
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1919 Session of
2011

INTRODUCED BY SWANGER, COHEN, DeLUCA, GINGRICH, KILLION,
McGEEHAN, MURT, REICHLEY, K. SMITH AND YOUNGBLOOD,
OCTOBER 24, 2011

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 24, 2011

AN ACT

1 Providing for the regulation of tanning facilities and for
2 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 Tanning
7 Facility 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 a licensee to
12 control operation of the tanning facility of the licensee and to
13 instruct and assist the customer in the proper operation of the
14 tanning 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, of a tanning facility and may inspect each year
13 thereafter.

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

16 (1) The operation of the tanning 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 to
20 report an alleged injury regarding this tanning facility.

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

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

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

30 (2) Overexposure to ultraviolet light causes burns.

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

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

5 (i) foods;

6 (ii) cosmetics; or

7 (iii) medications, including:

8 (A) tranquilizers;

9 (B) diuretics;

10 (C) antibiotics;

11 (D) high blood pressure medicines; or

12 (E) birth control pills.

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

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

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

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

25 Section 6. Tanning devices.

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

30 (b) Condition.--All tanning devices shall do all of the

1 following:

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

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

7 (3) Be maintained in good repair.

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

10 (1) Have physical barriers or other means to indicate
11 proper exposure distance.

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

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

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

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

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

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

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

28 Section 7. Operation.

29 (a) Skin type.--Operators must be able to recognize the skin
30 type of the customer based on the Fitzpatrick scale and advise

1 the customer accordingly in regard to maximum time of exposure.

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

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

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

14 Section 8. Restrictions on use by minors.

15 (a) General Rule.--No person under 18 years of age may use a
16 tanning device.

17 (b) Identification.--A licensee or operator may request
18 valid identification from a customer to determine the age of the
19 customer.

20 Section 9. Training.

21 (a) Operator.--A tanning facility shall have an operator
22 present in accordance with subsection (b) who is sufficiently
23 knowledgeable in the operation of the tanning devices,
24 including:

25 (1) Knowledge of the requirements of this section and of
26 21 CFR 1040.20 (relating to sunlamp products and ultraviolet
27 lamps intended for use in sunlamp products).

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

30 (3) Procedures for correct operation of the tanning

1 facility.

2 (4) Recognition of injuries and the facility's
3 procedures of handling the injuries from overexposure to
4 ultraviolet radiation.

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

7 (6) Use of protective eyewear.

8 (7) Emergency procedures in case of injury.

9 (8) Effects of ultraviolet radiation, acute and chronic
10 exposure and health risks.

11 (9) Photosensitizing agents.

12 (10) The six different skin types.

13 (b) Presence.--A trained operator shall be present at the
14 tanning facility during all operating hours while tanning
15 equipment is in operation and shall inform and assist each
16 customer in the operation and use of the tanning device. No
17 consumer may use the tanning equipment in the absence of a
18 trained operator.

19 Section 10. Inspections, violations and injunctions.

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

23 (b) Penalty.--

24 (1) Except as otherwise provided in this subsection, a
25 person who operates a tanning facility in violation of this
26 act commits a misdemeanor and shall be subject to suspension
27 or revocation of the tanning facility's license. A person who
28 operates a tanning device in violation of this act commits a
29 misdemeanor.

30 (2) A person who violates section 8 shall be subject to

1 a civil penalty of not more than \$250 for the first
2 violation, up to \$500 for the second violation and up to
3 \$1,000 for each subsequent violation. The penalty shall be
4 paid to the Department of Health for deposit in the State
5 Treasury.

6 (3) It is an affirmative defense for an owner, manager
7 or operator to an offense under section 8 that, prior to the
8 date of the alleged violation, the owner, manager or operator
9 has complied with all of the following:

10 (i) adopted and implemented a written policy against
11 permitting minors to use a tanning device at the tanning
12 facility which includes:

13 (A) a requirement that an employee ask an
14 individual who appears to be 21 years of age or
15 younger for a valid photo identification as proof of
16 age prior to permitting the use of a tanning device;

17 (B) a list of all types of acceptable photo
18 identification;

19 (C) a list of factors to be examined in the
20 photo identification, including photo likeness, birth
21 date, expiration date, bumps, tears or other damage
22 and signature;

23 (D) a requirement that, if the photo
24 identification is missing any of the items listed in
25 clause (C), it is not valid and cannot be accepted as
26 proof of age for the use of a tanning device. A
27 second photo identification may be required to permit
28 the use of a tanning device, with questions referred
29 to the manager; and

30 (E) a disciplinary policy which includes

1 employee counseling and suspension for failure to
2 require valid photo identification and dismissal for
3 repeated improper use of tanning devices by minors.

4 (ii) informed all employees permitting use of a
5 tanning device through an established training program of
6 the applicable State law regarding the prohibited use of
7 tanning devices by minors;

8 (iii) documented employee training indicating that
9 all employees permitting the use of tanning devices have
10 been informed of and understand the written policy
11 referred to in subparagraph (i);

12 (iv) trained all employees permitting the use of a
13 tanning device to verify that a customer is at least 18
14 years of age before permitting the use of a tanning
15 device;

16 (v) conspicuously posted a notice that the use by a
17 minor of a tanning device is illegal; and

18 (vi) established and implemented disciplinary
19 sanctions for noncompliance with the policy under
20 subparagraph (i).

21 (4) An affirmative defense under paragraph (3) must be
22 proved by a preponderance of the evidence.

23 (5) An affirmative defense under paragraph (3) may be
24 used by an owner, manager or operator not more than three
25 times at a tanning facility during any 24-month period.

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

30 (d) Procedure.--

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

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

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

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

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

17 Section 20. Severability.

18 The provisions of this act are severable. If any provision of
19 this act or its application to any person or circumstance is
20 held invalid, the invalidity shall not affect other provisions
21 or applications of this act which can be given effect without
22 the invalid provision or application.

23 Section 30. Effective date.

24 This act shall take effect in 180 days.