

1 HOUSE BILL NO. 478

2 INTRODUCED BY E. HILL SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF TANNING DEVICES BY A PERSON
5 UNDER 18 YEARS OF AGE WITHOUT THE CONSENT OF A PARENT OR GUARDIAN; PROVIDING
6 DEFINITIONS; PROVIDING A PENALTY; AND AMENDING SECTION 45-5-623, MCA."

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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 since 2004, incidence rates of melanoma among
10 Caucasians have increased approximately 3% per year in both men and women; and

11 WHEREAS, a recent analysis using data from the National Cancer Institute's Surveillance, Epidemiology,
12 and End Results Program demonstrates that there is an increasing incidence of thicker and more fatal
13 melanomas; and

14 WHEREAS, melanoma is the most common cancer among individuals 25-29 years of age and is the
15 second most common cancer among individuals 15-29 years of age; and

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

22 WHEREAS, more than 2.3 million teenagers use artificial tanning devices each year, more than 25% of
23 American teenagers have used tanning beds three or more times, and nearly 70% of tanning salon patrons are
24 young Caucasian women ages 16-29; and

25 WHEREAS, research shows that the ultraviolet light received from indoor tanning increases a person's
26 melanoma risk by 75%; and

27 WHEREAS, in females 15-29 years of age, the torso or trunk is the most common location on the body
28 for developing melanoma, which may be due to high-risk tanning behaviors; and

29 WHEREAS, the risk of melanoma is increased by 87% for individuals who started using tanning beds
30 before the age of 35 and the use of tanning beds increases the risk of melanoma, especially in women 45 years

1 of age or younger; and

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

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

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

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

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

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

14 (i) a sunlamp; and

15 (ii) a tanning booth or bed.

16 (b) The term does not include a phototherapy device used by a physician.

17 (4) "Tanning facility" means a location, place, area, structure, or business that provides persons access
18 to a tanning device.

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20 NEW SECTION. **Section 2. Unlawful use of tanning device.** (1) Except as provided in subsection (3),
21 it is unlawful for an owner or operator of a tanning facility to allow a minor to use a tanning device unless the
22 minor's parent or guardian:

23 (a) appears in person at the tanning facility the first time the minor uses a tanning device; and

24 (b) signs the consent form required in subsection (2).

25 (2) (a) The written consent form must be signed and dated and must include at least:

26 (i) the number of times, up to 12 times per year, that the minor may use a tanning device;

27 (ii) information concerning the health risks associated with use of a tanning device; and

28 (iii) a statement that:

29 (A) the parent or guardian of the minor has read and understood the warnings given by the tanning
30 facility and consents to the minor's use of the tanning device; and

1 (B) the parent or guardian agrees that the minor will use protective eyewear.

2 (b) The written consent form expires 12 months after the date it is signed.

3 (3) A physician prescribing the use of a phototherapy device for a minor is not subject to the provisions
4 of this section.

5 (4) A person who violates this section is guilty of an unlawful transaction with a child and is subject to
6 the penalties provided in 45-5-623.

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

9 **"45-5-623. Unlawful transactions with children.** (1) Except as provided for in 16-6-305, a person
10 commits the offense of unlawful transactions with children if the person knowingly does any of the following:

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

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

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

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

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

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

26 (2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not
27 to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person
28 convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed
29 \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler's
30 comments for contingent termination of certain text.)"

