

Sixty-first
Legislative Assembly
of North Dakota

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.