

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Tanning Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 795
- 3) 

<u>Section Number:</u>	<u>Adopted Action:</u>
795.30	Amended
795.40	Amended
795.60	Amended
795.130	Amended
795.190	Amended
795.220	Amended
- 4) Statutory Authority: Authorized by the Tanning Facility Permit Act [210 ILCS 145]
- 5) Effective Date of Amendments:
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: 38 Ill. Reg. 1801; January 17, 2014
- 10) Has JCAR issued a State of Objection to these amendments? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register citation:</u>
795.20	Amend	38 Ill. Reg. _____, May 23, 2014
795.30	Amend	38 Ill. Reg. _____, May 23, 2014

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF ADOPTED AMENDMENTS

795.60	Amend	38 Ill. Reg. _____, May 23, 2014
795.100	Amend	38 Ill. Reg. _____, May 23, 2014
795.150	Amend	38 Ill. Reg. _____, May 23, 2014
795.180	Amend	38 Ill. Reg. _____, May 23, 2014

- 15) Summary and Purpose of Rulemaking: This Part is being amended to implement Public Act 98-0349, which amended the Tanning Facility Permit Act to prohibit any person under the age of 18 from the use of tanning equipment in a tanning facility in the State of Illinois. The Public Act took effect on January 1, 2014. Definitions are being updated and new definitions for "personal use" and "private residence" are being added, as well as new statutory language defining equipment. An exemption is being added for personal use of a tanning bed in a private residence. Application requirements are being updated. Permit denial and renewal requirements are being amended to refer to use of the facility by a person under age 18. Record-keeping requirements will require verification of age by facility patrons.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> floor  
Springfield, Illinois 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

The full text of the adopted amendments begins on the next page:

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

PART 795

TANNING FACILITIES CODE

Section	
795.10	Purpose and Scope
795.20	Incorporated Materials
795.30	Definitions
795.40	Exemptions
795.50	Liability
795.60	Application for Permit to Operate a Tanning Facility
795.70	Issuance of Permit to Operate a Tanning Facility
795.80	Expiration of Permit to Operate a Tanning Facility
795.90	Renewal of Permit to Operate a Tanning Facility
795.100	Report of Changes
795.110	Non-Transfer of Permit
795.120	Approval Not Implied
795.130	Denial, Suspension, Revocation or Non-Renewal of a Permit to Operate a Tanning Facility
795.140	Hearings
795.150	Construction and Operation of Tanning Facilities
795.160	Additional Requirements for Stand-Up Booths
795.170	Protective Eyewear
795.180	Operators
795.190	Records
795.200	Injury Reports
795.210	Sanitation
795.220	Enforcement and Penalties
795.APPENDIX A	Examples of Human Skin Types
795.APPENDIX B	Determination of Skin Types

AUTHORITY: Implementing and authorized by the Tanning Facility Permit Act [210 ILCS 145].

SOURCE: Adopted at 16 Ill. Reg. 19895, effective December 7, 1992; emergency amendment at 19 Ill. Reg. 11648, effective August 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 2422, effective February 1, 1996; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

**Section 795.30 Definitions**

The definitions and interpretations contained in ~~section~~Section 201 of the Federal Food, Drug and Cosmetic Act (21 ~~USC~~U.S.C. 301 et seq.), 21 CFR 1040.20, and the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] are applicable to ~~those terms~~such items when used in this Part.

The following definitions shall also apply:

"Act" means the Tanning Facility Permit Act ~~[210 ILCS 145]~~.

"Agent" means a local health department recognized by the Department.

"Applicant" means any person who applies to the Department for a permit to maintain and operate a tanning facility.

"Change of ownership" means any of the following:

In the case of a tanning facility owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a tanning facility owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a tanning facility owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person whether or not the owner retains any interest in the facility.

*"Consumer" means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access. (Section 5 of the Act)*

*"Department" means the Illinois Department of Public Health or other health authority designated as its agent. (Section 5 of the Act)*

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Director" means the Director of Public Health or his ~~or her~~ designee. (Section 5 of the Act)

"Disinfect or disinfection" means a process ~~that~~~~which~~ provides an effective concentration of a United States Environmental Protection Agency approved chemical for enough time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when those disease organisms which may be present are destroyed so as to prevent transfer) on tanning equipment surfaces and in toilet and ~~hand-washing~~~~handwashing~~ facilities.

"Existing facility" means a tanning facility that submitted an application for a permit to operate a tanning facility on or before March 8, 1993 and remains in operation with an unexpired tanning facility permit at the same location under the same ownership as listed in the original tanning facility permit application.

"Expired facility" means a previously permitted tanning facility that has not renewed its tanning facility permit on or before the expiration date of ~~the~~~~said~~ permit, except as provided in the definition of new facility.

"Extensively remodeled" means conversion of an existing structure for use as a tanning facility; structural additions or alterations to existing facilities; or changes, modifications or extensions of plumbing or electrical systems, excluding routine maintenance of ~~the~~~~sueh~~ systems.

"Facility" means tanning facility.

"Fee" means the payment or exchange of goods, or anything of value, for the use of the tanning facility or facilities. (Section 5 of the Act)

"Individual" means any human being.

"Injury" means any circumstance or incident, resulting from the use of a tanning device ~~that,~~~~which~~ prompts a consumer to seek medical attention.

"Inspection" means an official examination or observation ~~that~~~~which~~ includes, but is not limited to, tests, surveys, and monitoring to determine compliance with ~~this~~  
~~Par~~~~rules, regulations, orders, requirements and conditions of the Department.~~

"Licensee" means the same as "~~permittee~~~~permitee~~".

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"New facility" includes any tanning facility that submitted an initial application for a tanning facility permit on or after March 9, 1993. Previously permitted facilities that have changed location or ownership are considered to be new facilities upon their relocation or change of ownership. Expired facilities that fail to renew their tanning facility permit within 90 days after the permit expiration shall be considered new facilities.

*"Operator" means the trained person designated by the licensee for the facility to control the operation of a tanning facility in compliance with the Act and this Part and to assist and instruct the public in the correct operation of the tanning facility and its equipment. (Section 5 of the Act)*

*"Other compensation" means the payment or exchange of goods, or anything of value, for use of the tanning facility or facilities. (Section 5 of the Act)*

"Permanent" means a minimum of five years for record keeping~~records related to an adult and a minimum of five years past emancipation for records related to a minor.~~

"Permit" means a permit issued by the Department in accordance with this Part.

~~"Permittee"~~Permitee means any person who is licensed by the Department in accordance with this Part.

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency of any other state or political subdivision~~thereof~~, and any legal successor, representative, agent, or agency of any of the entities listed~~the foregoing~~.

"Personal use" means the use of tanning equipment in a private residence for the owner or owners of the residence and other individuals living at the residence.

"Private residence" means a place in which an individual, group or family can live and store personal property, such as a single-family detached home, apartment, duplex or condominium. Private residence does not mean an apartment complex or a condominium complex or community and does not apply to the common or public areas found in the complex or community.

"Photosensitizing agent" means any food, drug, cosmetic, toiletry or other

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

substance, whether ingested or topically applied, ~~that~~<sup>which</sup> may induce hypersensitivity of an individual to exposure to the sun or other sources of ultraviolet radiation, resulting in inflammation of the skin and its underlying structures, often accompanied by edema.

"Protective eyewear" means eyewear that has been designed and tested in accordance with ~~the provisions set forth in~~ 21 CFR 1040.20. ~~Protective~~<sup>Such</sup> ~~protective~~ eyewear ~~shall must have been determined to~~ allow for the required protection to ultraviolet radiation while also allowing for adequate vision to maintain balance and ~~to locate~~<sup>location of</sup> the tanning equipment's 'emergency cut-off' switch.

"Radiation" means ultraviolet radiation.

"Radiation machine" means any device capable of producing radiation.

"Registrant" means any person who obtains a permit or other entitlement from the ~~Department~~<sup>Agency</sup>, and who is obligated to obtain ~~the~~<sup>such</sup> permit or other entitlement from the Department pursuant to the Act and this Part.

"Registration" means registration with the Department in accordance with this Part.

*"Tanning equipment" means sunlamp products and ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living body;* (Section 5 of the Act) ~~and equipment that emits ultraviolet (UV) radiation used for tanning of the skin, such as a sunlamp, tanning booth, or tanning bed that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers. "Tanning equipment" includes, but is not limited to, any accompanying equipment, such as protective eyewear, timers, and handrails~~ (Section 25(g)(2) of the Act) ~~as well as~~ <sup>Tanning equipment includes, but is not limited to, protective eyewear, accurate timers, original equipment lamp type, protective barriers, ~~handrails~~, warning labels, recommended exposure schedules, and recommended exposure distances. Tanning equipment shall be manufactured in accordance with 21 CFR 1040.20.</sup>

*"Tanning facility" or "Tanning facilities" means a room or a booth or a group of rooms or booths, ~~or a structure or business~~ that houses ultraviolet lamps or products containing lamps intended for the irradiation of any part of the living body for cosmetic or nonmedical related purposes but does not include any hotel*

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

*or motel guest rooms where sunlamps are installed in the restroom area.* (Section 5 of the Act)

"Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between ~~two hundred (200)~~ nanometers and ~~four hundred (400)~~ nanometers.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 795.40 Exemptions**

- a) Equipment intended for purposes other than the deliberate exposure of parts of the living human body to ultraviolet radiation and that produce or emit ultraviolet radiation incidental to its proper operation are exempt from the provisions of this Part.
- b) Radiation machines while in transit or storage ~~incidental thereto~~ are exempt from ~~provisions of~~ this Part.
- c) Any physician licensed to practice medicine in all of its branches, any licensed dentist, or any licensed podiatrist is exempt from ~~the provisions of~~ this Part to the extent that ~~the~~such practitioner uses, in the practice of medicine, dentistry or podiatry, medical diagnostic and therapeutic equipment ~~that~~which emits ultraviolet radiation.
- d) Personal use by an individual in a private residence and by other individuals living at the residence is exempt from ~~the provisions of~~ this Part to the extent that ~~the~~such individual owns the tanning equipment exclusively for personal use and no fee or other compensation is involved in the use of the tanning equipment.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 795.60 Application for Permit to Operate a Tanning Facility**

- a) Each person ~~having a tanning facility in operation on the effective date of this Part~~ shall apply to the Department for a permit to operate a tanning facility~~such facility within 90 days following the effective date of this Part or, thereafter,~~ prior to acquiring or establishing the operation of a tanning facility. Application for the permit shall be completed on forms prescribed by and available from the Department and shall contain all of the information required by the form and any accompanying instructions. Unless otherwise stated, the term "application" as



---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

used ~~in this Section~~herein shall include original and renewal applications.

- b) In the event of a change of ownership, the new owner shall apply for a permit to operate a tanning facility prior to taking possession of the property. ~~The Department may issue a~~A provisional permit ~~may be issued by the Department~~ until an initial inspection for a permit can be performed by the Department or its designated agent.

- c) The Department shall require at least the following information on the Application for Permit to Operate a Tanning Facility form:

- 1) ~~Name~~name, physical address, mailing address and telephone ~~number or numbers~~number(s) of the following:

A) ~~The~~the tanning facility;

B) ~~The~~the applicant (~~owner or owners~~owner[s]) of the tanning facility;

- 2) ~~The~~the manufacturer, model number, serial number, year and month of manufacture, and type of each ultraviolet lamp or piece of tanning equipment located within the facility;

- 3) ~~The~~the primary function of the business in which the tanning facility is located;

- 4) ~~The~~the geographic areas within the State to be covered, if the facility is mobile;

- 5) ~~Copies~~copies of any posted warnings or other notices ~~that~~which are not required by this Part and ~~that~~which address the safe or proper use of tanning equipment and protective devices;

- ~~6) copies of consent forms and statements which consumers, parents or guardians will be required to sign pursuant to this Part;~~

- ~~67) Names~~names and addresses of the tanning equipment ~~supplier or suppliers, installer or installers, and service agent or agents~~supplier(s), installer(s), and service agent(s);

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 78) ~~Aa~~ copy of the operating procedures to be used in the tanning facility;
- 89) ~~The~~ hours of operation of the tanning facility;
- 940) ~~The~~ name of the on-site manager of the tanning facility;
- 1044) ~~Aa~~ signed and dated certification that the applicant has received, read and understood the requirements of this Part.
- ~~d) Each applicant shall provide such additional information as the Department may reasonably require.~~
- de) Each initial application shall be submitted with a nonrefundable \$250 fee.
- ef) Each annual renewal application shall be submitted with a nonrefundable \$150 fee, except that each expired facility shall pay a nonrefundable \$250 fee for renewal of the permit.
- fg) If the owner owns or operates more than one tanning facility, the owner shall file a separate application and submit a separate fee for each facility owned and operated.
- gh) Expired facilities that fail to pay a nonrefundable \$250 permit renewal fee within 90 days after the permit expiration shall submit a new permit application and comply with requirements for new facilities in order to receive a tanning facility permit.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 795.130 Denial, Suspension, Revocation or Non-Renewal of a Permit to Operate a Tanning Facility**

The Department may deny, suspend, revoke or refuse to renew a permit to operate a tanning facility sought or issued pursuant to this Part for any of the following reasons:

- a) ~~Failurethe failure~~ to submit information required pursuant to Section 795.60 ~~thatwhich~~ demonstrates that the tanning facility will be constructed, operated and maintained in accordance with the requirements of this Part;
- b) ~~Submissionsubmission~~ of incorrect, false or misleading information in the

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

documents required under this Part;

- c) ~~Failure~~failure to construct, operate or maintain the tanning facility in accordance with this Part, except as ~~the~~such maintenance may involve the replacement of lamps by "equivalent" lamps ~~as which have been~~ defined in Section 795.100 ~~above~~;
- d) ~~Operation~~operation of the tanning facility in a way that causes or creates a nuisance or hazard to the public health or safety;
- e) ~~Violation~~violation of the ~~provisions of the~~ Act or ~~this Part~~the rules and regulations adopted by the Department;
- f) ~~Violation~~violation of any condition upon which the permit was issued;
- g) ~~Failure~~failure to allow duly authorized agents of the Department or its designated health authorities to conduct inspections of the facility;
- h) ~~Conviction~~conviction of an applicant or permit holder of an offense arising from false, fraudulent, deceptive, or misleading advertising (The record of conviction or a certified copy of ~~the~~such record shall be conclusive evidence of the conviction.);
- i) ~~Revocation~~revocation of a permit during the past ~~five~~5 years, or surrender or expiration of the permit during the pendency of action by the Department to revoke or suspend the permit during the previous ~~five~~5 years, if before the permit was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior permit;
- j) ~~Payment~~payment of permit fees or fines with checks returned for non-sufficient funds; ~~or~~
- k) ~~Failure~~failure to pay any permit fees or applicable fines; ~~or~~;
- l) Allowing anyone under the age of 18 years to use a permitted facility's tanning equipment.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 795.190 Records

- a) At the consumer's initial visit to a tanning facility, and at least annually after the initial visit, the~~thereafter, such~~ consumer shall be given a written statement of warning as described in Section 795.150(a) and shall sign a written statement acknowledging that he/she has read and has understood the warning statement. For illiterate or visually handicapped persons, the operator shall read the warning statement ~~shall be read by the operator~~ to the consumer in the presence of a witness. Both the witness and the operator shall sign the statement, indicating that it has been read to the consumer.
- b) Each consumer desiring to use the facility shall fill out a form specifying any and all prescription medicines and over-the-counter (non-prescription) medications the consumer is taking, and any cosmetics and toiletries, including any tanning accelerators, he or she may have applied prior to using the tanning facility. The consumer shall certify that he or she has not used the services of a tanning facility within the immediately previous ~~twenty-four (24)~~ hours. The form or record shall be kept as a confidential, permanent part of the record of the individual's attendance and progress. Information~~No information~~ concerning a consumer's prescription and non-prescription medications as listed on the required form or record shall not~~may~~ be released to any person without the written consent of the consumer. The~~Such~~ information, ~~however,~~ shall be made available to the Department or an agent of the Department during the regular course of an inspection.
- c) No person~~minor~~ under 18~~fourteen~~ years of age shall be allowed to use a~~a~~ tanning equipment~~device~~, either alone or in the presence of another individual. Proof of age shall be verified by a government-issued identification (ID) that contains both a birth date and picture. A copy of the ID shall not be required to be maintained on site.~~Minors age fourteen through seventeen shall obtain the written consent of a parent or legal guardian prior to being provided access to a tanning device. The parent or legal guardian shall sign a consent form in the presence of the operator who is not a minor, indicating that such parent or guardian has read and understood the warnings required under Section 795.150(a). The parent or guardian shall not be required to be in the tanning room or booth with the minor.~~
- d) The facility operator shall keep a~~A~~ record ~~shall be kept by the facility operator~~ of each consumer's total number of tanning visits, dates and duration of tanning exposures and the tanning equipment used. The~~Such~~ records shall be kept as a

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

permanent part of the record of the individual's attendance and progress. Records shall be maintained and available for inspection for a minimum of five years past a facility's termination of business.

- e) Information required by this Section ~~that the facility maintains which is maintained by the facility~~ on computer systems shall be regularly copied, at least monthly, and updated on storage media other than the hard drive of the computer.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 795.220 Enforcement and Penalties**

- a) Any tanning facility operating without a valid permit or operating on a revoked permit shall be guilty of committing a public nuisance.
- b) A person convicted of knowingly maintaining a public nuisance commits a Class A misdemeanor. Each subsequent offense under the Act is a Class 4 felony.
- c) Penalties or fines shall not exceed \$1,000 per day for each day the permit holder remains in violation.
- d) In addition to any other action authorized by the Act or this Part, the Department may assess fines against a tanning facility for violation of any provision of the Act or this Part. The Department shall review each inspection report according to criteria in subsections (e) through (h) ~~below~~.
- e) The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed.
- 1) Whether a violation has been noted on an inspection report, and whether ~~the facility corrected the violations such violation was corrected by the facility~~.
  - 2) Whether the facility or owner has previously been cited for a violation of the Act or ~~this Part~~ rules, except that any previously cited violation shall not be considered if ~~the~~ such violation was held to be unfounded or unapproved by a final order of the Department or by a court of competent jurisdiction, or if any previous citations for violations occurred more than three ~~(3)~~ years prior to the current violation.

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) Whether the violation ~~createsis of such a nature as to result in~~ the possibility of injury or other harm to the environment, to the owner's employees, to the building owner, to users or occupants, or to the general public.
  - 4) Whether the violation appears to be the result of any degree of negligence by the owner, the operator, or the owner's other employees.
  - 5) Whether the owner demonstrated good faith efforts (e.g., taking steps to correct or agreeing to correct the cited violations within a specified period of time) to correct the violations upon receipt of oral or written notice of the violation and whether ~~thesueh~~ actions ~~in fact~~ corrected the violation.
- f) The following criteria shall be used~~Criteria~~ to determine the amount of a fine~~are the following~~, and all amounts determined pursuant to the criteria shall be added together to determine the total fine against the tanning facility:
- 1) For each violation related to the operation of a tanning facility without having submitted an application for a permit to operate a tanning facility, pursuant to Section 795.60: \$250.
  - 2) For each violation related to the failure to notify the Department of changes to the information specified in the permit application, pursuant to Section 795.100: \$50.
  - 3) For each violation related to the failure to maintain an equipment maintenance log, as required by Section 795.100: \$100.
  - 4) For each violation related to the failure to post warnings as required by the Act and Section 795.150(a) ~~of this Part~~: \$100.
  - 5) For each violation related to tanning equipment timers ~~thatwhich~~ fail to operate in accordance with the manufacturer's recommended exposure limit as required by Section 795.150(b)(2): \$250.
  - 6) For each violation related to the presence of tanning equipment ~~thatwhich~~ fails to incorporate a manual control ~~thatwhich~~ allows the user to terminate radiation, as required by Section 795.150(b)(3): \$250.
  - 7) For each violation related to the presence of tanning equipment lacking

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

physical barriers to protect consumers from injury induced by touching or breaking ~~of~~ the lamps, as required by Section 795.150(b)(6): \$250.

- 8) For each violation related to the use of lamps and bulbs ~~that~~which are not certified for use in the equipment in which they are found to be installed, as required by Section 795.150(b)(8): \$250.
- 9) For each violation related to the absence of an adequate supply of eyewear meeting the specifications of 21 CFR 1040.20, as required by Section 795.170(a): \$250.
- 10) For each violation related to the failure to properly sanitize eyewear in accordance with Section 795.170(c): \$100.
- 11) For each violation related to allowing consumers to use tanning equipment without use of protective eyewear as required by Section 795.170(f): \$250.
- 12) For each violation in which the tanning facility was operated in the absence of a trained operator, as required by Section 795.180(c): \$250.
- 13) For each violation related to the failure to maintain consumer use records, as required by the Act and Section 795.190 ~~of this Part~~: \$250.
- 14) For each violation related to the failure to maintain prescription and non-prescription drug information required by Section 795.190(b) in a confidential manner: \$500.
- 15) For each violation allowing the use of tanning equipment by ~~persons~~minors under the age of ~~18~~14 ~~or use by an individual age 14 to 17 without a signed consent form by a parent or guardian~~ as ~~prohibited~~required by Section 795.190(d): \$250.
- 16) For each violation in which an injury resulting from the use of the tanning equipment was not reported to the Department, as required by Section 795.200: \$500.
- 17) For each violation related to the failure to provide proper sanitation of tanning equipment or the tanning facility, as required by Section 795.210: \$100.

---

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- g) ~~Violations~~Violation of any provision of the Tanning Facility Permit Act or any provision of ~~the rules of~~ this Part shall be issued as the following:
- 1) First violation – the permittee shall be issued a warning letter.
  - 2) Second violation – the permittee shall be issued a fine according to this Section ~~795.220~~. The repeat violation fine will be a minimum of \$250 plus a fine according to this Section.
  - 3) Third violation – the ~~permittee~~permittee shall be issued a fine according to this Section ~~795.220~~. The repeat violation fine will be a minimum of \$500 plus a fine according to this Section. The ~~permittee~~permittee shall be notified of the Department's intent to revoke the permit and shall be offered a hearing in accordance with Section 795.140.
- h) Each day that a violation exists shall constitute a separate violation.
- i) The Department shall serve any notice of assessment of fine on the ~~permittee~~permittee in the same manner as any notice of permit revocation provided pursuant to the Act and this Part, and the ~~permittee~~permittee shall have the same rights and opportunity for hearing as elsewhere provided pursuant to the Act and this Part. ~~If~~In the event that the ~~permittee~~permittee does not request a hearing within the time allowed by the Act and this Part, the fine assessed shall be due in full at the expiration of time allowed to request a hearing.
- j) All fine ~~assessments that~~assessment which are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law [735 ILCS 5/Art. III] (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 et seq.), unless the ~~permittee~~permittee has within that time filed proceedings in administrative review specifically appealing the fine assessment and unless the court has stayed the enforcement of the fine assessment.
- k) Following the issuance of the notice of violation, the Department or its agent ~~will~~shall reinspect a facility to determine compliance with the Act and this Part.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)