

**AMERICAN ACADEMY OF DERMATOLOGY ASSOCIATION
-REGULATING TANNING FACILITIES MODEL BILL -**

AN ACT

relating to the regulation of tanning facilities and the use of a tanning devices by a minor and other provisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF [ENTER STATE]:

SECTION 1. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this act unless the context clearly indicates otherwise:

"Department." [Specify the agency responsible for the regulation of indoor tanning facilities in the state].

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

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

"Operator." An individual designated by the licensee to control operation of the tanning facility and to instruct and assist the customer in the proper operation of the tanning equipment.

"Tanning equipment or device." Equipment that emits ultraviolet (UV) radiation used for tanning of the skin, such as a sunlamp, tanning booth or tanning bed that emits electromagnetic radiation with wavelengths between 200 and 400 nanometers. The term includes any accompanying equipment, such as protective eyewear, timers and handrails. The term shall not include

- (1) Phototherapy devices providing therapeutic benefits to patients receiving medically supervised treatment prescribed by and under the direct supervision of a licensed physician (MD/DO) who is trained in the use of phototherapy devices. This term also excludes devices used for personal use in a private residence; devices intended for purposes other than the irradiation of human skin; and devices used to apply chemicals to the skin to achieve a bronze color, commonly referred to as spray-on, mist-on, or sunless tans.

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

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

SECTION 2. Licensure.

(a) No person shall establish, maintain, operate or hold itself out as authorized to establish, maintain or operate a tanning facility without first having obtained a license issued by the department.

(b) A person may apply for a license required under subsection (a) by submitting an application to the department on a form prescribed by the department. The form shall require all of the following information:

- (1) The name, address and telephone number of the tanning facility and owner.
- (2) The manufacturer, model number and type of each ultraviolet lamp or tanning device used in the tanning facility.
- (3) The name of the equipment supplier, installer and service agent of each ultraviolet lamp or tanning device used in the tanning facility.
- (4) A signed and dated certification that the applicant has read and understands the requirements of this act.
- (5) A copy of the operating and safety procedures of the tanning facility.
- (6) Any additional information required by the department.

(c) The department shall issue a license to an applicant upon determination that the applicant meets all of the requirements of this act.

(d) An applicant shall be required to pay a license fee of \$500 per salon and \$100 per additional bed over 10.

(e) A licensee shall post its license in a location clearly visible to its customers.

(f) A license shall expire annually on the date specified in the license.

(g) A licensee must file an application for renewal on a form prescribed by the department prior to expiration of its current license.

(h) A license shall not be transferable from one person or one tanning facility to another.

(i) The following shall apply to the denial, suspension or revocation of a license:

(1) The department shall have the authority to deny, suspend or revoke licensure for any of the following reasons:

- (i) Submission of false statements in application, reports, plans or specifications.
- (ii) For conditions which violate this act.
- (iii) Operation of the tanning facility in a manner that threatens public health or safety.
- (iv) Failure to allow the department to enter the tanning facility at reasonable hours for inspection or investigation.
- (v) Failure to pay license fees.

(2) Except in cases involving public health and safety, the department shall, prior to suspension or revocation of a license, provide written notice to the licensee of the facts or conduct which may warrant suspension or revocation and shall provide the licensee with an opportunity to demonstrate or achieve compliance. The licensee may request an administrative hearing upon receipt of the written notice.

SECTION 3. Inspection.

(a) The department shall conduct an initial inspection, after receipt of an application for a license under section 2 of this act before the license is granted, of a tanning facility and may inspect annually thereafter.

(b) Inspections conducted by the department under this section shall encompass all of the following matters:

- (1) The construction and operation of the tanning facility.
- (2) Review of required records and training documentation.
- (3) Operator understanding and competency.
- (4) Any other area concerning a requirement of this act.

SECTION 4. Restriction on Use of Tanning Facilities by Minors.

An operator or employee of a tanning facility shall not allow an individual who is under 18 years of age to use a tanning device.

SECTION 5. Warning Signs and Statements.

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

- (1) The wording, "DANGER--ULTRAVIOLET RADIATION", in letters at least 0.5 inches high.
- (2) Follow the manufacturer's instructions for use of this device.
- (3) Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin and skin cancer.
- (4) Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.
- (5) Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.
- (6) Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems or believe you are especially sensitive to sunlight. Women who are pregnant or are taking oral contraceptives who use this product may develop discolored skin.
- (7) A customer may call the department of Health at (insert telephone number) to report an alleged injury regarding this tanning facility.

(b) The sign under subsection (a) shall also be posted within three feet of each tanning device, in a conspicuous location that is readily visible to a person about to use the device with no obstruction.

(c) Each customer shall be provided with a written warning statement requiring their signature prior to initial exposure and before renewals of contracts. The warning statement shall include all of the following:

- (1) Failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes.
- (2) Overexposure to ultraviolet light causes burns.
- (3) Any exposure to ultraviolet light causes premature aging of the skin and skin cancer including melanoma, the deadliest form of skin cancer.
- (4) Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:
 - (i) foods;
 - (ii) cosmetics; or
 - (iii) medications, including:
 - (A) tranquilizers;
 - (B) diuretics;
 - (C) antibiotics;
 - (D) high blood pressure medicines; or
 - (E) birth control pills.
- (5) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.
- (6) A person with skin that always burns easily and never tans should avoid a tanning device.
- (7) A person with a family or past medical history of skin cancer should avoid a tanning device.

(d) A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. The department by rule shall prescribe the form and content of the records. The record shall include:

- (1) the date and time of the customer's use of a tanning device;
- (2) the length of time the tanning device was used;
- (3) any injury or illness resulting from the use of a tanning device;
- (4) the customer's skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;
- (5) whether the customer has a family history of skin cancer; and
- (6) whether the customer has a past medical history of skin cancer.

(e) A written or oral report of any tanning injury must be provided to the department by the end of the next working day after its occurrence or upon gaining knowledge of the accident. The report shall include the name of the affected individual, the name and location of tanning facility, the nature of injury, the name and address of a health care provider, if applicable, and any other relevant information. The department shall send reports of all injuries to the United States Food and Drug Administration.

SECTION 6. Operation.

(a) A trained operator must be present when tanning equipment is operated. The operator must be within hearing distance to allow the customer to easily summon help if necessary or the customer must have access to an intercom or buzzer for the operator and the operator must be able to reach the customer in 30 seconds.

(b) Tanning equipment must have a control that enables the user to manually terminate radiation without pulling the electrical plug or coming in contact with the ultraviolet lamp.

(c) Operators shall instruct customers in regard to all of the following:

- (1) The proper position to maintain relative to the equipment.
- (2) The position of the safety railing, if applicable.
- (3) The operation of the manual switching device to terminate radiation.
- (4) The maximum time of exposure.

(d) Operators must be able to recognize the skin type of the customer based on the Fitzpatrick scale and advise the customer accordingly in regard to maximum time of exposure.

(e) At intervals required by the manufacturer, bulbs shall be replaced with a kind intended for use in that device or with lamps or filters considered equivalent under United States Food and Drug Administration regulations at the time of manufacture. Records shall be maintained and accessible to customers. Facilities must also post dates of bulb changing where visible on every tanning device. The requirements of this subsection shall also apply to defective or burned-out lamps or filters.

(f) Contact surfaces of tanning devices must be cleansed between uses by the tanning facility with a cleansing agent approved by the department. After cleansing each time, a visible sign must be placed on the bed or booth indicating that it has been properly cleaned. Bathrooms and dressing rooms must also be properly sanitized and customers must be provided with clean towels and washcloths. The Department shall promulgate rules and regulations related to the sanitation standards to be met in each tanning salon. These standards shall meet the minimum standards for beauty salons and barber shops, according to [Title, Chapter].

(g) Operators shall limit session duration and frequency to maximums recommended by the manufacturer.

SECTION 7. Promotional materials.

A tanning facility may not advertise or distribute promotional materials that claim that using a tanning device is safe or free from risk or that the use of a tanning device will result in medical or health benefits. A tanning facility may only claim or distribute promotional materials that claim that a tanning device is for cosmetic use only.

SECTION 8. Inspections, violations and injunctions.

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

(b) A person who operates a tanning facility in violation of this act commits a misdemeanor and shall be subject to suspension or revocation of the tanning facility's license. A person who operates or uses a tanning device in violation of this act commits a misdemeanor.

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

(d) The department may take the following steps to enforce the provisions of this act:

(1) Cite each section of the act violated in writing.

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

(3) Require the facility to pay a fine for failure to comply with provisions in this act, not to exceed \$5,000 for each individual violation.

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

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

SECTION 9. Adoption of warning sign.

Not later than [ENTER EFFECTIVE DATE]:

(a) the department shall adopt the warning statement required under this Act, and post the advisory statement on the department's Internet website in a form that is easily downloaded and printed by a tanning facility owner or operator; and

(b) the department shall modify as necessary the prescribed form and content for the records required under this Act.

SECTION 10. Effective Date.

This Act takes effect [ENTER EFFECTIVE DATE].