

Reprinted

FEB 20 1990

HOUSE FILE 2486
BY COMMITTEE ON HUMAN RESOURCES

Place On Calendar

(SUCCESSOR TO HSB 752)

Passed House, Date 3/2/90 (p. 815) Passed Senate, Date 4/3/90 (P. 480)
Vote: Ayes 71 Nays 24 Vote: Ayes 30 Nays 20
Approved April 30, 1990

A BILL FOR

- 1 An Act relating to the regulation of tanning facilities,
- 2 providing penalties, and providing for the establishment of
- 3 fees.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2486

H-5278

- 1 Amend House File 2486 as follows:
- 2 1. Page 2, by striking lines 15 through 25.
- 3 2. Page 3, line 34, by striking the words "or
- 4 threat of violation".
- 5 3. By renumbering and redesignating sections as
- 6 necessary.

By FEY of Scott

H-5278 FILED FEBRUARY 21, 1990

Adopted 3/2 (p. 814)

HF 2486

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1 Section 1. NEW SECTION. 136D.1 SHORT TITLE.

2 This chapter may be cited as the "Tanning Facility
3 Regulation Act."

4 Sec. 2. NEW SECTION. 136D.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Department" means the Iowa department of public
8 health.

9 2. "Director" means the director of public health, or the
10 director's designee.

11 3. "Phototherapy device" means a piece of equipment that
12 emits ultraviolet radiation and that is used by a health care
13 professional in the treatment of disease.

14 4. "Tanning device" means any equipment that emits
15 electromagnetic radiation with wavelengths in the air between
16 200 and 400 nanometers and that is used for tanning of human
17 skin, such as sunlamps, tanning booths, or tanning beds. The
18 terms also include any accompanying equipment such as
19 protective eyewear, timers, and handrails.

20 5. "Tanning facility" means a place that provides access
21 to tanning devices for compensation.

22 Sec. 3. NEW SECTION. 136D.3 APPLICATION OF CHAPTER.

23 This chapter does not apply to a phototherapy device used
24 by or under the supervision of a licensed physician trained in
25 the use of phototherapy devices. A tanning device used by a
26 tanning facility must comply with all applicable federal laws
27 and regulations.

28 This chapter shall not supersede or duplicate the authority
29 and programs of any other agency of the state or the United
30 States. To avoid duplication and promote coordination of
31 radiation protection activities, the department may enter into
32 agreements pursuant to chapter 28E with other state or federal
33 agencies, or with private organizations or individuals, to
34 administer this chapter.

35 Sec. 4. NEW SECTION. 136D.4 WARNING SIGNS -- WRITTEN

1 WARNING STATEMENTS.

2 1. A tanning facility shall post the following warning
3 signs that describe the hazards associated with the use of
4 tanning devices:

5 a. A warning sign in a conspicuous location readily
6 visible to persons entering the establishment. The signs
7 shall comply with rules adopted by the department.

8 b. A warning sign for each tanning device, in a
9 conspicuous location readily visible to a person preparing to
10 use the device. The sign shall comply with rules adopted by
11 the department.

12 2. A tanning facility shall provide each customer with a
13 written warning statement that complies with rules adopted by
14 the department.

527815 Sec. 5. NEW SECTION. 136D.5 NOTICE -- ACKNOWLEDGMENT --
16 LIABILITY.

17 1. Each time a person uses a tanning facility or each time
18 a person executes or renews a contract to use a tanning
19 facility, the person shall sign a written statement
20 acknowledging that the person has read and understands the
21 required warnings before using the device and agrees to use
22 the protective eyewear that the tanning facility provides.

23 2. Compliance with the notice requirements prescribed does
24 not affect the liability of a tanning facility operator or a
25 manufacturer of a tanning device.

26 Sec. 6. NEW SECTION. 136D.6 PERMITS.

27 1. A person shall not operate a tanning facility without a
28 current and valid permit to operate the facility, issued by
29 the department.

30 2. The permit shall be displayed in an open public area of
31 the tanning facility.

32 3. Permits shall be renewed annually upon acceptance of an
33 application provided by the department and upon receipt of a
34 permit fee.

35 4. The department may revoke, cancel, or suspend a permit

1 to operate a tanning facility based upon criteria adopted by
2 rule of the department.

3 Sec. 7. NEW SECTION. 136D.7 DUTIES OF THE DEPARTMENT.

4 The department shall do all of the following:

- 5 1. Establish requirements for the operation of tanning
6 devices, including but not limited to, proper sanitation of
7 the tanning device, provisions of proper equipment, the
8 presence of knowledgeable operators during operating hours,
9 and the use of accurate timers and temperature controls.
- 10 2. Adopt rules, in accordance with chapter 17A, as
11 necessary for the implementation and enforcement of this
12 chapter, including but not limited to rules relating to the
13 operation and use of tanning devices, rules regarding the
14 warning signs required to be posted by a tanning facility, and
15 rules prescribing the criteria for revocation, cancellation,
16 or suspension of a tanning facility permit.

17 3. Establish and collect fees to defray the costs of
18 administering the program established in this chapter. Fees
19 collected shall be deposited in the general fund of the state.

20 Sec. 8. NEW SECTION. 136D.8 INSPECTIONS -- VIOLATIONS --
21 PROHIBITED ACTS -- INJUNCTIONS.

22 1. The director or an authorized agent shall have access
23 at all reasonable times to any tanning facility to inspect the
24 facility to determine if this chapter is being violated.

25 2. A person who operates or uses a tanning device or
26 tanning facility in violation of this chapter or of any rule
27 adopted pursuant to this chapter is guilty of a simple
28 misdemeanor.

29 3. A tanning facility shall not claim, or distribute
30 promotional materials that claim, that using a tanning device
31 is safe or free from risk.

32 4. a. If the director finds that a person has violated,
33 or is violating or threatening to violate this chapter and
5278 34 that the violation or threat of violation creates an immediate
35 threat to the health and safety of the public, the director

See House Journal 3/5 So. Pass 3/5 (p. 963)
Way + Mean. So. Pass 3/15 (p. 1119)

HOUSE FILE 2486
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 752)
(As Amended and Passed by the House March 2, 1990)

pu H-6055
Passed House, Date 4/4/90 (p. 1916) Passed Senate, Date 4/3/90 (p. 1480)
Vote: Ayes 55 Nays 32 Vote: Ayes 30 Nays 20
Approved April 30, 1990

A BILL FOR

1 An Act relating to the regulation of tanning facilities,
2 providing penalties, and providing for the establishment of
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5
6

Deleted Language *

HOUSE FILE 2486

S-5535

1 Amend House File 2486, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, line 30, by striking the word
4 "devices" and inserting the following: "facilities".
5 2. Page 2, line 31, by striking the words "the
6 tanning device" and inserting the following: "tanning
7 devices".

By JIM RIORDAN
LINN FUHRMAN

Adopted 4/3 (p. 1479)
S-5535 FILED MARCH 16, 1990

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31 radiation protection activities, the department may enter into
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19 2. The permit shall be displayed in an open public area of
20 the tanning facility.

21 3. Permits shall be renewed annually upon acceptance of an
22 application provided by the department and upon receipt of a
23 permit fee.

24 4. The department may revoke, cancel, or suspend a permit
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26 rule of the department.

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31 the tanning device, provisions of proper equipment, the
32 presence of knowledgeable operators during operating hours,
33 and the use of accurate timers and temperature controls.

34 2. Adopt rules, in accordance with chapter 17A, as
35 necessary for the implementation and enforcement of this

1 chapter, including but not limited to rules relating to the
2 operation and use of tanning devices, rules regarding the
3 warning signs required to be posted by a tanning facility, and
4 rules prescribing the criteria for revocation, cancellation,
5 or suspension of a tanning facility permit.

6 3. Establish and collect fees to defray the costs of
7 administering the program established in this chapter. Fees
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10 PROHIBITED ACTS -- INJUNCTIONS.

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12 at all reasonable times to any tanning facility to inspect the
13 facility to determine if this chapter is being violated.

14 2. A person who operates or uses a tanning device or
15 tanning facility in violation of this chapter or of any rule
16 adopted pursuant to this chapter is guilty of a simple
17 misdemeanor.

18 3. A tanning facility shall not claim, or distribute
19 promotional materials that claim, that using a tanning device
20 is safe or free from risk.

21 4. a. If the director finds that a person has violated,
22 or is violating or threatening to violate this chapter and
* 23 that the violation creates an immediate threat to the health
24 and safety of the public, the director may petition the
25 district court for a temporary restraining order to restrain
26 the violation or threat of violation.

27 b. If a person has violated, or is violating or
28 threatening to violate this chapter, the director may petition
29 the district court for an injunction to prohibit the person
30 from continuing the violation or threat of violation.

31 c. On application for injunctive relief and a finding that
32 a person is violating or threatening to violate this chapter,
33 the district court shall grant any injunctive relief warranted
34 by the facts.

35

HOUSE FILE 2486

-5852

1 Amend House File 2486, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. NEW SECTION. 135J.1 DEFINITIONS.

6 As used in this chapter:

7 1. "Abortion" means the termination of a human
8 pregnancy with the intent other than to produce a live
9 birth or to remove a dead fetus. Abortion does not
10 include medical care which has as its primary purpose
11 the treatment of a serious physical condition
12 requiring emergency medical treatment necessary to
13 save the life of the mother.

14 2. "Facility" means a place, center, or clinic
15 where abortions are performed, other than a hospital
16 licensed under chapter 135B.

17 Sec. 2. NEW SECTION. 135J.2 LICENSURE REQUIRED.

18 A person shall not operate an abortion facility in
19 this state unless the person possesses a license
20 issued pursuant to section 135J.3. Failure to obtain
21 and retain a license shall result in the closure of
22 the facility.

23 Sec. 3. NEW SECTION. 135J.3 REQUIREMENTS FOR
24 LICENSURE -- CLOSURE.

25 The Iowa department of public health shall issue a
26 license to a facility if the department determines
27 that all of the following conditions are met:

28 1. a. The facility maintains medical malpractice
29 liability insurance coverage or a bond in the amount
30 of at least two million dollars, or maintains a net
31 worth of at least two million dollars, and annually
32 submits to the department proof of the insurance
33 coverage, bond, or net worth.

34 b. The facility engages physicians licensed in
35 this state, engages physicians licensed in another
36 state with admitting privileges at a hospital within
37 twenty miles of the facility, or engages physicians
38 licensed in another state who have entered into an
39 agreement with a physician with admitting privileges
40 at a hospital within twenty miles of the facility.

41 c. The facility maintains pathology reports on
42 each patient to assure that abortion procedures have
43 been completed in a manner which will not cause
44 immediate adverse health impacts on the patient.

45 d. The facility maintains copies of informed
46 consent forms signed by each patient documenting that
47 the patient has been fully informed of the risks of
48 and alternatives to the abortion procedures.

49 e. The facility maintains and makes available
50 emergency equipment, including resuscitators and

S-5852

Page 2

1 oxygen, which is operational at all times, as required
2 by rule.

3 2. The facility complies with the requirements of
4 all applicable state and local building codes,
5 including electrical, plumbing, fire, and other
6 building and safety codes, unless the department
7 determines by rule that such a code is wholly
8 inappropriate for the facility.

9 3. The facility complies with all rules adopted
10 pursuant to this chapter.

11 Sec. 4. NEW SECTION. 135J.4 APPLICATION -- FEES.

12 Licenses must be obtained from the department.
13 Applications must be made upon such forms and shall
14 include such information as the department requires,
15 which may include affirmative evidence of compliance
16 with other applicable statutes and local ordinances.
17 Each application for licensure shall be accompanied by
18 the annual license fee subject to refund to the
19 applicant if the license is denied. License fees
20 shall be deposited in the general fund of the state.
21 The annual license fee shall be based upon the patient
22 capacity of the facility as determined by the
23 department. However, the fee shall not exceed fifty
24 dollars.

25 Sec. 5. NEW SECTION. 135J.5 SCOPE OF LICENSE.

26 A license for a facility shall be issued only for
27 the premises and persons named in the application and
28 shall not be transferable or assignable except with
29 the written approval of the department, obtained prior
30 to the purchase of the facility involved. The license
31 shall be posted in a conspicuous place on the licensed
32 premises as prescribed by rule of the department. A
33 license, unless sooner suspended or revoked, shall
34 expire one year after the date of issuance and may be
35 renewed annually upon application by the licensee. An
36 application for renewal must be made in writing to the
37 department, accompanied by the required fee, at least
38 thirty days prior to the expiration of a license. A
39 facility which has allowed its license to lapse
40 through failure to make timely application for renewal
41 shall pay an additional fee of twenty-five percent of
42 the annual license fee prescribed in section 135J.4.

43 Sec. 6. NEW SECTION. 135J.6 INSPECTIONS.

44 1. The department shall inspect or cause to be
45 inspected each facility before initial licensure and
46 shall make or cause to be made such further
47 unannounced inspections as it deems necessary to
48 adequately enforce this chapter, including at least
49 one unannounced general inspection each year. The
50 inspector shall show identification to the person in

S-5852

Page 3

1 charge of the facility and state that an inspection is
2 to be made before beginning the inspection. A state
3 employee who gives unauthorized advance notice of an
4 inspection made or planned to be made under this
5 section shall be disciplined as determined by the
6 department employing the employee, except that if the
7 employee is employed pursuant to chapter 19A the
8 discipline shall not exceed that authorized pursuant
9 to that chapter.

10 2. An inspector may enter a licensed facility
11 without a warrant, and may examine all records
12 pertaining to the care provided by the facility. An
13 inspector may contact or interview any patient,
14 employee, or other person who might have knowledge
15 about the operation of a facility. However, the
16 inspector shall not violate any confidentiality
17 requirements relating to the facility or its employees
18 or patients.

19 Sec. 7. NEW SECTION. 135J.7 DENIAL, SUSPENSION,
20 OR REVOCATION OF LICENSE.

21 The department may deny, suspend, or revoke a
22 license if the department finds that the facility
23 fails to comply with this chapter or the rules adopted
24 pursuant to this chapter. The department shall revoke
25 the license of a facility which violates three or more
26 of the separate licensing conditions stated in section
27 135J.3, subsection 1, paragraphs "a" through "e" in
28 any twelve-month period. All licensing proceedings
29 are subject to the requirements of chapter 17A.

30 The department, after an inspection, may suspend
31 the license of a facility prior to a hearing on an
32 emergency basis if the department finds that the
33 health or safety of any patient may be endangered by
34 the conditions of the facility.

35 Sec. 8. NEW SECTION. 135J.8 CONDITIONAL LICENSE.

36 The department may conditionally issue or continue
37 a license for no longer than one year, dependent upon
38 the continuing efforts by the applicant or licensee to
39 comply with the requirements of this chapter or of
40 rules adopted pursuant to this chapter. If the
41 applicant or licensee does not make diligent efforts
42 to comply with the conditions prescribed or does not
43 comply with the conditions prescribed within a
44 reasonable period of time as established by the
45 department, the department may deny, suspend, or
46 revoke the license.

47 Sec. 9. NEW SECTION. 135J.9 JUDICIAL REVIEW.

48 Judicial review of any action of the department may
49 be sought in accordance with chapter 17A.

50 Notwithstanding the terms of the Iowa administrative

S-5852

Page 4

1 procedure Act, chapter 17A, petitions for judicial
2 review may be filed in the district court of the
3 county where the facility or proposed facility is
4 located, and pending final disposition of the matter
5 the status quo of the applicant or licensee shall be
6 preserved unless the department determines that the
7 health or safety of a patient may be endangered by the
8 conditions of the facility, in which case the
9 department may order the immediate closure of the
10 facility.

11 Sec. 10. NEW SECTION. 135J.10 CIVIL ACTION.

12 A patient of a facility which violates two or more
13 of the separate licensing conditions stated in section
14 135J.3, subsection 1, paragraphs "a" through "e", in
15 any twelve-month period, may bring a civil action
16 against the facility and, on submission of proof that
17 the patient was a patient at the facility for an
18 abortion procedure during the period of time the
19 facility was in violation, the patient is entitled to
20 recover actual damages as a result of the violation,
21 plus three times the cost paid for the abortion
22 procedure at the facility, court costs, and reasonable
23 attorney fees.

24 Sec. 11. NEW SECTION. 135J.11 RULES.

25 The department, in accordance with chapter 17A,
26 shall adopt and enforce rules for the administration
27 of this chapter, including rules setting minimum
28 standards for facilities.

29 Sec. 12. NEW SECTION. 135J.12 COMPLIANCE.

30 A facility which is in operation on the date of
31 adoption of rules pursuant to this chapter, which
32 contain standards for the operation of a facility,
33 shall be given a reasonable time to comply with the
34 rules. The director of public health may grant
35 successive thirty-day extensions of the time for
36 compliance where evidence of a good faith attempt to
37 achieve compliance is furnished, if the extensions
38 will not place in undue jeopardy the patients of the
39 facility to which the extensions are granted.

40 Sec. 13. NEW SECTION. 135J.13 CONSTRUCTION.

41 This chapter shall not be construed to interfere
42 with the right of a woman to have an abortion in this
43 state subject to the constitutional limits as defined
44 by the courts of the United States.

45 Sec. 14. Section 135.11, subsection 17, Code
46 Supplement 1989, is amended to read as follows:

47 17. Administer chapters 125, 135A, 135J, 136A,
48 136C, 139, 140, 142, 144, and 147A."

49 2. Title page, line 1, by inserting after the
50 word "tanning" the following: "and abortion".

By WILMER RENSINK
RICHARD VANDE HOEF

S-5852 FILED APRIL 3, 1990
RULED OUT OF ORDER (p. 1479)

SENATE AMENDMENT TO HOUSE FILE 2486

H-6055.

- 1 Amend House File 2486, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 30, by striking the word
- 4 "devices" and inserting the following: "facilities".
- 5 2. Page 2, line 31, by striking the words "the
- 6 tanning device" and inserting the following: "tanning
- 7 devices".

RECEIVED FROM THE SENATE

H-6055 FILED APRIL 3, 1990

House concurred 4/4 (p. 1916)

HOUSE FILE 2486
FISCAL NOTE

A fiscal note for House File 2486 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2486 provides for the regulation of tanning devices and tanning facilities. The Department of Public Health is authorized to establish fees sufficient to defray the cost of administering the regulation of the devices/facilities.

ASSUMPTIONS:

1. There are 800 tanning facilities with approximately 3,000 tanning devices in Iowa.
2. The fee for regulating the devices would be \$30 per device.
3. Three FTE positions to administer the Program.

FISCAL EFFECT:

	<u>FY 1991</u>	<u>FY 1992</u>
<u>REVENUE</u>		
Fees	\$ 90,000	\$ 90,000
 <u>EXPENDITURES</u>		
Salaries	\$ 74,600	\$ 82,000
Support	\$ 11,000	\$ 8,000
(FTE's)	(3.0)	(3.0)
Capital Outlay	4,400	0
Total	<u>\$ 90,000</u>	<u>\$ 90,000</u>
 <u>NET EFFECT</u>	 <u>\$ 0</u>	 <u>\$ 0</u>

Source: Department of Public Health

(LSB 8330hv, RRS)

FILED FEBRUARY 22, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

HUMAN RESOURCES

Health Care

Fey, Chair
Hammond
Haverland
Nielsen
Plaster
Carpenter
Hester

HOUSE FILE 2126
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON FEY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of tanning facilities,
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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23 2. Compliance with the notice requirements prescribed does
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16 or suspension of a tanning facility permit.

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22 1. The director or an authorized agent shall have access
23 at all reasonable times to any tanning facility to inspect the
24 facility to determine if this chapter is being violated.

25 2. A person who operates or uses a tanning device or
26 tanning facility in violation of this chapter or of any rule
27 adopted pursuant to this chapter is guilty of a simple
28 misdemeanor.

29 3. A tanning facility shall not claim, or distribute
30 promotional materials that claim, that using a tanning device
31 is safe or free from risk.

32 4. a. If the director finds that a person has violated,
33 or is violating or threatening to violate this chapter and
34 that the violation or threat of violation creates an immediate
35 threat to the health and safety of the public, the director

1 may petition the district court for a temporary restraining
2 order to restrain the violation or threat of violation.

3 b. If a person has violated, or is violating or
4 threatening to violate this chapter, the director may petition
5 the district court for an injunction to prohibit the person
6 from continuing the violation or threat of violation.

7 c. On application for injunctive relief and a finding that
8 a person is violating or threatening to violate this chapter,
9 the district court shall grant any injunctive relief warranted
10 by the facts.

11 EXPLANATION

12 This bill provides for the regulation of tanning devices
13 and tanning facilities. Certain minimum equipment and
14 operational standards are to be established by rule of the
15 Iowa department of public health, and operators of tanning
16 facilities are required to provide information to consumers
17 through the use of written statements and signage. Consumers
18 are required to give written acknowledgment that certain
19 required warnings have been read and understood. Permits are
20 required for the operation of a tanning facility. Violation
21 of the Act constitutes a simple misdemeanor and injunctive
22 relief is provided as an additional remedy. The Iowa
23 department of public health is authorized to establish fees
24 sufficient to defray the cost of administering the chapter.

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HOUSE FILE 2486

AN ACT

RELATING TO THE REGULATION OF TANNING FACILITIES, PROVIDING PENALTIES, AND PROVIDING FOR THE ESTABLISHMENT OF FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 136D.1 SHORT TITLE.

This chapter may be cited as the "Tanning Facility Regulation Act."

Sec. 2. NEW SECTION. 136D.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the Iowa department of public health.
2. "Director" means the director of public health, or the director's designee.
3. "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and that is used by a health care professional in the treatment of disease.
4. "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The terms also include any accompanying equipment such as protective eyewear, timers, and handrails.
5. "Tanning facility" means a place that provides access to tanning devices for compensation.

Sec. 3. NEW SECTION. 136D.3 APPLICATION OF CHAPTER.

This chapter does not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices. A tanning device used by a tanning facility must comply with all applicable federal laws and regulations.

This chapter shall not supersede or duplicate the authority and programs of any other agency of the state or the United States. To avoid duplication and promote coordination of radiation protection activities, the department may enter into agreements pursuant to chapter 28E with other state or federal agencies, or with private organizations or individuals, to administer this chapter.

Sec. 4. NEW SECTION. 136D.4 WARNING SIGNS -- WRITTEN WARNING STATEMENTS.

1. A tanning facility shall post the following warning signs that describe the hazards associated with the use of tanning devices:

- a. A warning sign in a conspicuous location readily visible to persons entering the establishment. The signs shall comply with rules adopted by the department.
- b. A warning sign for each tanning device, in a conspicuous location readily visible to a person preparing to use the device. The sign shall comply with rules adopted by the department.

2. A tanning facility shall provide each customer with a written warning statement that complies with rules adopted by the department.

Sec. 5. NEW SECTION. 136D.6 PERMITS.

1. A person shall not operate a tanning facility without a current and valid permit to operate the facility, issued by the department.

2. The permit shall be displayed in an open public area of the tanning facility.

3. Permits shall be renewed annually upon acceptance of an application provided by the department and upon receipt of a permit fee.

4. The department may revoke, cancel, or suspend a permit to operate a tanning facility based upon criteria adopted by rule of the department.

Sec. 6. NEW SECTION. 136D.7 DUTIES OF THE DEPARTMENT.

The department shall do all of the following:

1. Establish requirements for the operation of tanning facilities, including but not limited to, proper sanitation of tanning devices, provisions of proper equipment, the presence of knowledgeable operators during operating hours, and the use of accurate timers and temperature controls.

2. Adopt rules, in accordance with chapter 17A, as necessary for the implementation and enforcement of this chapter, including but not limited to rules relating to the operation and use of tanning devices, rules regarding the warning signs required to be posted by a tanning facility, and rules prescribing the criteria for revocation, cancellation, or suspension of a tanning facility permit.

3. Establish and collect fees to defray the costs of administering the program established in this chapter. Fees collected shall be deposited in the general fund of the state.

Sec. 7. NEW SECTION. 136D.8 INSPECTIONS -- VIOLATIONS -- PROHIBITED ACTS -- INJUNCTIONS.

1. The director or an authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated.

2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

3. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

4. a. If the director finds that a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

b. If a person has violated, or is violating or threatening to violate this chapter, the director may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

c. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the district court shall grant any injunctive relief warranted by the facts.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2486, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *April 30*, 1990

TERRY E. BRANSTAD
Governor