

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 329**

**Senator Lehner**

**Cosponsors: Senators Kunze, Craig, Thomas**

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**A BILL**

To amend sections 4713.50, 4713.51, and 4713.64 of  
the Revised Code to prohibit the provision of  
sun lamp tanning services to individuals under  
age 18.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4713.50, 4713.51, and 4713.64 of  
the Revised Code be amended to read as follows:

**Sec. 4713.50.** (A) A tanning facility operator or employee  
shall make reasonable efforts, in accordance with procedures  
established under section 4713.08 of the Revised Code, to  
determine ~~whether the age of an individual seeking to use the~~  
facility's sun lamp tanning services ~~is less than sixteen years~~  
~~of age, at least sixteen but less than eighteen years of age, or~~  
~~eighteen years of age or older.~~

~~(B)(1) A tanning facility operator or employee shall not~~  
~~allow an individual who is less than eighteen years of age to~~  
~~use the facility's sun lamp tanning services.~~

(C) A tanning facility operator or employee shall not  
allow an individual who is eighteen years of age or older to use

the facility's sun lamp tanning services without first obtaining 19  
the consent of the individual. The consent shall be evidenced by 20  
the individual's signature on the form developed by the state 21  
cosmetology and barber board under section 4713.51 of the 22  
Revised Code. The consent is valid indefinitely. 23

~~(2) A tanning facility operator or employee shall not 24  
allow an individual who is at least sixteen but less than 25  
eighteen years of age to use the facility's sun lamp tanning 26  
services without first obtaining the consent of a parent or 27  
legal guardian of the individual. The consent shall be evidenced 28  
by the signature of the parent or legal guardian on the form 29  
developed by the board under section 4713.51 of the Revised 30  
Code. The form must be signed in the presence of the operator or 31  
an employee of the tanning facility. The consent is valid for 32  
ninety days from the date the form is signed. A tanning facility 33  
operator or employee shall not allow an individual who is at 34  
least sixteen but less than eighteen years of age to use the 35  
facility's sun lamp tanning services for more than forty-five 36  
sessions during the ninety-day period covered by the consent. No 37  
such session may be longer than the maximum safe time of 38  
exposure specified in rules adopted under division (A) (17) of 39  
section 4713.08 of the Revised Code. 40~~

~~(3) A tanning facility operator or employee shall not 41  
allow an individual who is less than sixteen years of age to use 42  
the facility's sun lamp tanning services unless both of the 43  
following apply: 44~~

~~(a) The tanning facility operator or employee obtains the 45  
consent of a parent or legal guardian of the individual prior to 46  
each session of the use of the facility's sun lamp tanning 47  
services. The consent shall be evidenced by the signature of the 48~~

~~parent or legal guardian on the form developed by the board~~ 49  
~~under section 4713.51 of the Revised Code. The form must be~~ 50  
~~signed in the presence of the operator or an employee of the~~ 51  
~~tanning facility.~~ 52

~~(b) A parent or legal guardian of the individual is~~ 53  
~~present at the tanning facility for the duration of each session~~ 54  
~~of the use of the facility's sun lamp tanning services.~~ 55

~~(C) For purposes of this division (B) of this section,~~ 56  
electronic signature may be used to provide and may be accepted 57  
as a signature evidencing consent. 58

**Sec. 4713.51.** The state cosmetology and barber board shall 59  
develop a form for use by tanning facility operators and 60  
employees in complying with the consent requirements of division 61  
~~(B)~~ (C) of section 4713.50 of the Revised Code. The form must 62  
describe the potential health effects of radiation from sun 63  
lamps, including a description of the possible relationship of 64  
the radiation to skin cancer. In developing the form, the board 65  
shall consult with the department of health, dermatologists, and 66  
tanning facility operators. The board shall make the form 67  
available on the internet web site maintained by the board. 68

**Sec. 4713.64.** (A) The state cosmetology and barber board 69  
may take disciplinary action under this chapter for any of the 70  
following: 71

(1) Failure to comply with the safety, sanitation, and 72  
licensing requirements of this chapter or rules adopted under 73  
it; 74

(2) Continued practice by an individual knowingly having 75  
an infectious or contagious disease; 76

(3) Habitual drunkenness or addiction to any habit-forming 77

drug;	78
(4) Willful false and fraudulent or deceptive advertising;	79
(5) Falsification of any record or application required to be filed with the board;	80 81
(6) Failure to pay a fine or abide by a suspension order issued by the board;	82 83
(7) Failure to cooperate with an investigation or inspection;	84 85
(8) Failure to respond to a subpoena;	86
(9) Conviction of or plea of guilty to a violation of section 2905.32 of the Revised Code;	87 88
(10) In the case of a salon, any individual's conviction of or plea of guilty to a violation of section 2905.32 of the Revised Code for an activity that took place on the premises of the salon.	89 90 91 92
(B) On determining that there is cause for disciplinary action, the board may do one or more of the following:	93 94
(1) Deny, revoke, or suspend a license, permit, or registration issued by the board under this chapter;	95 96
(2) Impose a fine;	97
(3) Require the holder of a license, permit, or registration issued under this chapter to take corrective action courses.	98 99 100
(C) (1) Except as provided in divisions (C) (2) and (3) of this section, the board shall take disciplinary action pursuant to an adjudication under Chapter 119. of the Revised Code.	101 102 103

(2) The board may take disciplinary action without 104  
conducting an adjudication under Chapter 119. of the Revised 105  
Code against an individual or salon who violates division (A) (9) 106  
or (10) of this section. After the board takes such disciplinary 107  
action, the board shall give written notice to the subject of 108  
the disciplinary action of the right to request a hearing under 109  
Chapter 119. of the Revised Code. 110

(3) In lieu of an adjudication, the board may enter into a 111  
consent agreement with the holder of a license, permit, or 112  
registration issued under this chapter. A consent agreement that 113  
is ratified by a majority vote of a quorum of the board members 114  
is considered to constitute the findings and orders of the board 115  
with respect to the matter addressed in the agreement. If the 116  
board does not ratify a consent agreement, the admissions and 117  
findings contained in the agreement are of no effect, and the 118  
case shall be scheduled for adjudication under Chapter 119. of 119  
the Revised Code. 120

(D) The amount and content of corrective action courses 121  
and other relevant criteria shall be established by the board in 122  
rules adopted under section 4713.08 of the Revised Code. 123

(E) (1) The board may impose a separate fine for each 124  
offense listed in division (A) of this section. The amount of 125  
the first fine issued for a violation as the result of an 126  
inspection shall be not more than two hundred fifty dollars if 127  
the violator has not previously been fined for that offense. Any 128  
fines issued for additional violations during such an inspection 129  
shall not be more than one hundred dollars for each additional 130  
violation. The fine shall be not more than five hundred dollars 131  
if the violator has been fined for the same offense once before. 132  
Any fines issued for additional violations during a second 133

inspection shall not be more than two hundred dollars for each 134  
additional violation. The fine shall be not more than one 135  
thousand dollars if the violator has been fined for the same 136  
offense two or more times before. Any fines issued for 137  
additional violations during a third inspection shall not be 138  
more than three hundred dollars for each additional violation. 139

(2) The board shall issue an order notifying a violator of 140  
a fine imposed under division (E) (1) of this section. The notice 141  
shall specify the date by which the fine is to be paid. The date 142  
shall be less than forty-five days after the board issues the 143  
order. 144

(3) At the request of a violator who is temporarily unable 145  
to pay a fine, or upon its own motion, the board may extend the 146  
time period within which the violator shall pay the fine up to 147  
ninety days after the date the board issues the order. 148

(4) If a violator fails to pay a fine by the date 149  
specified in the board's order and does not request an extension 150  
within ten days after the date the board issues the order, or if 151  
the violator fails to pay the fine within the extended time 152  
period as described in division (E) (3) of this section, the 153  
board shall add to the fine an additional penalty equal to ten 154  
per cent of the fine. 155

(5) If a violator fails to pay a fine within ninety days 156  
after the board issues the order, the board shall add to the 157  
fine interest at a rate specified by the board in rules adopted 158  
under section 4713.08 of the Revised Code. 159

(6) If the fine, including any interest or additional 160  
penalty, remains unpaid on the ninety-first day after the board 161  
issues an order under division (E) (2) of this section, the 162

amount of the fine and any interest or additional penalty shall 163  
be certified to the attorney general for collection in the form 164  
and manner prescribed by the attorney general. The attorney 165  
general may assess the collection cost to the amount certified 166  
in such a manner and amount as prescribed by the attorney 167  
general. 168

(F) In the case of an offense of failure to comply with 169  
~~division (A) or (B) (2) or (3) of~~ section 4713.50 of the Revised 170  
Code, the board shall impose a fine of five hundred dollars if 171  
the violator has not previously been fined for that offense. If 172  
the violator has previously been fined for the offense, the 173  
board may impose a fine in accordance with this division or take 174  
another action in accordance with division (B) of this section. 175

(G) The board shall notify a licensee or registrant who is 176  
in violation of division (A) of this section and the owner of 177  
the salon in which the conditions constituting the violation 178  
were found. The individual receiving the notice of violation and 179  
the owner of the salon may request a hearing pursuant to section 180  
119.07 of the Revised Code. If the individual or owner fails to 181  
request a hearing or enter into a consent agreement thirty days 182  
after the date the board, in accordance with section 119.07 of 183  
the Revised Code and division (J) of this section, notifies the 184  
individual or owner of the board's intent to act against the 185  
individual or owner under division (A) of this section, the 186  
board by a majority vote of a quorum of the board members may 187  
take the action against the individual or owner without holding 188  
an adjudication hearing. 189

(H) The board, after a hearing in accordance with Chapter 190  
119. of the Revised Code or pursuant to a consent agreement, may 191  
suspend a license, permit, or registration if the licensee, 192

permit holder, or registrant fails to correct an unsafe 193  
condition that exists in violation of the board's rules or fails 194  
to cooperate in an inspection. If a violation of this chapter or 195  
rules adopted under it has resulted in a condition reasonably 196  
believed by an inspector to create an immediate danger to the 197  
health and safety of any individual using the facility, the 198  
inspector may suspend the license or permit of the facility or 199  
the individual responsible for the violation without a prior 200  
hearing until the condition is corrected or until a hearing in 201  
accordance with Chapter 119. of the Revised Code is held or a 202  
consent agreement is entered into and the board either upholds 203  
the suspension or reinstates the license, permit, or 204  
registration. 205

(I) The board shall not take disciplinary action against 206  
an individual licensed to operate a salon or school of 207  
cosmetology for a violation of this chapter that was committed 208  
by an individual licensed to practice a branch of cosmetology, 209  
while practicing within the salon or school, when the 210  
individual's actions were beyond the control of the salon owner 211  
or school. 212

(J) In addition to the methods of notification required 213  
under section 119.07 of the Revised Code, the board may send the 214  
notices required under divisions (C) (2), (E) (2), and (G) of this 215  
section by any delivery method that is traceable and requires 216  
that the delivery person obtain a signature to verify that the 217  
notice has been delivered. The board also may send the notices 218  
by electronic mail, provided that the electronic mail delivery 219  
system certifies that a notice has been received. 220

**Section 2.** That existing sections 4713.50, 4713.51, and 221  
4713.64 of the Revised Code are hereby repealed. 222