

## **Tanning facilities**

**As an amendment to [NAME OF STATE STATUTE]**

**The Department is referring to [NAME OF REGULATING DEPARTMENT]**

**(1) DEFINITIONS.** In this section:

(a) “Phototherapy device” means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.

(b) “Tanning device” means equipment that emits electromagnetic radiation having wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails. Such term shall not include a phototherapy device used, or prescribed for use, by a physician.

(c) “Tanning facility” means any location, place, area, structure, or business that provides persons access to any tanning device, including tanning salons, health clubs, apartments, and condominiums, regardless of whether a fee is charged for access to the tanning equipment.

(d) “Operator” means a person designated by the tanning facility owner or tanning device lessee to operate or to assist and instruct in the operation and use of the tanning facility or tanning device.

**(2) EXCLUSION.** This section shall not apply to any physician who is duly licensed to practice medicine in this State and who, in the practice of medicine, uses or prescribes to be used a phototherapy device with respect to a patient of any age.

**(3) PROHIBITION ON USE BY MINORS.** It shall be unlawful for a person under 18 years of age to use any tanning device of any tanning facility in this State.

**(4) NOTICE.** A person who is the owner, lessee or operator of a tanning facility shall post in a conspicuous place in each tanning facility owned, leased or operated by that person in this State a notice developed by the department that states all of the following:

(a) That it is unlawful for a tanning facility or operator to allow a person under the age of 18 to use any tanning device.

(b) That a tanning facility or operator that violates the one or more provisions of this section shall be subject to a civil penalty.

(c) That an individual may report a violation of one or more provisions of this section to the local law enforcement agency.

(d) The health risks associated with tanning, including but not limited to skin cancer, premature aging of skin, and burns to the skin.

[Possible alternative (more detailed) to notice and signage requirements in subsection (4) above:

**[(4) WRITTEN NOTICE.** *Each tanning facility shall give to each of its customers written notice of all of the following before initial use and at the beginning of each year:*

*(a) Failure to wear the eye protection provided by the tanning facility may damage the customer’s eyes and cause cataracts.*

*(b) Overexposure to a tanning device may cause burns to the skin.*

*(c) Repeated exposure to a tanning device may cause premature aging of the skin and skin cancer.*

*(d) Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by the following:*

*1. Certain foods.*

2. *Certain cosmetics.*

3. *Certain medications, including but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines and birth control pills.*

*(e) Any person who takes a drug should consult a physician before using a tanning device.*

**[(5) SIGNAGE.**

*(a) WARNING SIGN. Each tanning facility shall prominently display a warning sign in each area where a tanning device is used. That sign shall convey the following directions and information:*

*(1) Follow instructions.*

*(2) Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of a tanning device can cause eye and skin injury and allergic reactions. Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin and skin cancer.*

*(3) Wear protective eyewear. Failure to do so may result in severe burns or long-term injury to the eyes.*

*(4) Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems or believe that you are especially sensitive to sunlight. (5) If your skin does not tan when exposed to the sun it is unlikely that your skin will tan when exposed to this tanning device.*

*(b) AGE RESTRICTIONS. Each tanning facility shall prominently display a sign in a conspicuous place that conveys the following information:*

*(1) It is unlawful for a tanning facility or operator to allow a person under the age of 18 to use any tanning equipment*

*(2) A tanning facility or operator that violates the provisions of this section shall be subject to a civil penalty.*

*(3) An individual may report a violation of the provisions of this section to his or her local law enforcement agency.]*

**(5) DUTIES OF OWNER.** The owner, lessee or operator of a tanning facility shall ensure that all of the following requirements are fulfilled:

*(a) No customer under 18 years of age is permitted to use the tanning facility. [Proof of age [may / may only/ shall] be satisfied with a driver's license or other government issued identification containing the date of birth and photograph of the individual.]*

*(b) During operating hours there is present at the tanning facility a trained operator who is able to inform customers about, and assist customers in, the proper use of tanning devices.*

*(c) Each tanning bed is properly sanitized after each use.*

*(d) Each customer, before he or she begins to use a tanning device, is provided with properly sanitized and securely fitting protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance.*

*(e) Customers are not allowed to use a tanning device unless the customer uses protective eyewear.*

*(f) Each customer is shown how to use such physical aids as handrails and markings on the floor to maintain a proper exposure distance from the tanning device as recommended by the manufacturer.*

*(g) A timing device that is accurate within 10% of any selected timer interval is used and is remotely located so customers cannot set their own exposure time.*

*(h) Each tanning device is equipped with a mechanism that allows the customer to turn the tanning device off.*

*(i) Each customer is limited to the maximum exposure time recommended by the manufacturer for their skin type.*

- (j) Customers are not allowed to use a tanning device more than once every 24 hours.
- (k) The interior temperature of the tanning facility does not exceed 100 degrees Fahrenheit.
- (l) Signed customer statements that acknowledge understanding of the notice and warning, and agreeing to use protective eyewear, are retained for 3 years or until the customer signs a new statement.

**(6) DUTIES OF USER.** No person may use a tanning device of a tanning facility unless he or she complies with all of the following:

- (a) Immediately before the customer's first use of a tanning facility in a year, sign a statement acknowledging that he or she has read and understands the notice and the warning sign required under this section and specifying that the customer agrees to use protective eyewear.
- (b) Use protective eyewear at all times while using a tanning device.

**(7) PENALTIES.** Any person who violates a provision of this section or any rule promulgated thereunder shall be subject to a civil money penalty of not more than \$\_\_\_\_\_ for the first violation and not more than \$\_\_\_\_\_ for any subsequent violation. [A court may also revoke a permit issued to any person under this section if that person or his or her employee violates any provision of this section.]

**[  ] PERMITS.**

*(a) Except as may otherwise be provided under law, no person may operate a tanning facility without a permit that the department may issue under this subsection. The holder of a permit issued under this subsection shall display the permit in a conspicuous place at the tanning facility for which the permit is issued.*

*(b) Permits issued under this subsection shall expire annually.]*

**[ ( ) DENIAL, SUSPENSION OR REVOCATION OF PERMITS.** *The [ \_\_\_\_\_ ] may under this section, deny issuance of a permit to an applicant or suspend or revoke any permit issued under this section if the applicant or permit holder or his or her employee violates any provision of this section or any rule promulgated thereunder.*

**[  ] ADVERTISING.** *No tanning facility may state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.]*

**[ ( ) INJURY REPORTS.** *If a person requires medical attention due to use of a tanning facility, the owner of that tanning facility shall report that injury to the department in writing and send a copy of that report to the injured person. The owner, lessee or operator of the tanning facility shall retain a copy of the report for 3 years.*

**[ ( ) RULES.** *The [ \_\_\_\_\_ ] may promulgate rules necessary to administer this section.*

**[ ( ) ENFORCEMENT.** *The [ \_\_\_\_\_ ] shall enforce this*