

HOUSE BILL No. 5144

October 8, 2003, Introduced by Reps. Accavitti, Wojno, Vagnozzi, Tobocman, McConico, Plakas, Byrum, Sak, Gielegem, Minore, Rivet, Ehardt, Gaffney, Ward, Richardville, Woronchak, Condino, Meisner, Anderson, Phillips and Cheeks and referred to the Committee on Commerce.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding part 134; and to repeal
acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 134. TANNING FACILITIES

2 Sec. 13401. As used in this part:

3 (a) "Eye protection" or "protective eyewear" means protective
4 eyewear that protects the eyes from ultraviolet radiation, allows
5 adequate vision to maintain balance, and meets the requirements
6 of 21 C.F.R. 1040.20.

7 (b) "State civil infraction" means that term as defined in
8 section 113 of the revised judicature act of 1961, 1961 PA 236,
9 MCL 600.113.

10 (c) "Tanning device" means equipment that emits

1 electromagnetic radiation with wavelengths in the air between 200
2 and 400 nanometers and is used for tanning of the skin. Tanning
3 device includes, but is not limited to, a sunlamp, tanning booth,
4 or tanning bed and accompanying equipment, including, but not
5 limited to, protective eyewear, timers, and handrails.

6 (d) "Tanning facility" means a location that provides
7 individuals with access to a tanning device. Tanning facility
8 does not include a private residence with a tanning device if the
9 tanning device is used only by an owner or occupant of the
10 private residence.

11 Sec. 13403. (1) Before allowing an individual to use a
12 tanning device in a tanning facility, the owner or operator or an
13 employee of the tanning facility shall provide the individual
14 with a written statement that contains all of the following
15 information:

16 (a) Not wearing either his or her own eye protection or eye
17 protection made available to the individual by the tanning
18 facility while using a tanning device may cause damage to the
19 eyes.

20 (b) Overexposure to the ultraviolet radiation produced by the
21 tanning devices used in the tanning facility causes burns.

22 (c) Repeated exposure to the ultraviolet radiation produced
23 by the tanning devices used in the tanning facility may cause
24 premature aging of the skin or skin cancer, or both.

25 (d) Abnormal skin sensitivity to ultraviolet radiation or
26 burning may be caused by certain foods, cosmetics, and
27 medication. The medication includes, but is not limited to, all

1 of the following:

2 (i) Tranquilizers.

3 (ii) Diuretics.

4 (iii) Antibiotics.

5 (iv) High blood pressure medication.

6 (v) Birth control medication.

7 (e) An individual who is taking a prescription drug or
8 over-the-counter drug should consult a physician before using a
9 tanning device.

10 (f) An individual injured while using a tanning device at a
11 tanning facility may report the injury to the owner or operator
12 of the tanning facility or to the department, or both.

13 (2) The owner or operator of a tanning facility shall
14 conspicuously display a poster in an area frequented by
15 customers. The poster shall be printed in at least 32-point
16 boldfaced type and in substantially the following form:

17 "DANGER: ULTRAVIOLET RADIATION

18 1. Follow instructions.

19 2. Avoid too frequent or too lengthy exposure. As with
20 natural sunlight, exposure can cause eye and skin injury and
21 allergic reactions. Repeated exposure may cause chronic sun
22 damage, characterized by wrinkling, dryness, fragility, and
23 bruising of the skin, and skin cancer.

24 3. Wear protective eyewear.

25 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE
26 BURNS AND LONG-TERM INJURY TO THE EYES

27 4. Ultraviolet radiation from sunlamps will intensify the

1 effects of the sun. Therefore, do not sunbathe before or after
2 exposure to ultraviolet radiation.

3 5. Some oral or skin medications or cosmetics may increase
4 your sensitivity to ultraviolet radiation. Consult your
5 physician before using a tanning device if you are using
6 medications, have a history of skin problems, or believe you are
7 especially sensitive to sunlight. Pregnant women or women on
8 birth control pills who use this tanning device may develop
9 discolored skin.

10 6. If you do not tan in the sun, you are unlikely to tan
11 from use of this tanning device.

12 7. If you are injured while using a tanning device at this
13 tanning facility, you may report the injury to the owner or
14 operator or to the department of community health, or both."

15 (3) The owner or operator or an employee of a tanning
16 facility shall not claim or distribute printed promotional
17 materials that claim or otherwise advertise that using a tanning
18 device is safe, nonburning, or free from risk.

19 (4) Compliance with this section does not diminish or
20 otherwise limit or alter the tort liability of the owner or
21 operator of a tanning facility.

22 Sec. 13405. (1) Before allowing a customer to use a tanning
23 device, the owner or operator of a tanning facility shall require
24 the customer to sign a written statement acknowledging that the
25 customer has read and understood the written statement required
26 under section 13403(1) and agrees to use protective eyewear. The
27 owner or operator of the tanning facility shall do all of the

1 following:

2 (a) Require a customer to sign the statement at least once in
3 a 1-year period.

4 (b) Retain the written statement for not less than 1 year.

5 (c) Make the written statement available for inspection upon
6 request of a law enforcement officer.

7 (2) In the case of a customer under 18 years of age, the
8 written statement described in subsection (1) shall also be
9 signed by the customer's parent or legal guardian.

10 Sec. 13407. (1) An individual injured while using a tanning
11 device at a tanning facility may report that fact to the owner or
12 operator of the tanning facility or to the department, or both.
13 If an individual reports an injury to the department, he or she
14 shall submit the report on a form provided by the department.
15 Within 5 working days after the owner or operator of a tanning
16 facility receives notice of an injury that is alleged to have
17 occurred in the tanning facility, he or she shall report that
18 alleged injury to the department on a form provided by the
19 department. The department shall develop and make available a
20 reporting form for purposes of this section within 30 days after
21 the effective date of this part. The reporting form shall
22 contain at least all of the following information:

23 (a) The name of the person who is making the report.

24 (b) The name and location of the tanning facility that is the
25 subject of the report.

26 (c) The nature of the alleged injury.

27 (d) The name and address of the health care provider to whom

1 the injured individual was referred, if any.

2 (e) Other information that the department may require.

3 (2) The department shall maintain in a retrievable form all
4 reports submitted under subsection (1). The department shall
5 establish a registry of those reports. A report maintained under
6 this section is confidential, and the department shall release
7 the information contained in the report only upon written request
8 of the person or owner or operator of the tanning facility who is
9 the subject of the report or his or her guardian, executor,
10 attorney, or other person designated in writing by that person or
11 owner or operator. The department may also release the
12 statistical information contained in the reports, without
13 identifying information.

14 Sec. 13409. (1) Beginning 180 days after the effective date
15 of the rules adopted by the department under subsection (2), a
16 person shall not operate a tanning facility unless licensed under
17 this part by the department.

18 (2) Not later than 180 days after the effective date of this
19 part, the department shall adopt rules establishing licensure and
20 safety standards for tanning facilities. The department may
21 incorporate by reference existing industry standards, existing
22 federal standards, or existing standards adopted in other states
23 if it determines that those standards are designed to provide
24 sufficient protection to the public. The rules may provide for a
25 licensure cycle of up to 3 years and shall provide for an
26 application fee not to exceed \$100.00 and an annual license fee
27 not to exceed \$50.00.

1 (3) The department may suspend or revoke a license, and may
2 deny an applicant a license, for a conduct in violation of this
3 act or rules adopted under this act. In lieu of a suspension or
4 revocation, the department may provide for the imposition of an
5 administrative fine of not more than \$1,000.00 per violation.
6 Administrative proceedings under this section shall be brought
7 under the administrative procedures act of 1969.

8 Sec. 13411. (1) An owner or operator of a tanning facility
9 who violates this part is responsible for a state civil
10 infraction and may be ordered to pay a civil fine of not more
11 than \$500.00 for each violation.

12 (2) State civil infraction proceedings under this section
13 shall be conducted under chapter 88 of the revised judicature act
14 of 1961, 1961 PA 236, MCL 600.8801 to 600.8835. Fines and costs
15 collected shall be disbursed as provided by that chapter.

16 Sec. 13413. In addition to any other enforcement action
17 authorized by law, a person alleging a violation of this part may
18 bring a civil action for appropriate injunctive relief, if the
19 person has used the tanning facility within 60 days before the
20 civil action is filed.

21 Sec. 13415. (1) The remedies under this part are
22 independent and cumulative. The use of 1 remedy by a person does
23 not bar the use of other lawful remedies by that person or the
24 use of a lawful remedy by another person.

25 (2) This part may be enforced by a local health department.

26 Enacting section 1. Section 13407 of the public health
27 code, 1978 PA 368, MCL 333.13407, is repealed effective April 1,

1 2004.

2 Enacting section 2. This amendatory act takes effect April

3 1, 2004.