

ENGROSSED HOUSE
BILL NO. 1184

BY: MADDIX (Jim) of the
HOUSE

and

HOOVER of the SENATE

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; CREATING
THE TANNING FACILITY REGULATION ACT; DEFINING
TERMS; PROVIDING EXEMPTIONS FROM ACT; REQUIRING ALL
TANNING DEVICES TO COMPLY WITH FEDERAL LAW;
REQUIRING TANNING FACILITIES TO GIVE CUSTOMERS
CERTAIN WRITTEN WARNING; REQUIRING TANNING
FACILITIES TO POST CERTAIN WARNING IN FACILITY;
SPECIFYING CONTENTS OF WARNINGS; PROHIBITING
TANNING FACILITIES FROM MAKING ASSERTIONS ABOUT
SAFETY OF TANNING DEVICES; REQUIRING TANNING
FACILITIES TO HAVE OPERATORS PRESENT; ESTABLISHING
PROCEDURES PRIOR TO AND DURING USE OF DEVICE BY
CUSTOMER; REQUIRING WARNING TO BE GIVEN TO PARENTS
OF MINORS; REQUIRING PARENTS TO ACCOMPANY CERTAIN
MINORS TO TANNING FACILITIES; AUTHORIZING
COMMISSIONER OF HEALTH TO INSPECT TANNING
FACILITIES; PROVIDING THAT VIOLATIONS OF ACT SHALL
CONSTITUTE MISDEMEANOR; AUTHORIZING CERTAIN PERSONS
TO SEEK INJUNCTIVE RELIEF; PROHIBITING OPERATION OF
TANNING FACILITIES WITHOUT PERMIT; REQUIRING
DISPLAY OF PERMIT; REQUIRING PAYMENT OF CERTAIN
FEES; AUTHORIZING STATE BOARD OF HEALTH TO REVOKE

OR SUSPEND PERMITS; PROVIDING FOR CODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4500 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Tanning Facility Regulation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4501 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Tanning Facility Regulation Act:

1. "Authorized agent" means an employee of the Department designated by the Commissioner to enforce the Tanning Facility Regulation Act;

2. "Board" means the State Board of Health;

3. "Commissioner" means the Commissioner of Health;

4. "Department" means the State Department of Health;

5. "Health authority" means a physician designated to administer state and local laws relating to public health;

6. "Person" means an individual, partnership, corporation, or association;

7. "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and that is used by a health care professional in the treatment of disease;

8. "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers and that is used for tanning of human skin, including a sunlamp, tanning booth, or

tanning bed. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails; and

9. "Tanning facility" means a business that provides persons access to tanning devices.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4502 of Title 63, unless there is created a duplication in numbering, reads as follows:

The provisions of the Tanning Facility Regulation Act shall not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4503 of Title 63, unless there is created a duplication in numbering, reads as follows:

A tanning device used by a tanning facility shall comply with all applicable federal laws and regulations.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4504 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A tanning facility shall give each customer a written statement warning that:

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. Repeated exposure may result in premature aging of the skin and skin cancer;
4. Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain foods, cosmetics, or medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, or birth control pills; and
5. Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.

B. Compliance with the notice requirements of this section shall not affect the liability of a tanning facility operator or a manufacturer of a tanning device.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4505 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. The sign shall have dimensions of no less than thirty-six (36) inches to a side and shall contain the following language:

"DANGER: ULTRAVIOLET RADIATION

Repeated exposure to ultraviolet radiation may cause chronic skin damage characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN

FROM USE OF A TANNING DEVICE."

B. A tanning facility shall post a warning sign as described in this subsection for each tanning device, in a conspicuous location that is readily visible to a person about to use the device. The sign shall have dimensions of no less than twenty-four (24) inches to a side and shall contain the following language:

"DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT
TAN FROM USE OF A TANNING DEVICE."

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4506 of Title 63, unless there is created a duplication in numbering, reads as follows:

A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4507 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A tanning facility shall have an operator present during operating hours. The operator must be sufficiently knowledgeable in the correct operation of the tanning devices used at the facility so that the operator may inform and assist each customer in the proper use of the tanning devices.

B. Before each use of a tanning device, the operator shall provide the customer with properly sanitized protective eyewear that protects the eyes from ultraviolet radiation and allows adequate vision. The operator may not allow a person to use a tanning device if that person does not use the protective eyewear. The operator shall also show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning device.

C. The tanning facility shall use a timer with an accuracy of at least plus or minus ten percent (10%) of any selected time interval. The facility shall limit the exposure time of a customer on a tanning device to the maximum exposure time recommended by the manufacturer of the device. The facility shall control the interior temperature of a tanning device so that it shall not exceed one hundred (100) degrees Fahrenheit.

D. Each time a customer uses a tanning facility or each time a person executes or renews a contract to use a tanning facility, the customer shall sign a written statement acknowledging that the customer has read and understood the required warnings before using the device and agrees to use the protective eyewear that the tanning facility provides.

E. Before any person between fourteen (14) and eighteen (18) years of age uses a tanning device, the person shall give the tanning facility a written statement signed by the parent or legal guardian of the person stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides. A person under fourteen (14) years of age shall be accompanied by a parent or legal guardian when using a tanning device.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4508 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Board of Health may adopt rules as necessary to implement the Tanning Facility Regulation Act. The Commissioner or an authorized agent of the Commissioner shall have access at all reasonable times to any tanning facility to inspect the facility to determine if the provisions of the Tanning Facility Regulation Act are being violated.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4509 of Title 63, unless there is created a duplication in numbering, reads as follows:

A person other than a customer of a tanning facility commits an offense if the person knowingly or recklessly violates the provisions of the Tanning Facility Regulation Act or a rule adopted by the State Board of Health pursuant to the Tanning Facility Regulation Act. An offense under the Tanning Facility Regulation Act shall be a misdemeanor.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4510 of Title 63, unless there is created a duplication in numbering, reads as follows:

If the Commissioner or an authorized agent of the Commissioner finds that a person has violated, or is violating or threatening to violate the Tanning Facility Regulation Act and that the violation or threat of violation creates an immediate threat to the health and safety of the public, the Commissioner or an authorized agent of the Commissioner may petition the district court for injunctive relief.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4511 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person shall not operate a tanning facility without a current and valid permit to operate the facility which is issued by

the State Department of Health. The permit shall be displayed in an open public area of the tanning facility.

B. Upon application by the tanning facility, on forms provided by the Department for this purpose, and upon receipt of the required fees, annual permits shall be issued by the State Department of Health for each place of business operated as a tanning facility by a person. The Department shall collect a permit fee of Fifty Dollars (\$50.00) and shall collect an annual renewal fee for a permit of Thirty-five Dollars (\$35.00).

C. The State Board of Health by rule may adopt a system under which permits expire on various dates during the year. As part of this system, the annual renewal fees may be prorated on a monthly basis to reflect the actual number of months the permit is valid.

D. The Board may revoke, suspend, or deny a permit to operate a tanning facility for any of the following reasons:

1. A failure to pay a permit fee or an annual renewal fee for a permit;

2. The applicant obtained or attempted to obtain a permit by fraud or deception;

3. A violation of any of the provisions of the Tanning Facility Regulation Act; and

4. A violation of a rule or regulation of the Board adopted to implement and enforce the provisions of the Tanning Facility Regulation Act.

SECTION 13. This act shall become effective July 1, 1991.

Passed the House of Representatives the 5th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate