

HOUSE BILL No. 4580

March 24, 2005, Introduced by Reps. Accavitti, Condino, Tobocman, Byrnes, Wojno, Bieda, Anderson, Miller, Spade, Plakas, Sak, Stakoe, Gonzales and Cushingberry and referred to the Committee on Health Policy.

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

1 600.113.

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

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

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

17 (A) NOT WEARING EITHER HIS OR HER OWN EYE PROTECTION OR EYE
18 PROTECTION MADE AVAILABLE TO THE INDIVIDUAL BY THE TANNING FACILITY
19 WHILE USING A TANNING DEVICE MAY CAUSE DAMAGE TO THE 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 BY
23 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 MEDICATION.
27 THE MEDICATION INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE

1 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 OVER-
8 THE-COUNTER DRUG SHOULD CONSULT A PHYSICIAN BEFORE USING A TANNING
9 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 OF
12 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 CUSTOMERS.
15 THE POSTER SHALL BE PRINTED IN AT LEAST 32-POINT BOLDFACED TYPE AND
16 IN SUBSTANTIALLY THE FOLLOWING FORM:

17 "DANGER: ULTRAVIOLET RADIATION

18 1. FOLLOW INSTRUCTIONS.

19 2. AVOID TOO FREQUENT OR TOO LENGTHY EXPOSURE. AS WITH NATURAL
20 SUNLIGHT, EXPOSURE CAN CAUSE EYE AND SKIN INJURY AND ALLERGIC
21 REACTIONS. REPEATED EXPOSURE MAY CAUSE CHRONIC SUN DAMAGE,
22 CHARACTERIZED BY WRINKLING, DRYNESS, FRAGILITY, AND BRUISING OF THE
23 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 PHYSICIAN
5 BEFORE USING A TANNING DEVICE IF YOU ARE USING MEDICATIONS, HAVE A
6 HISTORY OF SKIN PROBLEMS, OR BELIEVE YOU ARE ESPECIALLY SENSITIVE
7 TO SUNLIGHT. PREGNANT WOMEN OR WOMEN ON BIRTH CONTROL PILLS WHO USE
8 THIS TANNING DEVICE MAY DEVELOP DISCOLORED SKIN.

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

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

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

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

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

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

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

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

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

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

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

23 (B) THE NAME AND LOCATION OF THE TANNING FACILITY THAT IS THE
24 SUBJECT OF THE REPORT.

25 (C) THE NATURE OF THE ALLEGED INJURY.

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

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

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

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

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

27 (3) THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE, AND MAY

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

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

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

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

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

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

25 Enacting section 1. Section 13407 of the public health code,
26 1978 PA 368, MCL 333.13407, is repealed effective October 1, 2005.

27 Enacting section 2. This amendatory act takes effect October

1 1, 2005.