

SENATE 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) "TANNING DEVICE" MEANS EQUIPMENT THAT EMITS
ELECTROMAGNETIC RADIATION WITH WAVELENGTHS IN THE AIR BETWEEN 200

1 AND 400 NANOMETERS AND IS USED FOR TANNING OF THE SKIN. TANNING
2 DEVICE INCLUDES, BUT IS NOT LIMITED TO, A SUNLAMP, TANNING BOOTH,
3 OR TANNING BED AND ACCOMPANYING EQUIPMENT, INCLUDING, BUT NOT
4 LIMITED TO, PROTECTIVE EYEWEAR, TIMERS, AND HANDRAILS.

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

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

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

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

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

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

26 (i) TRANQUILIZERS.

27 (ii) DIURETICS.

1 (iii) ANTIBIOTICS.

2 (iv) HIGH BLOOD PRESSURE MEDICATION.

3 (v) BIRTH CONTROL MEDICATION.

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

7 (F) AN INDIVIDUAL THAT SUFFERS AN INJURY WHILE USING A TANNING
8 DEVICE AT A TANNING FACILITY MUST REPORT THE INJURY TO THE OWNER OR
9 OPERATOR OF THE TANNING FACILITY.

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

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

18 "DANGER: ULTRAVIOLET RADIATION

19 1. FOLLOW INSTRUCTIONS.

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

25 3. WEAR PROTECTIVE EYEWEAR.

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

1 4. ULTRAVIOLET RADIATION FROM SUNLAMPS WILL INTENSIFY THE
2 EFFECTS OF THE SUN. THEREFORE, DO NOT SUNBATHE BEFORE OR AFTER
3 EXPOSURE TO ULTRAVIOLET RADIATION.

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

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

12 7. IF YOU SUFFERED AN INJURY WHILE USING A TANNING DEVICE AT
13 THIS TANNING FACILITY, YOU MUST REPORT THE INJURY TO THE OWNER OR
14 OPERATOR.

15 8. ANY SKIN-RELATED TREATMENT INVOLVING MICRODERMABRASION,
16 INCLUDING, BUT NOT LIMITED TO, FACIALS, WAXING, OR SKIN PEELS, MAY
17 CAUSE ABNORMAL SENSITIVITY TO ULTRAVIOLET RADIATION."

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

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

1 FOLLOWING:

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

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

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

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

12 SEC. 13407A. IF AN INDIVIDUAL SUFFERS AN INJURY WHILE USING A
13 TANNING DEVICE AT A TANNING FACILITY AND IF THAT TANNING FACILITY
14 HAS FAILED TO COMPLY WITH THE DISCLOSURE AND CONSENT REQUIREMENTS
15 OF THIS PART, THE INDIVIDUAL MAY BRING AN ACTION IN A COURT OF
16 COMPETENT JURISDICTION FOR ACTUAL DAMAGES PLUS AN AMOUNT OF NOT
17 MORE THAN \$1,000.00, AS WELL AS ACTUAL AND REASONABLE ATTORNEY
18 FEES.

19 SEC. 13409. THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND
20 CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE OF
21 OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL REMEDY
22 BY ANOTHER PERSON.

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