
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 460 Session of
2009

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

AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 2010

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.

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 \$300 per salon, including ten devices, and \$20 per
6 additional bed. The department may increase fees by regulation
7 in an amount sufficient to cover the cost of annual inspection
8 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 AN IMMEDIATE THREAT TO ←
2 public health and safety UNDER SECTION 10(C), the department ←
3 shall, prior to suspension or revocation of a license,
4 provide written notice to the licensee of the facts or
5 conduct which may warrant suspension or revocation and shall
6 provide the licensee with an opportunity to demonstrate or
7 achieve compliance. The licensee may request an
8 administrative hearing upon receipt of the written notice.

9 Section 4. Inspection.

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

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

16 (1) The ~~construction and~~ operation of the tanning ←
17 facility.

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

20 (3) Operator understanding and competency.

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

22 Section 5. Warning signs and statements.

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

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

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

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

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

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

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

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

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

25 (b) Written warning statement.--Each customer shall be
26 provided with a written warning statement requiring their
27 signature prior to initial exposure. The warning statement shall
28 include all of the following:

29 (1) Failure to use the eye protection provided to the
30 customer by the tanning facility may result in damage to the

1 eyes.

2 (2) Overexposure to ultraviolet light causes burns.

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

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

7 (i) foods;

8 (ii) cosmetics; or

9 (iii) medications, including:

10 (A) tranquilizers;

11 (B) diuretics;

12 (C) antibiotics;

13 (D) high blood pressure medicines; or

14 (E) birth control pills.

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

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

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

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

27 Section 6. Tanning devices.

28 (a) Federal certification.--Only tanning devices
29 manufactured and certified under 21 CFR 1040.20 (relating to
30 sunlamp products and ultraviolet lamps intended for use in

1 sunlamp products) may be used in tanning facilities.

2 (b) Condition.--All tanning devices shall do all of the
3 following:

4 (1) Meet the National Fire Protection Association's
5 National Electrical Code and any other State or local
6 electrical codes.

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

9 (3) Be maintained in good repair.

10 (c) Stand-up booths.--Stand-up booths shall meet all of the
11 following conditions:

12 (1) Have physical barriers or other means to indicate
13 proper exposure distance.

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

16 (3) Access shall be of rigid construction, doors must
17 open outwardly and handrails and nonslip floors must be
18 provided.

19 (d) Protective eyewear.--Operators shall require customers
20 to wear protective eyewear in order to use a tanning device.

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

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

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

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

30 Section 7. Operation.

1 (a) Skin type.--Operators must be able to recognize the skin
2 type of the customer based on the Fitzpatrick scale and advise
3 the customer accordingly in regard to maximum time of exposure.

4 (b) Customer records.--A record shall be kept of each
5 customer's total number of tanning visits, date, time and
6 duration of each.

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

13 (d) Duration and frequency.--Operators shall limit session
14 duration and frequency to maximums recommended by the
15 manufacturer.

16 Section 8. Restrictions on use by minors.

17 (a) Accompaniment.--All minors shall be accompanied by their
18 parent or legal guardian in order to use a tanning device for
19 the first time.

20 (b) Identification.--Before the first use by a minor and
21 every six months thereafter, the owner or operator shall witness
22 the parent's or legal guardian's signing and dating of the
23 warning statement required under section 5(b). The parent or
24 legal guardian shall also sign a statement stating the
25 relationship with a child who is under 14 years of age.

26 (c) Medical permission.--Persons under 14 years of age may
27 not use a tanning device unless they present written permission
28 by a properly licensed doctor of medicine or doctor of
29 osteopathic medicine.

30 (d) Records.--Records of parental consent shall be

1 maintained for all minor customers of the tanning facility for a
2 period of at least three years.

3 Section 9. Training.

4 (a) Operator.--A tanning facility shall have an operator
5 present in accordance with subsection (b) who is sufficiently
6 knowledgeable in the operation of the tanning devices,
7 including:

8 (1) Knowledge of the requirements of this section and of
9 21 CFR 1040.20 (relating to sunlamp products and ultraviolet
10 lamps intended for use in sunlamp products).

11 (2) Proper use of the United States Food and Drug
12 Administration's recommended exposure schedule.

13 (3) Procedures for correct operation of the tanning
14 facility.

15 (4) Recognition of injuries and the facility's
16 procedures of handling the injuries from overexposure to
17 ultraviolet radiation.

18 (5) Manufacturer's procedures for operation and
19 maintenance of the tanning device.

20 (6) Use of protective eyewear.

21 (7) Emergency procedures in case of injury.

22 (8) Effects of ultraviolet radiation, acute and chronic
23 exposure, ~~biological effects~~ and health risks. ←

24 (9) Photosensitizing agents.

25 (10) The six different skin types.

26 (b) Presence.--A trained operator shall be present at the
27 tanning facility during all operating hours ~~and~~ while tanning ←
28 equipment is in operation and shall inform and assist each
29 customer in the operation and use of the tanning device. No
30 consumer may use the tanning equipment in the absence of a

1 trained operator.

2 Section 10. Inspections, violations and injunctions.

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

6 (b) Penalty.--

7 (1) A person who operates a tanning facility in
8 violation of this act commits a misdemeanor and shall be
9 subject to suspension or revocation of the tanning facility's
10 license. A person who operates ~~or uses~~ a tanning device in ←
11 violation of this act commits a misdemeanor.

12 (2) A person who is in violation of section 8 shall be
13 subject to ~~civil penalties~~ A CIVIL PENALTY of not more than ←
14 \$250 for the first violation, UP TO \$500 for the second ←
15 violation and UP TO \$1,000 for each subsequent violation. The ←
16 penalty shall be paid to the Department of Health for deposit
17 in the State Treasury.

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

22 (d) Procedure.--

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

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

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

29 (iii) Require a corrective action plan, including a
30 reasonable time schedule for completion. The department

1 shall review the corrective action plan and approve or
2 require modification of the plan.

3 (2) If a tanning facility fails to comply with
4 conditions of the written notice provided under paragraph
5 (1), the department shall notify the owner, manager or
6 operator, by certified mail, that unless action is taken
7 within five days of receipt of the written notice, the
8 tanning facility's license shall be suspended or revoked.

9 Section 20. Severability.

10 The provisions of this act are severable. If any provision of
11 this act or its application to any person or circumstance is
12 held invalid, the invalidity shall not affect other provisions
13 or applications of this act which can be given effect without
14 the invalid provision or application.

15 Section 30. Effective date.

16 This act shall take effect in 180 days.