1   SENATE BILL NO. 419

2   INTRODUCED BY S. VANCE

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4   A BILL FOR AN ACT ENTITLED: "AN ACT BANNING TIKTOK IN MONTANA; PROHIBITING AN INTERNET

5   SERVICE PROVIDER FROM ALLOWING THE OPERATION OF TIKTOK IN THE STATE; PROHIBITING A

6   MOBILE APPLICATION STORE FROM OFFERING THE TIKTOK APPLICATION TO MONTANA USERS;

7   PROVIDING FOR PENALTIES; PROVIDING FOR ENFORCEMENT AUTHORITY; PROVIDING

8   DEFINITIONS; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING A DELAYED EFFECTIVE

9   DATE."

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11   WHEREAS, the People's Republic of China is an adversary of the United States and Montana and has

12   an interest in gathering information about Montanans, Montana companies, and the intellectual property of

13   users to engage in corporate and international espionage; and

14   WHEREAS, TikTok is a wholly owned subsidiary of ByteDance, a Chinese corporation; and

15   WHEREAS, the People's Republic of China exercises control and oversight over ByteDance, like other

16   Chinese corporations, and can direct the company to share user information, including real-time physical

17   locations of users; and

18   WHEREAS, TikTok gathers significant information from its users, accessing data against their will to

19   share with the People's Republic of China; and

20   WHEREAS, TikTok fails to remove, and may even promote, dangerous content that directs minors to

21   engage in dangerous activities, including but not limited to throwing objects at moving automobiles, taking

22   excessive amounts of medication, lighting a mirror on fire and then attempting to extinguish it using only one's

23   body parts, inducing unconsciousness through oxygen deprivation, cooking chicken in NyQuil, pouring hot wax

24   on a user's face, attempting to break an unsuspecting passerby's skull by tripping him or her into landing face

25   first into a hard surface, placing metal objects in electrical outlets, swerving cars at high rates of speed,

26   smearing human feces on toddlers, licking doorknobs and toilet seats to place oneself at risk of contracting

27   coronavirus, attempting to climb stacks of milkcrates, shooting passersby with air rifles, loosening lug nuts on

28   vehicles, and stealing utilities from public places; and

1   WHEREAS, TikTok's stealing of information and data from users and its ability to share that data with

2   the Chinese Communist Party unacceptably infringes on Montana's right to privacy; and

3   WHEREAS, TikTok's continued operation in Montana serves as a valuable tool to the People's

4   Republic of China to conduct corporate and international espionage in Montana and may allow the People's

5   Republic of China to track the real-time locations of public officials, journalists, and other individuals adverse to

6   the Chinese Communist Party's interests; and

7   WHEREAS, TikTok's allowance and promotion of dangerous challenges threatens the health and

8   safety of Montanans.

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

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12   NEW SECTION. **Section 1.   Prohibition -- penalty -- enforcement -- definitions.** (1) Tiktok may not

13   operate within the territorial jurisdiction of Montana. An entity violates this prohibition when it aids, abets,

14   facilitates, or allows any of the following to occur within the territorial jurisdiction of Montana:

15   (a)   the operation of tiktok by the company or users;

16   (b)   the offering of tiktok by an internet service provider; and

17   (c)   the option to download the tiktok mobile application by a mobile application store.

18   (2)   An entity that violates a provision of this section is liable in the amount of $10,000 for each

19   discrete violation and is liable for an additional $10,000 each day thereafter that the violation continues.

20   (3)   It is an affirmative defense to this section if the violating entity could not have reasonably

21   known that the violation occurred within the territorial jurisdiction of Montana.

22   (4)   Penalties under this section do not apply to law enforcement activities, national security

23   interests and activities, security research activities, or essential government uses permitted by the governor on

24   the information technology system of the state.

25   (5)   Penalties in this section do not apply to users of tiktok.

26   (6)   The department of justice shall enforce the provisions of this section.

27   (7)   As used in this section, the following definitions apply:

28   (a)   "Discrete violation" means each time that a user accesses tiktok, is offered the ability to access

1   tiktok, or is offered the ability to download tiktok.

2   (b)   "Entity" means an internet service provider, a mobile application store, or tiktok.

3   (c)   "Mobile application" means a type of software program designed to run on a mobile device.

4   (d)   "Territorial jurisdiction" means all places subject to the criminal jurisdiction of Montana.

5   (e)   "Tiktok" means the social networking service owned by the Chinese company bytedance

6   limited or any successors.

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8   NEW SECTION. **Section 2.   Codification instruction.** [Section 1] is intended to be codified as an

9   integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, applies to [section 1].

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11   NEW SECTION. **Section 3.   Severability.** Each part of [this act] is severable. If any part of [this act] is

12   invalid, illegal, or unenforceable, all valid parts remain in effect. If a part of [this act] is invalid in one or more of

13   its applications, only those applications may be void and the remaining valid applications remain in effect as

14   severable from the invalid applications and parts.

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16   NEW SECTION. **Section 4.   Contingent voidness.** [This act] is void if tiktok is acquired by or sold to

17   a company that is not incorporated in any other country designated as a foreign adversary in 15 C.F.R. 7.4 at

18   the time tiktok is sold or acquired.

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20   NEW SECTION. **Section 5.   Effective date.** [This act] is effective January 1, 2024.

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