

HOUSE BILL NO. 1077

Introduced by

Representatives Grande, Dosch, R. Kelsch, Delmore

Senators Lyson, Seymour

1 A BILL for an Act to amend and reenact section 23-39-05 of the North Dakota Century Code,
2 relating to the operation of tanning facilities not having trained operators onsite.

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

4 **SECTION 1. AMENDMENT.** Section 23-39-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-39-05. Duties - Exception.**

- 7 1. The owner of a tanning facility shall ensure that all of the following are fulfilled:
- 8 a. A customer under eighteen years of age may not be permitted to use the
9 tanning facility until the customer provides the facility with written consent, in a
10 form prescribed by the department, of a parent or legal guardian to use the
11 tanning facility. The consent must indicate that the parent or legal guardian
12 has read the warnings required by this chapter and that the customer agrees
13 to wear food and drug administration-approved protective eyewear. The
14 parent or legal guardian shall provide a notarized statement of consent or sign
15 the consent form in the presence of the owner of the tanning facility or an
16 employee responsible for the operation of the ultraviolet radiation device of
17 the facility. The written consent form expires twelve months from the date
18 signed. A customer under the age of fourteen years may not be allowed to
19 utilize a tanning device at a tanning facility without a written order from a
20 physician licensed in this state and without being accompanied by a parent or
21 legal guardian for every use of the tanning facility.
- 22 b. During operating hours there is present at the tanning facility a trained
23 operator who is able to inform customers about, and assist customers in, the
24 proper use of tanning devices.

- 1 c. Each tanning bed is properly sanitized after each use.
- 2 d. Properly sanitized and securely fitting food and drug administration-approved
- 3 protective eyewear that protects the wearer's eyes from ultraviolet radiation
- 4 and allows enough vision to maintain balance is made available to the
- 5 customer.
- 6 e. A customer is not allowed to use a tanning device unless the customer agrees
- 7 to use food and drug administration-approved protective eyewear.
- 8 f. A customer is shown how to use such physical aids as handrails and
- 9 markings on the floor to determine the proper distance from the tanning
- 10 device.
- 11 g. A timing device that is accurate within ten percent is used.
- 12 h. Each tanning device is equipped with a mechanism that allows the customer
- 13 to turn off the tanning device.
- 14 i. A customer is limited to the maximum exposure time recommended by the
- 15 manufacturer.
- 16 j. A customer is not allowed to use a tanning device more than once every
- 17 twenty-four hours.
- 18 k. The interior temperature of the tanning facility does not exceed one hundred
- 19 degrees Fahrenheit.
- 20 l. The statements under subdivision a of subsection 2 are retained by the
- 21 tanning facility for the lesser of three years or until the customer signs a new
- 22 statement.
- 23 2. A user of a tanning facility shall do all of the following:
- 24 a. Immediately before the customer's first use of a tanning facility in a year, sign
- 25 a statement acknowledging that the customer has read and understands the
- 26 notice under subsection 2 of section 23-39-03 and the warning sign under
- 27 subsection 3 of section 23-39-03 and specifying that the customer agrees to
- 28 use food and drug administration-approved protective eyewear.
- 29 b. Use food and drug administration-approved protective eyewear at all times
- 30 while using a tanning device.

- 1 3. Notwithstanding subdivision b of subsection 1, a tanning facility may operate a
2 tanning device without the presence of a trained operator if:
3 a. The customer using the tanning device without an operator present is at least
4 eighteen years of age.
5 b. At least annually, a trained operator provides the customer with the
6 information and training required under subsection 1.
7 c. During operating hours a trained operator is accessible for the customer to
8 contact telephonically.
9 d. The tanning facility takes adequate precautions to ensure the requirements of
10 subsection 1 are met. A tanning facility operating a tanning device under this
11 subsection shall retain for at least three years documentation of how the
12 requirements of subsection 1 are met.