

AMENDMENTS TO LB132

Introduced by Health and Human Services

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 9 of this act shall be known and
4 may be cited as the Indoor Tanning Facility Act.

5 Sec. 2. For purposes of the Indoor Tanning Facility Act:

6 (1) Board means the Board of Cosmetology, Electrology,
7 Esthetics, Nail Technology, and Body Art;

8 (2) Department means the Division of Public Health of the
9 Department of Health and Human Services;

10 (3) Operator means a person designated by the tanning
11 facility owner or tanning equipment lessee to operate, or to assist
12 and instruct in the operation and use of, the tanning facility or
13 tanning equipment;

14 (4) Tanning equipment means any device that emits
15 electromagnetic radiation with wavelengths in the air between two
16 hundred nanometers and four hundred nanometers and that is used for
17 tanning of the skin. Tanning equipment includes, but is not limited
18 to, a sunlamp, tanning booth, or tanning bed; and

19 (5) Tanning facility means a location, place, area,
20 structure, or business that provides access to tanning equipment.
21 Tanning facility includes, but is not limited to, any tanning
22 business, salon, health club, apartment, or condominium, which has
23 tanning equipment that is made available for public or commercial

1 use, regardless of whether a fee is charged for access to the
2 tanning equipment.

3 Sec. 3. It is the intent of the Legislature that the
4 Indoor Tanning Facility Act be implemented and enforced in a manner
5 that ensures equal treatment of all tanning facilities regardless
6 of the type of business or facility or number of pieces of tanning
7 equipment at the tanning facility.

8 Sec. 4. The Indoor Tanning Facility Act does not apply
9 to:

10 (1) A physician licensed under the Uniform Credentialing
11 Act who uses, in the practice of medicine, medical diagnostic and
12 therapeutic equipment that emits ultraviolet radiation; or

13 (2) Any individual who owns tanning equipment exclusively
14 for personal, noncommercial use.

15 Sec. 5. It shall be unlawful for an operator, an owner of
16 a tanning facility, or a lessee of a tanning facility to allow any
17 person less than sixteen years of age to use tanning equipment at
18 the tanning facility unless the person has a written note from a
19 physician licensed under the Uniform Credentialing Act or licensed
20 in another state. The operator, owner, or lessee shall require
21 proof of age from each person before allowing the person access
22 to tanning equipment. For purposes of this section, proof of age
23 shall include, but not be limited to, a driver's license or other
24 government-issued identification containing the person's date of
25 birth and photograph or digital image.

26 Sec. 6. Any operator, owner of a tanning facility, or
27 lessee of a tanning facility who allows any person less than

1 sixteen years of age to use tanning equipment at the tanning
2 facility without a written note from a physician licensed under the
3 Uniform Credentialing Act or licensed in another state shall be
4 subject to a civil penalty of one hundred dollars to be imposed and
5 collected by the department. The department shall remit the civil
6 penalty to the State Treasurer for distribution in accordance with
7 Article VII, section 5, of the Constitution of Nebraska.

8 Sec. 7. (1) An operator, an owner of a tanning facility,
9 or a lessee of a tanning facility shall post a warning sign in a
10 conspicuous location in the tanning facility where it is readily
11 visible by any person entering the tanning facility. The warning
12 sign shall have black letters which are at least one-fourth inch in
13 height.

14 (2) The warning sign shall include the following
15 information:

16 DANGER - Ultraviolet Radiation

17 Follow instructions.

18 Avoid overexposure. As with natural sunlight,
19 overexposure can cause eye and skin injuries and allergic
20 reactions. Repeated exposure may cause premature aging of the skin
21 and skin cancer.

22 WEAR PROTECTIVE EYEWEAR - Failure to do so may result in
23 severe burns or long term injury to eyes.

24 Medicines or cosmetics can increase your sensitivity to
25 ultraviolet radiation. Consult your physician before using sunlamps
26 if you are using medication or have a history of skin problems or
27 believe yourself to be especially sensitive to sunlight. If you do

1 not tan in the sun, you are unlikely to tan from the use of tanning
2 equipment.

3 It is unlawful for a tanning facility to allow a person
4 under sixteen years of age to use tanning equipment without a
5 doctor's written note.

6 Any person may report a violation of the Indoor Tanning
7 Facility Act to the Department of Health and Human Services.

8 Sec. 8. An operator, an owner of a tanning facility, or a
9 lessee of a tanning facility shall ensure that the tanning facility
10 complies with all applicable federal laws and regulations and the
11 Indoor Tanning Facility Act.

12 Sec. 9. Upon receipt of a complaint regarding a tanning
13 facility, the department, with the recommendation of the board,
14 may inspect any tanning facility during the hours of operation of
15 the tanning facility to ensure compliance with the Indoor Tanning
16 Facility Act.

17 Sec. 10. Section 38-165, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 38-165 A public member of a board appointed under the
20 Uniform Licensing Law prior to December 1, 2008, shall remain
21 subject to the requirements of the original appointment until
22 reappointed under the Uniform Credentialing Act. At the time of
23 appointment and while serving as a board member, a public member
24 appointed to a board on or after December 1, 2008, shall:

- 25 (1) Have been a resident of this state for one year;
26 (2) Remain a resident of Nebraska while serving as a
27 board member;

1 (3) Have attained the age of nineteen years;

2 (4) Represent the interests and viewpoints of the public;

3 (5) Not hold an active credential in any profession or
4 business which is subject to the Uniform Credentialing Act, issued
5 in Nebraska or in any other jurisdiction, at any time during the
6 five years prior to appointment;

7 (6) Not be eligible for appointment to a board which
8 regulates a profession or business in which that person has ever
9 held a credential;

10 (7) Not be or not have been, at any time during the
11 year prior to appointment, an employee of a member of a profession
12 credentialed by the department, of a facility credentialed pursuant
13 to the Health Care Facility Licensure Act, ~~or~~ of a business
14 credentialed pursuant to the Uniform Credentialing Act, or of a
15 business regulated by the board to which the appointment is being
16 made;

17 (8) Not be the parent, child, spouse, or household member
18 of any person presently regulated by the board to which the
19 appointment is being made;

20 (9) Have no material financial interest in the profession
21 or business regulated by such board; and

22 (10) Not be a member or employee of the legislative or
23 judicial branch of state government.

24 Sec. 11. Section 38-1057, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 38-1057 (1) The board shall consist of ten professional
27 members, one owner of a tanning facility as defined in section

1 2 of this act, and two public members appointed pursuant to
2 section 38-158. The professional and public members shall meet the
3 requirements of sections 38-164 and 38-165, respectively.

4 (2) The professional members shall include:

5 (a) One school owner who is also licensed as either a
6 cosmetologist, nail technician, or esthetician;

7 (b) One salon owner who is licensed as a cosmetologist;

8 (c) Two cosmetologists who are not school owners;

9 (d) One nail technician who is not a school owner;

10 (e) One esthetician who is not a school owner;

11 (f) One electrologist;

12 (g) One practitioner of body art;

13 (h) One nail technology instructor or esthetics
14 instructor who is not a school owner; and

15 (i) One cosmetology instructor who is not a school owner.

16 (3) No members of the board who are school owners, salon
17 owners, tanning facility owners, electrologists, nail technicians,
18 instructors, cosmetologists, or practitioners of body art may be
19 affiliated with the same establishment.

20 ~~(4) As the terms of the members serving on December 1,~~
21 ~~2008, expire, successors shall be appointed in accordance with~~
22 ~~subsection (2) of this section.~~

23 Sec. 12. Original sections 38-165 and 38-1057, Reissue
24 Revised Statutes of Nebraska, are repealed.