

1 SENATE BILL NO. 357

2 INTRODUCED BY L. MOSS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF TANNING DEVICES BY A PERSON
5 UNDER 16 YEARS OF AGE WITH EXCEPTIONS; PROVIDING DEFINITIONS; PROVIDING A PENALTY FOR
6 VIOLATION; AND AMENDING SECTION 45-5-623, MCA."

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8 WHEREAS, melanoma, the most deadly form of skin cancer, is now the fastest-growing cancer in the
9 United States, with cases increasing at an epidemic rate; and

10 WHEREAS, melanoma is the second most common cancer in adolescents and young adults 15 through
11 29 years of age; and

12 WHEREAS, the U.S. Department of Health and Human Services has declared ultraviolet radiation from
13 the sun and artificial sources, such as tanning beds and sun lamps, as a known cancer-causing agent; and

14 WHEREAS, more than 2.3 million teenagers use artificial tanning devices each year, and more than 25%
15 of American teenagers have used tanning booths three or more times; and

16 WHEREAS, the World Health Organization, the American Medical Association, and the American
17 Academy of Dermatology have declared that a minor should not be allowed to use artificial tanning devices; and

18 WHEREAS, it is in the public interest to protect children from the harmful effects of ultraviolet radiation
19 through the use of artificial tanning devices by restricting minors' access to the devices unless authorized by a
20 physician.

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

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24 NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 and 2], the following definitions
25 apply:

26 (1) "Minor" means a person who is under 16 years of age.

27 (2) "Phototherapy device" means equipment that emits ultraviolet radiation and is used in treating
28 disease.

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

- 1 (i) a sunlamp; and
2 (ii) a tanning booth or bed.
3 (b) The term does not include a phototherapy device used by a physician.
4 (4) "Tanning facility" means any location, place, area, structure, or business that provides persons
5 access to any tanning device.
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7 **NEW SECTION. Section 2. Unlawful use of tanning device.** (1) Except as provided in subsection (3),
8 it is unlawful for any owner or operator of a tanning facility to allow a minor to use a tanning device unless the
9 minor's parent or legal guardian:

- 10 (a) appears in person at the tanning facility the first time the minor uses a tanning device; and
11 (b) signs the consent form required in subsection (2).
12 (2) (a) The written consent form must be signed and dated and must include at least:
13 (i) the number of times, up to 12 times per year, that the minor may use a tanning device;
14 (ii) information concerning the health risks associated with use of a tanning device; and
15 (iii) a statement that:
16 (A) the parent or legal guardian of the minor has read and understood the warnings given by the tanning
17 facility and consents to the minor's use of the tanning device; and
18 (B) the parent or legal guardian agrees that the minor will use protective eyewear.
19 (b) The written consent form expires 12 months from the date signed.
20 (3) A physician prescribing the use of a phototherapy device for a minor is not subject to the provisions
21 of this section.
22 (4) A person who violates this section is guilty of an unlawful transaction with a child and is subject to
23 the penalties provided in 45-5-623.
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25 **Section 3.** Section 45-5-623, MCA, is amended to read:

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

- 28 (a) sells or gives explosives to a child under the age of majority except as authorized under appropriate
29 city ordinances;
30 (b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of

1 majority;

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

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

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

9 (f) provides the use of a tanning device at a tanning facility to a minor without the written in-person
10 consent of the minor's parent or legal guardian. For purposes of this subsection (1)(f), "minor", "tanning device",
11 and "tanning facility" have the meaning provided in [section 1]. Failure to adequately verify the identity of a parent
12 or legal guardian is not an excuse for violation of this subsection (1)(f).

13 (2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not
14 to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person
15 convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed
16 \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler's comments
17 for contingent termination of certain text.)"

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

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