

House Bill 702

By: Representatives Drenner of the 86th, Chambers of the 81st, Mosby of the 90th, Henson of the 87th, and Gardner of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 38 of Title 31 of the Official Code of Georgia Annotated, relating to
2 tanning facilities, so as to provide a short title; to define certain terms; to provide for
3 licensing of tanning facilities; to provide for inspections; to provide for revocation or
4 suspension of licenses; to provide for administrative, civil, and criminal penalties; to provide
5 for the adoption of rules; to provide for consumer warnings; to provide for reports on
6 complaints of injury; to provide for parental consent for minors' use of tanning facilities; to
7 provide for variances; to provide for related matters; to provide an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 This Act shall be known as the "Tanning Facilities Regulation Act."

12 style="text-align:center">**SECTION 2.**

13 Chapter 38 of Title 31 of the Official Code of Georgia Annotated, relating to tanning
14 facilities, is amended by striking Code Section 31-38-1, relating to definitions relative to
15 tanning facilities, and inserting in its place the following:

16 "31-38-1.

17 As used in this chapter, the term:

18 (1) 'CFR' means Code of Federal Regulations.

19 ~~(1)~~(2) 'Consumer' means any individual who is provided access to a tanning facility as
20 defined in this chapter.

21 (3) 'Department' means the Department of Natural Resources.

22 ~~(2)~~(4) 'Individual' means any human being.

23 ~~(3)~~(5) 'Operator' means any individual designated by the tanning facility owner or
24 tanning equipment lessee to operate or to assist and instruct the consumer in the operation
25 and use of the tanning facility or tanning equipment.

1 ~~(4)~~(6) 'Person' means any individual, corporation, partnership, firm, association, trust,
 2 estate, public or private institution, group, agency, political subdivision of this state, any
 3 other state, or political subdivision or agency thereof, and any legal successor,
 4 representative, agent, or agency of these entities.

5 ~~(5)~~(7) 'Tanning equipment' means ultraviolet or other lamps and equipment containing
 6 such lamps intended to induce skin tanning through the irradiation of any part of the
 7 living human body with ultraviolet radiation.

8 ~~(6)~~(8) 'Tanning facility' means any location, place, area, structure, or business or a part
 9 thereof which provides consumers access to tanning equipment. 'Tanning facility'
 10 includes, but is not limited to, tanning salons, health clubs, apartments, or condominiums
 11 regardless of whether a fee is charged for access to the tanning equipment.

12 ~~(7)~~(9) 'Ultraviolet radiation' means electromagnetic radiation with wavelengths in air
 13 between 200 nanometers and 400 nanometers."

14 **SECTION 3.**

15 Said chapter is further amended by inserting a new Code Section 31-38-1.1 immediately
 16 following Code Section 31-38-1 to read as follows:

17 "31-38-1.1.

18 (a) A person may not operate a tanning facility in this state unless it is licensed under this
 19 chapter.

20 (b) The department shall establish procedures for the issuance and annual renewal of
 21 licenses and shall establish annual license and renewal fees and late fees in a reasonable
 22 amount.

23 (c) The department shall inspect or investigate a tanning facility as necessary but at least
 24 annually. A tanning facility must have a copy of the facility's most recent inspection report
 25 available to the public and conspicuously posted in a location in which the report is clearly
 26 visible, not obstructed by any barrier, equipment, or other object, and can be easily viewed
 27 by a consumer.

28 (d) Every tanning facility operating in this state shall conspicuously post a current, valid
 29 license obtained under this chapter in a location in which the license is clearly visible, not
 30 obstructed by any barrier, equipment, or other object, and can be easily viewed by a
 31 consumer.

32 (e) The department may cancel, revoke, or suspend a license to operate a tanning facility
 33 if the licensee:

34 (1) Fails to pay any fee required by this chapter or by rule;

35 (2) Owns or operates, or solicits business as, a tanning facility in this state without first
 36 procuring a license from the department, unless specifically exempted by this chapter;

- 1 (3) Obtains or attempts to obtain a license by fraud; or
 2 (4) Violates any provision of this chapter.
- 3 (f) The department may impose an administrative fine not to exceed \$1,000.00 per
 4 violation per day for the violation of any provision of this chapter, rule adopted under this
 5 chapter, or term or condition of any license issued by the department.
- 6 (g) In determining the amount of fine to be levied for a violation, as provided in subsection
 7 (f) of this Code section, the following factors shall be considered:
- 8 (1) The severity of the violation and the extent to which the provisions of this chapter,
 9 the rules adopted under this chapter, or any terms or conditions of any license were
 10 violated;
- 11 (2) Actions taken by the licensee to correct the violation; and
 12 (3) Any previous violations by the licensee.
- 13 (h) The department may institute legal action for injunctive or other relief to enforce this
 14 chapter. If a tanning facility or other person violates this chapter or any rule adopted under
 15 this chapter, the department may issue a stop-use order to remove a tanning device from
 16 service.
- 17 (i) The department shall adopt rules as prescribed by Chapter 13 of Title 50, the 'Georgia
 18 Administrative Procedure Act,' to administer this chapter. The rules may include, but need
 19 not be limited to, requirements for training tanning facility operators and employees;
 20 definitions of terms; the approval of training courses; safety; plan review; and the design,
 21 construction, operation, maintenance, and cleanliness of tanning facilities and tanning
 22 devices."

23 SECTION 4.

24 Said chapter is further amended by striking Code Section 31-38-3, relating to construction,
 25 operation, and maintenance requirement of tanning facilities, and inserting in its place the
 26 following:

27 "31-38-3.

28 (a) Each tanning facility in this state shall be constructed, operated, and maintained in
 29 accordance with the requirements of Code Sections 31-38-4 through 31-38-8.

30 (b) A tanning facility must:

31 (1) During operating hours, have an operator present who is sufficiently knowledgeable
 32 and trained in accordance with rules of the department in the correct operation of the
 33 tanning devices to inform and assist each consumer in the proper use of the devices;

34 (2) Before each use of a tanning device, properly sanitize that tanning device equipment,
 35 including, without limitation, handrails, headrests, and bed surfaces;

36 (3) Give each consumer on each visit a written warning stating:

1 (A) Not wearing the provided eye protection can cause damage to the eyes;

2 (B) Overexposure causes burns;

3 (C) Repeated exposure can cause premature aging of the skin or skin cancer;

4 (D) Abnormal skin sensitivity or burning may be caused by certain foods, cosmetics,
 5 or medications, including, without limitation, tranquilizers, diuretics, antibiotics,
 6 high-blood pressure medicines, or birth control pills;

7 (E) Any person who takes a prescription or over-the-counter medication should consult
 8 a physician before using a tanning device; and

9 (F) If applicable, it does not carry liability insurance for injuries caused by tanning
 10 devices or stating the limits of any liability insurance it carries;

11 (4) Show each consumer how to use suitable physical aids, such as handrails and floor
 12 markings, to maintain proper exposure distances recommended by the manufacturer;

13 (5) Use a timer on each tanning device which is accurate for any selected time interval
 14 to plus or minus 10 percent; and

15 (6) Limit each consumer to the maximum exposure time recommended by the
 16 manufacturer of the tanning device."

17 SECTION 5.

18 Said chapter is further amended by striking Code Section 31-38-4, relating to warning signs
 19 to be posted, and inserting in its place the following:

20 "31-38-4.

21 (a) The facility owner or operator shall conspicuously post the warning sign described in
 22 subsection (b) of this Code section within three feet of each tanning station and in such a
 23 manner that the sign is clearly visible, not obstructed by any barrier, equipment, or other
 24 object, and can be easily viewed by the consumer before energizing the tanning equipment.
 25 Posting this warning sign does not absolve the facility of any liability.

26 (b) The warning sign required in subsection (a) of this Code section shall use upper and
 27 lower case letters which are at least two inches and one inch in height, respectively, and
 28 shall have the following wording:

29 (b) The warning sign required in subsection (a) of this Code section shall use upper and
 30 lower case letters which are at least two inches and one inch in height, respectively, and
 31 shall have the following wording:

32 ~~DANGER - ULTRAVIOLET RADIATION~~

33 ~~=Follow instruction.~~

34 ~~=Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin~~
 35 ~~injury and allergic reactions. Repeated exposure may cause premature aging of the skin~~
 36 ~~and skin cancer.~~

1 ~~-Wear protective eyewear.~~

2 ~~FAILURE TO USE PROTECTIVE EYEWEAR~~
 3 ~~MAY RESULT IN SEVERE BURNS OR~~
 4 ~~LONG-TERM INJURY TO THE EYES.~~

5 ~~-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation.~~
 6 ~~Consult a physician before using sunlamp or tanning equipment if you are using~~
 7 ~~medications or have a history of skin problems or believe yourself to be especially~~
 8 ~~sensitive to sunlight.~~

9 ~~-If you do not tan in the sun, you are unlikely to tan from the use of this product.~~

10 ~~MAXIMUM EXPOSURE AT ANY ONE SESSION~~
 11 ~~SHOULD NEVER EXCEED 15 MINUTES.~~

12 ~~According to the research and clinical experience of the American Academy of~~
 13 ~~Dermatology, excessive or improper exposure to ultraviolet light can cause harmful~~
 14 ~~changes in the skin and other organs, including skin cancer, cataracts, impairment of the~~
 15 ~~immune system, premature aging, and photosensitivity. These are virtually the same risks~~
 16 ~~associated with outdoor tanning.~~

17 DANGER, ULTRAVIOLET RADIATION

18 Follow these instructions:

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

22 2. Wear protective eyewear. FAILURE TO USE PROTECTIVE EYEWEAR CAN
 23 RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

24 3. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore,
 25 do not sunbathe before or after exposure to ultraviolet radiation.

26 4. Using medications or cosmetics can increase your sensitivity to ultraviolet radiation.

27 Consult a physician before using tanning equipment if you are using medications, have
 28 a history of skin problems, or believe you are especially sensitive to sunlight. Women
 29 who are pregnant or on birth control who use this product can develop discolored skin.

30 IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN BY USING THIS
 31 DEVICE.

32 5. MAXIMUM EXPOSURE AT ANY ONE SESSION SHOULD NEVER EXCEED
 33 15 MINUTES. According to the research and clinical experience of the American
 34 Academy of Dermatology, excessive or improper exposure to ultraviolet light can cause
 35 harmful changes in the skin and other organs, including skin cancer, cataracts,
 36 impairment of the immune system, premature aging, and photosensitivity. These are
 37 virtually the same risks associated with outdoor tanning."

