
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1259 Session of
2013

INTRODUCED BY FARRY, V. BROWN, SANTARSIERO, MURT, MULLERY, HELM,
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MENTZER, DAVIS, DELISSIO AND D. COSTA, MAY 8, 2013

SENATOR VANCE, PUBLIC HEALTH AND WELFARE, IN SENATE, AS AMENDED,
MARCH 19, 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

1 condition or benefit of membership or access.

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

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

6 Skin Type	Sunburning and Tanning History
7 1	Always burns easily, never tans
8 2	Always burns easily, tans minimally
9 3	Burns moderately, tans gradually
10 4	Burns minimally, always tans well
11 5	Rarely burns, tans profusely
12 6	Never burns, deeply pigmented

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

15 "Operator." An individual designated by the legal entity to
16 control operation of the tanning facility and WHO HAS BEEN <--
17 TRAINED ON THE REQUIREMENTS OF THIS ACT to instruct and assist
18 the customer in the proper operation of the tanning equipment.

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

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

- 29 (1) Phototherapy devices providing therapeutic benefits
30 to patients receiving medically supervised treatment

1 prescribed by and under the direct supervision of a licensed
2 ~~physician~~ HEALTH CARE PROVIDER who is trained in the use of <--
3 phototherapy devices.

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

6 (3) Devices intended for purposes other than the
7 irradiation of human skin.

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

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

13 "Ultraviolet radiation." Electromagnetic radiation with
14 wavelengths between 200 and 400 nanometers.

15 Section 3. Certificate of registration and fees.

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

20 (b) Application.--A legal entity ~~may~~ SHALL apply for a <--
21 certificate of registration FOR EACH TANNING FACILITY AS <--
22 required under subsection (a) by submitting an application to
23 the department on a form prescribed by the department. The form
24 shall require all of the following information:

25 (1) The name, address and telephone number of the
26 tanning facility and ~~owner~~ LEGAL ENTITY. <--

27 (2) A signed and dated certification that the ~~applicant~~ <--
28 LEGAL ENTITY has read and understands the requirements of <--
29 this act.

30 (3) A copy of the operating and safety procedures of the

1 tanning facility.

2 (4) Any additional information required by the
3 department.

4 (c) Determination.--The department shall issue a certificate
5 of registration to ~~an applicant~~ A LEGAL ENTITY upon <--
6 determination that the ~~applicant~~ LEGAL ENTITY meets all of the <--
7 requirements of this act.

8 (d) Fee.--~~An applicant~~ A LEGAL ENTITY SUBMITTING AN <--
9 APPLICATION FOR A CERTIFICATE OF REGISTRATION shall be required
10 to pay an annual registration fee in accordance with the
11 following:

12 (1) One hundred fifty dollars annually per tanning
13 facility that operates two beds or less.

14 (2) Three hundred dollars annually per tanning facility
15 that operates more than two beds and \$20 per additional bed
16 operated over ten beds.

17 (3) The department may increase the registration fees
18 under this subsection by regulation to ensure implementation
19 of this act.

20 (e) Posting.--A legal entity shall post its certificate of
21 registration in a location IN EACH TANNING FACILITY THAT IS <--
22 clearly visible to ~~its~~ customers. <--

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

27 (g) Renewal.--A legal entity shall submit an application for
28 renewal of a certificate of registration FOR EACH TANNING <--
29 FACILITY on a form prescribed by the department prior to
30 expiration of its current certificate of registration.

1 (h) Nontransferability.--A certificate of registration shall
2 not be transferable from one legal entity or one tanning
3 facility to another.

4 ~~(i) Denial, suspension or revocation. The following shall~~ <--
5 ~~apply to the denial, suspension or revocation of a certificate~~
6 ~~of registration:~~

7 ~~(1) The department may deny, suspend or revoke a~~
8 ~~certificate of registration for any of the following reasons:~~

9 ~~(i) Submission of false statements in application,~~
10 ~~reports, plans or specifications.~~

11 ~~(ii) For conditions which violate this act.~~

12 ~~(iii) Operation of the tanning facility in a manner~~
13 ~~that threatens public health or safety.~~

14 ~~(iv) Failure to allow the department to enter the~~
15 ~~tanning facility at reasonable hours for inspection or~~
16 ~~investigation.~~

17 ~~(v) Failure to pay registration fees.~~

18 ~~(2) Except in cases involving an immediate threat to~~
19 ~~public health and safety under section 10(b), the department~~
20 ~~shall, prior to suspension or revocation of a certificate of~~
21 ~~registration, provide written notice to the legal entity of~~
22 ~~the facts or conduct which may warrant suspension or~~
23 ~~revocation and shall provide the legal entity with an~~
24 ~~opportunity to demonstrate or achieve compliance. The legal~~
25 ~~entity may request an administrative hearing upon receipt of~~
26 ~~the written notice.~~

27 Section 4. Inspection.

28 (a) Access.--The department shall have access at reasonable
29 times to any tanning facility, including the records of the
30 tanning facility, to inspect and determine whether the tanning

1 facility is in compliance with this act.

2 (b) Certificate of registration.--A tanning facility that
3 holds a certificate of registration is subject to inspections on
4 an announced or unannounced basis for purposes of a random
5 sample, at the request of an operator, A LEGAL ENTITY, or in <--
6 response to a complaint.

7 (c) Scope.--Inspections conducted by the department under
8 this section shall encompass all of the following matters: <--

9 (1) The operation of the tanning facility.

10 (2) Review of required records and training
11 documentation.

12 (3) Operator understanding and competency.

13 (4) ~~Any other area concerning a requirement~~ ADHERENCE TO <--
14 OTHER REQUIREMENTS of this act.

15 Section 5. Warning signs and statements.

16 (a) Warning signs and statements describing hazards.--A THE <--
17 LEGAL ENTITY SHALL ENSURE EACH tanning facility ~~shall post~~ POSTS <--
18 a warning sign in a place readily visible to persons entering
19 the establishment. The sign shall have dimensions not less than
20 11 inches by 17 inches. Lettering must be clear, legible and at
21 least 0.25 inches high, with all of the following provisions on
22 the sign:

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

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

27 (3) Avoid overexposure. As with natural sunlight,
28 overexposure can cause eye and skin injury and allergic
29 reactions. Repeated exposure to ultraviolet radiation may
30 cause chronic sun damage characterized by wrinkling, dryness,

1 fragility, bruising of the skin and skin cancer.

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

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

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

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

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

19 (b) Written warning statement.--Each customer shall be
20 provided with a written warning statement requiring a signature
21 prior to initial exposure. The warning statement shall include
22 all of the following:

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

26 (2) Overexposure to ultraviolet light causes burns.

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

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

- 1 (i) foods;
- 2 (ii) cosmetics; or
- 3 (iii) medications, including:
 - 4 (A) tranquilizers;
 - 5 (B) diuretics;
 - 6 (C) antibiotics;
 - 7 (D) high blood pressure medicines; or
 - 8 (E) birth control pills.

9 (5) Any person taking a prescription or over-the-counter
10 drug should consult a physician before using a tanning
11 device.

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

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

16 (c) Liability.--The warning statement provided under
17 subsection (b) shall not affect the liability of the ~~owner,~~ <--
18 ~~manager~~ LEGAL ENTITY or operator of a tanning facility in the <--
19 event that a customer fails to follow the warning statement and
20 incurs damages.

21 Section 6. Tanning devices.

22 (a) Federal certification.--Only tanning devices
23 manufactured and certified under 21 CFR 1040.20 (relating to
24 sunlamp products and ultraviolet lamps intended for use in
25 sunlamp products) may be used in tanning facilities.

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

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

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

3 (3) Be maintained in good repair.

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

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

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

10 (3) ~~Access shall be of rigid construction, doors must~~ <--
11 ~~open outwardly and handrails and nonslip floors must be~~
12 ~~provided.~~ CONTAIN A RIGID ACCESS, OUTWARDLY OPENING DOORS, <--
13 HANDRAILS AND NONSLIP FLOORS.

14 (d) Protective eyewear.--~~Operators shall provide customers~~ <--
15 THE LEGAL ENTITY SHALL PROVIDE PROTECTIVE EYEWEAR TO EACH <--
16 TANNING FACILITY. OPERATORS SHALL PROVIDE CUSTOMERS OF THE
17 TANNING FACILITY with protective eyewear in order to use a
18 tanning device. When a tanning device is in use, no other person
19 shall be allowed to remain in the area unless the person has
20 access to protective eyewear. Protective eyewear shall do all of
21 the following:

22 (1) Be provided free of charge. Customers may also be
23 given the option to use their own eyewear.

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

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

27 Section 7. Operation.

28 (a) Skin type.--~~Operators must be~~THE LEGAL ENTITY SHALL <--
29 ENSURE THE OPERATOR IS able to recognize the skin type of the
30 customer based on the Fitzpatrick scale and advise the customer

1 accordingly in regard to maximum time of exposure.

2 (b) Customer records.--~~A record shall be~~ THE LEGAL ENTITY <--
3 SHALL ENSURE A RECORD IS kept of each customer's total number of
4 tanning visits, date, time and 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 A <--
12 CUSTOMER'S session duration and frequency to maximums
13 recommended by the manufacturer.

14 Section 8. Limitations.

15 (a) Prohibition.--No person who is ~~under 17 years of age~~ 16 <--
16 YEARS OF AGE OR YOUNGER shall be permitted to use a tanning
17 facility.

18 (b) Written authorization required.--No person ~~over~~ WHO IS <--
19 17 years of age, ~~but under 18 years of age,~~ shall be permitted <--
20 to use a tanning facility without the written authorization of
21 the person's parent or legal guardian which indicates that the
22 parent or legal guardian consents to the use of a tanning
23 facility by the person.

24 Section 9. Training.

25 (a) Operator.--A LEGAL ENTITY WITH A CERTIFICATE OF <--
26 REGISTRATION TO OPERATE A tanning facility shall have an
27 operator present in accordance with subsection (b) who is
28 sufficiently knowledgeable in the operation of the tanning
29 devices, including:

30 (1) Knowledge of the requirements of this section and of

1 21 CFR 1040.20 (relating to sunlamp products and ultraviolet
2 lamps intended for use in sunlamp products).

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

5 (3) Procedures for correct operation of the tanning
6 facility.

7 (4) Recognition of injuries and the TANNING facility's <--
8 procedures of handling the injuries from overexposure to
9 ultraviolet radiation.

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

12 (6) Use of protective eyewear.

13 (7) Emergency procedures in case of injury.

14 (8) Effects of ultraviolet radiation, acute and chronic
15 exposure and health risks.

16 (9) Photosensitizing agents.

17 (10) The six different skin types.

18 (b) Presence.--A ~~trained~~ LEGAL ENTITY SHALL HAVE AN operator <--
19 ~~shall be~~ present at ~~the~~ EACH tanning facility during all <--
20 operating hours while tanning equipment is in operation and THE <--
21 OPERATOR shall inform and assist each customer in the operation
22 and use of the tanning device. No ~~consumer~~ CUSTOMER may use the <--
23 tanning equipment in the absence of a ~~trained~~ AN operator. <--

24 (c) Compliance.--A ~~tanning facility owner~~ LEGAL ENTITY shall <--
25 comply with this section by having a signed affidavit or
26 attestation on file.

27 Section 10. Sanctions.

28 ~~(a) Penalty.~~ <--

29 ~~(1) A legal entity that operates a tanning facility in~~
30 ~~violation of this act shall be subject to suspension or~~

1 ~~revocation of the tanning facility's certificate of~~
2 ~~registration.~~

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

7 ~~(b) 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 certificate of registration.~~

11 (A) DENIAL, SUSPENSION, PENALTIES OR REVOCATION.-- <--

12 (1) A CERTIFICATE OF REGISTRATION SHALL BE DENIED TO A
13 LEGAL ENTITY WHO HAS NOT MET THE REQUIREMENTS OF SECTION 3 OF
14 THIS ACT.

15 (2) THE DEPARTMENT MAY SUSPEND OR REVOKE A CERTIFICATE
16 OF REGISTRATION FROM A LEGAL ENTITY FOR:

17 (I) THE SUBMISSION OF FALSE STATEMENTS IN THE
18 APPLICATION, REPORTS, PLANS OR SPECIFICATIONS;

19 (II) FAILURE TO ALLOW THE DEPARTMENT TO ENTER THE
20 TANNING FACILITY AT REASONABLE HOURS FOR INSPECTION OR
21 INVESTIGATION;

22 (III) A VIOLATION OF THIS ACT THAT CREATES AN
23 IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC;
24 AND

25 (IV) FAILURE TO COMPLY WITH CONDITIONS OF THE
26 WRITTEN NOTICE UNDER SUBSECTION (B) (2).

27 ~~(e)~~ (B) Enforcement.-- <--

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

- 1 (i) Cite each section of the act violated.
- 2 (ii) Specify the manner in which the ~~owner, manager~~ <--
3 LEGAL ENTITY or operator failed to comply with this act. <--
- 4 (iii) Require a corrective action plan, including a
5 reasonable time schedule for completion. The department
6 shall review the corrective action plan and approve or
7 require modification of the plan.

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

15 Section 11. Fund established; disposition of fees, fines and
16 penalties.

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

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

24 Section 12. Duties of department.

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

28 Section 13. 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 14. Effective date.

5 This act shall take effect as follows:

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

7 (2) The remainder of this act shall take effect in 60
8 days.