

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 268

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO MINORS; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1524, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR EXCEPTIONS, TO PROHIBIT OR LIMIT THE USE OF TANNING DEVICES BY MINORS, TO PROVIDE FOR EXCEPTIONS, TO PROHIBIT A TANNING FACILITY FROM CLAIMING THAT USE OF TANNING DEVICES IS FREE FROM RISK, TO PROVIDE FOR PENALTIES, TO PROVIDE THAT PENALTIES ASSESSED SHALL BE DEPOSITED IN THE IDAHO MILLENNIUM INCOME FUND AND TO PROVIDE A SCOPE FOR LOCAL GOVERNMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1524, Idaho Code, and to read as follows:

18-1524. USE OF TANNING DEVICES BY MINORS. (1) As used in this section:

(a) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers used for tanning of the skin including, but not limited to, a sunlamp, tanning booth or tanning bed.

(b) "Tanning device" does not include:

(i) Devices used solely by an owner and the immediate family of an owner in a private residence; or

(ii) Devices used to apply chemicals to the skin to achieve a bronze color, commonly referred to as spray-on, mist-on or sunless tans.

(c) "Tanning facility" means any location at which a tanning device is used or offered for use for a fee or charge, whether or not a separate payment is charged for the use or the right to use a tanning device is included in a membership fee. These locations may include, but are not limited to, commercial tanning salons, public or private gyms or workout facilities, spas, apartment or housing complex community areas and dormitories.

(2) No minor age fifteen (15) years or younger may use a tanning device, and no person may use a tanning device on a minor age fifteen (15) years or younger unless such use is authorized by prescription from a licensed medical provider to treat a medical condition.

(3) No minor between sixteen (16) and eighteen (18) years of age may use a tanning device and no person may use a tanning device on a minor between sixteen (16) and eighteen (18) years of age unless such minor's parent or legal guardian provides in-person consent or the use is authorized by prescription from a licensed medical provider to treat a medical condition. For the purposes of this subsection, "in-person consent" means that a parent or legal guardian of a minor between sixteen (16) and eighteen (18) years

1 of age appears in person at the time of the minor's initial use of a tanning  
2 device within a consecutive twelve (12) month period and signs a written con-  
3 sent form in the presence of the owner or an employee of the tanning facility.  
4 The minor's parent or legal guardian may withdraw this consent in writing  
5 at any time. Unless withdrawn, this consent shall be valid for twelve (12)  
6 months from the date the written consent form is signed, unless the parent or  
7 guardian specifies a shorter duration on the written consent form. Before  
8 a minor between sixteen (16) and eighteen (18) years of age may use a tan-  
9 ning device after the expiration of a written consent, a new written consent  
10 that meets all of the requirements of the first consent must be obtained. The  
11 written consent form required in this subsection shall state that the parent  
12 or legal guardian has read and understood the warnings given by the tanning  
13 facility, consents to the minor's use of a tanning device and agrees that  
14 the minor will use protective eyewear provided by the tanning facility. The  
15 written consent form described in this subsection shall be on paper with di-  
16 mensions not less than eight and one-half (8.5) inches by eleven (11) inches  
17 and be clear, legible and include the following provisions:

18 (a) "DANGER - ULTRAVIOLET RADIATION FROM TANNING DEVICES IS KNOWN TO  
19 CAUSE CANCER IN HUMANS" in letters of at least sixteen (16) point bold  
20 font on the same page as the parent or legal guardian's signature;

21 (b) "Exposure to ultraviolet radiation is known to cause skin cancer,  
22 including potentially fatal malignant melanoma, as well as serious  
23 eye and skin injury including, but not limited to, wrinkling, dryness,  
24 fragility and bruising of the skin."; and

25 (c) A section for the parent or legal guardian to specify the number of  
26 times the minor may use a tanning device per week, as well as the total  
27 number of times a minor may use a tanning device during the period for  
28 which the consent is valid.

29 (4) A minor authorized to use a tanning device pursuant to this section  
30 shall be limited to not more than two (2) uses of tanning devices per week and  
31 not more than one (1) use within a twenty-four (24) hour period, unless a par-  
32 ent or legal guardian provides stricter limits on the written consent form  
33 required by this section. The parent or legal guardian of the minor may also  
34 limit the total number of uses of a tanning device for the period of the writ-  
35 ten consent by setting such limits on the written consent form.

36 (5) The age of any person suspected to be a minor shall be verified by  
37 the owner or employee of a tanning facility. Proof of age shall be satisfied  
38 with a government issued identification or document containing the date of  
39 birth of the individual including, but not limited to, a driver's license,  
40 passport or birth certificate.

41 (6) It shall be unlawful for a minor to provide false identification or  
42 make any false statement regarding his or her age in an attempt to use a tan-  
43 ning device.

44 (7) A tanning facility or an owner or an employee of a tanning facility  
45 shall not make verbal claims or advertise or distribute promotional materi-  
46 als that claim in any way that a tanning device is free from risk.

47 (8) Any person who violates the provisions of this section shall be sub-  
48 ject to a civil penalty of one hundred dollars (\$100). If there is a subse-  
49 quent violation of the provisions of this section within one (1) year of the  
50 initial violation, such person shall be subject to a civil penalty of three

1 hundred dollars (\$300). For all other subsequent violations, such person  
2 shall be subject to a civil penalty of five hundred dollars (\$500). Provided  
3 however:

4 (a) Any person in violation of the provisions of this section shall not  
5 be subject to a civil penalty if such person, prior to allowing a minor  
6 to use a tanning device, requested, examined and reasonably relied upon  
7 an identification form from the minor falsely establishing that the mi-  
8 nor's age is at least eighteen (18) years of age; and

9 (b) An owner of a tanning facility shall not be in violation of the pro-  
10 visions of this section if such owner can show that an employee believed  
11 to be in violation was trained to understand the provisions of this sec-  
12 tion and directed to comply with the provisions hereof. Proof of that  
13 training and direction may be satisfied with a form signed by such em-  
14 ployee stating that the employee understands the requirements of this  
15 section and agrees to comply with them.

16 (9) Any civil penalty assessed for a violation of the provisions of  
17 this section shall be deposited in the Idaho millennium income fund as es-  
18 tablished in section 67-1806, Idaho Code, and managed and expended under the  
19 terms and conditions therein set forth.

20 (10) Nothing in this section shall be construed to prohibit local units  
21 of government from passing ordinances that are more stringent than the pro-  
22 visions of this section.