
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1259 Session of
2013

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MENTZER AND DAVIS, MAY 8, 2013

REFERRED TO COMMITTEE ON HEALTH, MAY 8, 2013

AN ACT

1 Providing for the regulation of indoor tanning facilities;
2 establishing the Indoor Tanning Regulation Fund; and
3 providing for 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 "Fitzpatrick scale." A scale for classifying a skin type,
3 based on the skin's reaction to the first ten to 45 minutes of
4 sun exposure after the winter season as follows:

5 Skin Type	Sunburning and Tanning History
6 1	Always burns easily, never tans
7 2	Always burns easily, tans minimally
8 3	Burns moderately, tans gradually
9 4	Burns minimally, always tans well
10 5	Rarely burns, tans profusely
11 6	Never burns, deeply pigmented

12 "Legal entity." An individual, corporation, partnership,
13 proprietorship or association.

14 "Operator." An individual designated by the legal entity to
15 control operation of the tanning facility and to instruct and
16 assist the customer in the proper operation of the tanning
17 equipment.

18 "Tanning bed" or "tanning booth." A structure lined with
19 sunlamps in which one stands or reclines in order to tan the
20 skin.

21 "Tanning equipment or device." Equipment that emits
22 radiation used for tanning of the skin, such as a sunlamp,
23 tanning booth or tanning bed that emits electromagnetic
24 radiation with wavelengths in the air between 200 and 400
25 nanometers. The term includes any accompanying equipment, such
26 as protective eyewear, timers and handrails. The term does not
27 include any of the following:

- 28 (1) Phototherapy devices providing therapeutic benefits
29 to patients receiving medically supervised treatment
30 prescribed by and under the direct supervision of a licensed

1 physician who is trained in the use of phototherapy devices.

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

4 (3) Devices intended for purposes other than the
5 irradiation of human skin.

6 (4) Devices used to apply chemicals to the skin to
7 achieve a bronze color, commonly referred to as spray-on,
8 mist-on or sunless tans.

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

11 "Ultraviolet radiation." Electromagnetic radiation with
12 wavelengths between 200 and 400 nanometers.

13 Section 3. Certificate of registration and fees.

14 (a) Requirement.--No legal entity shall establish, maintain,
15 operate or hold itself out as authorized to establish, maintain
16 or operate a tanning facility without first having obtained a
17 certificate of registration issued by the department.

18 (b) Application.--A legal entity may apply for a certificate
19 of registration required under subsection (a) by submitting an
20 application to the department on a form prescribed by the
21 department. The form shall require all of the following
22 information:

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

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

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

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

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

4 (d) Fee.--An applicant shall be required to pay an annual
5 registration fee in accordance with the following:

6 (1) One hundred fifty dollars annually per salon that
7 operates two beds or less.

8 (2) Three hundred dollars annually per salon that
9 operates more than two beds and \$20 per additional bed
10 operated over ten beds.

11 (3) The department may increase the registration fees
12 under this subsection by regulation to ensure implementation
13 of this act.

14 (e) Posting.--A legal entity shall post its certificate of
15 registration in a location clearly visible to its customers.

16 (f) Term.--A certificate of registration shall be issued for
17 a period of time not to exceed 12 months following the date of
18 issuance and shall be renewable for each additional year
19 thereafter.

20 (g) Renewal.--A legal entity shall submit an application for
21 renewal of a certificate of registration on a form prescribed by
22 the department prior to expiration of its current certificate of
23 registration.

24 (h) Nontransferability.--A certificate of registration shall
25 not be transferable from one legal entity or one tanning
26 facility to another.

27 (i) Denial, suspension or revocation.--The following shall
28 apply to the denial, suspension or revocation of a certificate
29 of registration:

30 (1) The department may deny, suspend or revoke a

1 certificate of registration for any of the following reasons:

2 (i) Submission of false statements in application,
3 reports, plans or specifications.

4 (ii) For conditions which violate this act.

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

7 (iv) Failure to allow the department to enter the
8 tanning facility at reasonable hours for inspection or
9 investigation.

10 (v) Failure to pay registration fees.

11 (2) Except in cases involving an immediate threat to
12 public health and safety under section 10(b), the department
13 shall, prior to suspension or revocation of a certificate of
14 registration, provide written notice to the legal entity of
15 the facts or conduct which may warrant suspension or
16 revocation and shall provide the legal entity with an
17 opportunity to demonstrate or achieve compliance. The legal
18 entity may request an administrative hearing upon receipt of
19 the written notice.

20 Section 4. Inspection.

21 (a) Access.--The department shall have access at reasonable
22 times to any tanning facility, including the records of the
23 tanning facility, to inspect and determine whether the tanning
24 facility is in compliance with this act.

25 (b) Certificate of registration.--A tanning facility that
26 holds a certificate of registration is subject to inspections on
27 an announced or unannounced basis for purposes of a random
28 sample, at the request of an operator or in response to a
29 complaint.

30 (c) Scope.--Inspections conducted by the department under

1 this section shall encompass all of the following matters:

2 (1) The operation of the tanning facility.

3 (2) Review of required records and training
4 documentation.

5 (3) Operator understanding and competency.

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

7 Section 5. Warning signs and statements.

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

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

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

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

23 (4) Customers should avoid sunbathing before or after
24 exposure to ultraviolet radiation from sunlamps.

25 (5) Wear protective eyewear. Failure to use protective
26 eyewear may result in severe burns or permanent injury to the
27 eyes.

28 (6) Medications or cosmetics may increase your
29 sensitivity to the ultraviolet radiation. Consult a physician
30 before using a sunlamp if you are using medications, have a

1 history of skin problems or believe you are especially
2 sensitive to sunlight. Women who are pregnant or are taking
3 oral contraceptives who use this product may develop
4 discolored skin.

5 (7) Contact the Department of Health to report an
6 alleged health concern or injury regarding this tanning
7 facility.

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

10 (b) Written warning statement.--Each customer shall be
11 provided with a written warning statement requiring a signature
12 prior to initial exposure. The warning statement shall include
13 all of the following:

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

17 (2) Overexposure to ultraviolet light causes burns.

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

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

22 (i) foods;

23 (ii) cosmetics; or

24 (iii) medications, including:

25 (A) tranquilizers;

26 (B) diuretics;

27 (C) antibiotics;

28 (D) high blood pressure medicines; or

29 (E) birth control pills.

30 (5) Any person taking a prescription or over-the-counter

1 drug should consult a physician before using a tanning
2 device.

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

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

7 (c) Liability.--The warning statement provided under
8 subsection (b) shall not affect the liability of the owner,
9 manager or operator of a tanning facility in the event that a
10 customer fails to follow the warning statement and incurs
11 damages.

12 Section 6. Tanning devices.

13 (a) Federal certification.--Only tanning devices
14 manufactured and certified under 21 CFR 1040.20 (relating to
15 sunlamp products and ultraviolet lamps intended for use in
16 sunlamp products) may be used in tanning facilities.

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

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

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

24 (3) Be maintained in good repair.

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

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

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

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

4 (d) Protective eyewear.--Operators shall provide customers
5 with protective eyewear in order to use a tanning device. When a
6 tanning device is in use, no other person shall be allowed to
7 remain in the area unless the person has access to protective
8 eyewear. Protective eyewear shall do all of the following:

9 (1) Be provided free of charge. Customers may also be
10 given the option to use 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) Skin type.--Operators must be able to recognize the skin
16 type of the customer based on the Fitzpatrick scale and advise
17 the customer accordingly in regard to maximum time of exposure.

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

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

27 (d) Duration and frequency.--Operators shall limit session
28 duration and frequency to maximums recommended by the
29 manufacturer.

30 Section 8. Limitations.

1 (a) Prohibition.--No person who is under 17 years of age
2 shall be permitted to use a tanning facility.

3 (b) Written authorization required.--No person over 17 years
4 of age, but under 18 years of age, shall be permitted to use a
5 tanning facility without the written authorization of the
6 person's parent or legal guardian which indicates that the
7 parent or legal guardian consents to the use of a tanning
8 facility by the person.

9 Section 9. Training.

10 (a) Operator.--A tanning facility shall have an operator
11 present in accordance with subsection (b) who is sufficiently
12 knowledgeable in the operation of the tanning devices,
13 including:

14 (1) Knowledge of the requirements of this section and of
15 21 CFR 1040.20 (relating to sunlamp products and ultraviolet
16 lamps intended for use in sunlamp products).

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

19 (3) Procedures for correct operation of the tanning
20 facility.

21 (4) Recognition of injuries and the facility's
22 procedures of handling the injuries from overexposure to
23 ultraviolet radiation.

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

26 (6) Use of protective eyewear.

27 (7) Emergency procedures in case of injury.

28 (8) Effects of ultraviolet radiation, acute and chronic
29 exposure and health risks.

30 (9) Photosensitizing agents.

1 (10) The six different skin types.

2 (b) Presence.--A trained operator shall be present at the
3 tanning facility during all operating hours while tanning
4 equipment is in operation and shall inform and assist each
5 customer in the operation and use of the tanning device. No
6 consumer may use the tanning equipment in the absence of a
7 trained operator.

8 (c) Compliance.--A tanning facility owner shall comply with
9 this section by having a signed affidavit or attestation on
10 file.

11 Section 10. Sanctions.

12 (a) Penalty.--

13 (1) A legal entity that operates a tanning facility in
14 violation of this act shall be subject to suspension or
15 revocation of the tanning facility's certificate of
16 registration.

17 (2) A legal entity that is in violation of section 8
18 shall be subject to a monetary penalty of not more than \$250
19 for the first violation, up to \$500 for the second violation
20 and up to \$1,000 for each subsequent violation.

21 (b) Suspension or revocation.--If the department finds a
22 violation of this act that creates an immediate threat to the
23 health and safety of the public, the department may suspend or
24 revoke the tanning facility's certificate of registration.

25 (c) Enforcement.--

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

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

30 (ii) Specify the manner in which the owner, manager

1 or operator failed to comply with this act.

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

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

13 Section 11. Fund established; disposition of fees, fines and
14 penalties.

15 (a) Fund established.--There is hereby established a
16 restricted account within the General Fund known as the Indoor
17 Tanning Regulation Fund.

18 (b) Disposition of moneys.--All fees and fines imposed in
19 accordance with this act shall be paid into the Indoor Tanning
20 Regulation Fund and are hereby appropriated to the department
21 for use in the performance of its duties under this act.

22 Section 12. Duties of department.

23 The department shall administer the provisions of this act
24 and promulgate and adopt such regulations as may be necessary to
25 implement this act.

26 Section 13. Severability.

27 The provisions of this act are severable. If any provision of
28 this act or its application to any person or circumstance is
29 held invalid, the invalidity shall not affect other provisions
30 or applications of this act which can be given effect without

1 the invalid provision or application.

2 Section 14. Effective date.

3 This act shall take effect as follows:

4 (1) Section 4 shall take effect in 730 days.

5 (2) The remainder of this act shall take effect in 60
6 days.