
By: Delegates Walkup, Kirk, Donoghue, Pendergrass, and Goldwater

Introduced and read first time: February 7, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Tanning Facilities - Licensing and Regulation**

3 FOR the purpose of requiring a person to be licensed by the State Board of

4 Cosmetologists before the person operates a tanning facility in the State; providing
5 for the issuance, scope, term, and renewal of the license; authorizing the Board to
6 deny a license to an applicant, reprimand a licensee, or suspend or revoke a license
7 under certain circumstances; providing for hearings under certain circumstances;
8 requiring certain warning signs in tanning facilities; setting certain requirements for
9 the operation of tanning devices in tanning facilities; requiring certain written
10 warnings to customers of tanning facilities; requiring that certain customer records
11 be kept; defining certain terms; and generally relating to the licensure and
12 regulation of tanning facilities.

13 BY adding to

14 Article - Business Occupations and Professions
15 Section 5-5A-01 through 5-5A-14, inclusive, to be under the new subtitle "Subtitle
16 5A. Tanning Facilities"
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1995 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Business Occupations and Professions**

22 SUBTITLE 5A. TANNING FACILITIES.

23 5-5A-01.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO OPERATE A
27 TANNING FACILITY.

28 (C) "OPERATOR" MEANS AN OWNER OF A TANNING FACILITY OR AN AGENT
29 OF AN OWNER OF A TANNING FACILITY.

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1 (D) (1) "TANNING DEVICE" MEANS A DEVICE, INCLUDING A SUNLAMP,
2 TANNING BOOTH, AND TANNING BED, THAT EMITS ELECTROMAGNETIC RADIATION
3 WITH WAVELENGTHS IN THE AIR BETWEEN 200 AND 400 NANOMETERS AND THAT IS
4 USED FOR THE TANNING OF HUMAN SKIN.

5 (2) "TANNING DEVICE" INCLUDES ANY ACCOMPANYING EQUIPMENT,
6 INCLUDING PROTECTIVE EYEWEAR, TIMERS, AND HANDRAILS.

7 (E) "TANNING FACILITY" MEANS A BUSINESS THAT PROVIDES ACCESS TO OR
8 USE OF TANNING DEVICES.

9 5-5A-02.

10 REVENUES GENERATED BY THE LICENSING FEES APPLICABLE TO TANNING
11 FACILITIES SHALL BE AT LEAST EQUAL TO EXPENSES INCURRED BY THE BOARD TO
12 REGULATE TANNING FACILITIES.

13 5-5A-03.

14 (A) A PERSON MUST OBTAIN A LICENSE BEFORE THE PERSON OPERATES A
15 TANNING FACILITY IN THE STATE.

16 (B) A SEPARATE LICENSE IS REQUIRED FOR EACH TANNING FACILITY THAT
17 A PERSON OPERATES.

18 5-5A-04.

19 AN APPLICANT FOR A LICENSE SHALL:

20 (1) FILE WITH THE BOARD AN APPLICATION ON THE FORM THAT THE
21 BOARD PROVIDES; AND

22 (2) PAY TO THE BOARD A LICENSE FEE OF \$50.

23 5-5A-05.

24 THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE
25 REQUIREMENTS OF THIS SUBTITLE.

26 5-5A-06.

27 A LICENSE AUTHORIZES A LICENSEE TO OPERATE A TANNING FACILITY.

28 5-5A-07.

29 (A) A LICENSE EXPIRES ON THE FIRST ANNIVERSARY OF ITS EFFECTIVE DATE
30 UNLESS IT IS RENEWED FOR A 1-YEAR TERM AS PROVIDED IN THIS SECTION.

31 (B) BEFORE A LICENSE EXPIRES, THE LICENSEE MAY RENEW IT FOR AN
32 ADDITIONAL 1-YEAR TERM IF THE LICENSEE:

33 (1) OTHERWISE IS ENTITLED TO A LICENSE;

34 (2) FILES WITH THE BOARD A RENEWAL APPLICATION ON THE FORM
35 THAT THE BOARD PROVIDES; AND

36 (3) PAYS TO THE BOARD A RENEWAL FEE OF \$35.

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1 (C) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS
2 THE REQUIREMENTS OF THIS SECTION.

3 5-5A-08.

4 THE LICENSE SHALL BE DISPLAYED IN AN OPEN PUBLIC AREA OF THE
5 TANNING FACILITY.

6 5-5A-09.

7 SUBJECT TO THE HEARING PROVISIONS OF § 5-5A-10 OF THIS SUBTITLE, THE
8 BOARD MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR
9 SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

10 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
11 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

12 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

13 (3) VIOLATES A PROVISION OF THIS SUBTITLE; OR

14 (4) VIOLATES A REGULATION ADOPTED BY THE BOARD UNDER THIS
15 SUBTITLE.

16 5-5A-10.

17 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE
18 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §
19 5-5A-09 OF THIS SUBTITLE, THE BOARD SHALL GIVE THE INDIVIDUAL AGAINST
20 WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE
21 THE BOARD.

22 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN
23 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

24 (C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY
25 PROCEEDING UNDER THIS SECTION.

26 (D) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS
27 CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY
28 HEAR AND DETERMINE THE MATTER.

29 5-5A-11.

30 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A
31 CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE,
32 MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE
33 GOVERNMENT ARTICLE.

34 5-5A-12.

35 (A) (1) A TANNING FACILITY SHALL POST A WARNING SIGN IN A
36 CONSPICUOUS LOCATION THAT IS READILY VISIBLE TO INDIVIDUALS ENTERING
37 THE TANNING FACILITY.

38 (2) THE WARNING SIGN SHALL:

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1 (I) BE AT LEAST 11 INCHES BY 17 INCHES; AND

2 (II) CONTAIN THE FOLLOWING WORDING:

3 "DANGER: ULTRAVIOLET RADIATION

4 REPEATED EXPOSURE TO ULTRAVIOLET RADIATION MAY CAUSE CHRONIC
5 SUN DAMAGE CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, BRUISING OF
6 THE SKIN, AND SKIN CANCER.

7 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR
8 PERMANENT INJURY TO THE EYES.

9 MEDICATIONS OR COSMETICS MAY INCREASE YOUR SENSITIVITY TO
10 ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN BEFORE USING A SUNLAMP IF
11 YOU ARE USING MEDICATIONS, HAVE A HISTORY OF SKIN PROBLEMS, OR BELIEVE
12 YOU ARE ESPECIALLY SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN
13 TAKING ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP
14 DISCOLORED SKIN.

15 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF AN
16 ULTRAVIOLET LAMP OR SUNLAMP."

17 (B) (1) A TANNING FACILITY OPERATOR SHALL ALSO POST A WARNING
18 SIGN AT EACH TANNING DEVICE IN A CONSPICUOUS LOCATION THAT IS READILY
19 VISIBLE TO AN INDIVIDUAL ABOUT TO USE THE TANNING DEVICE.

20 (2) THE WARNING SIGN SHALL:

21 (I) BE AT LEAST 11 INCHES BY 17 INCHES; AND

22 (II) CONTAIN THE FOLLOWING WORDING:

23 "DANGER: ULTRAVIOLET RADIATION

24 1. FOLLOW THE MANUFACTURER'S INSTRUCTIONS FOR USE OF THIS
25 DEVICE.

26 2. AVOID TOO FREQUENT OR LENGTHY EXPOSURE. AS WITH NATURAL
27 SUNLIGHT, EXPOSURE CAN CAUSE SERIOUS EYE AND SKIN INJURIES AND ALLERGIC
28 REACTIONS. REPEATED EXPOSURE MAY CAUSE SKIN CANCER.

29 3. WEAR PROTECTIVE EYEWEAR. FAILURE TO USE PROTECTIVE EYEWEAR
30 MAY RESULT IN SEVERE BURNS OR PERMANENT DAMAGE TO THE EYES.

31 4. DO NOT SUNBATHE BEFORE OR AFTER EXPOSURE TO ULTRAVIOLET
32 RADIATION FROM SUNLAMPS.

33 5. MEDICATIONS OR COSMETICS MAY INCREASE YOUR SENSITIVITY TO
34 ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN BEFORE USING A SUNLAMP IF
35 YOU ARE USING MEDICATION, HAVE A HISTORY OF SKIN PROBLEMS, OR BELIEVE
36 YOU ARE ESPECIALLY SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN

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1 USING ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP
2 DISCOLORED SKIN.

3 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF THIS
4 DEVICE."

5 5-5A-13.

6 (A) (1) A TANNING FACILITY SHALL HAVE AN OPERATOR PRESENT DURING
7 OPERATING HOURS.

8 (2) THE OPERATOR MUST:

9 (I) BE SUFFICIENTLY KNOWLEDGEABLE IN THE CORRECT
10 OPERATION OF THE TANNING DEVICES USED AT THE FACILITY;

11 (II) INSTRUCT, INFORM, AND ASSIST EACH CUSTOMER IN THE
12 PROPER USE OF THE TANNING DEVICES;

13 (III) COMPLETE AND MAINTAIN RECORDS REQUIRED BY THIS
14 TITLE; AND

15 (IV) EXPLAIN OR OTHERWISE INFORM EACH CUSTOMER INITIALLY
16 USING THE TANNING FACILITY OF:

17 1. THE POTENTIAL HAZARDS OF AND PROTECTIVE
18 MEASURES NECESSARY FOR ULTRAVIOLET RADIATION;

19 2. THE REQUIREMENT THAT PROTECTIVE EYEWEAR BE
20 WORN WHILE USING A TANNING DEVICE;

21 3. THE POSSIBILITY OF PHOTOSENSITIVITY OR OF A
22 PHOTOALLERGIC REACTION TO CERTAIN DRUGS, MEDICINE, OR OTHER AGENTS
23 WHEN AN INDIVIDUAL IS SUBJECTED TO THE SUN OR ULTRAVIOLET RADIATION;

24 4. THE CORRELATION BETWEEN SKIN TYPE AND EXPOSURE
25 TIME;

26 5. THE MAXIMUM EXPOSURE TIME TO THE TANNING
27 FACILITY'S DEVICES;

28 6. THE BIOLOGICAL PROCESS OF TANNING; AND

29 7. THE DANGERS OF AND THE NECESSITY TO AVOID
30 OVEREXPOSURE TO ULTRAVIOLET RADIATION.

31 (B) (1) BEFORE EACH USE OF A TANNING DEVICE, THE OPERATOR SHALL
32 PROVIDE WITH EACH TANNING DEVICE CLEAN AND PROPERLY SANITIZED
33 PROTECTIVE EYEWEAR THAT PROTECTS THE EYES FROM ULTRAVIOLET
34 RADIATION AND ALLOWS ADEQUATE VISION TO MAINTAIN BALANCE.

35 (2) THE PROTECTIVE EYEWEAR SHALL BE LOCATED IN THE IMMEDIATE
36 AREA OF EACH TANNING DEVICE AND SHALL BE PROVIDED WITHOUT CHARGE TO
37 EACH USER OF A TANNING DEVICE.

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1 (3) THE OPERATOR MAY NOT ALLOW AN INDIVIDUAL TO USE A
2 TANNING DEVICE IF THAT INDIVIDUAL DOES NOT USE PROTECTIVE EYEWEAR THAT
3 MEETS THE REQUIREMENTS OF THE UNITED STATES FOOD AND DRUG
4 ADMINISTRATION.

5 (4) THE OPERATOR ALSO SHALL SHOW EACH CUSTOMER HOW TO USE
6 SUITABLE PHYSICAL AIDS, SUCH AS HANDRAILS AND MARKINGS ON THE FLOOR, TO
7 MAINTAIN PROPER EXPOSURE DISTANCE AS RECOMMENDED BY THE
8 MANUFACTURER OF THE TANNING DEVICE.

9 (C) THE OPERATOR SHALL CLEAN AND PROPERLY SANITIZE THE BODY
10 CONTACT SURFACES OF A TANNING DEVICE AFTER EACH USE OF THE TANNING
11 DEVICE.

12 (D) (1) THE TANNING FACILITY SHALL USE A TIMER WITH AN ACCURACY
13 OF AT LEAST PLUS OR MINUS 10% OF THE MAXIMUM TIMER INTERVAL OF THE
14 TANNING DEVICE.

15 (2) THE OPERATOR SHALL LIMIT THE EXPOSURE TIME OF A CUSTOMER
16 ON A TANNING DEVICE TO THE MAXIMUM EXPOSURE TIME RECOMMENDED BY THE
17 MANUFACTURER.

18 (3) A TIMER SHALL BE LOCATED SO THAT A CUSTOMER CANNOT SET
19 OR RESET THE CUSTOMER'S EXPOSURE TIME.

20 (4) THE OPERATOR SHALL CONTROL THE TEMPERATURE OF THE
21 CUSTOMER CONTACT SURFACES OF A TANNING DEVICE AND THE SURROUNDING
22 AREA SO THAT IS MAY NOT EXCEED 100 DEGREES FAHRENHEIT.

23 (E) BEFORE A CUSTOMER WHO IS AN ADULT USES A TANNING DEVICE AT A
24 TANNING FACILITY FOR THE FIRST TIME AND EACH TIME AN INDIVIDUAL
25 EXECUTES OR RENEWS A CONTRACT TO USE A TANNING DEVICE AT A TANNING
26 FACILITY THE INDIVIDUAL MUST SIGN A WRITTEN STATEMENT ACKNOWLEDGING
27 THAT THE INDIVIDUAL HAS READ AND UNDERSTOOD THE REQUIRED WARNINGS
28 BEFORE USING THE TANNING DEVICE AND AGREES TO USE PROTECTIVE EYEWEAR.

29 (F) BEFORE A CUSTOMER WHO IS A MINOR USES A TANNING DEVICE AT A
30 TANNING FACILITY FOR THE FIRST TIME, THE MINOR MUST GIVE THE OPERATOR A
31 WRITTEN INFORMED CONSENT STATEMENT SIGNED AND DATED BY THE MINOR'S
32 PARENT OR LEGAL GUARDIAN STATING THAT THE PARENT OR LEGAL GUARDIAN
33 HAS READ AND UNDERSTOOD THE WARNINGS GIVEN BY THE TANNING FACILITY,
34 CONSENTS TO THE MINOR'S USE OF A TANNING DEVICE, AND AGREES THAT THE
35 MINOR WILL USE PROTECTIVE EYEWEAR.

36 (G) (1) A RECORD OF EACH CUSTOMER USING A TANNING DEVICE SHALL
37 BE MAINTAINED AT THE TANNING FACILITY AT LEAST UNTIL THE THIRD
38 ANNIVERSARY OF THE DATE OF THE CUSTOMER'S LAST USE OF A TANNING DEVICE.

39 (2) THE RECORD SHALL INCLUDE:

40 (I) THE DATE AND TIME OF THE CUSTOMER'S USE OF A TANNING
41 DEVICE;

HOUSE BILL 1105

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1 (II) THE LENGTH OF TIME THE TANNING DEVICE WAS USED;

2 (III) ANY INJURY OR ILLNESS RESULTING FROM THE IMMEDIATE
3 USE OF A TANNING DEVICE; AND

4 (IV) ANY WRITTEN INFORMED CONSENT STATEMENT REQUIRED
5 TO BE SIGNED UNDER SUBSECTION (E) OR (F) OF THIS SECTION.

6 (H) A CUSTOMER MAY NOT BE ALLOWED TO USE A TANNING DEVICE IN A
7 TANNING FACILITY MORE THAN ONCE IN A 24-HOUR PERIOD.

8 5-5A-14.

9 EACH TANNING FACILITY SHALL PROPERLY MAINTAIN THE TANNING DEVICES
10 USED IN THE TANNING FACILITY.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1996.