

1991 Assembly Bill 174

Date of enactment: **April 16, 1992**
Date of publication*: **April 30, 1992**

1991 WISCONSIN ACT 192

AN ACT to create 146.08 of the statutes, **relating to:** regulating the operation and use of tanning facilities, granting rule-making authority and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.08 of the statutes is created to read:
146.08 Tanning facilities. (1) **DEFINITIONS.** In this section:

(a) "Phototherapy device" means equipment that emits ultraviolet radiation and is used in treating disease.

(b) "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails, except that "tanning device" does not include a phototherapy device used by a physician.

(c) "Tanning facility" means a place or business that provides persons access to a tanning device.

(2) **PERMITS.** (a) No person may operate a tanning facility without a permit issued by the department under this subsection. The holder of a permit issued under this subsection shall display the permit in a conspicuous place at the tanning facility for which the permit is issued.

(b) Permits issued under this subsection shall expire annually on June 30. A permit applicant shall submit an application for a permit to the department on a form provided by the department with a permit fee established by the department by rule. The application shall include the name and complete mailing address and street address of the tanning facility and any other information reasonably required by the department for the administration of this section.

(3) **ADVERTISING.** No tanning facility may state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.

(4) **NOTICE.** Each tanning facility shall give to each of its customers written notice of all of the following:

(a) Failure to wear the eye protection provided by the tanning facility may damage the customer's eyes and 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 skin cancer.

(d) Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by the following:

1. Certain foods.

2. Certain cosmetics.

3. Certain medications, including but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines and birth control pills.

(e) Any person who takes a drug should consult a physician before using a tanning device.

(5) **WARNING SIGN.** Each tanning facility shall prominently display a warning sign in each area where a tanning device is used. That sign shall 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.

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(c) Wear protective eyewear.

(d) Ultraviolet radiation from tanning devices will aggravate the effects of the sun, so do not sunbathe during the 24 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.

(6) **TUBE REPLACEMENT.** Each 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.

(7) **CLAIMS PRECLUDED.** No owner or employe of a tanning facility may claim, or distribute materials that claim, that using a tanning device is free of risk.

(8) **LIABILITY.** A tanning facility's compliance with the requirements of subs. (4) and (5) does not relieve the owner or any employe of the tanning facility from liability for injury sustained by a customer from the use of a tanning device.

(9) **DUTIES OF OWNER.** The owner of a tanning facility shall ensure that all of the following requirements are fulfilled:

(a) No customer under 16 years of age is 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) Each customer, before he or she begins to use 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) Customers are not allowed to use a tanning device unless the customer uses protective eyewear.

(f) Each 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 10% is used.

(h) Each tanning device is equipped with a mechanism that allows the customer to turn the tanning device off.

(i) Each customer is limited to the maximum exposure time recommended by the manufacturer.

(j) Customers are 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.

(L) The statements under sub. (10) (a) are retained for 3 years or until the customer signs a new statement.

(10) **DUTIES OF USER.** 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 he or she has read and understands the notice under sub. (4) and the warning sign under sub. (5) and specifying that the customer agrees to use protective eyewear.

(b) Use protective eyewear at all times while using a tanning device.

(11) **INJURY REPORTS.** If a person 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 person. The owner of the tanning facility shall retain a copy of the report for 3 years.

(12) **RULES.** The department may promulgate rules necessary to administer this section.

(13) **DENIAL, SUSPENSION OR REVOCATION OF PERMITS.** The department may, after a hearing under ch. 227, deny issuance of a permit to an applicant or suspend or revoke any permit issued under sub. (2) if the applicant or permit holder or his or her employe violates sub. (2), (3), (4), (5), (6), (7), (9) or (11) or any rule promulgated thereunder.

(14) **ENFORCEMENT.** The department shall enforce this section.

(15) **PENALTIES.** Any person who violates sub. (2), (3), (4), (5), (6), (7), (9) or (11) or any rule promulgated thereunder may be required to forfeit not less than \$50 nor more than \$250. The court may also revoke a permit issued to any person under sub. (2) if that person or his or her employe violates sub. (3), (4), (5), (6), (7), (9) or (11).

SECTION 2. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 146.08 (2) of the statutes takes effect on the first day of the 7th month beginning after publication.