

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Ross**

# A Bill

**SENATE BILL 556**

## For An Act To Be Entitled

8 "AN ACT RELATING TO THE REGULATION OF TANNING FACILITIES;  
9 PROVIDING CRIMINAL PENALTY; AND FOR OTHER PURPOSES."

10

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12

13 SECTION 1. Short Title. This Act may be cited as "Tanning Facility  
14 Regulation Act".

15

16 SECTION 2. Definitions. In this Act:

17 (a) "Authorized agent" means an employee of department designated by  
18 the *Director* to enforce this Act.

19 (b) "Department" means the Department of Health.

20 (c) "Director" means the Director of the Department of Health.

21 (d) "*Electromagnetic radiation*" means a traveling wave motion resulting  
22 from changing electric or magnetic fields and includes electromagnetic  
23 radiation ranges from x-rays and gamma rays of short wavelength, through the  
24 ultraviolet, visible, and infrared regions, to radar and radio waves of  
25 relatively long wavelength.

26 (e) "*Non-ionizing radiation*" means electromagnetic radiation not  
27 capable of displacing electrons from atoms or molecules.

28 (f) "*Person*" means any individual, corporation, partnership, firm,  
29 association, trust, estate, public or private institution, group, agency,  
30 political subdivision of this state, any other state or political subdivision  
31 or agency thereof, and any legal successor, representative, agent, or agency  
32 of the foregoing, other than agencies of the Government of the United States  
33 or any successor thereto.

34 (g) "*Phototherapy device*" means a piece of equipment that emits  
35 ultraviolet radiation and that is used by a health professional in the

1 treatment of disease.

2 (h) "Tanning device" means any equipment that emits electromagnetic  
3 radiation with wavelengths in the air between 200 and 400 nanometers and that  
4 is used for tanning of human skin including, but not limited to, a sunlamp,  
5 tanning booth, or tanning bed. The term includes any accompanying equipment,  
6 including protective eyewear, timers, and handrails.

7 (i) "Tanning facility" means a business that provides persons access to  
8 tanning devices.

9

10 SECTION 3. Application of Act. This Act does not apply to a  
11 phototherapy device used by or under the supervision of a licensed physician  
12 trained in the use of phototherapy devices. *Furthermore, the provision of*  
13 *this Act shall not apply within the corporate boundaries of any city in this*  
14 *State which contains a National Park.*

15

16 SECTION 4. Compliance with federal law. A tanning device used by a  
17 tanning facility must comply with all applicable federal laws and regulations.

18

19 SECTION 5. Notice: Liability. (a) A tanning facility shall give each  
20 customer a written statement warning that:

21 (1) failure to use the eye protection provided to the customer by  
22 the tanning facility may result in damage to the eyes;

23 (2) overexposure to ultraviolet light causes burns;

24 (3) repeated exposure may result in premature aging of the skin  
25 and skin cancer;

26 (4) abnormal skin sensitivity or burning may be caused by  
27 reactions of ultraviolet light to certain:

28 (A) foods;

29 (B) cosmetics; or

30 (C) medications, including:

31 (i) tranquilizers;

32 (ii) diuretics;

33 (iii) antibiotics;

34 (iv) high blood pressure medicines; or

35 (v) birth control pills; and

36 (5) any person taking a prescription or over-the-counter drug

1 should consult a physician before using a tanning device.

2 (b) Compliance with the notice requirements does not affect the  
3 liability of a tanning facility operator or a manufacturer of a tanning  
4 device.

5

6 SECTION 6. Warning signs. A tanning facility shall post a warning sign  
7 in a conspicuous location where it is reasonably visible by persons entering  
8 the establishment. The sign shall have dimensions of no less than 36 inches  
9 to a side and shall contain the following wording:

10 DANGER: ULTRAVIOLET RADIATION

11 Repeated exposure to ultraviolet radiation may cause chronic sun damage  
12 characterized by wrinkling, dryness, fragility, bruising of the skin, and skin  
13 cancer.

14 Failure to use protective eyewear may result in severe burns or  
15 permanent injury to the eyes.

16 Medications or cosmetics may increase your sensitivity to ultraviolet  
17 radiation. Consult a physician before using a sunlamp if you are using  
18 medications, have a history of skin problems, or believe you are especially  
19 sensitive to sunlight. Pregnant women or women taking oral contraceptives who  
20 use this product may develop discolored skin.

21 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN  
22 FROM USE OF AN ULTRAVIOLET OR SUNLAMP.

23

24 SECTION 7. Prohibited act. A tanning facility may not claim, or  
25 distribute promotional materials that claim, that using a tanning device is  
26 safe or free from risk.

27

28 SECTION 8. Operational requirements. (a) A tanning facility shall  
29 have an operator present during operating hours. The operator must be  
30 sufficiently knowledgeable in the correct operation of the tanning devices  
31 used at the facility that the operator may inform and assist each customer in  
32 the proper use of the tanning devices.

33 (b) Before each use of a tanning device, the operator shall provide the  
34 customer with properly sanitized protective eyewear that protects the eyes  
35 from ultraviolet radiation and allows adequate vision to maintain balance.

1 The operator may not allow a person to use a tanning device if that person  
2 does not use the protective eyewear. The operator shall also show each  
3 customer how to use suitable physical aids, such as handrails and markings on  
4 the floor, to maintain proper exposure distance as recommended by the  
5 manufacturer of the tanning device.

6 (c) The tanning facility shall use a timer with an accuracy of at least  
7 plus or minus 10 percent of any selected time interval. The facility shall  
8 limit the exposure time of a customer on a tanning device to the maximum  
9 exposure time recommended by the manufacturer. The facility shall control the  
10 interior temperature of a tanning device so that it may not exceed 100 degrees  
11 Fahrenheit.

12 (d) Before any person under 18 years of age uses a tanning device, the  
13 person shall give the tanning facility a statement signed by the person's  
14 parent or legal guardian stating that the parent or legal guardian has read  
15 and understood the warnings given by the tanning facility, consents to the  
16 minor's use of a tanning device, and agrees that the minor will use the  
17 protective eyewear that the tanning facility provides.

18  
19 SECTION 9. Rules: Inspection and Reporting. (a) *The Department of*  
20 *Health* may adopt rules as necessary to implement this Act.

21 (b) The director or an authorized agent shall have access at all  
22 reasonable times to any tanning facility to inspect the facility to determine  
23 if this Act is being violated.

24  
25 SECTION 10. *Penalties.*

26 (a) *Any person who willfully violates any of the provisions of this Act*  
27 *or rules, regulations, or orders in effect pursuant thereto of the Department*  
28 *shall upon conviction be punished by a fine of not less than one hundred*  
29 *dollars (\$100) nor more than two thousand dollars (\$2,000) or by imprisonment*  
30 *for not more than six (6) months, or by both fine and imprisonment.*

31 (b) *Each day of violation shall be considered a separate offense and*  
32 *shall be punishable as such.*

33  
34 SECTION 11. *Enforcement.*

35 (a) *The Department or its authorized representatives shall have the*

1 power to enter at all reasonable times upon any private or public property on  
2 or in which tanning devices are being manufactured, distributed, used, or  
3 repaired for the purpose of determining whether or not there is compliance  
4 with, or violation of, the provisions of this Act and rules and regulations  
5 issued thereunder. However, entry into areas under the jurisdiction of the  
6 federal government shall be effected only with the concurrence of the federal  
7 government or its designated representative.

8 (b) The Department shall have the authority in the event of an  
9 emergency to impound or order the impounding of tanning devices in the  
10 possession of any person who is not equipped to observe or fails to observe  
11 the provisions of this Act or any rules or regulations issued thereunder.

12 (c) Whenever, in the judgment of the Department, any person has engaged  
13 in or is about to engage in any acts or practices which constitute or will  
14 constitute a violation of any provision of this Act or any rule, regulation,  
15 or order issued thereunder, and at the request of the Department, the Attorney  
16 General may make application to a court of competent jurisdiction for an order  
17 enjoining those acts or practices, or for an order directing compliance, and,  
18 upon a showing by the Department that the person has engaged in or is about to  
19 engage in any such acts or practices, a permanent or temporary injunction,  
20 restraining order, or other order may be granted.

21

22 SECTION 12. Administrative proceedings.

23 (a) In any of the proceedings under this Act, the Department shall  
24 afford an opportunity for a hearing on the record upon the request of any  
25 person whose interest may be affected by the proceeding and shall admit the  
26 person as a party to the proceeding:

27 (1) For the issuance or modification of rules and regulations relating  
28 to radiation from tanning devices; or

29 (2) For granting, suspending, revoking, or amending any license; or

30 (3) For determining compliance with or granting exceptions from rules  
31 and regulations of the Department.

32 (b) Whenever the Department finds that an emergency exists requiring  
33 immediate action to protect the public health and safety, the Department may,  
34 without notice or hearing, issue a regulation or order reciting the existence  
35 of an emergency and requiring that such action be taken as is necessary to

1 meet the emergency.

2 (1) Notwithstanding any provision of this Act, the regulation or order  
3 shall be effective immediately.

4 (2) Any person to whom the regulation or order is directed shall comply  
5 therewith immediately but, on application to the Department within ten (10)  
6 days, shall be afforded a hearing within thirty (30) days.

7 (3) On the basis of the hearing, the emergency regulation or order  
8 shall be continued, modified, or revoked within thirty (30) days after the  
9 hearing.

10 (c) Any final order entered in any proceeding under this Act may be  
11 appealed within twenty (20) days from the date of receipt thereof to the  
12 Circuit Court of Pulaski County.

13

14 SECTION 13. Permits. (a) A person may not operate a tanning facility  
15 without a current and valid permit to operate the facility that is issued by  
16 the department.

17 (b) The permit shall be displayed in an open public area of the tanning  
18 facility.

19 (c) On application, on forms provided by the department for this  
20 purpose, and on receipt of renewal fees, permits shall be renewed annually by  
21 the board.

22 (d) The department by rule may adopt a system under which permits  
23 expire on various dates during the year. As part of this system the annual  
24 renewal fees may be prorated on a monthly basis to reflect the actual number  
25 of months the permit is valid.

26 (e) The department may revoke, cancel, suspend, or probate a permit to  
27 operate a tanning facility for any of the following reasons:

28 (1) a failure to pay a permit fee or an annual renewal fee for a  
29 permit;

30 (2) the applicant obtained or attempted to obtain a permit by  
31 fraud or deception;

32 (3) a violation of any of the provisions of this Act;

33 (4) a violation of a rule or regulation of the department adopted  
34 under this Act.

35



- 1
- 2
- 3
- 4
- 5
- 6