

FIRST REGULAR SESSION

SENATE BILL NO. 482

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 25, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1934S.011

AN ACT

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

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 known as sections 324.300, 324.303, 324.306, 324.309, 324.312, 324.315, 324.318, 324.321, and 324.324, to read as follows:

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

(1) "Director", the director of the department of health and senior services;

(2) "Department", the department of health and senior services;

(3) "Photo-therapy device", equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease;

(4) "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;

(5) "Tanning facility", any location, place, area, structure, or business which provides persons access to any tanning device for a fee, membership dues, or any other form of compensation.

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

324.306. 1. A tanning facility shall provide each consumer with

2 a written warning statement requiring their signature prior to initial
3 exposure and before renewals of contracts. The warning statement
4 shall include the following:

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

7 (2) Overexposure to ultraviolet light causes burns;

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

10 (4) Abnormal skin sensitivity or burning may be caused by
11 reactions of ultraviolet light to certain tattoos or medications; and

12 (5) A person with a family or past medical history of skin cancer
13 should avoid a tanning device.

14 2. The tanning facility shall post a warning sign in a place
15 readily visible to persons entering the establishment. The sign shall
16 have dimensions not less than eleven inches by seventeen
17 inches. Lettering shall be clear and legible. The warning shall state
18 that:

19 (1) Tanning devices use ultraviolet radiation which poses a
20 potential danger;

21 (2) Follow the manufacturer's instructions for use of this device;

22 (3) Avoid overexposure. As with natural sunlight, overexposure
23 can cause eye and skin injury and allergic reactions. Repeated
24 exposure to ultraviolet radiation may cause chronic sun damage
25 characterized by wrinkling, dryness, fragility, bruising of the skin, and
26 skin cancer;

27 (4) Do not sunbathe before or after exposure to ultraviolet
28 radiation from this device;

29 (5) Wear protective eyewear. Failure to use protective eyewear
30 may result in severe burns or permanent injury to the eyes;

31 (6) Medications or cosmetics may increase your sensitivity to the
32 ultraviolet radiation. Consult a physician before using this device if
33 you are using medications, have a history of skin problems, or believe
34 you are especially sensitive to sunlight. Women who are pregnant or
35 are taking oral contraceptives and use this device may develop
36 discolored skin;

37 (7) If you do not tan in the sun, you are unlikely to tan from use
38 of an ultraviolet lamp or sunlamp.

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

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

324.309. 1. A tanning facility shall:

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

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

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

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

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

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

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

28 **2. Every person who uses a tanning facility shall sign a written**
29 **statement acknowledging that he or she has read and understands the**
30 **warnings provided in section 324.306 before using the device and**
31 **agrees to use the protective eyewear that the tanning facility**

32 provides. The statement of acknowledgment shall be retained by the
33 tanning facility until the end of the person's contract or membership
34 year at which time such person shall be required to renew such
35 acknowledgment as a condition of continued use of the facility.

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

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

40 5. Before any person under the age of eighteen uses a tanning
41 device, his or her parent or guardian shall sign a written statement
42 acknowledging that the parent or legal guardian has read and
43 understands the warnings given by the tanning facility and consents to
44 the minor's use of a tanning device.

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

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

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

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

10 (3) Inspection of tanning facilities; and

11 (4) Any other matter necessary for the administration of sections
12 324.300 to 324.324.

13 2. Any rule or portion of a rule, as that term is defined in section
14 536.010, RSMo, that is created under the authority delegated in sections
15 324.300 to 324.324 shall become effective only if it complies with and is
16 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
17 section 536.028, RSMo. Sections 324.300 to 324.324 and chapter 536,
18 RSMo, are nonseverable and if any of the powers vested with the
19 general assembly pursuant to chapter 536, RSMo, to review, to delay
20 the effective date, or to disapprove and annul a rule are subsequently
21 held unconstitutional, then the grant of rulemaking authority and any
22 rule proposed or adopted after August 28, 2009, shall be invalid and

23 void.

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

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

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

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

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

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

6 (2) Personal use in a private residence; or

7 (3) Devices intended for purposes other than tanning or the

8 irradiation of human skin.

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

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