

E AND R AMENDMENTS TO LB132

Introduced by Murante, 49, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following 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
16 of a tanning facility, or a lessee of a tanning facility to allow
17 any person less than sixteen years of age to use tanning equipment
18 at the tanning facility unless the person is accompanied by a
19 parent or legal guardian. Before each use of tanning equipment by
20 any person less than sixteen years of age, the operator, owner,
21 or lessee shall secure a statement signed at the tanning facility
22 by the minor's parent or legal guardian stating that the person
23 signing the statement is the minor's parent or legal guardian,
24 that the parent or legal guardian has read and understood the
25 warnings given by the tanning facility, that the parent or legal
26 guardian consents to the minor's use of tanning equipment, and
27 that the parent or legal guardian agrees that the minor will use

1 protective eyewear while using the tanning equipment. The operator,
2 owner, or lessee shall require proof of age from each person before
3 allowing the person access to tanning equipment. For purposes of
4 this section, proof of age shall include, but not be limited
5 to, a driver's license or other government-issued identification
6 containing the person's date of birth and photograph or digital
7 image.

8 Sec. 6. Any operator, owner of a tanning facility, or
9 lessee of a tanning facility who allows any person less than
10 sixteen years of age to use tanning equipment at the tanning
11 facility without being accompanied by the parent or legal guardian
12 who signed the statement required under section 5 of this act shall
13 be subject to a civil penalty of one hundred dollars to be imposed
14 and collected by the department. The department shall remit the
15 civil penalty to the State Treasurer for distribution in accordance
16 with Article VII, section 5, of the Constitution of Nebraska.

17 Sec. 7. (1) An operator, an owner of a tanning facility,
18 or a lessee of a tanning facility shall post a warning sign in a
19 conspicuous location in the tanning facility where it is readily
20 visible by any person entering the tanning facility. The warning
21 sign shall have black letters which are at least one-fourth inch in
22 height.

23 (2) The warning sign shall include the following
24 information:

25 DANGER - Ultraviolet Radiation

26 Follow instructions.

27 Avoid overexposure. As with natural sunlight,

1 overexposure can cause eye and skin injuries and allergic
2 reactions. Repeated exposure may cause premature aging of the skin
3 and skin cancer.

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

6 Medicines or cosmetics can increase your sensitivity to
7 ultraviolet radiation. Consult your physician before using sunlamps
8 if you are using medication or have a history of skin problems or
9 believe yourself to be especially sensitive to sunlight. If you do
10 not tan in the sun, you are unlikely to tan from the use of tanning
11 equipment.

12 It is unlawful for a tanning facility to allow a person
13 under sixteen years of age to use tanning equipment without being
14 accompanied by the person's parent or legal guardian.

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

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

21 Sec. 9. Upon receipt of a complaint regarding a tanning
22 facility, the department, with the recommendation of the board,
23 may inspect any tanning facility during the hours of operation of
24 the tanning facility to ensure compliance with the Indoor Tanning
25 Facility Act.

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

1 38-165 A public member of a board appointed under the
2 Uniform Licensing Law prior to December 1, 2008, shall remain
3 subject to the requirements of the original appointment until
4 reappointed under the Uniform Credentialing Act. At the time of
5 appointment and while serving as a board member, a public member
6 appointed to a board on or after December 1, 2008, shall:

- 7 (1) Have been a resident of this state for one year;
- 8 (2) Remain a resident of Nebraska while serving as a
9 board member;
- 10 (3) Have attained the age of nineteen years;
- 11 (4) Represent the interests and viewpoints of the public;
- 12 (5) Not hold an active credential in any profession or
13 business which is subject to the Uniform Credentialing Act, issued
14 in Nebraska or in any other jurisdiction, at any time during the
15 five years prior to appointment;
- 16 (6) Not be eligible for appointment to a board which
17 regulates a profession or business in which that person has ever
18 held a credential;
- 19 (7) Not be or not have been, at any time during the
20 year prior to appointment, an employee of a member of a profession
21 credentialed by the department, of a facility credentialed pursuant
22 to the Health Care Facility Licensure Act, ~~or~~ of a business
23 credentialed pursuant to the Uniform Credentialing Act, or of a
24 business regulated by the board to which the appointment is being
25 made;
- 26 (8) Not be the parent, child, spouse, or household member
27 of any person presently regulated by the board to which the

1 appointment is being made;

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

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

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

8 38-1057 (1) The board shall consist of ten professional
9 members, one owner of a tanning facility as defined in section
10 2 of this act, and two public members appointed pursuant to
11 section 38-158. The professional and public members shall meet the
12 requirements of sections 38-164 and 38-165, respectively.

13 (2) The professional members shall include:

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

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

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

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

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

20 (f) One electrologist;

21 (g) One practitioner of body art;

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

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

25 (3) No members of the board who are school owners, salon
26 owners, tanning facility owners, electrologists, nail technicians,
27 instructors, cosmetologists, or practitioners of body art may be

1 affiliated with the same establishment.

2 ~~(4) As the terms of the members serving on December 1,~~
3 ~~2008, expire, successors shall be appointed in accordance with~~
4 ~~subsection (2) of this section.~~

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

7 2. On page 1, strike beginning with "tanning" in line 1
8 through line 2 and insert "public health; to amend sections 38-165
9 and 38-1057, Reissue Revised Statutes of Nebraska; to adopt the
10 Indoor Tanning Facility Act; to provide a restriction on membership
11 for boards appointed under the Uniform Credentialing Act; to change
12 membership provisions for the Board of Cosmetology, Electrology,
13 Esthetics, Nail Technology, and Body Art; to eliminate obsolete
14 provisions; and to repeal the original sections."