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

Introduced and read first time: February 7, 1996

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Tanning Facilities - ~~Licensing and Regulation~~ Required Signs**

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; providing for the effective date of certain provisions of this Act; defining~~  
12 ~~certain terms; and generally relating to the licensure and regulation of signs in~~  
13 ~~tanning facilities.~~

14 BY adding to

15 Article - Business Occupations and Professions  
16 Section 5-5A-01 through ~~5-5A-14~~ 5-5A-03, inclusive, to be under the new subtitle  
17 "Subtitle 5A. Tanning Facilities"  
18 Annotated Code of Maryland  
19 (1995 Replacement Volume and 1995 Supplement)

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

2

1 **Article - Business Occupations and Professions**

2 SUBTITLE 5A. TANNING FACILITIES.

3 5-5A-01.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 ~~(B) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO OPERATE A~~  
7 ~~TANNING FACILITY.~~

8 ~~(C) (B) "OPERATOR" MEANS AN OWNER OF A TANNING FACILITY OR AN~~  
9 ~~AGENT OF AN OWNER OF A TANNING FACILITY.~~

10 ~~(D) (C) (1) "TANNING DEVICE" MEANS A DEVICE, INCLUDING A SUNLAMP,~~  
11 ~~TANNING BOOTH, AND TANNING BED, THAT EMITS ELECTROMAGNETIC RADIATION~~  
12 ~~WITH WAVELENGTHS IN THE AIR BETWEEN 200 AND 400 NANOMETERS AND THAT IS~~  
13 ~~USED FOR THE TANNING OF HUMAN SKIN.~~

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

16 ~~(E) (D) "TANNING FACILITY" MEANS A BUSINESS THAT PROVIDES ACCESS~~  
17 ~~TO OR USE OF TANNING DEVICES.~~

18 ~~5-5A-02.~~

19 ~~REVENUES GENERATED BY THE LICENSING FEES APPLICABLE TO TANNING~~  
20 ~~FACILITIES SHALL BE AT LEAST EQUAL TO EXPENSES INCURRED BY THE BOARD TO~~  
21 ~~REGULATE TANNING FACILITIES.~~

22 ~~5-5A-03.~~

23 ~~(A) A PERSON MUST OBTAIN A LICENSE BEFORE THE PERSON OPERATES A~~  
24 ~~TANNING FACILITY IN THE STATE.~~

25 ~~(B) A SEPARATE LICENSE IS REQUIRED FOR EACH TANNING FACILITY THAT~~  
26 ~~A PERSON OPERATES.~~

27 ~~5-5A-04.~~

28 AN APPLICANT FOR A LICENSE SHALL:

29 (1) FILE WITH THE BOARD AN APPLICATION ON THE FORM THAT THE  
30 BOARD PROVIDES; AND

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

32 ~~5-5A-05.~~

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

3

1 ~~5-5A-06.~~

2 ~~A LICENSE AUTHORIZES A LICENSEE TO OPERATE A TANNING FACILITY.~~

3 ~~5-5A-07.~~

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

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

8 ~~(1) OTHERWISE IS ENTITLED TO A LICENSE;~~

9 ~~(2) FILES WITH THE BOARD A RENEWAL APPLICATION ON THE FORM~~  
10 ~~THAT THE BOARD PROVIDES; AND~~

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

12 ~~(C) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS~~  
13 ~~THE REQUIREMENTS OF THIS SECTION.~~

14 ~~5-5A-08.~~

15 ~~THE LICENSE SHALL BE DISPLAYED IN AN OPEN PUBLIC AREA OF THE~~  
16 ~~TANNING FACILITY.~~

17 ~~5-5A-09.~~

18 ~~SUBJECT TO THE HEARING PROVISIONS OF § 5-5A-10 OF THIS SUBTITLE, THE~~  
19 ~~BOARD MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR~~  
20 ~~SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:~~

21 ~~(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO~~  
22 ~~OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;~~

23 ~~(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;~~

24 ~~(3) VIOLATES A PROVISION OF THIS SUBTITLE; OR~~

25 ~~(4) VIOLATES A REGULATION ADOPTED BY THE BOARD UNDER THIS~~  
26 ~~SUBTITLE.~~

27 ~~5-5A-10.~~

28 ~~(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE~~  
29 ~~GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §~~  
30 ~~5-5A-09 OF THIS SUBTITLE, THE BOARD SHALL GIVE THE INDIVIDUAL AGAINST~~  
31 ~~WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE~~  
32 ~~THE BOARD.~~

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

35 ~~(C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY~~  
36 ~~PROCEEDING UNDER THIS SECTION.~~

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

4 ~~5-5A-11.~~

5 ~~ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A~~  
6 ~~CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE,~~  
7 ~~MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE~~  
8 ~~GOVERNMENT ARTICLE.~~

9 ~~5-5A-12. 5-5A-02.~~

10 (A) (1) A TANNING FACILITY SHALL POST A WARNING SIGN IN A  
11 CONSPICUOUS LOCATION THAT IS READILY VISIBLE TO INDIVIDUALS ENTERING  
12 THE TANNING FACILITY.

13 (2) THE WARNING SIGN SHALL:

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

15 (II) CONTAIN THE FOLLOWING WORDING:

16 "DANGER: ULTRAVIOLET RADIATION

17 REPEATED EXPOSURE TO ULTRAVIOLET RADIATION MAY CAUSE CHRONIC  
18 SUN DAMAGE CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, BRUISING OF  
19 THE SKIN, AND SKIN CANCER.

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

22 MEDICATIONS OR COSMETICS MAY INCREASE YOUR SENSITIVITY TO  
23 ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN BEFORE USING A SUNLAMP IF  
24 YOU ARE USING MEDICATIONS, HAVE A HISTORY OF SKIN PROBLEMS, OR BELIEVE  
25 YOU ARE ESPECIALLY SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN  
26 TAKING ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP  
27 DISCOLORED SKIN.

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

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

33 (2) THE WARNING SIGN SHALL:

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

35 (II) CONTAIN THE FOLLOWING WORDING:

5

1 "DANGER: ULTRAVIOLET RADIATION

2 1. FOLLOW THE MANUFACTURER'S INSTRUCTIONS FOR USE OF THIS  
3 DEVICE.

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

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

9 4. DO NOT SUNBATHE BEFORE OR AFTER EXPOSURE TO ULTRAVIOLET  
10 RADIATION FROM SUNLAMPS.

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

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

19 ~~5-5A-13.~~

20 ~~(A) (1) A TANNING FACILITY SHALL HAVE AN OPERATOR PRESENT DURING~~  
21 ~~OPERATING HOURS.~~

22 ~~(2) THE OPERATOR MUST:~~

23 ~~(I) BE SUFFICIENTLY KNOWLEDGEABLE IN THE CORRECT~~  
24 ~~OPERATION OF THE TANNING DEVICES USED AT THE FACILITY;~~

25 ~~(II) INSTRUCT, INFORM, AND ASSIST EACH CUSTOMER IN THE~~  
26 ~~PROPER USE OF THE TANNING DEVICES;~~

27 ~~(III) COMPLETE AND MAINTAIN RECORDS REQUIRED BY THIS~~  
28 ~~TITLE; AND~~

29 ~~(IV) EXPLAIN OR OTHERWISE INFORM EACH CUSTOMER INITIALLY~~  
30 ~~USING THE TANNING FACILITY OF:~~

31 ~~1. THE POTENTIAL HAZARDS OF AND PROTECTIVE~~  
32 ~~MEASURES NECESSARY FOR ULTRAVIOLET RADIATION;~~

33 ~~2. THE REQUIREMENT THAT PROTECTIVE EYEWEAR BE~~  
34 ~~WORN WHILE USING A TANNING DEVICE;~~

35 ~~3. THE POSSIBILITY OF PHOTOSENSITIVITY OR OF A~~  
36 ~~PHOTOALLERGIC REACTION TO CERTAIN DRUGS, MEDICINE, OR OTHER AGENTS~~  
37 ~~WHEN AN INDIVIDUAL IS SUBJECTED TO THE SUN OR ULTRAVIOLET RADIATION;~~

1                                   4. THE CORRELATION BETWEEN SKIN TYPE AND EXPOSURE  
2 TIME;

3                                   5. THE MAXIMUM EXPOSURE TIME TO THE TANNING  
4 FACILITY'S DEVICES;

5                                   6. THE BIOLOGICAL PROCESS OF TANNING; AND

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

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

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

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

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

23                   (C) THE OPERATOR SHALL CLEAN AND PROPERLY SANITIZE THE BODY  
24 CONTACT SURFACES OF A TANNING DEVICE AFTER EACH USE OF THE TANNING  
25 DEVICE.

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

29                   (2) THE OPERATOR SHALL LIMIT THE EXPOSURE TIME OF A CUSTOMER  
30 ON A TANNING DEVICE TO THE MAXIMUM EXPOSURE TIME RECOMMENDED BY THE  
31 MANUFACTURER.

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

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

37                   (E) BEFORE A CUSTOMER WHO IS AN ADULT USES A TANNING DEVICE AT A  
38 TANNING FACILITY FOR THE FIRST TIME AND EACH TIME AN INDIVIDUAL  
39 EXECUTES OR RENEWS A CONTRACT TO USE A TANNING DEVICE AT A TANNING  
40 FACILITY THE INDIVIDUAL MUST SIGN A WRITTEN STATEMENT ACKNOWLEDGING

~~1 THAT THE INDIVIDUAL HAS READ AND UNDERSTOOD THE REQUIRED WARNINGS  
2 BEFORE USING THE TANNING DEVICE AND AGREES TO USE PROTECTIVE EYEWEAR.~~

~~3 (F) BEFORE A CUSTOMER WHO IS A MINOR USES A TANNING DEVICE AT A  
4 TANNING FACILITY FOR THE FIRST TIME, THE MINOR MUST GIVE THE OPERATOR A  
5 WRITTEN INFORMED CONSENT STATEMENT SIGNED AND DATED BY THE MINOR'S  
6 PARENT OR LEGAL GUARDIAN STATING THAT THE PARENT OR LEGAL GUARDIAN  
7 HAS READ AND UNDERSTOOD THE WARNINGS GIVEN BY THE TANNING FACILITY,  
8 CONSENTS TO THE MINOR'S USE OF A TANNING DEVICE, AND AGREES THAT THE  
9 MINOR WILL USE PROTECTIVE EYEWEAR.~~

~~10 (G) (1) A RECORD OF EACH CUSTOMER USING A TANNING DEVICE SHALL  
11 BE MAINTAINED AT THE TANNING FACILITY AT LEAST UNTIL THE THIRD  
12 ANNIVERSARY OF THE DATE OF THE CUSTOMER'S LAST USE OF A TANNING DEVICE.~~

~~13 (2) THE RECORD SHALL INCLUDE:~~

~~14 (I) THE DATE AND TIME OF THE CUSTOMER'S USE OF A TANNING  
15 DEVICE;~~

~~16 (II) THE LENGTH OF TIME THE TANNING DEVICE WAS USED;~~

~~17 (III) ANY INJURY OR ILLNESS RESULTING FROM THE IMMEDIATE  
18 USE OF A TANNING DEVICE; AND~~

~~19 (IV) ANY WRITTEN INFORMED CONSENT STATEMENT REQUIRED  
20 TO BE SIGNED UNDER SUBSECTION (E) OR (F) OF THIS SECTION.~~

~~21 (H) A CUSTOMER MAY NOT BE ALLOWED TO USE A TANNING DEVICE IN A  
22 TANNING FACILITY MORE THAN ONCE IN A 24 HOUR PERIOD.~~

~~23 5-5A-14.~~

~~24 EACH TANNING FACILITY SHALL PROPERLY MAINTAIN THE TANNING DEVICES  
25 USED IN THE TANNING FACILITY.~~

~~26 5-5A-03.~~

~~27 THE SECRETARY MAY IMPOSE A CIVIL PENALTY, NOT EXCEEDING \$250, ON A  
28 PERSON WHO VIOLATES THIS SUBTITLE.~~

~~29 SECTION 2. AND BE IT FURTHER ENACTED, That by October 1, 1996, the  
30 Department of Labor, Licensing, and Regulation shall make reasonable efforts to educate  
31 persons subject to this Act about the requirements of this Act.~~

~~32 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
33 shall take effect June 1, 1996.~~

~~34 SECTION 2- 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act  
35 shall take effect October 1, 1996.~~