

# HOUSE BILL NO. 1892

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

4581H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 577.665, RSMo, and to enact in lieu thereof one new section relating to tanning facilities, 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Section A. Section 577.665, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.665, to read as follows:

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

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

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

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

~~[(2)]~~ (4) "Tanning facility", any location, place, area, structure, or business ~~[which]~~ **that provides persons access to any tanning device [for] , including, but not limited to, tanning salons, health clubs, and apartments and condominiums with tanning devices communally available to residents, regardless of whether a fee[, membership dues, or any other form of compensation] is charged for access to the tanning equipment.**

2. ~~[Prior to any person less than seventeen years of age using a tanning device in a tanning facility, a parent or guardian of such person shall annually appear in person at the tanning~~

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.

18 facility and sign a written statement acknowledging that the parent or guardian has read and  
19 understands the warnings given by the tanning facility and consents to the person's use of a  
20 tanning device at the tanning facility.

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

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

32 **3. The provisions of this section shall not apply to any physician who is duly  
33 licensed to practice medicine in this state and who, in the practice of medicine, uses or  
34 prescribes to be used a phototherapy device with respect to a patient of any age. The  
35 provisions of this section shall also not apply to any person of any age who uses a  
36 phototherapy device under the direction of a physician under this subsection.**

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

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

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

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

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

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

52 **(1) No customer under eighteen years of age is permitted to use a tanning device  
53 within the tanning facility. Proof of age shall be satisfied with a valid driver's license or**

54 **other government-issued identification containing the date of birth and photograph of the**  
55 **individual;**

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

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

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

63 **6. (1) Any [tanning facility that] owner, lessee, or operator who violates [the**  
64 **provisions] a provision of this section or any rule promulgated thereunder shall be subject**  
65 **to a fine of [one] no more than two hundred fifty dollars for [a] the first violation[, two hundred**  
66 **fifty dollars for a second violation, and] and no more than five hundred dollars for each**  
67 **subsequent violation. Every use of a tanning device in a tanning facility in violation of this**  
68 **section is a separate offense.**

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

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

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

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

83 **9. The department of health and senior services and the department of commerce**  
84 **and insurance shall promulgate rules to implement the provisions of this section. Any rule**  
85 **or portion of a rule, as that term is defined in section 536.010, that is created under the**  
86 **authority delegated in this section shall become effective only if it complies with and is**  
87 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
88 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**  
89 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**

90 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
91 **authority and any rule proposed or adopted after August 28, 2020, shall be invalid and**  
92 **void.**

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