

Act No. 368  
Public Acts of 2008  
Approved by the Governor  
December 23, 2008  
Filed with the Secretary of State  
December 23, 2008  
EFFECTIVE DATE: December 23, 2008

**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

Introduced by Reps. Accavitti, Gaffney, Stahl, Wojno, Alma Smith, Moss and David Law

# **ENROLLED HOUSE BILL No. 4146**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (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) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin. Tanning device includes, but is not limited to, a sunlamp, tanning booth, or tanning bed and accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

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

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

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

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

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

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

(i) Tranquilizers.

(ii) Diuretics.

(iii) Antibiotics.

(iv) High blood pressure medication.

(v) Birth control medication.

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

(f) An individual that suffers an injury while using a tanning device at a tanning facility must report the injury to the owner or operator of the tanning facility.

(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.

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

**“DANGER: ULTRAVIOLET RADIATION**

1. Follow instructions.

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

3. Wear protective eyewear.

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

4. Ultraviolet radiation from sunlamps will intensify the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Some oral or skin medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult your 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 on birth control pills who use this tanning device may develop discolored skin.

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

7. If you suffered an injury while using a tanning device at this tanning facility, you must report the injury to the owner or operator.

8. Any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.”.

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

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

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

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

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

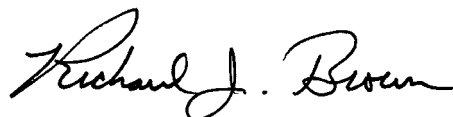
(2) In the case of a customer under 18 years of age, the written statement described in subsection (1) shall also be signed by the customer's parent or legal guardian while the parent or legal guardian is physically present at the tanning facility and shall be signed in the presence of the owner or operator.

Sec. 13407a. If an individual suffers an injury while using a tanning device at a tanning facility and if that tanning facility has failed to comply with the disclosure and consent requirements of this part, the individual may bring an action in a court of competent jurisdiction for actual damages plus an amount of not more than \$1,000.00, as well as actual and reasonable attorney fees.

Sec. 13409. The remedies under this part are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor