

HOUSE BILL No. 4146

January 30, 2007, Introduced by Reps. Accavitti, Gaffney, Stahl, Wojno, Alma Smith, Moss and David Law 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:

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.

(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 DOES
8 NOT INCLUDE A PRIVATE RESIDENCE WITH A TANNING DEVICE IF THE
9 TANNING DEVICE IS USED ONLY BY AN OWNER OR OCCUPANT OF THE PRIVATE
10 RESIDENCE.

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

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

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

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

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

27 (i) TRANQUILIZERS.

1 (ii) DIURETICS.

2 (iii) ANTIBIOTICS.

3 (iv) HIGH BLOOD PRESSURE MEDICATION.

4 (v) BIRTH CONTROL MEDICATION.

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

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

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

15 "DANGER: ULTRAVIOLET RADIATION

16 1. FOLLOW INSTRUCTIONS.

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

22 3. WEAR PROTECTIVE EYEWEAR.

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

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

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

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

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

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

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

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

26 (A) REQUIRE A CUSTOMER TO SIGN THE STATEMENT AT LEAST ONCE IN
27 A 1-YEAR PERIOD.

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

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

4 (2) IN THE CASE OF A CUSTOMER UNDER 18 YEARS OF AGE, THE
5 WRITTEN STATEMENT DESCRIBED IN SUBSECTION (1) SHALL ALSO BE SIGNED
6 BY THE CUSTOMER'S PARENT OR LEGAL GUARDIAN.

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

20 (A) THE NAME OF THE PERSON WHO IS MAKING THE REPORT.

21 (B) THE NAME AND LOCATION OF THE TANNING FACILITY THAT IS THE
22 SUBJECT OF THE REPORT.

23 (C) THE NATURE OF THE ALLEGED INJURY.

24 (D) THE NAME AND ADDRESS OF THE HEALTH CARE PROVIDER TO WHOM
25 THE INJURED INDIVIDUAL WAS REFERRED, IF ANY.

26 (E) OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE.

27 (2) THE DEPARTMENT SHALL MAINTAIN IN A RETRIEVABLE FORM ALL

1 REPORTS SUBMITTED UNDER SUBSECTION (1). THE DEPARTMENT SHALL
2 ESTABLISH A REGISTRY OF THOSE REPORTS. A REPORT MAINTAINED UNDER
3 THIS SECTION IS CONFIDENTIAL, AND THE DEPARTMENT SHALL RELEASE THE
4 INFORMATION CONTAINED IN THE REPORT ONLY UPON WRITTEN REQUEST OF
5 THE PERSON OR OWNER OR OPERATOR OF THE TANNING FACILITY WHO IS THE
6 SUBJECT OF THE REPORT OR HIS OR HER GUARDIAN, EXECUTOR, ATTORNEY,
7 OR OTHER PERSON DESIGNATED IN WRITING BY THAT PERSON OR OWNER OR
8 OPERATOR. THE DEPARTMENT MAY ALSO RELEASE THE STATISTICAL
9 INFORMATION CONTAINED IN THE REPORTS, WITHOUT IDENTIFYING
10 INFORMATION.

11 SEC. 13409. (1) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF
12 THE RULES ADOPTED BY THE DEPARTMENT UNDER SUBSECTION (2), A PERSON
13 SHALL NOT OPERATE A TANNING FACILITY UNLESS LICENSED UNDER THIS
14 PART BY THE DEPARTMENT.

15 (2) NOT LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS
16 PART, THE DEPARTMENT SHALL PROMULGATE RULES ESTABLISHING LICENSURE
17 AND SAFETY STANDARDS FOR TANNING FACILITIES. THE DEPARTMENT MAY
18 INCORPORATE BY REFERENCE EXISTING INDUSTRY STANDARDS, EXISTING
19 FEDERAL STANDARDS, OR EXISTING STANDARDS ADOPTED IN OTHER STATES IF
20 IT DETERMINES THAT THOSE STANDARDS ARE DESIGNED TO PROVIDE
21 SUFFICIENT PROTECTION TO THE PUBLIC. THE RULES MAY PROVIDE FOR A
22 LICENSURE CYCLE OF UP TO 3 YEARS AND SHALL PROVIDE FOR AN
23 APPLICATION FEE NOT TO EXCEED \$100.00 AND AN ANNUAL LICENSE FEE NOT
24 TO EXCEED \$50.00.

25 (3) THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE, AND MAY
26 DENY AN APPLICANT A LICENSE, FOR A CONDUCT IN VIOLATION OF THIS ACT
27 OR RULES ADOPTED UNDER THIS ACT. IN LIEU OF A SUSPENSION OR

1 REVOCATION, THE DEPARTMENT MAY PROVIDE FOR THE IMPOSITION OF AN
2 ADMINISTRATIVE FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.
3 ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION SHALL BE BROUGHT
4 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969.

5 SEC. 13411. (1) AN OWNER OR OPERATOR OF A TANNING FACILITY WHO
6 VIOLATES THIS PART IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND
7 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00 FOR
8 EACH VIOLATION.

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

13 SEC. 13413. IN ADDITION TO ANY OTHER ENFORCEMENT ACTION
14 AUTHORIZED BY LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY
15 BRING A CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF, IF THE
16 PERSON HAS USED THE TANNING FACILITY WITHIN 60 DAYS BEFORE THE
17 CIVIL ACTION IS FILED.

18 SEC. 13415. (1) THE REMEDIES UNDER THIS PART ARE INDEPENDENT
19 AND CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE
20 USE OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL
21 REMEDY BY ANOTHER PERSON.

22 (2) THIS PART MAY BE ENFORCED BY A LOCAL HEALTH DEPARTMENT.

23 Enacting section 1. Section 13407 of the public health code,
24 1978 PA 368, MCL 333.13407, is repealed effective October 1, 2007.

25 Enacting section 2. This amendatory act takes effect October
26 1, 2007.