

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1154

Introduced by

Representative Keiser

Senator Kilzer

1 A BILL for an Act to create and enact chapter 23-39 of the North Dakota Century Code, relating
2 to regulation of tanning facilities; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 23-39 of the North Dakota Century Code is created and enacted
5 as follows:

6 **23-39-01. Definitions.** As used in this chapter, unless the context otherwise requires:

- 7 1. "Department" means the state department of health.
8 2. "Phototherapy device" means equipment that emits ultraviolet radiation and is used
9 in treating disease.
10 3. "Tanning device" means equipment that emits electromagnetic radiation having
11 wavelengths in the air between two hundred and four hundred nanometers and
12 which is used for tanning of human skin and any equipment used with that
13 equipment, including protective eyewear, timers, and handrails. The term does not
14 include a phototherapy device used by a physician.
15 4. "Tanning facility" means a place or business that provides individuals access to a
16 tanning device.

17 **23-39-02. Permit - Fee.** A person may not operate a tanning facility without a permit
18 issued by the department under this chapter. The holder of a permit shall display the permit in
19 a conspicuous place at the tanning facility for which the permit is issued. Permits issued under
20 this chapter expired annually on June thirtieth. An applicant for a permit shall submit an
21 application for a permit to the department, on a form provided by the department, with a permit
22 fee established by the department. The application must include the name and complete
23 mailing address and street address of the tanning facility and any other information reasonably
24 required by the department for the administration of this section.

23-39-03. Advertising - Notice - Warning sign - Tubes - Prohibited claims.

1. A tanning facility may not state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.
2. A tanning facility shall give to each of the tanning facility's customers written notice of the following:
 - a. Failure to wear the eye protection provided by the tanning facility may result in damage to the customer's eyes and may cause cataracts;
 - b. Overexposure to a tanning device causes burns;
 - c. Repeated exposure to a tanning device may cause premature aging of the skin and may cause skin cancer;
 - d. Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by:
 - (1) Certain foods;
 - (2) Certain cosmetics; and
 - (3) Certain medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, and birth control pills; and
 - e. An individual who takes a drug should consult a physician before using a tanning device.
3. A tanning facility shall display prominently a warning sign in each area where a tanning device is used. The warning sign must convey the following directions and information:
 - a. Follow instructions.
 - b. Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of a tanning device can cause eye and skin injury and allergic reactions.
Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.
 - c. Wear protective eyewear.
 - d. Ultraviolet radiation from tanning devices will aggravate the effects of the sun, so do not sunbathe during the twenty-four hours immediately preceding or immediately following the use of a tanning device.

e. Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems, or believe that you are especially sensitive to sunlight. Women who are pregnant or using birth control pills and who use a tanning device may develop discolored skin.

f. If your skin does not tan when exposed to the sun, it is unlikely that your skin will tan when exposed to this tanning device.

4. A tanning facility shall post a sign in each area where a tanning device is used stating the date on which each fluorescent tube in that tanning device was last replaced. The tanning facility shall maintain a record of the date on which each fluorescent tube is replaced.

5. An owner or employee of a tanning facility may not claim, or distribute materials that claim, that using a tanning device is free of risk.

23-39-04. Liability. A tanning facility's compliance with this chapter does not relieve the owner or any employee of the tanning facility from liability for injury sustained by a user of a tanning device.

23-39-05. Duties.

1. The owner of a tanning facility shall ensure that all of the following are fulfilled:

a. A customer under sixteen years of age is not permitted to use the tanning facility.

b. During operating hours there is present at the tanning facility a trained operator who is able to inform customers about, and assist customers in, the proper use of tanning devices.

c. Each tanning bed is properly sanitized after each use.

d. A customer, before using a tanning device, is provided with properly sanitized and securely fitting protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance.

e. A customer is not allowed to use a tanning device unless the customer uses protective eyewear.

- f. A customer is shown how to use such physical aids as handrails and markings on the floor to determine the proper distance from the tanning device.
- g. A timing device that is accurate within ten percent is used.
- h. Each tanning device is equipped with a mechanism that allows the customer to turn off the tanning device.
- i. A customer is limited to the maximum exposure time recommended by the manufacturer.
- j. A customer is not allowed to use a tanning device more than once every twenty-four hours.
- k. The interior temperature of the tanning facility does not exceed one hundred degrees Fahrenheit.
- l. The statements under subdivision a of subsection 2 are retained by the tanning facility for the lesser of three years or until the customer signs a new statement.

2. A user of a tanning facility shall do all of the following:

- a. Immediately before the customer's first use of a tanning facility in a year, sign a statement acknowledging that the customer has read and understands the notice under subsection 2 of section 23-39-03 and the warning sign under subsection 3 of section 23-39-03 and specifying that the customer agrees to use protective eyewear.
- b. Use protective eyewear at all times while using a tanning device.

23-39-06. Injury reports. If an individual requires medical attention due to use of a tanning facility, the owner of that tanning facility shall report that injury to the department in writing and send a copy of that report to the injured individual. The owner of the tanning facility shall retain a copy of the report for at least three years.

23-39-07. Enforcement - Rules - Penalty. The department shall enforce this chapter. The state health council shall adopt rules necessary to implement this chapter. The department may deny issuance of a permit to an applicant or suspend or revoke any permit issued under this chapter if the applicant or permitholder, or an employee of the applicant or permitholder,

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- 1 violates this chapter or any rule adopted to implement this chapter. Violation of this chapter or
- 2 any rule adopted to implement this chapter is a class B misdemeanor.