

SECOND REGULAR SESSION

# HOUSE BILL NO. 2098

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COOPER (155).

Read 1st time February 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4856L.01I

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### AN ACT

To amend chapter 324, RSMo, by adding thereto nine new sections relating to the licensing of tanning facilities, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto nine new sections, to be  
2 known as sections 324.300, 324.303, 324.306, 324.309, 324.312, 324.315, 324.318, 324.321,  
3 and 324.324, to read as follows:

**324.300. For purposes of sections 324.300 to 324.324, the following terms mean:**

- 2 (1) "Director", the director of the department of health and senior services;
- 3 (2) "Department", the department of health and senior services;
- 4 (3) "Photo-therapy device", equipment that emits ultraviolet radiation and is used  
5 by health care professionals in the treatment of disease;
- 6 (4) "Tanning device", any equipment that emits electromagnetic radiation with  
7 wavelengths in the air between two hundred and four hundred nanometers used for  
8 tanning of the skin, including, but not limited to a sunlamp, tanning booth or tanning bed;
- 9 (5) "Tanning facility", any location, place, area, structure, or business which  
10 provides persons access to any tanning device for a fee, membership dues, or any other  
11 form of compensation.

**324.303. No person shall operate a tanning facility without a license issued by the  
2 department. All licenses issued by the department and every renewal of such license shall  
3 be conspicuously displayed in the tanning facility.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

**324.306. 1. A tanning facility shall provide each consumer with a written warning statement requiring their signature prior to initial exposure and before renewals of contracts. The warning statement shall include the following:**

**(1) Failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes;**

**(2) Overexposure to ultraviolet light causes burns;**

**(3) Repeated exposure may result in premature aging of the skin and skin cancer;**

**(4) Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain foods, tattoos, cosmetics, or medications, including but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines, antihistamines, acne medications, ibuprofen, and birth control pills;**

**(5) Any person who is pregnant or taking a prescription or over-the-counter drug should consult a physician before using a tanning device;**

**(6) A person with skin that burns easily and never tans should avoid a tanning device; and**

**(7) A person with a family or past medical history of skin cancer should avoid a tanning device.**

**2. The tanning facility shall post a warning sign in a place readily visible to persons entering the establishment. The sign shall have dimensions not less than eleven inches by seventeen inches. Lettering shall be clear and legible, with the word "Danger" in letters at least one-half inch (twelve and seven-tenths millimeters) high and all other lettering at least one-quarter inch (six and four-tenths millimeters) high. The warning shall have the following wording:**

**"DANGER—ULTRAVIOLET RADIATION**

**Follow the manufacturer's instructions for use of this device.**

**Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.**

**Do not sunbathe before or after exposure to ultraviolet radiation from this device.**

**Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.**

**Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using this device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Women who are pregnant or are taking oral contraceptives and use this device may develop discolored skin.**

37           **IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM**  
38 **USE OF AN ULTRAVIOLET LAMP OR SUNLAMP."**

39           **3. The tanning facility shall post the warning sign in subsection 2 of this section**  
40 **within three feet of each tanning device, in a conspicuous location that is readily visible to**  
41 **a person about to use the device.**

42           **4. A tanning facility shall not claim or distribute promotional materials that claim**  
43 **that using a tanning device is safe or free from risk.**

**324.309. 1. A tanning facility shall:**

2           **(1) Have an operator present during operating hours who is sufficiently**  
3 **knowledgeable in the correct operation of the tanning devices used at the facility so that**  
4 **he or she is able to inform and assist each customer in the proper use of the tanning**  
5 **devices, including but not limited to the proper position to maintain relative to the**  
6 **equipment, the position of the safety railing if applicable, the manual switching device to**  
7 **terminate radiation, and the maximum time of exposure;**

8           **(2) Before each use of a tanning device, provide each customer with properly**  
9 **sanitized protective eyewear that protects the eye from ultraviolet radiation and allows**  
10 **adequate vision to maintain balance, and not allow a person to use a tanning device if that**  
11 **person does not use the protective eyewear;**

12           **(3) Show each customer how to use suitable physical aids, such as handrails and**  
13 **markings on the floor, to maintain proper exposure distance as recommended by the**  
14 **manufacturer;**

15           **(4) Use a timer that has an accuracy of plus or minus ten percent of any selected**  
16 **timer interval, and maintain a remote timer controlled by operators so that users cannot**  
17 **reset the timer;**

18           **(5) Maintain a control that enables the user to manually terminate radiation**  
19 **without coming into contact with the ultraviolet lamp;**

20           **(6) Limit each customer to the maximum exposure time as recommended by the**  
21 **manufacturer; and**

22           **(7) Control the interior temperature of a tanning facility so that it does not exceed**  
23 **one hundred degrees Fahrenheit.**

24           **2. Every person who uses a tanning facility shall sign a written statement**  
25 **acknowledging that he or she has read and understands the warnings provided in section**  
26 **324.306 before using the device and agrees to use the protective eyewear that the tanning**  
27 **facility provides. The statement of acknowledgment shall be retained by the tanning**  
28 **facility until the end of the person's contract or membership year at which time such**

29 person shall be required to renew such acknowledgment as a condition of continued use  
30 of the facility.

31 3. When using a tanning device, a person shall use the protective eyewear that the  
32 tanning facility provides.

33 4. No person under the age of sixteen shall be permitted to use a tanning device.

34 5. Before any person under the age of eighteen uses a tanning device, his or her  
35 parent or guardian shall appear in person at the tanning facility and sign a written  
36 statement acknowledging that the parent or legal guardian has read and understands the  
37 warnings given by the tanning facility and consents to the minor's use of a tanning device.

38 6. All tanning devices used by a tanning facility shall comply with all applicable  
39 federal laws and regulations.

324.312. 1. The director shall promulgate rules to license and renew the licenses  
2 of tanning facilities and to administer the provisions of sections 324.300 to 324.324. Such  
3 rules and regulations shall include, but not be limited to:

4 (1) Standards of hygiene to be met and maintained by the tanning facilities in order  
5 to receive and maintain a license to operate a tanning facility;

6 (2) Procedures to be used to grant, deny, suspend, revoke, or reinstate a license;

7 (3) Inspection of tanning facilities; and

8 (4) Any other matter necessary for the administration of sections 324.300 to  
9 324.324.

10 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
11 that is created under the authority delegated in sections 324.300 to 324.324 shall become  
12 effective only if it complies with and is subject to all of the provisions of chapter 536,  
13 RSMo, and, if applicable, section 536.028, RSMo. Sections 324.300 to 324.324 and chapter  
14 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
15 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
16 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
17 authority and any rule proposed or adopted after August 28, 2008, shall be invalid and  
18 void.

324.315. 1. The department shall set by rule the appropriate amount of fees  
2 authorized under sections 324.300 to 324.324. The fees shall be set at a level to produce  
3 revenue that shall not exceed the cost and expense of administering the provisions of  
4 sections 324.300 to 324.324. All funds received by the department under sections 324.300  
5 to 324.324 shall be collected by the director who shall transmit the funds to the department  
6 of revenue for deposit in the state treasury to the credit of the "Tanning Facility Fund"  
7 which is hereby created.

8           **2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money**  
9 **in this fund shall not be transferred and placed to the credit of general revenue until the**  
10 **amount in the fund at the end of the biennium exceeds three times the amount of the**  
11 **appropriation from the tanning facility fund for the preceding fiscal year. The amount,**  
12 **if any, in the fund which shall lapse is that amount in the fund which exceeds the**  
13 **appropriate multiple of the appropriations from the tanning facility fund for the preceding**  
14 **fiscal year.**

15           **3. No licensing activity or other statutory requirements shall become effective until**  
16 **expenditures or personnel are specifically appropriated for the purpose of conducting the**  
17 **business as required to administer the provisions of sections 324.300 to 324.324 and the**  
18 **initial rules filed have become effective. The director shall have the authority to borrow**  
19 **funds from any agency within the department to commence operations upon appropriation**  
20 **for such purpose. Such authority shall cease at such time that a sufficient fund has been**  
21 **established by the agency to fund its operations and repay the amount borrowed.**

**324.318. The department shall employ, within the funds appropriated, such**  
2 **employees as are necessary to carry out the provisions of sections 324.300 to 324.324.**

**324.321. The provisions of sections 324.300 to 324.324 shall not apply to:**

2           **(1) Photo-therapy devices used by or under the direct supervision of a licensed**  
3 **physician who is trained in the use of photo-therapy devices;**

4           **(2) Personal use in a private residence; or**

5           **(3) Devices intended for purposes other than tanning or the irradiation of human**  
6 **skin.**

**324.324. Any person who violates any provision of sections 324.300 to 324.324 is**  
2 **guilty of a class C misdemeanor.**

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