

GEORGIA CODE: TITLE 31, CHAPTER 38 – TANNING FACILITIES

31-38-1. Definitions

As used in this chapter, the term:

(1) 'CFR' means Code of Federal Regulations.

(1.1) 'Consumer' means any individual who is provided access to a tanning facility as defined in this chapter.

(2) 'Individual' means any human being.

(3) 'Operator' means any individual designated by the tanning facility owner or tanning equipment lessee to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

(4) 'Person' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

(5) 'Tanning equipment' means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

(6) 'Tanning facility' means any location, place, area, structure, or business or a part thereof which provides consumers access to tanning equipment. 'Tanning facility' includes, but is not limited to, tanning salons, health clubs, apartments, or condominiums regardless of whether a fee is charged for access to the tanning equipment.

(7) 'Ultraviolet radiation' means electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

31-38-2. Exemptions from applicability of chapter

(a) Any person is exempt from the provisions of this chapter to the extent that such person:

(1) Uses equipment which emits ultraviolet radiation incidental to its normal operation; and

(2) Does not use the equipment described in paragraph (1) of this subsection to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of tanning or other treatment.

(b) Any physician licensed by the Composite State Board of Medical Examiners is exempt from the provisions of this chapter to the extent that such physician uses, in the practice of medicine, medical diagnostic and therapeutic equipment which emits ultraviolet radiation.

(c) Any individual is exempt from the provisions of this chapter to the extent that such individual owns tanning equipment exclusively for personal, noncommercial use.

31-38-3. Construction, operation, and maintenance requirements

Each tanning facility in this state shall be constructed, operated, and maintained in accordance with the requirements of Code Sections 31-38-4 through 31-38-8.

31-38-4. Warning sign to be posted; contents of warning sign

(a) The facility owner or operator shall conspicuously post the warning sign described in subsection (b) of this Code section within three feet of each tanning station and in such a manner that the sign is clearly visible, not obstructed by any barrier, equipment, or other object, and can be easily viewed by the consumer before energizing the tanning equipment.

(b) The warning sign required in subsection (a) of this Code section shall use upper and lower case letters which are at least two inches and one inch in height, respectively, and shall have the following wording:

DANGER - ULTRAVIOLET RADIATION

-Follow instruction.

-Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.

-Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight.

-If you do not tan in the sun, you are unlikely to tan from the use of this product.

MAXIMUM EXPOSURE AT ANY ONE SESSION SHOULD NEVER EXCEED 15 MINUTES.

According to the research and clinical experience of the American Academy of Dermatology, excessive or improper exposure to ultraviolet light can cause harmful changes in the skin and

other organs, including skin cancer, cataracts, impairment of the immune system, premature aging, and photosensitivity. These are virtually the same risks associated with outdoor tanning.

31-38-4.1. Regulation of tanning facilities

- (a) After January 1, 2011, no person shall establish, maintain, or operate a tanning facility without first having registered with the department.
- (b) A person shall register under this Code section by submitting a form to the department. The form shall require only the name, address, and telephone number of the tanning facility and owner and the model number and type of each ultraviolet lamp used in the tanning facility.
- (c) A registrant shall be required to pay an annual registration fee of \$25.00 per tanning facility and an additional registration fee of \$15.00 per tanning device owned, leased, or otherwise used by the tanning facility.

31-38-5. Compliance with federal regulations and national electrical code; physical barriers required

- (a) The tanning facility owner or operator shall use only tanning equipment manufactured in accordance with the specifications set forth in 21 CFR 1040.20. The exact nature of compliance shall be based on the standards in effect at the time of manufacture as shown on the device identification label required by 21 CFR 1010.3.
- (b) Each assembly of tanning equipment shall be designated for use by only one consumer at a time and shall be equipped with a timer which complies with the requirements of 21 CFR 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error exceeding plus or minus 10 percent of the maximum timer interval for the product.
- (c) Tanning equipment shall meet the National Fire Protection Association National Electrical Code and shall be provided with ground fault protection on the electrical circuit.
- (d) Tanning equipment shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.

31-38-6. Stand-up tanning booth requirements

Tanning booths designed for stand-up use shall also comply with the following additional requirements:

- (1) Booths shall have physical barriers or other means, such as handrails or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin;
- (2) Booths shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person;

(3) Access to booths shall be of rigid construction with doors which are nonlatching and open outwardly; and

(4) Booths shall be equipped with handrails and nonslip floors.

31-38-7. Protective goggles requirement

(a) The tanning facility owner or operator shall provide protective goggles to each consumer for use during any use of tanning equipment.

(b) The protective goggles required in subsection (a) of this Code section shall meet the requirements of 21 CFR 1040.20(c)(5).

(c) Tanning facility operators shall ensure that consumers wear the protective goggles required by this Code section.

(d) The tanning facility owner or operator shall ensure that the protective goggles required by this Code section are properly sanitized before each use and shall not rely upon exposure to the ultraviolet radiation produced by the tanning equipment itself to provide such sanitizing.

31-38-8. Written report of injury requirement; use of equipment by minors restricted; equipment maintenance requirements; restriction on promoting and advertising certain health-related claims

(a) The tanning facility owner or operator shall compile a written report of actual or alleged injury from use of tanning equipment within five working days after occurrence or notice thereof. Such report shall be maintained for a period of not less than three years and shall be available for inspection and copying by any consumer. The report shall include:

(1) The name of the affected individual;

(2) The name and location of the tanning facility and identification of the specific tanning equipment involved;

(3) The nature of the actual or alleged injury; and

(4) Any other information relevant to the actual or alleged injury to include the date and duration of exposure.

(b) The tanning facility owner or operator shall not allow minors under 14 years of age to use tanning equipment. The tanning facility owner or operator shall not allow minors 14 years of age or over but under 18 years of age to use tanning equipment unless the minor's parent or legal guardian signs a written consent form meeting the requirements of this Code section. Such consent form shall be signed by the parent or legal guardian at the tanning facility before the minor may use the equipment or facility.

(c) The tanning facility owner or operator shall replace defective or burned out lamps, bulbs, or filters with a type intended for use in the affected tanning equipment as specified on the product label and having the same spectral distribution.

(d) The tanning facility owner or operator shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps and bulbs.

(e) A tanning facility shall not advertise or distribute promotional materials that claim that using a tanning device is safe or free from risk or that the use of a tanning device will result in medical or health benefits. Violation of the provisions of this subsection shall constitute an unfair or deceptive act pursuant to the terms of Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975."

31-38-9. Noncompliance with chapter

Any person who leases tanning equipment or who owns a tanning facility as defined by this chapter who operates or permits to be operated that equipment or facility in noncompliance with the requirements of this chapter shall be guilty of a misdemeanor.

31-38-10. Private right of action authorized

In addition to any other rights or remedies otherwise provided to consumers by law, any consumer who is damaged by any violation of this chapter may bring an action in superior court to recover a penalty fee of no less than \$1,000.00 and to recover any actual, consequential, or punitive damages the court deems appropriate. Any recovery under this Code section shall also include attorney's fees and court costs. It is the intent of the General Assembly in this Code section to provide consumers with an additional remedy to encourage enforcement of this chapter through private rights of action.

31-38-11. Variance permitted

Any tanning facility which finds that it is not possible to comply with Code Section 31-38-4 may apply to the administrator appointed pursuant to subsection (a) of Code Section 10-1-395 for a variance from the requirements of Code Section 31-38-4. Any such variance granted by the administrator shall be in writing and shall be drawn as narrowly as possible.

31-38-12. Effect of chapter on administrator; administrator's immunity from liability

Nothing contained in this chapter shall be construed as imposing any duty, requirement, or enforcement authority upon the administrator appointed pursuant to Code Section 10-1-395 except as described in Code Section 31-38-11, provided that nothing contained in this chapter shall be construed in any manner as limiting the administrator from exercising any of his duties, powers, or authority under any other law. The administrator shall not be liable to any person for any reason as a result of granting or failing to grant any variance under Code Section 31-38-11.