

SENATE BILL No. 661

November 1, 1989, Introduced by Senators FAXON, SCHWARZ, SEDERBURG and POLLACK and referred to the Committee on Health Policy.

A bill to amend Act No. 368 of the Public Acts of 1978, entitled as amended
"Public health code,"
as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, by adding part 134.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Michigan
3 Compiled Laws, is amended by adding part 134 to read as follows:

4 PART 134. TANNING FACILITIES.

5 SEC. 13401. AS USED IN THIS PART:

6 (A) "PHOTOTHERAPY DEVICE" MEANS EQUIPMENT THAT EMITS ULTRA-
7 VIOLET RADIATION AND THAT IS USED BY A HEALTH CARE PROFESSIONAL
8 IN THE TREATMENT OF DISEASE.

1 (B) "TANNING DEVICE" MEANS EQUIPMENT THAT EMITS
2 ELECTROMAGNETIC RADIATION WITH WAVELENGTHS IN THE AIR BETWEEN 200
3 AND 400 NANOMETERS AND IS USED FOR TANNING OF THE SKIN. TANNING
4 DEVICE INCLUDES, BUT IS NOT LIMITED TO, A SUNLAMP, TANNING BOOTH,
5 OR TANNING BED AND ANY ACCOMPANYING EQUIPMENT INCLUDING, BUT NOT
6 LIMITED TO, PROTECTIVE EYEWEAR, TIMERS, AND HANDRAILS.

7 (C) "TANNING FACILITY" MEANS A LOCATION, AREA, PLACE, STRUC-
8 TURE, OR BUSINESS THAT PROVIDES INDIVIDUALS WITH ACCESS TO A TAN-
9 NING DEVICE.

10 SEC. 13403. (1) A PERSON SHALL NOT OWN OR OPERATE A TANNING
11 FACILITY UNLESS THE TANNING FACILITY IS REGISTERED WITH THE
12 DEPARTMENT.

13 (2) A PERSON MAY REGISTER A TANNING FACILITY BY SUBMITTING
14 AN APPLICATION TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE
15 DEPARTMENT. THE FORM SHALL CONTAIN ALL OF THE FOLLOWING
16 INFORMATION:

17 (A) THE NAME AND LOCATION OF THE TANNING FACILITY.

18 (B) THE NAME OF THE OWNER OF THE TANNING FACILITY.

19 (C) SUCH OTHER INFORMATION AS THE DEPARTMENT REASONABLY
20 REQUIRES TO PROTECT THE PUBLIC HEALTH.

21 (3) REGISTRATION SHALL BE RENEWED ON AN ANNUAL BASIS. THE
22 DEPARTMENT SHALL RENEW THE REGISTRATION OF A TANNING FACILITY IF
23 THE TANNING FACILITY PAYS THE RENEWAL FEE AND CONTINUES TO COMPLY
24 WITH THIS PART AND THE RULES PROMULGATED UNDER THIS PART.

25 (4) THE INITIAL REGISTRATION AND ANNUAL RENEWAL FEE SHALL BE
26 \$100.00.

1 (5) THE OWNER OR OPERATOR OF A TANNING FACILITY SHALL
2 DISPLAY A CERTIFICATE OF REGISTRATION ISSUED BY THE DEPARTMENT IN
3 A CONSPICUOUS PLACE IN THE TANNING FACILITY. THE OWNER OR OPERA-
4 TOR OF MORE THAN 1 TANNING FACILITY SHALL OBTAIN A SEPARATE CER-
5 TIFICATE OF REGISTRATION FOR EACH TANNING FACILITY.

6 SEC. 13405. THIS PART DOES NOT APPLY TO A PHOTOTHERAPY
7 DEVICE USED BY OR UNDER THE DIRECT SUPERVISION OF A LICENSED
8 PHYSICIAN.

9 SEC. 13407. (1) BEFORE AN INDIVIDUAL USES A TANNING DEVICE
10 IN A TANNING FACILITY, THE OWNER OR OPERATOR OF THE TANNING
11 FACILITY SHALL PROVIDE THE INDIVIDUAL WITH A WRITTEN STATEMENT
12 THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:

13 (A) NOT WEARING THE EYE PROTECTION PROVIDED TO THE INDIVID-
14 UAL BY THE TANNING FACILITY MAY CAUSE DAMAGE TO THE EYES.

15 (B) OVEREXPOSURE TO THE ULTRAVIOLET RADIATION PRODUCED BY
16 THE TANNING DEVICES USED IN THE TANNING FACILITY CAUSES BURNS.

17 (C) REPEATED EXPOSURE TO THE ULTRAVIOLET RADIATION PRODUCED
18 BY THE TANNING DEVICES USED IN THE TANNING FACILITY MAY CAUSE
19 PREMATURE AGING OF THE SKIN AND SKIN CANCER.

20 (D) ABNORMAL SKIN SENSITIVITY TO ULTRAVIOLET RADIATION OR
21 BURNING MAY BE CAUSED BY CERTAIN FOODS, COSMETICS, AND
22 MEDICATION. THE MEDICATION INCLUDES, BUT IS NOT LIMITED TO, ALL
23 OF THE FOLLOWING:

24 (i) TRANQUILIZERS.

25 (ii) DIURETICS.

26 (iii) ANTIBIOTICS.

1 (iv) HIGH BLOOD PRESSURE MEDICATION.

2 (v) BIRTH CONTROL MEDICATION.

3 (E) AN INDIVIDUAL WHO IS TAKING A PRESCRIPTION DRUG OR
4 OVER-THE-COUNTER DRUG SHOULD CONSULT A PHYSICIAN BEFORE USING A
5 TANNING DEVICE.

6 (2) THE OWNER OR OPERATOR OF A TANNING FACILITY SHALL CON-
7 SPICUOUSLY DISPLAY A POSTER PROVIDED BY THE DEPARTMENT. THE
8 POSTER SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

9 DANGER: ULTRAVIOLET RADIATION

10 1. FOLLOW INSTRUCTIONS.

11 2. AVOID TOO FREQUENT OR TOO LENGTHY EXPOSURE. AS WITH NAT-
12 URAL SUNLIGHT, EXPOSURE CAN CAUSE EYE AND SKIN INJURY AND ALLER-
13 GIC REACTIONS. REPEATED EXPOSURE MAY CAUSE CHRONIC SUN DAMAGE
14 CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, AND BRUISING OF
15 THE SKIN, AND SKIN CANCER.

16 3. WEAR PROTECTIVE EYEWEAR.

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

19 4. ULTRAVIOLET RADIATION FROM SUNLAMPS WILL AGGRAVATE THE
20 EFFECTS OF THE SUN. THEREFORE, DO NOT SUNBATHE BEFORE OR AFTER
21 EXPOSURE TO ULTRAVIOLET RADIATION.

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

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

3 (3) THE OWNER OR OPERATOR OR AN EMPLOYEE OF A TANNING FACIL-
4 ITY SHALL NOT CLAIM OR DISTRIBUTE PRINTED PROMOTIONAL MATERIALS
5 THAT CLAIM THAT USING A TANNING DEVICE IS SAFE OR FREE FROM
6 RISK.

7 (4) COMPLIANCE WITH THIS SECTION DOES NOT DIMINISH OR OTHER-
8 WISE LIMIT OR ALTER THE LIABILITY OF THE OWNER OR OPERATOR OF A
9 TANNING FACILITY.

10 SEC. 13409. THE OWNER OR OPERATOR OF A TANNING FACILITY
11 SHALL DO ALL OF THE FOLLOWING:

12 (A) HAVE AN EMPLOYEE PRESENT DURING BUSINESS HOURS WHO IS
13 SUFFICIENTLY KNOWLEDGEABLE IN THE CORRECT OPERATION OF THE TAN-
14 NING DEVICES USED AT THE TANNING FACILITY SO THAT HE OR SHE IS
15 ABLE TO INFORM AND ASSIST EACH INDIVIDUAL CUSTOMER IN THE PROPER
16 USE OF THE TANNING DEVICES.

17 (B) BEFORE EACH USE OF A TANNING DEVICE, PROVIDE EACH INDIV-
18 VIDUAL CUSTOMER WHO DOES NOT HAVE HIS OR HER OWN PROTECTIVE EYE-
19 WEAR WITH PROPERLY SANITIZED PROTECTIVE EYEWEAR THAT PROTECTS THE
20 EYE FROM ULTRAVIOLET RADIATION AND ALLOWS ADEQUATE VISION TO
21 MAINTAIN BALANCE.

22 (C) NOT ALLOW AN INDIVIDUAL TO USE A TANNING DEVICE IF THE
23 INDIVIDUAL DOES NOT USE THE PROTECTIVE EYEWEAR REQUIRED UNDER
24 SUBDIVISION (B).

25 (D) SHOW EACH INDIVIDUAL CUSTOMER HOW TO USE SUITABLE PHYSI-
26 CAL AIDS, SUCH AS HANDRAILS AND MARKINGS ON THE FLOOR, TO

1 MAINTAIN PROPER EXPOSURE DISTANCE AS RECOMMENDED BY THE
2 MANUFACTURER OF THE TANNING DEVICE.

3 (E) USE A TIMER FOR EACH TANNING DEVICE THAT HAS AN ACCURACY
4 OF PLUS OR MINUS 10% OF ANY SELECTED TIMER INTERVAL.

5 (F) LIMIT EACH CUSTOMER TO THE MAXIMUM EXPOSURE TIME AS REC-
6 OMMENDED BY THE MANUFACTURER OF THE TANNING DEVICE.

7 (G) CONTROL THE INTERIOR TEMPERATURE OF A TANNING FACILITY
8 SO THAT IT DOES NOT AT ANY TIME EXCEED 100 DEGREES FAHRENHEIT.

9 (H) REQUIRE EACH CUSTOMER, BEFORE ALLOWING THE CUSTOMER TO
10 USE A TANNING DEVICE, TO SIGN A WRITTEN STATEMENT ACKNOWLEDGING
11 THAT THE CUSTOMER HAS READ AND UNDERSTOOD THE WRITTEN STATEMENT
12 REQUIRED UNDER SECTION 13407 AND AGREES TO USE THE PROTECTIVE
13 EYEWEAR PROVIDED BY THE TANNING FACILITY. THE OWNER OR OPERATOR
14 OF THE TANNING FACILITY SHALL NOT REQUIRE A CUSTOMER TO SIGN THE
15 STATEMENT MORE THAN ONCE IN A 1-YEAR PERIOD.

16 (I) RETAIN THE WRITTEN STATEMENT REQUIRED UNDER
17 SUBDIVISION (H) FOR NOT LESS THAN 1 YEAR.

18 SEC. 13411. (1) BEFORE A MINOR WHO IS 14 YEARS OF AGE OR
19 OLDER USES A TANNING DEVICE IN A TANNING FACILITY, THE OWNER OR
20 OPERATOR OF THE TANNING FACILITY SHALL REQUIRE THE PRESENTMENT OF
21 A STATEMENT SIMILAR TO THE STATEMENT REQUIRED UNDER
22 SECTION 13409(H) SIGNED BY THE INDIVIDUAL'S PARENT, LEGAL GUARDI-
23 AN, OR PERSON IN LOCO PARENTIS INDICATING THAT THE PARENT, LEGAL
24 GUARDIAN, OR PERSON IN LOCO PARENTIS HAS READ AND UNDERSTOOD THE
25 STATEMENT REQUIRED UNDER SECTION 13407, CONSENTS TO THE MINOR'S
26 USE OF A TANNING DEVICE, AND AGREES THAT THE MINOR WILL USE THE
27 PROTECTIVE EYEWEAR PROVIDED BY THE TANNING FACILITY.

1 (2) A MINOR WHO IS LESS THAN 14 YEARS OF AGE SHALL BE
2 ACCOMPANIED BY A PARENT, LEGAL GUARDIAN, OR PERSON IN LOCO PAREN-
3 TIS WHEN USING A TANNING DEVICE IN A TANNING FACILITY.

4 (3) AN INDIVIDUAL WHO USES A TANNING DEVICE IN A TANNING
5 FACILITY SHALL USE THE PROTECTIVE EYEWEAR PROVIDED BY THE TANNING
6 FACILITY.

7 SEC. 13413. (1) THE OWNER OR OPERATOR OF A TANNING FACILITY
8 SHALL PROMPTLY REPORT EACH INJURY OR COMPLAINT OF AN INJURY THAT
9 OCCURS IN THE TANNING FACILITY TO THE DEPARTMENT ON A FORM PRO-
10 VIDED BY THE DEPARTMENT. THE DEPARTMENT SHALL TRANSMIT A COPY OF
11 THE REPORT TO THE INJURED PARTY OR INDIVIDUAL WHO COMPLAINS OF AN
12 INJURY AND TO THE FEDERAL FOOD AND DRUG ADMINISTRATION.

13 (2) THE OWNER OR OPERATOR OF A TANNING FACILITY SHALL KEEP A
14 PERMANENT RECORD OF EACH CUSTOMER'S USE OF A TANNING DEVICE.

15 SEC. 13415. (1) A PERSON WHO HAS A REASONABLE BELIEF THAT
16 THIS PART OR THE RULES PROMULGATED UNDER THIS PART HAVE BEEN VIO-
17 LATED MAY FILE A COMPLAINT WITH THE DEPARTMENT.

18 (2) THE DEPARTMENT SHALL INVESTIGATE A COMPLAINT MADE PURSU-
19 ANT TO SUBSECTION (1) AND SHALL ENFORCE THIS PART AND THE RULES
20 PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2262(2) AND
21 2263. PURSUANT TO SECTION 2235, THE DEPARTMENT MAY AUTHORIZE A
22 LOCAL HEALTH DEPARTMENT TO FULFILL THE REQUIREMENTS OF THIS
23 SUBSECTION. A LOCAL HEALTH DEPARTMENT AUTHORIZED TO ENFORCE THIS
24 PART AND THE RULES PROMULGATED UNDER THIS PART SHALL DO SO PURSU-
25 ANT TO SECTIONS 2461(2) AND 2462.

26 (3) AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OR LOCAL
27 HEALTH DEPARTMENT MAY INSPECT A TANNING FACILITY IN ORDER TO

1 DETERMINE COMPLIANCE WITH THIS PART. INSPECTIONS SHALL BE
2 CONDUCTED ONLY DURING BUSINESS HOURS.

3 (4) IF THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT DETER-
4 MINES THAT A TANNING FACILITY IS NOT OPERATING IN COMPLIANCE WITH
5 THIS PART OR RULES PROMULGATED UNDER THIS PART, THE DEPARTMENT OR
6 A LOCAL HEALTH DEPARTMENT SHALL ISSUE AN ORDER REQUIRING COMPLI-
7 ANCE WITHIN A SPECIFIED PERIOD OF TIME. THE DEPARTMENT OR A
8 LOCAL HEALTH DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR A HEAR-
9 ING WITHIN 10 WORKING DAYS AFTER THE ORDER IS ISSUED. THIS SEC-
10 TION SHALL NOT LIMIT ANY OTHER ENFORCEMENT AUTHORITY VESTED IN
11 THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT.

12 (5) UPON A FINDING OF A DEFICIENCY OR VIOLATION OF THIS PART
13 OR THE RULES PROMULGATED UNDER THIS PART THAT SERIOUSLY AFFECTS
14 THE HEALTH, SAFETY, OR WELFARE OF INDIVIDUALS USING A TANNING
15 FACILITY, THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SHALL ISSUE
16 AN EMERGENCY ORDER DENYING, SUSPENDING, OR REVOKING THE REGISTRA-
17 TION OF THE TANNING FACILITY. THE DEPARTMENT OR A LOCAL HEALTH
18 DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR A HEARING WITHIN 5
19 WORKING DAYS AFTER ISSUANCE OF THE EMERGENCY ORDER. AN EMERGENCY
20 ORDER SHALL INCORPORATE THE DEPARTMENT'S OR LOCAL HEALTH
21 DEPARTMENT'S FINDINGS AND SHALL REMAIN IN EFFECT DURING A
22 HEARING.

23 (6) THE REGISTRATION OF A TANNING FACILITY MAY BE DENIED,
24 SUSPENDED, OR REVOKED FOR VIOLATION OF THIS PART OR RULES PROMUL-
25 GATED UNDER THIS PART.

26 (7) A PERSON WHO VIOLATES THIS PART OR RULES PROMULGATED
27 UNDER THIS PART IS GUILTY OF A MISDEMEANOR.

1 (8) THIS PART DOES NOT PRECLUDE ANY OTHER REMEDIES AVAILABLE
2 UNDER THE LAW.

3 SEC. 13417. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLE-
4 MENT THIS PART.