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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 23. Tanning Facilities [22700 - 22708] (*Chapter 23 added by Stats. 1988, Ch. 808, Sec. 1.*)

22700. This chapter shall be known and may be cited as the Filante Tanning Facility Act of 1988.

(*Added by Stats. 1988, Ch. 808, Sec. 1.*)

22701. The Legislature finds and declares:

(a) Many physicians and scientists now warn that the risks associated with suntanning are greater when tanning with artificial ultraviolet light.

(b) These risks include, but are not limited to, sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system.

(c) Certain medications, cosmetics, and foods are "photosensitizing," which means that in some people they react unfavorably with ultraviolet light to produce skin rashes or burns.

(d) Sunlamps and other artificial sources of ultraviolet light are known to intensify these effects.

(e) The creation of state law to protect and promote the public health, safety, and welfare is needed concerning tanning with artificial ultraviolet light.

(*Amended by Stats. 2006, Ch. 538, Sec. 31. Effective January 1, 2007.*)

22702. As used in this chapter:

(a) "Tanning facility" means any location, place, area, structure, or business that provides persons access to any tanning device.

(b) "Department" means the Department of Consumer Affairs.

(c) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(d) "Tanning device" means an ultraviolet tanning device and any accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

(e) "Ultraviolet tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including, but not limited to, a sunlamp, tanning booth, or tanning bed.

(*Amended by Stats. 2007, Ch. 590, Sec. 1. Effective January 1, 2008.*)

22703. This chapter does not apply to a phototherapy device used by or under the direct supervision of a licensed physician who is trained in the use of phototherapy devices.

(*Added by Stats. 1988, Ch. 808, Sec. 1.*)

22704. Any tanning device used by a tanning facility shall comply with all applicable federal laws and regulations.

(*Added by Stats. 1988, Ch. 808, Sec. 1.*)

22705. (a) A tanning facility shall give each customer, prior to the customer's use of an ultraviolet tanning device, a written statement warning that:

- (1) Not wearing the eye protection provided to the customer by the tanning center may cause damage to the eyes.

(2) Overexposure causes burns.

(3) Repeated exposure may cause premature aging of the skin and skin cancer.

(4) Abnormal skin sensitivity or burning may be caused by certain:

(A) Foods.

(B) Cosmetics.

(C) Medications, including, but not limited to, the following:

(i) Tranquilizers.

(ii) Diuretics.

(iii) Antibiotics.

(iv) High blood pressure medicines.

(v) Birth control pills.

(5) Any person taking a prescription or over-the-counter drug should consult a physician before using an ultraviolet tanning device.

(6) Any person with skin that burns easily should avoid an ultraviolet tanning device.

(7) Any person with a family history or past medical history of skin cancer should avoid an ultraviolet tanning device.

(b) A tanning facility shall conspicuously post a warning sign in any area where an ultraviolet tanning device is used that is readily visible to a person using an ultraviolet tanning device. The sign shall read as follows:

DANGER: ULTRAVIOLET RADIATION

1. Follow instructions.

2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR

MAY RESULT IN SEVERE BURNS OR

LONG-TERM INJURY TO THE EYES.

4. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN YOU WILL

NOT TAN FROM USE OF THIS DEVICE.

(c) A tanning facility may include in the warning sign described in subdivision (b) the following statement: "Spray on tans and other sunless tanning products are not subject to the same effects as ultraviolet tanning devices."

(d) A tanning facility shall not claim, or distribute promotional materials that claim, that using an ultraviolet tanning device is safe or free from risk or that indoor tanning has any known health benefits.

(e) The liability of a tanning facility operator or a manufacturer of an ultraviolet tanning device is not changed by giving the warning under this section.

(Amended by Stats. 2007, Ch. 590, Sec. 2. Effective January 1, 2008.)

22706. (a) A tanning facility shall:

(1) Have an operator present during operating hours who is sufficiently knowledgeable in the correct operation of the tanning devices used at the facility so that he or she is able to inform and assist each customer in the proper use of the tanning devices.

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

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

(4) Use a timer on an ultraviolet tanning device that has an accuracy of plus or minus 10 percent of any selected timer interval. The timer shall also be remotely located so that customers cannot set their own exposure time.

(5) Limit each customer using an ultraviolet tanning device to the maximum exposure time as recommended by the manufacturer.

(6) Control the interior temperature of a tanning facility so that it does not exceed 100 degrees Fahrenheit.

(b) (1) Every person who uses a tanning facility shall sign a written statement acknowledging that he or she has read and understood the warnings before using the device; and agrees to use the protective eyewear that the tanning facility provides. The statement of acknowledgment shall be retained by the tanning facility until the end of the calendar year at which time each person who is a current customer of the facility shall be required to renew that acknowledgment.

(2) Whenever using a tanning device a person shall use the protective eyewear that the tanning facility provides.

(3) Persons under 18 years of age are prohibited from using an ultraviolet tanning device.

(4) Proof of age shall be satisfied with a driver's license or other government issued identification containing the date of birth and a photograph of the individual.

(Amended by Stats. 2011, Ch. 664, Sec. 2. (SB 746) Effective January 1, 2012.)

22707. If a patron is injured whereupon he or she must seek medical attention, a tanning facility shall do the following:

(a) Report any injury to the department.

(b) Send a copy of the injury report to the person who is injured.

(c) Send a copy of the injury report to the Federal Food and Drug Administration.

(Added by Stats. 1988, Ch. 808, Sec. 1.)

22708. (a) A first violation of this chapter is an infraction. Each day a first violation continues constitutes a separate infraction.

(b) Any violation of this chapter subsequent to a first violation is a misdemeanor. Each day a subsequent violation continues constitutes a separate misdemeanor.

(c) A tanning facility that has violated this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day in addition to any other penalty established by law.

(Amended by Stats. 2004, Ch. 758, Sec. 3. Effective January 1, 2005.)