

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1213
100TH GENERAL ASSEMBLY

2470H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 577.665, RSMo, and to enact in lieu thereof two new sections relating to ultraviolet radiation protection, with penalty provisions.

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

Section A. Section 577.665, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.628 and 577.665, to read as follows:

2 **167.628. 1. A public school shall allow students to possess and apply topical**
3 **sunscreen products to help prevent sunburn while on school property or at any school-**
4 **related event or activity.**

5 **2. A public school shall not require a student to provide a prescription or note of**
6 **a health care professional, as defined in section 376.1350, in order to possess or apply a**
7 **topical sunscreen product if the product is approved by the federal Food and Drug**
8 **Administration for over-the-counter use.**

9 **3. A public school shall require a student's parent or guardian to supply any topical**
10 **sunscreen product to be used by the student under this section.**

11 **4. Public schools are encouraged to educate students about sun safety guidelines.**

12 **5. Nothing in this section shall require public school personnel to assist students in**
13 **applying any topical sunscreen products.**

14 **6. Nothing in this section shall require a public school to adopt a written policy**
15 **allowing students to possess and apply any type of topical sunscreen product. A public**
16 **school may adopt a policy that prohibits students from possessing or applying certain types**
17 **of topical sunscreen products, such as products with allergy-inducing ingredients or**
18 **products that use aerosol or other delivery methods deemed inappropriate for the learning**
environment by the school.

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.

19 **7. This section shall not create any civil liability on the part of the state or any state**
20 **agency, officer, employee, agent, political subdivision, or school district.**

577.665. 1. As used in this section, the following terms shall mean:

2 (1) **"Operator", a person designated by a tanning facility owner or tanning device**
3 **lessee to operate or to assist and instruct in the operation and use of the tanning facility or**
4 **tanning device;**

5 (2) **"Phototherapy device", equipment that emits ultraviolet radiation and is used**
6 **in the diagnosis or treatment of disease or injury;**

7 (3) **"Tanning device", any equipment that emits electromagnetic radiation with**
8 **wavelengths in the air between two hundred and four hundred nanometers used for tanning of**
9 **the skin[;] including, but not limited to, a sunlamp, tanning booth or tanning bed. The term**
10 **"tanning device" shall not include a phototherapy device used or prescribed for use by a**
11 **physician;**

12 ~~[(2)]~~ (4) **"Tanning facility", any location, place, area, structure, or business [which] that**
13 **provides persons access to any tanning device [for] , including tanning salons, health clubs,**
14 **and apartments and condominiums with tanning devices communally available to**
15 **residents, regardless of whether a fee[; membership dues, or any other form of compensation]**
16 **is charged for access to the tanning equipment.**

17 2. ~~[Prior to any person less than seventeen years of age using a tanning device in a~~
18 ~~tanning facility, a parent or guardian of such person shall annually appear in person at the tanning~~
19 ~~facility and sign a written statement acknowledging that the parent or guardian has read and~~
20 ~~understands the warnings given by the tanning facility and consents to the person's use of a~~
21 ~~tanning device at the tanning facility.~~

22 ~~3. The department of health and senior services shall, by rule, develop a standard consent~~
23 ~~form to be used by all tanning facilities operating in this state. Any rule or portion of a rule, as~~
24 ~~that term is defined in section 536.010, that is created under the authority delegated in this~~
25 ~~section shall become effective only if it complies with and is subject to all of the provisions of~~
26 ~~chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable~~
27 ~~and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to~~
28 ~~delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,~~
29 ~~then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014,~~
30 ~~shall be invalid and void.~~

31 ~~4.] It shall be unlawful for a person under eighteen years of age to use any tanning~~
32 ~~device of any tanning facility in this state.~~

33 3. **The provisions of this section shall not apply to any physician who is duly**
34 **licensed to practice medicine in this state and who, in the practice of medicine, uses or**

35 prescribes to be used a phototherapy device with respect to a patient of any age. The
36 provisions of this section shall also not apply to any person of any age who uses a
37 phototherapy device under the direction of a physician under this subsection.

38 4. A person who is the owner, lessee, or operator of a tanning facility shall post in
39 a conspicuous place in each tanning facility owned, leased, or operated by that person in
40 this state a notice developed by the department of health and senior services that states all
41 of the following:

42 (1) That it is unlawful for a tanning facility or operator to allow a person under
43 eighteen years of age to use any tanning device;

44 (2) That a tanning facility or operator that violates one or more provisions of this
45 section shall be subject to a fine;

46 (3) That an individual may report a violation of one or more provisions of this
47 section to the local law enforcement agency; and

48 (4) The health risks associated with tanning including, but not limited to, skin
49 cancer, premature aging of the skin, burns to the skin, and adverse reactions to certain
50 medications, foods, and cosmetics.

51 5. The owner, lessee, or operator of a tanning facility shall ensure that all of the
52 following requirements are fulfilled:

53 (1) No customer under eighteen years of age is permitted to use a tanning device
54 within the tanning facility. Proof of age shall be satisfied with a valid driver's license or
55 other government-issued identification containing the date of birth and photograph of the
56 individual;

57 (2) During operating hours there is present at the tanning facility a trained
58 operator who is able to inform customers about, and assist customers in, the proper use of
59 tanning devices;

60 (3) A customer is not allowed to use a tanning device unless the customer uses
61 protective eyewear; and

62 (4) Each tanning device is equipped with a mechanism that allows the customer to
63 turn off the tanning device.

64 6. (1) Any ~~[tanning facility that]~~ owner, lessee, or operator who violates ~~[the~~
65 ~~provisions]~~ a provision of this section or any rule promulgated thereunder shall be subject
66 to a fine of ~~[one]~~ not more than two hundred fifty dollars for ~~[a]~~ the first violation~~[-two~~
67 ~~hundred fifty dollars for a second violation, and]~~ and not more than five hundred dollars for
68 each subsequent violation. Every use of a tanning device in a tanning facility in violation of this
69 section is a separate offense.

70 ~~[5. The duties and penalties provided under this section shall not take effect or be~~
71 ~~enforced until the rule containing the standard consent form has been adopted pursuant to~~
72 ~~subsection 3 of this section.]~~

73 **(2) In addition to the fine under subdivision (1) of this subsection, any violation of**
74 **this section may also result in the suspension or revocation of any permit issued for the**
75 **premises on which the violation occurred.**

76 **7. Except as otherwise provided by law, every tanning facility shall be required to**
77 **obtain a permit from the department of insurance, financial institutions and professional**
78 **registration. The holder of such permit shall provide any necessary information and pay**
79 **any fees associated with such permit as required by the department of insurance, financial**
80 **institutions and professional registration. The holder of such permit shall display the**
81 **permit in a conspicuous location at the tanning facility for which the permit is issued.**
82 **Permits issued under this subsection shall expire annually.**

83 **8. This section shall not preempt local ordinances that provide for more restrictive**
84 **regulation of tanning facilities than required under this section.**

85 **9. The department of health and senior services and the department of insurance,**
86 **financial institutions and professional registration shall promulgate rules to implement the**
87 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
88 **536.010, that is created under the authority delegated in this section shall become effective**
89 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
90 **applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of**
91 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
92 **the effective date, or to disapprove and annul a rule are subsequently held**
93 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
94 **after August 28, 2019, shall be invalid and void.**

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