A BILL

FOR AN ACT relating to public health; to amend sections 38-165 and 38-1057, Reissue Revised Statutes of Nebraska; to adopt the Indoor Tanning Facility Act; to provide a restriction on membership for boards appointed under the Uniform Credentialing Act; to change membership provisions for the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art; to eliminate obsolete provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 9 of this act shall be known and
may be cited as the Indoor Tanning Facility Act.

Sec. 2. For purposes of the Indoor Tanning Facility Act:

(1) Board means the Board of Cosmetology, Electrology,
    Esthetics, Nail Technology, and Body Art;

(2) Department means the Division of Public Health of the
    Department of Health and Human Services;

(3) Operator means a person designated by the tanning
    facility owner or tanning equipment lessee to operate, or to assist
    and instruct in the operation and use of, the tanning facility or
    tanning equipment;

(4) Tanning equipment means any device that emits
    electromagnetic radiation with wavelengths in the air between two
    hundred nanometers and four hundred nanometers and that is used for
    tanning of the skin. Tanning equipment includes, but is not limited
    to, a sunlamp, tanning booth, or tanning bed; and

(5) Tanning facility means a location, place, area,
    structure, or business that provides access to tanning equipment.
    Tanning facility includes, but is not limited to, any tanning
    business, salon, health club, apartment, or condominium, which has
    tanning equipment that is made available for public or commercial
    use, regardless of whether a fee is charged for access to the tanning
    equipment.

Sec. 3. It is the intent of the Legislature that the
Indoor Tanning Facility Act be implemented and enforced in a manner
that ensures equal treatment of all tanning facilities regardless of
the type of business or facility or number of pieces of tanning
equipment at the tanning facility.

Sec. 4. The Indoor Tanning Facility Act does not apply
to:

(1) A physician licensed under the Uniform Credentialing
Act who uses, in the practice of medicine, medical diagnostic and
therapeutic equipment that emits ultraviolet radiation; or

(2) Any individual who owns tanning equipment exclusively
for personal, noncommercial use.

Sec. 5. It shall be unlawful for an operator, an owner of
a tanning facility, or a lessee of a tanning facility to allow any
person less than sixteen years of age to use tanning equipment at the
tanning facility unless the person is accompanied by a parent or
legal guardian. Before each use of tanning equipment by any person
less than sixteen years of age, the operator, owner, or lessee shall
secure a statement signed at the tanning facility by the minor's
parent or legal guardian stating that the person signing the
statement is the minor's parent or legal guardian, that the parent or
legal guardian has read and understood the warnings given by the
tanning facility, that the parent or legal guardian consents to the
minor's use of tanning equipment, and that the parent or legal
guardian agrees that the minor will use protective eyewear while
using the tanning equipment. The operator, owner, or lessee shall
require proof of age from each person before allowing the person
access to tanning equipment. For purposes of this section, proof of
age shall include, but not be limited to, a driver's license or other
government-issued identification containing the person's date of
birth and photograph or digital image.

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

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

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

DANGER — Ultraviolet Radiation

Follow instructions.

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

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

Medicines or cosmetics can increase your sensitivity to
ultraviolet radiation. Consult your physician before using sunlamps
if you are using medication 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 tanning
equipment.

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

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

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

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

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

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

(1) Have been a resident of this state for one year;

(2) Remain a resident of Nebraska while serving as a board member;

(3) Have attained the age of nineteen years;

(4) Represent the interests and viewpoints of the public;

(5) Not hold an active credential in any profession or business which is subject to the Uniform Credentialing Act, issued in Nebraska or in any other jurisdiction, at any time during the five years prior to appointment;

(6) Not be eligible for appointment to a board which regulates a profession or business in which that person has ever held a credential;

(7) Not be or not have been, at any time during the year prior to appointment, an employee of a member of a profession credentialed by the department, of a facility credentialed pursuant to the Health Care Facility Licensure Act, or of a business credentialed pursuant to the Uniform Credentialing Act, or of a business regulated by the board to which the appointment is being
(8) Not be the parent, child, spouse, or household member of any person presently regulated by the board to which the appointment is being made;

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

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

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

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

(2) The professional members shall include:

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

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

(c) Two cosmetologists who are not school owners;

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

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

(f) One electrologist;

(g) One practitioner of body art;

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

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

(3) No members of the board who are school owners, salon
owners, tanning facility owners, electrologists, nail technicians,
instructors, cosmetologists, or practitioners of body art may be
affiliated with the same establishment.

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

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