
By: **Delegates Healey, Boteler, Cryor, C. Davis, Elliott, Gilleland, Goldwater, Heller, Howard, Hubbard, Kaiser, Mandel, Marriott, McKee, Murray, Nathan-Pulliam, Oaks, Patterson, Ross, and V. Turner**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Tanning Facilities - Licensing**
 3 **and Regulation**

4 FOR the purpose of requiring certain persons to obtain a certain license to operate a
 5 tanning facility; requiring a separate license for each tanning facility; requiring
 6 the Secretary of Health and Mental Hygiene to issue certain licenses and adopt
 7 certain regulations concerning tanning facilities; providing for the scope of a
 8 certain license; providing for the term, renewal, and display of licenses for
 9 tanning facilities; providing hearing and appeal procedures; requiring a tanning
 10 facility to post certain signs in certain locations including certain information;
 11 establishing certain requirements for the operation of tanning facilities;
 12 requiring tanning facilities to maintain certain tanning devices; requiring a
 13 certain inspection of certain tanning devices each year; providing a certain
 14 penalty for failing a certain inspection; requiring adult customers of tanning
 15 facilities to sign a certain statement of warnings; prohibiting certain minors
 16 from using certain tanning devices except in certain circumstances; requiring
 17 that certain customer records be kept; providing a certain penalty for violation
 18 of certain provisions of law; defining certain terms; requiring the Department of
 19 Health and Mental Hygiene to make certain efforts to educate certain persons
 20 about the requirements of this Act; providing for the effective dates of this Act;
 21 and generally relating to the licensing and regulation of tanning facilities by the
 22 Department of Health and Mental Hygiene.

23 BY adding to

24 Article - Health - General
 25 Section 24-1501 through 24-1515, inclusive, to be under the new subtitle
 26 "Subtitle 15. Tanning Facilities"
 27 Annotated Code of Maryland
 28 (2005 Replacement Volume and 2005 Supplement)

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

1 **Article - Health - General**2 **SUBTITLE 15. TANNING FACILITIES.**

3 24-1501.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO OPERATE A
7 TANNING FACILITY.8 (C) "OPERATOR" MEANS AN OWNER OF A TANNING FACILITY OR AGENT OF AN
9 OWNER OF A TANNING FACILITY.10 (D) (1) "TANNING DEVICE" MEANS A DEVICE THAT EMITS
11 ELECTROMAGNETIC RADIATION WITH WAVELENGTHS IN THE AIR BETWEEN 200 AND
12 400 NANOMETERS AND THAT IS USED FOR THE TANNING OF HUMAN SKIN.13 (2) "TANNING DEVICE" INCLUDES A SUNLAMP, TANNING BOOTH,
14 TANNING BED, AND ANY ACCOMPANYING EQUIPMENT, INCLUDING PROTECTIVE
15 EYEWEAR, TIMERS, AND HANDRAILS.16 (E) "TANNING FACILITY" MEANS A BUSINESS THAT PROVIDES ACCESS TO OR
17 THE USE OF TANNING DEVICES.

18 24-1502.

19 (A) A PERSON SHALL OBTAIN A LICENSE BEFORE THE PERSON OPERATES A
20 TANNING FACILITY IN THE STATE.21 (B) A SEPARATE LICENSE IS REQUIRED FOR EACH TANNING FACILITY THAT A
22 PERSON OPERATES.

23 24-1503.

24 (A) THE SECRETARY SHALL ISSUE A LICENSE TO EACH APPLICANT WHO
25 MEETS THE REQUIREMENTS OF THIS SUBTITLE.26 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
27 PROVISIONS OF THIS SUBTITLE.

28 24-1504.

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

30 24-1505.

31 (A) THE TERM OF A LICENSE IS 1 YEAR.

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

3 (C) BEFORE A LICENSE EXPIRES, THE LICENSEE MAY RENEW IT FOR AN
4 ADDITIONAL 1-YEAR TERM IF THE LICENSEE:

5 (1) OTHERWISE IS ENTITLED TO A LICENSE;

6 (2) FILES WITH THE SECRETARY A RENEWAL APPLICATION ON THE
7 FORM THAT THE SECRETARY PROVIDES; AND

8 (3) PAYS TO THE SECRETARY A RENEWAL FEE AS DETERMINED BY THE
9 SECRETARY.

10 (D) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE WHO
11 MEETS THE REQUIREMENTS OF THIS SECTION.

12 24-1506.

13 THE LICENSE SHALL BE DISPLAYED IN AN OPEN PUBLIC AREA OF THE TANNING
14 FACILITY.

15 24-1507.

16 SUBJECT TO THE HEARING PROVISIONS OF § 24-1508 OF THIS SUBTITLE, THE
17 SECRETARY MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR
18 SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

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

21 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

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

23 (4) VIOLATES A REGULATION ADOPTED BY THE SECRETARY UNDER THIS
24 SUBTITLE.

25 24-1508.

26 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE
27 GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER
28 THIS SECTION, THE SECRETARY SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE
29 ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE
30 SECRETARY.

31 (B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN
32 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

33 (C) THE SECRETARY MAY ADMINISTER OATHS IN CONNECTION WITH ANY
34 PROCEEDING UNDER THIS SECTION.

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

4 24-1509.

5 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY 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 24-1510.

10 (A) (1) A TANNING FACILITY SHALL POST A WARNING SIGN IN A
11 CONSPICUOUS LOCATION THAT IS READILY VISIBLE TO INDIVIDUALS ENTERING THE
12 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 SUN
18 DAMAGE CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, BRUISING OF THE
19 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 YOU
24 ARE USING MEDICATIONS, HAVE A HISTORY OF SKIN PROBLEMS, OR BELIEVE YOU
25 ARE ESPECIALLY SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR WOMEN TAKING
26 ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY DEVELOP DISCOLORED SKIN.

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

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

32 (2) THE WARNING SIGN SHALL:

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

34 (II) CONTAIN THE FOLLOWING WORDING:

1 "DANGER: ULTRAVIOLET RADIATION

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

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

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

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

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

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

17 24-1511.

18 (A) (1) A TANNING FACILITY SHALL HAVE AN OPERATOR PRESENT DURING
19 OPERATING HOURS.

20 (2) THE OPERATOR MUST:

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

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

25 (III) COMPLETE AND MAINTAIN RECORDS REQUIRED BY THIS
26 SUBTITLE; AND

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

29 1. THE POTENTIAL HAZARDS OF AND PROTECTIVE
30 MEASURES NECESSARY FOR ULTRAVIOLET RADIATION;

31 2. THE REQUIREMENT THAT PROTECTIVE EYEWEAR BE
32 WORN WHILE USING A TANNING DEVICE;

33 3. THE POSSIBILITY OF PHOTSENSITIVITY OR OF A
34 PHOTOALLERGIC REACTION TO CERTAIN DRUGS, MEDICINE, OR OTHER AGENTS
35 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 RADIATION
11 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 TANNING
16 DEVICE IF THAT INDIVIDUAL DOES NOT USE PROTECTIVE EYEWEAR THAT MEETS
17 THE REQUIREMENTS OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

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

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

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

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

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

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

36 (E) A CUSTOMER MAY NOT BE ALLOWED TO USE A TANNING DEVICE IN A
37 TANNING FACILITY MORE THAN ONCE IN A 24-HOUR PERIOD.

1 24-1512.

2 (A) EACH TANNING FACILITY SHALL PROPERLY MAINTAIN THE TANNING
3 DEVICES USED IN THE TANNING FACILITY.

4 (B) THE TANNING DEVICES USED IN EACH TANNING FACILITY SHALL BE
5 INSPECTED EACH YEAR BY AN APPROPRIATE AUTHORITY, AS DETERMINED BY THE
6 SECRETARY, TO ENSURE THAT THE TANNING DEVICES ARE BEING OPERATED IN
7 ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND IN A SAFE AND
8 HEALTHFUL MANNER.

9 (C) THE SECRETARY MAY SUSPEND THE LICENSE OF ANY TANNING FACILITY
10 THAT HAS TANNING DEVICES THAT FAIL THE INSPECTION REQUIRED IN
11 SUBSECTION (B) OF THIS SECTION UNTIL THE LICENSEE CAN PROVIDE EVIDENCE TO
12 THE SECRETARY THAT THE TANNING DEVICES ARE BEING OPERATED IN
13 ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND IN A SAFE AND
14 HEALTHFUL MANNER.

15 (D) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE
16 PROVISIONS OF THIS SECTION.

17 24-1513.

18 (A) BEFORE A CUSTOMER WHO IS AN ADULT USES A TANNING DEVICE AT A
19 TANNING FACILITY FOR THE FIRST TIME AND EACH TIME AN INDIVIDUAL EXECUTES
20 OR RENEWS A CONTRACT TO USE A TANNING DEVICE AT A TANNING FACILITY, THE
21 INDIVIDUAL SHALL SIGN A WRITTEN STATEMENT ACKNOWLEDGING THAT THE
22 INDIVIDUAL HAS READ AND UNDERSTOOD THE REQUIRED WARNINGS BEFORE
23 USING THE TANNING DEVICE AND AGREES TO USE PROTECTIVE EYEWEAR.

24 (B) AN INDIVIDUAL UNDER THE AGE OF 13 YEARS MAY NOT USE A TANNING
25 DEVICE UNLESS THE INDIVIDUAL:

26 (1) HAS A WRITTEN PRESCRIPTION FROM THE INDIVIDUAL'S PHYSICIAN
27 SPECIFYING:

28 (I) THE NATURE OF THE MEDICAL CONDITION REQUIRING THE
29 TREATMENT;

30 (II) THE NUMBER OF PRESCRIBED VISITS; AND

31 (III) THE TIME OF EXPOSURE AT EACH VISIT; OR

32 (2) HAS PERMISSION FROM A PARENT OR GUARDIAN AS EVIDENCED BY:

33 (I) A WRITTEN CONSENT FORM SIGNED BY THE INDIVIDUAL'S
34 PARENT; OR

35 (II) THE PHYSICAL ACCOMPANIMENT OF A PARENT OR GUARDIAN.

1 24-1514.

2 (A) A RECORD OF EACH CUSTOMER USING A TANNING DEVICE SHALL BE
3 MAINTAINED AT THE TANNING FACILITY AT LEAST UNTIL THE THIRD ANNIVERSARY
4 OF THE DATE OF THE CUSTOMER'S LAST USE OF A TANNING DEVICE.

5 (B) THE RECORD SHALL INCLUDE:

6 (1) THE DATE AND TIME OF THE CUSTOMER'S USE OF A TANNING
7 DEVICE;

8 (2) THE LENGTH OF TIME THE TANNING DEVICE WAS USED;

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

11 (4) ANY WRITTEN INFORMED CONSENT STATEMENT REQUIRED TO BE
12 SIGNED UNDER § 24-1513 OF THIS SUBTITLE.

13 24-1515.

14 THE SECRETARY MAY IMPOSE A CIVIL PENALTY, NOT EXCEEDING \$250, ON A
15 PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBTITLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
17 2006, the Department of Health and Mental Hygiene shall make reasonable efforts to
18 educate persons subject to this Act about the requirements of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act
20 shall take effect October 1, 2006.

21 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
22 Section 3 of this Act, this Act shall take effect June 1, 2006.