

Guide To
Laws and Regulations
on Use of Tanning Equipment
for Operators and Managers
of Commercial Tanning Operations

THE PUBLIC HEALTH ACT AND TANNING REGULATION

January 1, 2016

Introduction

Effective January 1, 2016, *The Public Health Amendment Act (Prohibiting Children's Use of Tanning Equipment and Other Amendments)* and amendments to the Tanning Regulation made under *The Public Health Act* will come into force. Among other things, the amendments will prohibit the use of tanning equipment by children and youth under the age of 18, except with a prescription from a dermatologist. This guide from Manitoba Health, Healthy Living and Seniors will help Operators of commercial tanning businesses better understand the laws governing the use of tanning equipment in Manitoba.

Definitions

In *The Public Health Act* and Tanning Regulation;

"tanning equipment" is defined as a device that can be equipped with one or more ultraviolet lamps and induces skin tanning or other cosmetic effects. It does not include any such device that is used solely in a health care facility in the production of therapeutic effects for medical purposes.

"operator" means the owner of the commercial tanning operation, and includes the person who manages or controls a commercial tanning operation.

"commercial tanning operation" means a business or undertaking in which a person is permitted to use tanning equipment.

"health care facility" means a place where a person may receive medical examination, treatment or care and includes a hospital, clinic and medical practitioner's office.

Highlights of the act and regulation

For a copy of the act, go to: <http://web2.gov.mb.ca/laws/statutes/2010/c03710e.php#> or call 204-788-6735 in Winnipeg; 1-800-392-1207 toll free. The following are highlights of the act and regulation.

As amended, *The Public Health Act* and Tanning Regulation state that:

- The use of tanning equipment that is controlled by the user rather than the operator or staff of a commercial tanning operation (ex: swipe-card or coin-operated equipment) is prohibited.
- Warning signs provided or made available by Manitoba Health, Healthy Living and Seniors must be posted at point of sale and in each tanning room.
- No operator shall permit a child or youth, under the age of 18 to use tanning equipment in a commercial tanning operation, except with a prescription from a dermatologist.
- Where a child or youth under the age of 18 has a prescription for the use of tanning equipment, the operator must ensure that the child or youth only uses tanning equipment in accordance with the prescription, except where the prescription directs an exposure time or schedule in excess of the manufacturer's recommendations.
- Operators must keep a record of the date and duration of the use of tanning equipment by a child or youth under the age of 18.
- Operators must retain the original prescription and record of use of tanning equipment by a child or youth under the age of 18 for two years.
- Operators must ensure that protective eyewear sold or used by clients meets specified standards, and clients must be shown how to properly use the eyewear.
- Advertising or marketing of the use of tanning equipment to children or youth under the age of 18 is prohibited.
- Operators who violate the law can be fined under the act.

Warning Signs

Under the Tanning Regulation, operators must post warning signs on their premises as noted below. New warning signs, with amended wording, are included in this package and must be posted on the premises. Please discard any old warning signs.

Point of Sale Warning Sign

The warning sign (included in this package) must be posted in a prominent place on the tanning business premises, within the immediate view of anyone who enters the premises.

This legal-size sign is 8.5 by 14 inches (216 by 356 millimetres). It must be kept clearly visible for all customers.

Warning Signs in Rooms

Copies of the warning sign (included in this package) must be posted in a prominent place in each room that has tanning equipment, within three feet (one metre) of the equipment.

This letter-size sign is 8.5 by 11 inches (216 by 279 millimetres) and must be kept clearly visible for all customers when using the equipment.

If you need more signs, call 204-788-6735 in Winnipeg; toll free 1-800-392-1207; or go to: gov.mb.ca/health/publichealth/tanning.html to download a printable sign.

Questions and Answers about *The Public Health Act and Tanning Regulation*

Q: What is the purpose of the legislation?

A: The act and regulation help protect Manitobans from the health risks associated with the use of tanning equipment. The amendments to the legislation come into force on January 1, 2016 and provide enhanced protection, including safeguarding young people by prohibiting their access to tanning equipment in commercial tanning operations.

Q: What do the amendments to the legislation mean to tanning business operators?

A: The amendments to the legislation:

- (a) make it illegal for operators and their employees to allow any child or youth under the age of 18 to use tanning equipment except in accordance with a prescription from a dermatologist
- (b) prohibit the use of use of tanning equipment that is controlled by the user rather than the operator or staff of a commercial tanning operation, who have been instructed in the proper use of the equipment (ex: swipe-card or coin-operated equipment)
- (c) prohibit advertising and marketing of the use of tanning equipment directed at children or youth under the age of 18
- (d) require that protective eyewear purchased or used by an individual who is using tanning equipment must meet specified standards and the operator or staff of the commercial tanning operation must show the person how to properly use the eyewear

The legislation will continue to require the posting of warning signs in all commercial tanning operations with the content required by the regulations. The required signage has been revised to reflect the prohibition of the use of tanning equipment by children and the new signage to be posted is included in this package.

Q: Do I have to ask for proof of age?

A: Yes. If you're the operator, you need to ensure a child does not use tanning equipment in breach of the legislation. The following forms of identification (ID) may be used to verify an individual's age:

- (a) a valid driver's licence
- (b) an ID card issued by the Manitoba Liquor and Lotteries Corporation
- (c) a valid passport
- (d) a certificate of Canadian citizenship with the person's photograph
- (e) a valid Canadian permanent resident document
- (f) a valid Canadian Armed Forces ID card
- (g) any other document issued by or under the authority of the government (or government agency of any country, province, state, district or territory) that has the person's name, signature, photograph and date of birth.

Similar to the policies retailers have put in place to verify age for the sale of tobacco, it is recommended that operators require staff to check ID when an individual appears to be below a specified age (ex: 25, 30 or 40).

Q: How do I verify if a prescription for a child to use tanning equipment was written by a dermatologist?

A: The College of Physicians and Surgeons of Manitoba publishes updated, searchable Physician Profiles on its website, which can be accessed through the following link:
cpsm.mb.ca/disclaimer

Original prescriptions must be retained by the operator for a period of two years. In addition, if a prescription is for ongoing tanning equipment use by a child, a new prescription is required after one year from the date of issue of the prescription. The operator must provide a copy of the prescription to the parent or guardian.

Q: Does a parent or guardian of a child using tanning equipment pursuant to a prescription have to accompany the child?

A: A child must be accompanied by a parent or guardian when first providing the original prescription to the operator or staff of a commercial tanning operation. The operator or staff member must be reasonably satisfied that the individual with the child is his or her parent or guardian. The operator must provide a copy of the prescription to the parent or guardian. In addition, a parent or guardian must attend every tanning session with a child under the age of 16.

Q: What if a prescription for use of tanning equipment by a customer under the age of 18 provides for exposure times in excess of the manufacturer's recommended exposure times?

A: The operator or staff of a commercial tanning operation must not follow a prescription to the extent that it orders an exposure time in excess of the recommended exposure times for the tanning equipment being used by a child or youth. The manufacturer's recommended exposure times for children and youth under the age of 18 must never be exceeded.

Q: Do I need to keep a record of the use of tanning equipment by a child?

A: Operators are required to keep a paper or electronic record of the date and duration of each tanning session of a child provided pursuant to a prescription. The record must be maintained for two years from the date of the final tanning session.

Q: Can operators sell spray-on tans to customers under 18 if they do not have a prescription?

A: Yes. The act only applies to use of equipment that can be equipped with one or more ultraviolet lamps and induces skin tanning or other cosmetic effects, like tanning beds.

Q: Are operators allowed to employ people who are under 18 years old?

A: Yes. However, operators should be aware that younger staff may be influenced by peer pressure to allow children to use the tanning equipment without a prescription. Operators are legally responsible for ensuring their staff understand the law and the penalties for breaking it.

Q: What are the restrictions on advertising and marketing of tanning equipment use?

A: Advertising of tanning equipment use cannot be directed so that it:

- (i) is placed in publications or other media that target children or youth under the age of 18
- (ii) employs depictions that target children or youth under the age of 18
- (iii) is with respect to children or youth under the age of 18, false or misleading or likely to create an erroneous impression about the health effects or health risks of using tanning equipment; and

With respect to marketing of tanning equipment use, such marketing cannot be directed so that it:

- (i) is carried on in or at locations primarily intended for use by children or youth under the age of 18,
- (ii) employs depictions that are targeted at children or youth under the age of 18, or
- (iii) is, with respect to children or youth under the age of 18, false or misleading or likely to create an erroneous impression about the health effects or health risks of using tanning equipment.

Q: What standards must protective eyewear purchased or used by an individual, who is using tanning equipment meet?

A: Protective eyewear must

- (a) meet the standards set out in Part XI (Tanning Equipment) of Schedule II to the Radiation Emitting Devices Regulations (Canada)
- (b) be capable of securely covering the eyes of the individual to whom it is provided
- (c) (in the case of previously used protective eyewear, be cleaned and disinfected between uses with an appropriate disinfectant used in accordance with the manufacturer's instructions

When a client is sold or otherwise provided with protective eyewear, the operator or staff of a commercial tanning operation must advise the client about purpose of the protective eyewear and how to properly use it. In addition, operators must ensure that if a client brings his or her own protective eyewear, operators must ensure it meets the required standards and that the client is shown how to properly use it.

Q: Is there information available for tanning salon operators on how to properly use tanning equipment?

A: Operators should use equipment that complies with the federal Radiation Emitting Device Regulations and ensure staff follow the instructions that are required to accompany the equipment regarding the equipment's use and maintenance.

A guideline for tanning salon owners, operators and users has been developed by Health Canada, in collaboration with the Federal Provincial Territorial Radiation Protection Committee. It can be accessed at <http://hc-sc.gc.ca/ewh-semtpubs/radiation/tan-bronzage/index-eng.php>. In addition, industry training programs for operators may be helpful.

Where can I get more information?

For more information about *The Public Health Act* and Tanning Regulation:

Website: gov.mb.ca/health/publichealth/tanning.html

Phone: 204-788-6735 in Winnipeg; toll free 1-800-392-1207 **Email:** PHIAinfo@gov.mb.ca