

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO PERSONAL CARE PRODUCTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the health of  
2 Hawaii's marine ecosystem is a matter of serious and ongoing  
3 concern in the State. In particular, coral in Hawaii's waters  
4 have shown increasingly significant signs of damage, including  
5 extensive bleaching. The legislature further finds that many  
6 factors, such as water temperature, contribute to this damage,  
7 but that the damage is exacerbated by the presence of chemicals  
8 that are toxic to coral.

9           The legislature additionally finds that recent research has  
10 demonstrated that oxybenzone and octinoxate are toxic to coral  
11 organisms, cause deformation in the larval form of coral, and  
12 contribute to coral bleaching. The legislature also finds that  
13 oxybenzone and octinoxate are chemical blockers that protect  
14 skin from ultraviolet radiation. As a result, oxybenzone and  
15 octinoxate are commonly found in sunscreens and other similar  
16 personal care products. Oxybenzone and octinoxate can be  
17 released into the ocean when a swimmer who has applied sunscreen



1 enters the water; or through the waste mist plume of spray-on  
2 sunscreen. The legislature further finds that elevated levels  
3 of oxybenzone and octinoxate have been detected at popular  
4 swimming beaches throughout the State, including Waimea bay and  
5 Waikiki beach on Oahu, and Honolua bay on Maui. Accordingly,  
6 the purpose of this Act is to prohibit the sale in the State of  
7 Hawaii personal care products containing oxybenzone and  
8 octinoxate.

9 SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
10 amended by adding a new section to part I to be appropriately  
11 designated and to read as follows:

12 "§328- Sale of personal care products containing  
13 oxybenzone or octinoxate; prohibition. No person shall  
14 knowingly sell in the State any personal care product containing  
15 oxybenzone or octinoxate without a medically-licensed  
16 prescription.

17 For purposes of this section:

18 "Octinoxate" is the chemical (RS)-2-Ethylhexyl (E)-3-(4-  
19 methoxyphenyl)prop-2-enoate under the International Union of  
20 Pure and Applied Chemistry chemical nomenclature registry, has a  
21 chemical abstract service registry number 5466-77-3, and



1 includes ethylhexyl methoxycinnamate, octyl methoxycinnamate,  
2 Eusolex 2292, and Uvinul MC80, and is intended to be used as  
3 protection against ultraviolet light radiation with a spectrum  
4 wavelength from 370 nanometers to 220 nanometers in an epidermal  
5 sunscreen-protection personal care product.

6 "Oxybenzone" is the chemical (2-Hydroxy-4-methoxyphenyl)-  
7 phenylmethanone under the International Union of Pure and  
8 Applied Chemistry chemical nomenclature registry, has a chemical  
9 abstract service registry number 131-57-7, and includes  
10 benzophenone-3, Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, 4-  
11 methoxy-2-hydroxybenzophenone, and Milestab 9, and is intended  
12 to be used as protection against ultraviolet light radiation  
13 with a spectrum wavelength from 370 nanometers to 220 nanometers  
14 in an epidermal sunscreen-protection personal care product.

15 "Personal care product" is an article intended to be rubbed  
16 on, poured on, sprinkled on, sprayed on, introduced to, or  
17 otherwise applied to, the human body or any part thereof for  
18 cleansing, beautifying, promoting attractiveness, protection  
19 against ultraviolet light, or altering the appearance, or an  
20 article intended for use as a component of that type of  
21 article."



1 SECTION 3. Section 328-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§328-6 **Prohibited acts.** The following acts and the  
4 causing thereof within the State by any person are prohibited:

5 (1) The manufacture, sale, delivery, holding, or offering  
6 for sale of any food, drug, device, or cosmetic that  
7 is adulterated or misbranded;

8 (2) The adulteration or misbranding of any food, drug,  
9 device, or cosmetic;

10 (3) The receipt in commerce of any food, drug, device, or  
11 cosmetic that is adulterated or misbranded, and the  
12 delivery or proffered delivery thereof for pay or  
13 otherwise;

14 (4) The sale, delivery for sale, holding for sale, or  
15 offering for sale of any article in violation of  
16 section 328-11, 328-12, or 328-17;

17 (5) The dissemination of any false advertisement;

18 (6) The refusal to permit entry or inspection, or to  
19 permit the taking of a sample, as authorized by  
20 sections 328-22 and 328-23 to 328-27, or to permit



- 1 access to or copying of any record as authorized by  
2 section 328-23;
- 3 (7) The giving of a guaranty or undertaking which guaranty  
4 or undertaking is false, except by a person who relied  
5 on a guaranty or undertaking to the same effect signed  
6 by, and containing the name and address of the person  
7 residing in the State from whom the person received in  
8 good faith the food, drug, device, or cosmetic;
- 9 (8) The removal or disposal of a detained or embargoed  
10 article in violation of sections 328-25 to 328-27;
- 11 (9) The alteration, mutilation, destruction, obliteration,  
12 or removal of the whole or any part of the labeling  
13 of, or the doing of any other act with respect to a  
14 food, drug, device, or cosmetic, if the act is done  
15 while the article is held for sale and results in the  
16 article being adulterated or misbranded;
- 17 (10) Forging, counterfeiting, simulating, or falsely  
18 representing, or without proper authority using any  
19 mark, stamp, tag, label, or other identification  
20 device authorized or required by rules adopted under



1           this part or regulations adopted under the Federal  
2           Act;

3       (11) The use, on the labeling of any drug or in any  
4       advertisement relating to the drug, of any  
5       representation or suggestion that an application with  
6       respect to the drug is effective under section 328-17,  
7       or that the drug complies with that section;

8       (12) The use by any person to the person's own advantage,  
9       or revealing other than to the department of health or  
10      to the courts when relevant in any judicial proceeding  
11      under this part, any information acquired under  
12      authority of section 328-11, 328-12, 328-17, or  
13      328-23, concerning any method or process which as a  
14      trade secret is entitled to protection;

15      (13) In the case of a prescription drug distributed or  
16      offered for sale in this State, the failure of the  
17      manufacturer, packer, or distributor thereof to  
18      maintain for transmittal, or to transmit, to any  
19      practitioner who makes written request for information  
20      as to the drug, true and correct copies of all printed  
21      matter which is required to be included in any package



1 in which that drug is distributed or sold, or such  
2 other printed matter as is approved under the Federal  
3 Act. Nothing in this paragraph shall be construed to  
4 exempt any person from any labeling requirement  
5 imposed by or under other provisions of this part;

6 (14) (A) Placing or causing to be placed upon any drug or  
7 device or container thereof, with intent to  
8 defraud, the trade name or other identifying  
9 mark, or imprint of another or any likeness of  
10 any of the foregoing; or

11 (B) Selling, dispensing, disposing of, or causing to  
12 be sold, dispensed, or disposed of, or concealing  
13 or keeping in possession, control, or custody,  
14 with intent to sell, dispense, or dispose of, any  
15 drug, device, or any container thereof, with  
16 knowledge that the trade name or other  
17 identifying mark or imprint of another or any  
18 likeness of any of the foregoing has been placed  
19 thereon in a manner prohibited by subparagraph

20 (A); or



1 (C) Making, selling, disposing of, or causing to be  
2 made, sold, or disposed of, or keeping in  
3 possession, control, or custody, or concealing,  
4 with intent to defraud, any punch, die, plate, or  
5 other thing designed to print, imprint, or  
6 reproduce that trade name or other identifying  
7 mark or imprint of another or any likeness of any  
8 of the foregoing upon any drug, device, or  
9 container thereof;

10 (15) Except as provided in part VI and section 461-1,  
11 dispensing or causing to be dispensed a different drug  
12 or brand of drug in place of the drug or brand of drug  
13 ordered or prescribed without express permission in  
14 each case of the person ordering or prescribing;

15 (16) The distribution in commerce of a consumer commodity  
16 as defined in this part, if such commodity is  
17 contained in a package, or if there is affixed to that  
18 commodity a label, which does not conform to this part  
19 and of rules adopted under authority of this part;  
20 provided that this prohibition shall not apply to  
21 persons engaged in business as wholesale or retail





1 distributors of consumer commodities except to the  
2 extent that such persons:

3 (A) Are engaged in the packaging or labeling of such  
4 commodities; or

5 (B) Prescribe or specify by any means the manner in  
6 which such commodities are packaged or labeled;

7 (17) The selling or dispensing in restaurants, soda  
8 fountains, drive-ins, lunch wagons, or similar public  
9 eating establishments of imitation milk and imitation  
10 milk products in place of fresh milk and fresh milk  
11 products respectively; of liquid or dry products which  
12 simulate cream but do not comply with content  
13 requirements for cream in place of cream; of non-dairy  
14 frozen desserts which do not comply with content  
15 requirements for dairy frozen desserts in place of  
16 dairy frozen desserts; and of any other imitation food  
17 or one made in semblance of a genuine food in place of  
18 such genuine food, unless the consumer is notified by  
19 either proper labeling or conspicuous posted signs or  
20 conspicuous notices on menu cards and advertisements  
21 informing of such substitution, to include but not



1 limited to the substitution of imitation milk in milk  
2 shake and malted milk drinks;

3 (18) Wilfully and falsely representing or using any  
4 devices, substances, methods, or treatment as  
5 effective in the diagnosis, cure, mitigation,  
6 treatment, or alleviation of cancer. This paragraph  
7 shall not apply to any person who depends exclusively  
8 upon prayer for healing in accordance with teachings  
9 of a bona fide religious sect, denomination, or  
10 organization, nor to a person who practices such  
11 teachings;

12 (19) The selling or offering for sale at any food facility  
13 which serves or sells over the counter directly to the  
14 consumer an unlabeled or unpackaged food that is a  
15 confectionery which contains alcohol in excess of one-  
16 half of one per cent by weight unless the consumer is  
17 notified of that fact by either proper labeling or  
18 conspicuous posted signs or conspicuous notices on  
19 menu cards and advertisements;

20 (20) The sale to a person below the age of twenty-one years  
21 of any food which is a confectionery which contains



1 alcohol in excess of one-half of one per cent by  
 2 weight [-]; and  
 3 (21) The sale of certain personal care products, in  
 4 violation of section 328- ."

5 SECTION 4. Statutory material to be repealed is bracketed  
 6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on October 1, 2017.  
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# S.B. NO. 260

**Report Title:**

Personal Care Products; Sunscreen; Cosmetics; Oxybenzone;  
Octinoxate; Sale; Prohibition

**Description:**

Bans knowingly selling in the State personal care products containing oxybenzone or octinoxate, except for medically-licensed prescriptions. Takes effect on 10/1/2017.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

