

HOUSE BILL 887

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By: **Delegates Healey, Bobo, Boteler, Cane, Elliott, Frush, Goldwater, Heller, Holmes, Howard, Hubbard, Kaiser, Love, McKee, Nathan-Pulliam, Ross, and Sossi**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment – Licensing and Regulation of Tanning**
3 **Facilities**

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 the Environment to issue certain licenses and adopt certain
7 regulations concerning tanning facilities; requiring the Secretary to set certain
8 fees; requiring the fees to be set to produce funds to approximate certain costs;
9 providing for the scope of a certain license; providing for the term, renewal, and
10 display of licenses for tanning facilities; requiring a tanning facility to post
11 certain signs in certain locations including certain information; establishing
12 certain requirements for the operation of tanning facilities; requiring tanning
13 facilities to maintain certain tanning devices; requiring a certain inspection of
14 certain tanning devices each year; providing a certain penalty for failing a
15 certain inspection; requiring adult customers of tanning facilities to sign a
16 certain statement of warnings; prohibiting certain minors from using certain
17 tanning devices except in certain circumstances; requiring that certain
18 customer records be kept; providing a certain penalty for violation of certain
19 provisions of law; defining certain terms; stating the intent of the General
20 Assembly that certain funds be included in the State budget for certain
21 purposes and that when certain special funds become available, the special
22 funds be used to reimburse the General Fund; requiring the Department of the
23 Environment to make certain efforts to educate certain persons about the
24 requirements of this Act; providing for the effective dates of this Act; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 generally relating to the licensing and regulation of tanning facilities by the
2 Department of the Environment.

3 BY renumbering

4 Article – Environment

5 Section 8–601 and the subtitle “Subtitle 6. Short Title”

6 to be Section 8–701 and the subtitle “Subtitle 7. Short Title”

7 Annotated Code of Maryland

8 (1996 Replacement Volume and 2006 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – Environment

11 Section 8–301(a) and 8–501

12 Annotated Code of Maryland

13 (1996 Replacement Volume and 2006 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Environment

16 Section 8–301(b)

17 Annotated Code of Maryland

18 (1996 Replacement Volume and 2006 Supplement)

19 BY adding to

20 Article – Environment

21 Section 8–601 through 8–613 to be under the new subtitle “Subtitle 6. Tanning
22 Facilities”

23 Annotated Code of Maryland

24 (1996 Replacement Volume and 2006 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That Section(s) 8–601 and the subtitle “Subtitle 6. Short Title” of
27 Article – Environment of the Annotated Code of Maryland be renumbered to be
28 Section(s) 8–701 and the subtitle “Subtitle 7. Short Title”.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Article – Environment**

32 8–301.

1 (a) (1) Subject to [Subtitle] **SUBTITLES 4 AND 5** of this title, the
2 Secretary shall adopt rules and regulations for general licenses and specific licenses
3 that govern:

4 (i) Ionizing radiation sources and byproduct material;

5 (ii) Special nuclear material; and

6 (iii) Devices that use ionizing radiation sources, byproduct
7 material, or special nuclear material.

8 (2) The rules and regulations shall provide for:

9 (i) The issuance, amendment, suspension, or revocation of
10 general licenses and specific licenses;

11 (ii) The registration of ionizing radiation sources for which a
12 general license or specific license is not required; and

13 (iii) Based on the kinds and amounts of radioactive material
14 subject to specific licenses, the establishment of financial plans to ensure the
15 decommissioning of facilities operating under those licenses and a timetable for the
16 submission of the plans to the Department.

17 (3) The amount of funding assurance required under a financial plan
18 established under paragraph (2)(iii) of this subsection may not exceed the amount
19 specified in the comparable federal regulations promulgated by the U.S. Nuclear
20 Regulatory Agency as amended from time to time.

21 (b) (1) The Secretary may adopt rules and regulations that:

22 (i) Require registration by persons granted a general license;

23 (ii) Subject to any registration requirements the Secretary
24 requires, recognize licenses issued by the federal government or any other state; and

25 (iii) Except as otherwise provided in subsections (c) and (d) of
26 this section, based on the anticipated cost of monitoring and regulating sources of
27 radiation, establish a fee schedule for general licenses, specific licenses, and the
28 registration of radiation machines or other sources of radiation issued under this
29 section.

1 **8-601.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO
5 OPERATE A TANNING FACILITY.

6 (C) "OPERATOR" MEANS AN OWNER OF A TANNING FACILITY OR AGENT
7 OF AN OWNER OF A TANNING FACILITY.

8 (D) (1) "TANNING DEVICE" MEANS A DEVICE THAT EMITS
9 ELECTROMAGNETIC RADIATION WITH WAVELENGTHS IN THE AIR BETWEEN 200
10 AND 400 NANOMETERS AND THAT IS USED FOR THE TANNING OF HUMAN SKIN.

11 (2) "TANNING DEVICE" INCLUDES A SUNLAMP, TANNING BOOTH,
12 TANNING BED, AND ANY ACCOMPANYING EQUIPMENT, INCLUDING PROTECTIVE
13 EYEWEAR, TIMERS, AND HANDRAILS.

14 (E) "TANNING FACILITY" MEANS A BUSINESS THAT PROVIDES ACCESS
15 TO OR THE USE OF TANNING DEVICES.

16 **8-602.**

17 (A) A PERSON SHALL OBTAIN A LICENSE BEFORE THE PERSON
18 OPERATES A TANNING FACILITY IN THE STATE.

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

21 **8-603.**

22 (A) THE SECRETARY SHALL ISSUE A LICENSE TO EACH APPLICANT WHO
23 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

24 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
25 PROVISIONS OF THIS SUBTITLE.

1 **(C) (1) THE SECRETARY SHALL SET REASONABLE FEES FOR THE**
2 **ADMINISTRATION OF LICENSES ISSUED UNDER THIS SUBTITLE.**

3 **(2) THE FEES SHALL BE SET SO AS TO PRODUCE FUNDS TO**
4 **APPROXIMATE THE DIRECT AND INDIRECT COSTS OF ADMINISTERING LICENSES**
5 **ISSUED UNDER THIS SUBTITLE.**

6 **8-604.**

7 **A LICENSE AUTHORIZES A LICENSEE TO OPERATE A TANNING FACILITY.**

8 **8-605.**

9 **(A) THE TERM OF A LICENSE IS 1 YEAR.**

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

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

15 **(1) OTHERWISE IS ENTITLED TO A LICENSE;**

16 **(2) FILES WITH THE SECRETARY A RENEWAL APPLICATION ON**
17 **THE FORM THAT THE SECRETARY PROVIDES; AND**

18 **(3) PAYS TO THE SECRETARY A RENEWAL FEE AS DETERMINED**
19 **BY THE SECRETARY.**

20 **(D) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE**
21 **WHO MEETS THE REQUIREMENTS OF THIS SECTION.**

22 **8-606.**

23 **THE LICENSE SHALL BE DISPLAYED IN AN OPEN, PUBLIC AREA OF THE**
24 **TANNING FACILITY.**

25 **8-607.**

1 **SUBJECT TO THE HEARING PROVISIONS OF SUBTITLE 5 OF THIS TITLE,**
2 **THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A**
3 **LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR**
4 **LICENSEE:**

5 **(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
6 **OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;**

7 **(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**

8 **(3) VIOLATES A PROVISION OF THIS SUBTITLE; OR**

9 **(4) VIOLATES A REGULATION ADOPTED BY THE SECRETARY**
10 **UNDER THIS SUBTITLE.**

11 **8-608.**

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

15 **(2) THE WARNING SIGN SHALL:**

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

17 **(II) CONTAIN THE FOLLOWING WORDING:**

18 **“DANGER : ULTRAVIOLET RADIATION**

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

22 **FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS**
23 **OR PERMANENT INJURY TO THE EYES.**

24 **MEDICATIONS OR COSMETICS MAY INCREASE YOUR SENSITIVITY TO**
25 **ULTRAVIOLET RADIATION. CONSULT A PHYSICIAN BEFORE USING A SUNLAMP IF**
26 **YOU ARE USING MEDICATIONS, HAVE A HISTORY OF SKIN PROBLEMS, OR**

1 BELIEVE YOU ARE ESPECIALLY SENSITIVE TO SUNLIGHT. PREGNANT WOMEN OR
2 WOMEN TAKING ORAL CONTRACEPTIVES WHO USE THIS PRODUCT MAY
3 DEVELOP DISCOLORED SKIN.

4 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF AN
5 ULTRAVIOLET LAMP OR SUNLAMP.”

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

9 (2) THE WARNING SIGN SHALL:

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

11 (II) CONTAIN THE FOLLOWING WORDING:

12 “DANGER: ULTRAVIOLET RADIATION

13 FOLLOW THE MANUFACTURER’S INSTRUCTIONS FOR USE OF THIS DEVICE.

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

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

19 DO NOT SUNBATHE BEFORE OR AFTER EXPOSURE TO ULTRAVIOLET
20 RADIATION FROM SUNLAMPS.

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

1 **IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF THIS**
2 **DEVICE.”**

3 **8-609.**

4 **(A) (1) A TANNING FACILITY SHALL HAVE AN OPERATOR PRESENT**
5 **DURING OPERATING HOURS.**

6 **(2) THE OPERATOR MUST:**

7 **(I) BE SUFFICIENTLY KNOWLEDGEABLE IN THE CORRECT**
8 **OPERATION OF THE TANNING DEVICES USED AT THE FACILITY;**

9 **(II) INSTRUCT, INFORM, AND ASSIST EACH CUSTOMER IN**
10 **THE PROPER USE OF THE TANNING DEVICES;**

11 **(III) COMPLETE AND MAINTAIN RECORDS REQUIRED BY THIS**
12 **SUBTITLE; AND**

13 **(IV) EXPLAIN OR OTHERWISE INFORM EACH CUSTOMER**
14 **INITIALLY USING THE TANNING FACILITY OF:**

15 **1. THE POTENTIAL HAZARDS OF AND PROTECTIVE**
16 **MEASURES NECESSARY FOR ULTRAVIOLET RADIATION;**

17 **2. THE REQUIREMENT THAT PROTECTIVE EYEWEAR**
18 **BE WORN WHILE USING A TANNING DEVICE;**

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

22 **4. THE CORRELATION BETWEEN SKIN TYPE AND**
23 **EXPOSURE TIME;**

24 **5. THE MAXIMUM EXPOSURE TIME TO THE TANNING**
25 **FACILITY’S DEVICES;**

26 **6. THE BIOLOGICAL PROCESS OF TANNING; AND**

1 **7. THE DANGERS OF AND THE NECESSITY TO AVOID**
2 **OVEREXPOSURE TO ULTRAVIOLET RADIATION.**

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

7 **(2) THE PROTECTIVE EYEWEAR SHALL BE LOCATED IN THE**
8 **IMMEDIATE AREA OF EACH TANNING DEVICE AND SHALL BE PROVIDED**
9 **WITHOUT CHARGE TO EACH USER OF A TANNING DEVICE.**

10 **(3) THE OPERATOR MAY NOT ALLOW AN INDIVIDUAL TO USE A**
11 **TANNING DEVICE IF THAT INDIVIDUAL DOES NOT USE PROTECTIVE EYEWEAR**
12 **THAT MEETS THE REQUIREMENTS OF THE UNITED STATES FOOD AND DRUG**
13 **ADMINISTRATION.**

14 **(4) THE OPERATOR ALSO SHALL SHOW EACH CUSTOMER HOW TO**
15 **USE SUITABLE PHYSICAL AIDS, SUCH AS HANDRAILS AND MARKINGS ON THE**
16 **FLOOR, TO MAINTAIN PROPER EXPOSURE DISTANCE AS RECOMMENDED BY THE**
17 **MANUFACTURER OF THE TANNING DEVICE.**

18 **(C) THE OPERATOR SHALL CLEAN AND PROPERLY SANITIZE THE BODY**
19 **CONTACT SURFACES OF A TANNING DEVICE AFTER EACH USE OF THE TANNING**
20 **DEVICE.**

21 **(D) (1) THE TANNING FACILITY SHALL USE A TIMER WITH AN**
22 **ACCURACY OF AT LEAST PLUS OR MINUS 10% OF THE MAXIMUM TIMER**
23 **INTERVAL OF THE TANNING DEVICE.**

24 **(2) THE OPERATOR SHALL LIMIT THE EXPOSURE TIME OF A**
25 **CUSTOMER ON A TANNING DEVICE TO THE MAXIMUM EXPOSURE TIME**
26 **RECOMMENDED BY THE MANUFACTURER.**

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

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

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

6 **8-610.**

7 **(A) EACH TANNING FACILITY SHALL PROPERLY MAINTAIN THE**
8 **TANNING DEVICES USED IN THE TANNING FACILITY.**

9 **(B) THE TANNING DEVICES USED IN EACH TANNING FACILITY SHALL BE**
10 **INSPECTED EACH YEAR BY AN APPROPRIATE AUTHORITY, AS DETERMINED BY**
11 **THE SECRETARY, TO ENSURE THAT THE TANNING DEVICES ARE BEING**
12 **OPERATED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND**
13 **IN A SAFE AND HEALTHFUL MANNER.**

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

20 **(D) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE**
21 **PROVISIONS OF THIS SECTION.**

22 **8-611.**

23 **(A) BEFORE A CUSTOMER WHO IS AN ADULT USES A TANNING DEVICE**
24 **AT A 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 SHALL SIGN A WRITTEN STATEMENT**
27 **ACKNOWLEDGING THAT THE INDIVIDUAL HAS READ AND UNDERSTOOD THE**
28 **REQUIRED WARNINGS BEFORE USING THE TANNING DEVICE AND AGREES TO**
29 **USE PROTECTIVE EYEWEAR.**

1 **(B) AN INDIVIDUAL UNDER THE AGE OF 14 YEARS MAY NOT USE A**
2 **TANNING DEVICE.**

3 **(C) AN INDIVIDUAL AT LEAST 14 YEARS OLD BUT WHO IS UNDER THE**
4 **AGE OF 18 MAY NOT USE A TANNING DEVICE UNLESS THE INDIVIDUAL:**

5 **(1) HAS A WRITTEN PRESCRIPTION FROM THE INDIVIDUAL'S**
6 **PHYSICIAN SPECIFYING:**

7 **(I) THE NATURE OF THE MEDICAL CONDITION REQUIRING**
8 **THE TREATMENT;**

9 **(II) THE NUMBER OF PRESCRIBED VISITS; AND**

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

11 **(2) HAS PERMISSION FROM A PARENT OR GUARDIAN AS**
12 **EVIDENCED BY A WRITTEN CONSENT FORM SIGNED BY THE INDIVIDUAL'S**
13 **PARENT IN THE PRESENCE OF AN OPERATOR EACH TIME THE INDIVIDUAL**
14 **EXECUTES OR RENEWS A CONTRACT TO USE A TANNING DEVICE.**

15 **8-612.**

16 **(A) A RECORD OF EACH CUSTOMER USING A TANNING DEVICE SHALL BE**
17 **MAINTAINED AT THE TANNING FACILITY AT LEAST UNTIL THE THIRD**
18 **ANNIVERSARY OF THE DATE OF THE CUSTOMER'S LAST USE OF A TANNING**
19 **DEVICE.**

20 **(B) THE RECORD SHALL INCLUDE:**

21 **(1) THE DATE AND TIME OF THE CUSTOMER'S USE OF A TANNING**
22 **DEVICE;**

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

24 **(3) ANY INJURY OR ILLNESS RESULTING FROM THE IMMEDIATE**
25 **USE OF A TANNING DEVICE; AND**

1 **(4) ANY WRITTEN INFORMED CONSENT STATEMENT REQUIRED**
2 **TO BE SIGNED UNDER § 8-611 OF THIS SUBTITLE.**

3 **8-613.**

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

6 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
7 General Assembly that the Governor provide funds in the fiscal year 2009 budget at a
8 level sufficient enough to allow the Department of the Environment to begin the
9 process of regulating tanning facilities, and when special funds become available for
10 the regulation of tanning facilities, special funds shall be used to reimburse the
11 General Fund for the cost of starting the regulation process.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before October 1,
13 2008, the Department of the Environment shall make reasonable efforts to educate
14 persons subject to this Act about the requirements of this Act.

15 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
16 Act shall take effect October 1, 2008.

17 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
18 Section 5 of this Act, this Act shall take effect June 1, 2007.