

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND NINETEEN

H.P. 940 - L.D. 1297

An Act To Reduce Youth Cancer Risk

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §689-A is enacted to read:

§689-A. Tanning facilities; minors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Operator" means a person designated by the owner of a tanning facility or the lessee of a tanning device to operate, or to assist and instruct in the operation and use of, a tanning facility or tanning device.

B. "Phototherapy device" means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.

C. "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in air between 200 and 400 nanometers that is used for the tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails. "Tanning device" includes a sunlamp, tanning booth or tanning bed but does not include a phototherapy device used or prescribed for use by a physician.

D. "Tanning facility" means a location, place, area, structure or business that provides persons access to a tanning device, including tanning salons, health clubs, apartments and condominiums, regardless of whether a fee is charged for access to the tanning device.

2. Prohibition. An owner of a tanning facility, a lessee of a tanning device or an operator may not allow an individual under 18 years of age to use a tanning device. Proof of age may be satisfied with a driver's license or other government-issued identification containing the date of birth and a photograph of the individual.

3. Notice. An owner of a tanning facility or a lessee of a tanning device shall post in a conspicuous place in the tanning facility notice, in a form developed by the department:

A. That it is unlawful for a tanning facility, a lessee of a tanning device or an operator to allow an individual under 18 years of age to use a tanning device;

B. That a tanning facility, a lessee of a tanning device or an operator that violates the provisions of this section is subject to penalties;

C. That an individual may report a violation of this section to the local law enforcement agency or radiation control program of the Maine Center for Disease Control and Prevention; and

D. That the health risks associated with tanning include but are not limited to skin cancer, premature aging of the skin, burns to the skin and adverse reactions to certain medications, foods and cosmetics.

Failure to post a notice in accordance with this subsection is a violation of this section.

**4. Written statement.** An owner of a tanning facility, a lessee of a tanning device or an operator shall provide to every customer prior to that customer's first use in that calendar year of that particular tanning device a written statement that must be signed by the customer prior to use of the tanning device. The statement must be developed by the department and must include:

A. The information required in the notice set forth in subsection 3;

B. An acknowledgment signed by the customer indicating that the customer understands the notice posted in accordance with subsection 3 and the information set forth pursuant to paragraph A; and

C. An agreement that the customer will use protective eyewear.

Failure to provide a written statement in accordance with this subsection is a violation of this section.

**5. Duties of owner.** An owner of a tanning facility, a lessee of a tanning device or an operator shall ensure that:

A. An individual under 18 years of age is not permitted to use the tanning facility;

B. There is present at the tanning facility during its hours of operation an operator who is able to inform customers about, and assist customers in, the proper use of tanning devices;

C. Each tanning device is properly sanitized after each use;

D. Before a customer uses a tanning device, the customer is provided, at no cost, with properly sanitized and securely fitting protective eyewear that protects the customer'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 physical aids including handrails and markings on the floor to maintain a proper exposure distance from the tanning device as recommended by the manufacturer;

G. A timing device that is accurate within 10% of any selected timer interval is used and is remotely located so customers cannot set their own exposure time;

H. Each tanning device is equipped with a mechanism that allows the customer to turn the tanning device off;

I. A customer is limited to the maximum exposure time recommended by the manufacturer for that customer's skin type;

J. A customer is not allowed to use a tanning device more than once every 24 hours;

K. The interior temperature of the tanning facility does not exceed 100 degrees Fahrenheit; and

L. The following records are maintained: copies of all consent forms signed by customers; a record of a customer's total number of uses of a tanning device at the facility; the dates and durations of uses of a tanning device; and any injury reports for a period of 3 years after tanning device use for each customer.

Failure to act in accordance with this subsection is a violation of this section.

**6. Duties of customer.** A customer may not use a tanning device of a tanning facility unless the customer:

A. Immediately before the customer's first use of a unique tanning facility in a year, signs a statement acknowledging that the customer has read and understands the notice and the information required under this section and specifying that the customer agrees to use protective eyewear; and

B. Uses protective eyewear at all times while using a tanning device.

**7. Certificate of registration.** A person may not operate a tanning facility without first obtaining from the department a certificate of registration. The registrant shall display the certificate of registration in a conspicuous place at the tanning facility. A certification of registration issued under this subsection expires annually.

**8. Violation; penalty.** Notwithstanding section 690, subsection 1, a person who violates this section is not subject to the criminal penalties under section 690, subsection 1 but is subject to civil penalties in accordance with section 690, subsection 2. Violation may also result in suspension or revocation of a registration issued in accordance with subsection 7.

**9. Local ordinance.** This section does not preempt local ordinances that provide for more restrictive regulation of tanning facilities than required in this section or rules adopted pursuant to subsection 10.

**10. Rulemaking.** The department shall adopt rules to implement this section and otherwise regulate tanning facilities. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Department of Health and Human Services to amend rules.** No later than February 1, 2020, the Department of Health and Human Services shall amend

its rules in 10-144 C.M.R. Chapter 223 to be consistent with the Maine Revised Statutes, Title 22, section 689-A.