~~(g)~~ (C) Stand-up booths.--Stand-up booths shall meet all of
6 the following conditions:

7 (1) Have physical barriers or other means to indicate
8 proper exposure distance.

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

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

14 ~~(h)~~ (D) Protective eyewear.--Operators shall require
15 customers to wear protective eyewear in order to use a tanning
16 device. When a tanning device is in use, no other person shall
17 be allowed to remain in the area unless the person wears
18 protective eyewear. Protective eyewear shall do all of the
19 following:

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

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

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

26 Section 7. Operation.

27 ~~(a) Presence. A trained operator must be present when~~
28 ~~tanning equipment is operated. The operator must be within~~
29 ~~hearing distance to allow the customer to easily summon help if~~
30 ~~necessary or the customer must have access to an intercom or~~

1 ~~buzzer for the operator and the operator must be able to reach~~
2 ~~the customer in 30 seconds.~~

3 ~~(b) Control. Tanning equipment must have a control that~~
4 ~~enables the user to manually terminate radiation without pulling~~
5 ~~the electrical plug or coming in contact with the ultraviolet~~
6 ~~lamp.~~

7 ~~(c) Instruction. Operators shall instruct customers in~~
8 ~~regard to all of the following:~~

9 ~~(1) The proper position to maintain relative to the~~
10 ~~equipment.~~

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

12 ~~(3) The operation of the manual switching device to~~
13 ~~terminate radiation.~~

14 ~~(4) The maximum time of exposure.~~

15 ~~(d) (A) Skin type.--Operators must be able to recognize the~~ ←
16 ~~skin type of the customer based on the Fitzpatrick scale and~~
17 ~~advise the customer accordingly in regard to maximum time of~~
18 ~~exposure.~~

19 ~~(e) (B) Customer records.--A record shall be kept of each~~ ←
20 ~~customer's total number of tanning visits, date, time and~~
21 ~~duration of each, as well as medications taken and any injuries~~ ←
22 ~~or illness resulting from the use of the device.~~

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

1 ~~to the United States Food and Drug Administration.~~

2 ~~(g) Bulbs. At intervals required by the manufacturer, bulbs~~
3 ~~shall be replaced with a kind intended for use in that device or~~
4 ~~with lamps or filters considered equivalent under United States~~
5 ~~Food and Drug Administration regulations at the time of~~
6 ~~manufacture. Records shall be maintained and accessible to~~
7 ~~customers. Facilities must also post dates of bulb changing~~
8 ~~where visible on every tanning device. The requirements of this~~
9 ~~subsection shall also apply to defective or burned out lamps or~~
10 ~~filters.~~

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

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

24 ~~(j)~~ (D) Duration and frequency.--Operators shall limit ←
25 session duration and frequency to maximums recommended by the
26 manufacturer.

27 Section 8. Restrictions on use by minors.

28 (a) Accompaniment.--All minors ~~14 to 18 years of age~~ shall ←
29 be accompanied by their parent or legal guardian in order to use
30 a tanning device FOR THE FIRST TIME. ←

1 (b) Identification.--Before ~~each~~ THE FIRST use by a minor ~~14~~ ←
2 ~~to 18 years of age~~ AND EVERY SIX MONTHS THEREAFTER, the owner or ←
3 operator shall witness the parent's or legal guardian's signing
4 and dating of the warning statement required under section ~~5(e)~~ ←
5 5(B). The parent or legal guardian shall also sign a statement ←
6 stating the relationship with a child who is under 14 years of
7 age.

8 (c) Medical permission.--Persons under 14 years of age may
9 not use a tanning device unless they present written permission
10 by a properly licensed doctor of medicine or doctor of
11 osteopathic medicine.

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

20 ~~(e)~~ Records.--Records of parental consent shall be
21 maintained for all minor customers of the tanning facility for a
22 period of at least three years.

23 Section 9. Training.

24 ~~(a) Operators. An individual shall satisfactorily complete~~ ←
25 ~~a training program before the individual can function as an~~
26 ~~operator. The training program shall include all of the~~
27 ~~following:~~

28 ~~(1) The requirements of this act.~~

29 ~~(2) Procedures for correct operation of the tanning~~
30 ~~facility and devices.~~

1 ~~(3) The determination of skin type of customers,~~
2 ~~including skin types based on the Fitzpatrick scale.~~

3 ~~(4) The duration and frequency of exposure.~~

4 ~~(5) Recognition of reaction, injury or overexposure.~~

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

7 ~~(7) Health risks.~~

8 ~~(8) Emergency procedures in case of injury.~~

9 ~~(9) Customer refusal tactics.~~

10 ~~(b) Owners and managers. Owners and managers shall do all~~
11 ~~of the following:~~

12 ~~(1) Complete formal training and pass a certification~~
13 ~~examination, approved by the department, before operating a~~
14 ~~tanning facility or training employees.~~

15 ~~(2) Train operators under subsection (a) and provide~~
16 ~~review as necessary.~~

17 ~~(c) Inspections. The department shall investigate the level~~
18 ~~of an individual's understanding and competency during~~
19 ~~inspections.~~

20 ~~(d) Proof. Proof of training for owners, managers and~~
21 ~~employees shall be maintained and available for inspection.~~

22 ~~(e) Training classes. If an operator or owner took training~~
23 ~~classes in the year prior to the effective date of this section,~~
24 ~~the operator or owner shall not be required to take courses but~~
25 ~~must show proof of passing the class to the department.~~

26 ~~Section 10. Promotional materials.~~

27 ~~A tanning facility may not claim or distribute promotional~~
28 ~~materials that claim that using a tanning device is safe or free~~
29 ~~from risk or that the use of a tanning device will result in~~
30 ~~medical or health benefits. A tanning facility may only claim or~~

1 ~~distribute promotional materials that claim that a tanning~~
2 ~~device is for cosmetic use only.~~

3 (A) OPERATOR.--A TANNING FACILITY SHALL HAVE AN OPERATOR ←
4 PRESENT IN ACCORDANCE WITH SUBSECTION (B) WHO IS SUFFICIENTLY
5 KNOWLEDGEABLE IN THE OPERATION OF THE TANNING DEVICES,
6 INCLUDING:

7 (1) KNOWLEDGE OF THE REQUIREMENTS OF THIS SECTION AND OF
8 21 CFR 1040.20 (RELATING TO SUNLAMP PRODUCTS AND ULTRAVIOLET
9 LAMPS INTENDED FOR USE IN SUNLAMP PRODUCTS).

10 (2) PROPER USE OF THE UNITED STATES FOOD AND DRUG
11 ADMINISTRATION'S RECOMMENDED EXPOSURE SCHEDULE.

12 (3) PROCEDURES FOR CORRECT OPERATION OF THE TANNING
13 FACILITY.

14 (4) RECOGNITION OF INJURIES AND THE FACILITY'S
15 PROCEDURES OF HANDLING THE INJURIES FROM OVEREXPOSURE TO
16 ULTRAVIOLET RADIATION.

17 (5) MANUFACTURER'S PROCEDURES FOR OPERATION AND
18 MAINTENANCE OF THE TANNING DEVICE.

19 (6) USE OF PROTECTIVE EYEWEAR.

20 (7) EMERGENCY PROCEDURES IN CASE OF INJURY.

21 (8) EFFECTS OF ULTRAVIOLET RADIATION, ACUTE AND CHRONIC
22 EXPOSURE, BIOLOGICAL EFFECTS AND HEALTH RISKS.

23 (9) PHOTSENSITIZING AGENTS.

24 (10) THE SIX DIFFERENT SKIN TYPES.

25 (B) PRESENCE.--A TRAINED OPERATOR SHALL BE PRESENT AT THE
26 TANNING FACILITY DURING ALL OPERATING HOURS AND WHILE TANNING
27 EQUIPMENT IS IN OPERATION AND SHALL INFORM AND ASSIST EACH
28 CUSTOMER IN THE OPERATION AND USE OF THE TANNING DEVICE. NO
29 CONSUMER MAY USE THE TANNING EQUIPMENT IN THE ABSENCE OF A
30 TRAINED OPERATOR.



1 Section ~~11~~ 10. Inspections, violations and injunctions.

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

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

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

14 (d) Procedure.--

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

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

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

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

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

1 Section 20. Severability.

2 The provisions of this act are severable. If any provision of
3 this act or its application to any person or circumstance is
4 held invalid, the invalidity shall not affect other provisions
5 or applications of this act which can be given effect without
6 the invalid provision or application.

7 Section 30. Effective date.

8 This act shall take effect in 180 days.