

FIRST REGULAR SESSION

# SENATE BILL NO. 419

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time February 20, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1800S.01I

## 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Section A. Section 577.665, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.665, to read as follows: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. **The term "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 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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

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

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

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

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

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

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

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

54           **(4) The health risks associated with tanning including, but not**  
55 **limited to, skin cancer, premature aging of the skin, burns to the skin,**

56 and adverse reactions to certain medications, foods, and cosmetics.

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

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

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

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

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

71       **6. (1) Any [tanning facility that] owner, lessee, or operator who**  
72 **violates [the provisions] a provision of this section or any rule promulgated**  
73 **thereunder shall be subject to a fine of [one] not more than two hundred**  
74 **fifty dollars for [a] the first violation[, two hundred fifty dollars for a second**  
75 **violation, and] and not more than five hundred dollars for each subsequent**  
76 **violation. Every use of a tanning device in a tanning facility in violation of this**  
77 **section is a separate offense.**

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

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

85       **7. Except as otherwise provided by law, every tanning facility**  
86 **shall be required to obtain a permit from the department of insurance,**  
87 **financial institutions and professional registration. The holder of such**  
88 **permit shall provide any necessary information and pay any fees**  
89 **associated with such permit as required by the department of**  
90 **insurance, financial institutions and professional registration. The**  
91 **holder of such permit shall display the permit in a conspicuous location**  
92 **at the tanning facility for which the permit is issued. Permits issued**

93 under this subsection shall expire annually.

94           8. This section shall not preempt local ordinances that provide  
95 for more restrictive regulation of tanning facilities than required under  
96 this section.

97           9. The department of health and senior services and the  
98 department of insurance, financial institutions and professional  
99 registration shall promulgate rules to implement the provisions of this  
100 section. Any rule or portion of a rule, as that term is defined in section  
101 536.010 that is created under the authority delegated in this section  
102 shall become effective only if it complies with and is subject to all of  
103 the provisions of chapter 536, and, if applicable, section 536.028. This  
104 section and chapter 536 are nonseverable and if any of the powers  
105 vested with the general assembly pursuant to chapter 536, to review, to  
106 delay the effective date, or to disapprove and annul a rule are  
107 subsequently held unconstitutional, then the grant of rulemaking  
108 authority and any rule proposed or adopted after August 28, 2019, shall  
109 be invalid and void.

Bill ✓

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