

1 SENATE BILL NO. 133

2 INTRODUCED BY R. WEBB

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF TANNING DEVICES BY A PERSON
5 UNDER 18 YEARS OF AGE; PROVIDING DEFINITIONS; PROVIDING A PENALTY; AMENDING SECTION
6 45-5-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7
8 WHEREAS, the incidence of melanoma, the most deadly form of skin cancer, has continued to increase
9 in the United States and worldwide over the last 4 decades, and approximately 2.1% of men and women will be
10 diagnosed with melanoma at some point in their lives; and

11 WHEREAS, the United States Department of Health and Human Services and the World Health
12 Organization International Agency for Research on Cancer have declared that ultraviolet radiation from the sun
13 and from artificial sources, such as tanning beds and sunlamps, is a known cancer-causing agent, and the
14 American Academy of Dermatology supports the World Health Organization recommendation that minors should
15 not use indoor tanning devices because overexposure to ultraviolet radiation can lead to the development of skin
16 cancer; and

17 WHEREAS, approximately 1.6 million teenagers use artificial tanning devices each year; and

18 WHEREAS, one in nine high school girls has used a tanning device, and the number increases to nearly
19 one in six by a girl's senior year of high school; and

20 WHEREAS, the risk of melanoma increases with the number of total hours, sessions, and years that
21 indoor tanning devices are used; and

22 WHEREAS, the risk of melanoma is increased by 59% for individuals who started using tanning beds
23 before the age of 35, and the use of tanning beds is associated with a sixfold increase in the risk of melanoma
24 among women younger than 30 years of age; and

25 WHEREAS, it is in the public interest to protect minors from the harmful effects of ultraviolet radiation
26 through the use of artificial tanning devices by restricting minors' access to those devices.

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28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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30 NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 and 2], the following definitions

1 apply:

2 (1) "Minor" means a person who is under 18 years of age.

3 (2) "Operator" means a person designated by the owner of a tanning facility or the lessee of a tanning
4 device to operate or to assist and instruct in the operation and use of the tanning facility or tanning device.

5 (3) "Phototherapy device" means equipment that emits ultraviolet radiation and is used in diagnosing
6 or treating disease.

7 (4) (a) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the
8 air between 200 and 400 nanometers used for the tanning of the skin, including:

9 (i) a sunlamp; and

10 (ii) a tanning booth or bed.

11 (b) The term does not include a phototherapy device used by a licensed physician or licensed advanced
12 practice registered nurse.

13 (5) "Tanning facility" means a location, place, area, structure, or business, including a tanning salon,
14 health club, apartment, or condominium, that provides access to a tanning device, regardless of whether a fee
15 is charged for access to the tanning device.

16

17 **NEW SECTION. Section 2. Unlawful use of tanning device.** (1) Except as provided in subsection (2),
18 it is unlawful for an owner or operator of a tanning facility to allow a minor to use a tanning device.

19 (2) A licensed physician or licensed advanced practice registered nurse prescribing the use of a
20 phototherapy device for a minor is not subject to the provisions of this section.

21 (3) A person who violates this section is guilty of the offense of unlawful transactions with children and
22 is subject to the penalties provided in 45-5-623.

23

24 **Section 3.** Section 45-5-623, MCA, is amended to read:

25 **"45-5-623. Unlawful transactions with children.** (1) Except as provided for in 16-6-305, a person
26 commits the offense of unlawful transactions with children if the person knowingly does any of the following:

27 (a) sells or gives explosives to a child under the age of majority except as authorized under appropriate
28 city ordinances;

29 (b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of
30 majority;

1 (c) sells or gives an alcoholic beverage to a person under 21 years of age;

2 (d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child
3 under the age of majority without authorization of the parent or guardian; ~~or~~

4 (e) tattoos or provides a body piercing on a child under the age of majority without the explicit in-person
5 consent of the child's parent or guardian. For purposes of this subsection (1)(e), "tattoo" and "body piercing" have
6 the meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an
7 excuse for violation of this subsection (1)(e).

8 (f) provides the use of a tanning device at a tanning facility to a minor. For purposes of this subsection
9 (1)(f), "minor", "tanning device", and "tanning facility" have the meanings provided in [section 1]. Failure to
10 adequately verify the age of a minor is not an excuse for violation of this subsection (1)(f).

11 (2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not
12 to exceed \$500 or be imprisoned in the county jail for ~~any~~ a term not to exceed 6 months, or both. A person
13 convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed
14 \$1,000 or be imprisoned in the county jail for ~~any~~ a term not to exceed 6 months, or both. (See compiler's
15 comments for contingent termination of certain text.)"

16
17 NEW SECTION. Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified
18 as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 and 2].

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20 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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