

SUBSTITUTE FOR
HOUSE BILL NO. 4146

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:

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PART 134. TANNING FACILITIES

SEC. 13401. AS USED IN THIS PART:

(A) "EYE PROTECTION" OR "PROTECTIVE EYEWEAR" MEANS PROTECTIVE
EYEWEAR THAT PROTECTS THE EYES FROM ULTRAVIOLET RADIATION, ALLOWS
ADEQUATE VISION TO MAINTAIN BALANCE, AND MEETS THE REQUIREMENTS OF
21 CFR 1040.20.

(B) "STATE CIVIL INFRACTION" MEANS THAT TERM AS DEFINED IN
SECTION 113 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
600.113.

1 (C) "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 ACCOMPANYING EQUIPMENT, INCLUDING, BUT NOT
6 LIMITED TO, PROTECTIVE EYEWEAR, TIMERS, AND HANDRAILS.

7 (D) "TANNING FACILITY" MEANS A LOCATION THAT PROVIDES
8 INDIVIDUALS WITH ACCESS TO A TANNING DEVICE. TANNING FACILITY DOES
9 NOT INCLUDE A PRIVATE RESIDENCE WITH A TANNING DEVICE IF THE
10 TANNING DEVICE IS USED ONLY BY AN OWNER OR OCCUPANT OF THE PRIVATE
11 RESIDENCE.

12 SEC. 13403. (1) BEFORE ALLOWING AN INDIVIDUAL TO USE A TANNING
13 DEVICE IN ANY TANNING FACILITY, THE OWNER, OPERATOR, OR AN EMPLOYEE
14 OF THE TANNING FACILITY SHALL PROVIDE THE INDIVIDUAL WITH A WRITTEN
15 STATEMENT THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:

16 (A) NOT WEARING EITHER HIS OR HER OWN EYE PROTECTION OR EYE
17 PROTECTION MADE AVAILABLE TO THE INDIVIDUAL BY THE TANNING FACILITY
18 WHILE USING A TANNING DEVICE MAY CAUSE DAMAGE TO THE EYES.

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

21 (C) REPEATED EXPOSURE TO THE ULTRAVIOLET RADIATION PRODUCED BY
22 THE TANNING DEVICES USED IN THE TANNING FACILITY MAY CAUSE
23 PREMATURE AGING OF THE SKIN OR SKIN CANCER, OR BOTH.

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

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1 (i) TRANQUILIZERS.

2 (ii) DIURETICS.

3 (iii) ANTIBIOTICS.

4 (iv) HIGH BLOOD PRESSURE MEDICATION.

5 (v) BIRTH CONTROL MEDICATION.

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

9 (F) AN INDIVIDUAL INJURED WHILE USING A TANNING DEVICE AT A
10 TANNING FACILITY MAY REPORT THE INJURY TO THE OWNER OR OPERATOR OF
11 THE TANNING FACILITY OR TO THE DEPARTMENT, OR BOTH.

[(G) THAT ANY SKIN-RELATED TREATMENT INVOLVING MICRODERMABRASION,
INCLUDING, BUT NOT LIMITED TO, FACIALS, WAXING, OR SKIN PEELS, MAY CAUSE
ABNORMAL SENSITIVITY TO ULTRAVIOLET RADIATION.]

12 (2) THE OWNER OR OPERATOR OF A TANNING FACILITY SHALL
13 CONSPICUOUSLY DISPLAY A POSTER IN AN AREA FREQUENTED BY CUSTOMERS.
14 THE POSTER SHALL BE PRINTED IN AT LEAST 32-POINT BOLDFACED TYPE AND
15 IN SUBSTANTIALLY THE FOLLOWING FORM:

16 "DANGER: ULTRAVIOLET RADIATION

17 1. FOLLOW INSTRUCTIONS.

18 2. AVOID TOO FREQUENT OR TOO LENGTHY EXPOSURE. AS WITH NATURAL
19 SUNLIGHT, EXPOSURE CAN CAUSE EYE AND SKIN INJURY AND ALLERGIC
20 REACTIONS. REPEATED EXPOSURE MAY CAUSE CHRONIC SUN DAMAGE,
21 CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, AND BRUISING OF THE
22 SKIN, AND SKIN CANCER.

23 3. WEAR PROTECTIVE EYEWEAR.

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

26 4. ULTRAVIOLET RADIATION FROM SUNLAMPS WILL INTENSIFY THE
27 EFFECTS OF THE SUN. THEREFORE, DO NOT SUNBATHE BEFORE OR AFTER

1 EXPOSURE TO ULTRAVIOLET RADIATION.

2 5. SOME ORAL OR SKIN MEDICATIONS OR COSMETICS MAY INCREASE
3 YOUR SENSITIVITY TO ULTRAVIOLET RADIATION. CONSULT YOUR PHYSICIAN
4 BEFORE USING A TANNING DEVICE IF YOU ARE USING MEDICATIONS, HAVE A
5 HISTORY OF SKIN PROBLEMS, OR BELIEVE YOU ARE ESPECIALLY SENSITIVE
6 TO SUNLIGHT. PREGNANT WOMEN OR WOMEN ON BIRTH CONTROL PILLS WHO USE
7 THIS TANNING DEVICE MAY DEVELOP DISCOLORED SKIN.

8 6. IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM
9 USE OF THIS TANNING DEVICE.

10 7. IF YOU ARE INJURED WHILE USING A TANNING DEVICE AT THIS
11 TANNING FACILITY, YOU MAY REPORT THE INJURY TO THE OWNER OR
12 OPERATOR OR TO THE DEPARTMENT OF COMMUNITY HEALTH, OR BOTH.".

13 (3) THE OWNER OR OPERATOR OR AN EMPLOYEE OF A TANNING FACILITY
14 SHALL NOT CLAIM OR DISTRIBUTE PRINTED PROMOTIONAL MATERIALS THAT
15 CLAIM OR OTHERWISE ADVERTISE THAT USING A TANNING DEVICE IS SAFE,
16 NONBURNING, OR FREE FROM RISK.

17 (4) COMPLIANCE WITH THIS SECTION DOES NOT DIMINISH OR
18 OTHERWISE LIMIT OR ALTER THE TORT LIABILITY OF THE OWNER OR
19 OPERATOR OF A TANNING FACILITY.

20 SEC. 13405. (1) BEFORE ALLOWING A CUSTOMER TO USE A TANNING
21 DEVICE, THE OWNER OR OPERATOR OF ANY TANNING FACILITY SHALL REQUIRE
22 THE CUSTOMER TO SIGN A WRITTEN STATEMENT ACKNOWLEDGING THAT THE
23 CUSTOMER HAS READ AND UNDERSTOOD THE WRITTEN STATEMENT REQUIRED
24 UNDER SECTION 13403(1) AND AGREES TO USE PROTECTIVE EYEWEAR. THE
25 OWNER OR OPERATOR OF THE TANNING FACILITY SHALL DO ALL OF THE
26 FOLLOWING:

27 (A) REQUIRE A CUSTOMER TO SIGN THE STATEMENT AT LEAST ONCE IN

1 A 1-YEAR PERIOD.

2 (B) RETAIN THE WRITTEN STATEMENT FOR NOT LESS THAN 1 YEAR.

3 (C) MAKE THE WRITTEN STATEMENT AVAILABLE FOR INSPECTION UPON
4 REQUEST OF A LAW ENFORCEMENT OFFICER.

5 (2) IN THE CASE OF A CUSTOMER UNDER 18 YEARS OF AGE, THE
6 WRITTEN STATEMENT DESCRIBED IN SUBSECTION (1) SHALL ALSO BE SIGNED
7 BY THE CUSTOMER'S PARENT OR LEGAL GUARDIAN WHILE THE PARENT OR
8 LEGAL GUARDIAN IS PHYSICALLY PRESENT AT THE TANNING FACILITY AND
9 SHALL BE SIGNED IN THE PRESENCE OF THE OWNER OR OPERATOR.

10 SEC. 13407. (1) AN INDIVIDUAL INJURED WHILE USING A TANNING
11 DEVICE AT ANY TANNING FACILITY MAY REPORT THAT FACT TO THE OWNER OR
12 OPERATOR OF THE TANNING FACILITY OR TO THE DEPARTMENT, OR BOTH. IF
13 AN INDIVIDUAL REPORTS AN INJURY TO THE DEPARTMENT, HE OR SHE SHALL
14 SUBMIT THE REPORT ON A FORM PROVIDED BY THE DEPARTMENT. WITHIN 5
15 WORKING DAYS AFTER THE OWNER OR OPERATOR OF A TANNING FACILITY
16 RECEIVES NOTICE OF AN INJURY THAT IS ALLEGED TO HAVE OCCURRED IN
17 THE TANNING FACILITY, HE OR SHE SHALL REPORT THAT ALLEGED INJURY TO
18 THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT. THE DEPARTMENT
19 SHALL DEVELOP AND MAKE AVAILABLE A REPORTING FORM FOR PURPOSES OF
20 THIS SECTION WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS PART.
21 THE REPORTING FORM SHALL CONTAIN AT LEAST ALL OF THE FOLLOWING
22 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

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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 THE
7 INFORMATION CONTAINED IN THE REPORT ONLY UPON WRITTEN REQUEST OF
8 THE PERSON OR OWNER OR OPERATOR OF THE TANNING FACILITY WHO IS THE
9 SUBJECT OF THE REPORT OR HIS OR HER GUARDIAN, EXECUTOR, ATTORNEY,
10 OR OTHER PERSON DESIGNATED IN WRITING BY THAT PERSON OR OWNER OR
11 OPERATOR. THE DEPARTMENT MAY ALSO RELEASE THE STATISTICAL
12 INFORMATION CONTAINED IN THE REPORTS, WITHOUT IDENTIFYING
13 INFORMATION.

14 SEC. 13409. (1) THE DEPARTMENT MAY PROMULGATE RULES
15 ESTABLISHING REGISTRATION OF CERTAIN FACILITIES AND SAFETY
16 STANDARDS FOR ALL TANNING FACILITIES[, INCLUDING, BUT NOT LIMITED TO,
17 STANDARDS REGARDING PROPER DISINFECTION OF TANNING DEVICES BETWEEN USE].
18 THE DEPARTMENT MAY
19 INCORPORATE BY REFERENCE EXISTING INDUSTRY STANDARDS, EXISTING
20 FEDERAL STANDARDS, OR EXISTING STANDARDS ADOPTED IN OTHER STATES IF
21 IT DETERMINES THAT THOSE STANDARDS ARE DESIGNED TO PROVIDE
22 SUFFICIENT PROTECTION TO THE PUBLIC. THE RULES MAY PROVIDE FOR A
23 REGISTRATION CYCLE OF UP TO 3 YEARS AND SHALL PROVIDE FOR A 1-TIME
24 APPLICATION FEE NOT TO EXCEED \$100.00 AND A PER-YEAR REGISTRATION
25 FEE NOT TO EXCEED \$50.00.

26 (2) BEGINNING THE EFFECTIVE DATE OF THE RULES ADOPTED UNDER
27 SUBSECTION (1) REGARDING REGISTRATION OF TANNING FACILITIES, A
PERSON SHALL NOT USE THE TERM "REGISTERED TANNING FACILITY" UNLESS
REGISTERED UNDER THIS PART. A TANNING FACILITY NOT REGISTERED UNDER

1 THIS PART MAY STILL OPERATE SO LONG AS IT COMPLIES WITH SECTIONS
2 13403, 13405, AND 13407.

3 (3) THE DEPARTMENT MAY SUSPEND OR REVOKE A REGISTRATION, AND
4 MAY DENY AN APPLICANT A REGISTRATION, FOR A CONDUCT IN VIOLATION OF
5 THIS ACT OR RULES ADOPTED UNDER THIS ACT. IN LIEU OF A SUSPENSION
6 OR REVOCATION, THE DEPARTMENT MAY PROVIDE FOR THE IMPOSITION OF AN
7 ADMINISTRATIVE FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.
8 ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION SHALL BE BROUGHT
9 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969.

10 SEC. 13411. (1) BEFORE ISSUING A REGISTRATION TO AN APPLICANT
11 UNDER THIS PART, THE DEPARTMENT SHALL RECEIVE THE RESULTS OF AN
12 INSPECTION OF THE PREMISES OF THE TANNING FACILITY THAT IS THE
13 SUBJECT OF THE APPLICATION FROM THE APPROPRIATE LOCAL HEALTH
14 DEPARTMENT. THE LOCAL HEALTH DEPARTMENT SHALL CONVEY THE RESULTS OF
15 THE INSPECTION OF THE PREMISES OF THE TANNING FACILITY THAT IS THE
16 SUBJECT OF THE APPLICATION TO THE DEPARTMENT AS SOON AS PRACTICAL
17 AFTER THE INSPECTION OCCURS.

18 (2) THE APPROPRIATE LOCAL HEALTH DEPARTMENT SHALL INSPECT EACH
19 TANNING FACILITY PRIOR TO BEING REGISTERED UNDER THIS PART AND
20 SHALL AT LEAST ANNUALLY INSPECT EACH TANNING FACILITY REGISTERED
21 UNDER THIS PART TO ENSURE COMPLIANCE WITH THIS PART. SUBJECT TO
22 SECTION 13413, THE DEPARTMENT SHALL AUTHORIZE A LOCAL HEALTH
23 DEPARTMENT UNDER SECTION 2235 TO PERFORM THE INSPECTIONS REQUIRED
24 UNDER THIS SUBSECTION.

25 (3) THE DEPARTMENT SHALL ISSUE A REGISTRATION UNDER THIS PART
26 TO A SPECIFIC PERSON FOR A TANNING FACILITY AT A SPECIFIC LOCATION.
27 A REGISTRATION ISSUED UNDER THIS PART IS NONTRANSFERABLE.

1 SEC. 13413. THE OWNER OR OPERATOR OF A TANNING FACILITY
2 REGISTERED UNDER THIS PART SHALL APPLY TO THE DEPARTMENT FOR
3 RENEWAL OF THE REGISTRATION NOT LESS THAN 30 DAYS BEFORE ITS
4 EXPIRATION. UPON PAYMENT OF THE RENEWAL FEE PRESCRIBED BY SECTION
5 13409(1), THE DEPARTMENT SHALL RENEW THE REGISTRATION IF THE
6 APPLICANT IS IN COMPLIANCE WITH THIS PART AND ANY RULES PROMULGATED
7 UNDER THIS PART. THE DEPARTMENT SHALL CONSULT WITH THE APPROPRIATE
8 LOCAL HEALTH DEPARTMENT TO DETERMINE THAT COMPLIANCE.

9 SEC. 13415. (1) PURSUANT TO SECTION 2235, THE DEPARTMENT SHALL
10 AUTHORIZE A LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART AND ANY
11 RULES PROMULGATED UNDER THIS PART. A LOCAL HEALTH DEPARTMENT
12 AUTHORIZED TO ENFORCE THIS PART AND ANY RULES PROMULGATED UNDER
13 THIS PART SHALL ENFORCE THIS PART AND ANY RULES PROMULGATED UNDER
14 THIS PART PURSUANT TO SECTIONS 2461(2) AND 2462. IN ADDITION TO THE
15 PENALTIES AND REMEDIES UNDER THIS PART, A LOCAL HEALTH DEPARTMENT
16 MAY ENFORCE THIS PART AND ANY RULES PROMULGATED UNDER THIS PART
17 THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2465 OR ANY OTHER
18 APPROPRIATE ACTION AUTHORIZED BY LAW.

19 (2) IF A LOCAL HEALTH DEPARTMENT OF A COUNTY OR CITY UNDER
20 PART 24 IS UNABLE OR UNWILLING TO PERFORM THE FUNCTIONS REQUIRED IN
21 THIS SECTION AND THE COUNTY OR CITY IS NOT PART OF A DISTRICT THAT
22 HAS CREATED A DISTRICT HEALTH DEPARTMENT PURSUANT TO SECTION 2415,
23 THE COUNTY OR CITY, THROUGH AN INTERGOVERNMENTAL AGREEMENT, MAY
24 CONTRACT WITH ANOTHER LOCAL GOVERNING ENTITY TO HAVE THAT ENTITY'S
25 LOCAL HEALTH DEPARTMENT PERFORM THE FUNCTIONS REQUIRED IN THIS
26 SECTION. THE CONTRACTING PARTIES UNDER THIS SUBSECTION SHALL OBTAIN
27 THE DEPARTMENT'S APPROVAL BEFORE EXECUTION OF THE INTERGOVERNMENTAL

1 AGREEMENT.

2 (3) PURSUANT TO SECTION 2444, A LOCAL GOVERNING ENTITY OF A
3 LOCAL HEALTH DEPARTMENT AUTHORIZED TO ENFORCE THIS PART UNDER THIS
4 SECTION MAY FIX AND REQUIRE THE PAYMENT OF FEES BY APPLICANTS AND
5 REGISTRANTS FOR SERVICES REQUIRED TO BE PERFORMED BY THE LOCAL
6 HEALTH DEPARTMENT UNDER THIS SECTION.

7 (4) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY
8 LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY BRING A CIVIL
9 ACTION IN A COURT OF COMPETENT JURISDICTION FOR APPROPRIATE
10 INJUNCTIVE RELIEF.

11 SEC. 13417. A LOCAL GOVERNING ENTITY OF A LOCAL HEALTH
12 DEPARTMENT AUTHORIZED TO ENFORCE THIS PART MAY ADOPT AND ENFORCE
13 LOCAL CODES, ORDINANCES, OR REGULATIONS THAT ARE MORE STRINGENT
14 THAN THE MINIMUM APPLICABLE STANDARDS SET FORTH IN THIS PART OR
15 RULES PROMULGATED UNDER THIS PART. THIS PART SHALL NOT RELIEVE THE
16 APPLICANT FOR A REGISTRATION OR A REGISTRANT FROM THE
17 RESPONSIBILITY FOR SECURING A LOCAL PERMIT OR COMPLYING WITH
18 APPLICABLE LOCAL CODES, REGULATIONS, OR ORDINANCES THAT ARE IN
19 ADDITION TO THIS PART.

20 SEC. 13419. (1) AN OWNER OR OPERATOR OF A TANNING FACILITY WHO
21 VIOLATES THIS PART IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND
22 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00 FOR
23 EACH VIOLATION.

24 (2) STATE CIVIL INFRACTION PROCEEDINGS UNDER THIS SECTION
25 SHALL BE CONDUCTED UNDER CHAPTER 88 OF THE REVISED JUDICATURE ACT
26 OF 1961, 1961 PA 236, MCL 600.8801 TO 600.8835. FINES AND COSTS
27 COLLECTED SHALL BE DISBURSED AS PROVIDED BY THAT CHAPTER.

1 SEC. 13421. THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND
2 CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE OF
3 OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL REMEDY
4 BY ANOTHER PERSON.

5 Enacting section 1. Section 13407 of the public health code,
6 1978 PA 368, MCL 333.13407, is repealed effective October 1, 2008.

7 Enacting section 2. This amendatory act takes effect October
8 1, 2008.