

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1259 Session of 2013

INTRODUCED BY FARRY, V. BROWN, SANTARSIERO, MURT, MULLERY, HELM, DENLINGER, KORTZ, SCHLEGEL CULVER, PETRI, SABATINA, COHEN, DIGIROLAMO, KILLION, MCGEEHAN, MILLARD, QUINN, KOTIK, GOODMAN, MIRABITO, SCHLOSSBERG, HARKINS, DERMODY, FABRIZIO, MENTZER, DAVIS AND DELISSIO, MAY 8, 2013

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 13, 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 to instruct and  
17 assist the customer in the proper operation of the tanning  
18 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 who is trained in the use of phototherapy devices.

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

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

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

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

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

14 Section 3. Certificate of registration and fees.

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

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

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

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

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

30 (4) Any additional information required by the

1 department.

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

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

7 (1) One hundred fifty dollars annually per ~~salon~~ TANNING <--  
8 FACILITY that operates two beds or less.

9 (2) Three hundred dollars annually per ~~salon~~ TANNING <--  
10 FACILITY that operates more than two beds and \$20 per  
11 additional bed operated over ten beds.

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

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

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

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

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

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

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

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

5 (ii) For conditions which violate this act.

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

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

11 (v) Failure to pay registration fees.

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

21 Section 4. Inspection.

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

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

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

3 (1) The operation of the tanning facility.

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

6 (3) Operator understanding and competency.

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

8 Section 5. Warning signs and statements.

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

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

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

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

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

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

29 (6) Medications or cosmetics may increase your  
30 sensitivity to the ultraviolet radiation. Consult a physician

1 before using a sunlamp if you are using medications, have a  
2 history of skin problems or believe you are especially  
3 sensitive to sunlight. Women who are pregnant or are taking  
4 oral contraceptives who use this product may develop  
5 discolored skin.

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

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

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

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

18 (2) Overexposure to ultraviolet light causes burns.

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

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

23 (i) foods;

24 (ii) cosmetics; or

25 (iii) medications, including:

26 (A) tranquilizers;

27 (B) diuretics;

28 (C) antibiotics;

29 (D) high blood pressure medicines; or

30 (E) birth control pills.

1 (5) Any person taking a prescription or over-the-counter  
2 drug should consult a physician before using a tanning  
3 device.

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

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

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

13 Section 6. Tanning devices.

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

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

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

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

25 (3) Be maintained in good repair.

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

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

30 (2) Be constructed rigidly enough to withstand stress of



1 use and impact of a falling person.

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

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

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

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

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

15 Section 7. Operation.

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

19 (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.

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

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

1 Section 8. Limitations.

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

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

10 Section 9. Training.

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

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

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

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

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

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

27 (6) Use of protective eyewear.

28 (7) Emergency procedures in case of injury.

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

1 (9) Photosensitizing agents.

2 (10) The six different skin types.

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

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

12 Section 10. Sanctions.

13 (a) Penalty.--

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

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

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

26 (c) Enforcement.--

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

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

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

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

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

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

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

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

23 Section 12. Duties of department.

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

27 Section 13. Severability.

28           The provisions of this act are severable. If any provision of  
29 this act or its application to any person or circumstance is  
30 held invalid, the invalidity shall not affect other provisions

1 or applications of this act which can be given effect without  
2 the invalid provision or application.

3 Section 14. Effective date.

4 This act shall take effect as follows:

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

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