

JAN 17 2020

A BILL FOR AN ACT

RELATING TO COSMETICS.

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

1 SECTION 1. Today, modern approaches are being utilized by
2 cosmetic manufacturers to provide faster and more reliable
3 methods to predict adverse human reactions to cosmetic products.
4 In addition, companies now have thousands of existing cosmetic
5 ingredients with histories of safe use that have long been sold
6 and utilized.

7 California was the first state to prohibit the sale of
8 cosmetics tested on animals. The prohibition was supported by
9 dozens of cosmetic companies and industry associations,
10 including the Personal Care Products Council, California
11 Retailers Association, and California Manufacturers and
12 Technology Association. The California ban took effect on
13 January 1, 2020, and since that date Nevada and Illinois have
14 also enacted similar bans. In 2013, the United States' largest
15 trading partner, the European Union, ended the importation and
16 sale of cosmetics that have been tested on animals. Today, more



1 than thirty countries have banned cosmetic animal testing and
2 several others have legislation pending.

3 The purpose of this Act is to prohibit manufacturers from
4 selling cosmetic products in the State that are tested on
5 animals beginning January 1, 2021. It is not the intent of this
6 Act to penalize retailers or consumers who rely on manufacturers
7 to meet state laws or rules, nor is it the intent to prohibit
8 the continued import or export of cosmetic products in the State
9 from other countries if the safety of the product sold in the
10 State does not rely on data from animal testing that was
11 performed after 2021. This approach is consistent with the
12 implementation of the European Union regulations and the
13 recently adopted laws in California, Nevada, and Illinois.

14 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
15 amended by adding a new section to part I to be appropriately
16 designated and to read as follows:

17 "§321- Cosmetics; animal testing; prohibition. (a)
18 Notwithstanding any other law to the contrary, and except as
19 otherwise provided in this section, it shall be unlawful for a
20 manufacturer to import for profit, sell or offer for sale in the
21 State any cosmetic for which the manufacturer knew or reasonably



1 should have known that an animal test was conducted or
2 contracted, by or on behalf of the manufacturer or any supplier
3 of the manufacturer, on or after January 1, 2021.

4 (b) The prohibitions in subsection (a) shall not apply to:

5 (1) An animal test of a cosmetic that is required by a
6 federal or state regulatory authority; provided that
7 all of the following apply:

8 (A) The cosmetic or an ingredient in the cosmetic
9 that is being tested is in wide use and cannot be
10 replaced by another cosmetic or ingredient
11 capable of performing a similar function;

12 (B) A specific human health problem relating to the
13 cosmetic or ingredient is substantiated and the
14 need to conduct animal tests is justified and is
15 supported by a detailed research protocol
16 proposed as the basis for the evaluation of the
17 cosmetic or ingredient; and

18 (C) There is no nonanimal testing method accepted for
19 the relevant purpose by the applicable federal or
20 state regulatory authority;



- 1 (2) An animal test that was conducted to comply with a
2 requirement of a foreign regulatory authority, if no
3 evidence derived from that test was relied upon to
4 substantiate the safety of a cosmetic sold within the
5 State by the manufacturer;
- 6 (3) An animal test that was conducted on any product or
7 ingredient subject to the requirements of subchapter V
8 of the Federal Food, Drug, and Cosmetic Act (21 United
9 States Code 351 et seq.), as amended; or
- 10 (4) Except as otherwise provided in this paragraph, an
11 animal test that was conducted for purposes unrelated
12 to cosmetics pursuant to a requirement of a federal,
13 state, or foreign regulatory agency; provided that no
14 evidence derived from the testing was relied upon to
15 substantiate the safety of a cosmetic sold within this
16 State by the manufacturer unless both of the following
17 apply:
- 18 (A) Documentary evidence exists of the intent of the
19 test that was unrelated to cosmetics; and



1 (B) There is a history of use of the ingredient
2 outside of cosmetics at least twelve months prior
3 to the reliance.

4 (c) A violation of this section shall be punishable by a
5 fine of \$5,000 and an additional \$1,000 for each day the
6 violation continues.

7 (d) A violation of this section may be enforced by the
8 prosecuting attorney of the county in which the violation
9 occurred. The fine shall be paid to the county in which the
10 violation occurred.

11 (e) A prosecuting attorney, upon a determination that
12 there is a reasonable likelihood that a violation has occurred
13 under this section, may review the testing data upon which a
14 cosmetic manufacturer has relied in the development or
15 manufacturing of the relevant cosmetic product sold in the
16 State.

17 (f) Any information disclosed under this section shall be
18 protected as a trade secret and a prosecuting attorney shall
19 enter into a protective order with the manufacturer before
20 receipt of the information from a manufacturer. A prosecuting
21 attorney shall take other appropriate measures necessary to



1 preserve the confidentiality of the information produced
2 pursuant to this section.

3 (g) This section shall not apply to:

4 (1) A cosmetic if the cosmetic in its final form was
5 tested on animals before January 1, 2021, even if the
6 cosmetic is manufactured on or after that date;

7 (2) An ingredient in a cosmetic if the ingredient was sold
8 in this State and tested on animals before January 1,
9 2021, even if the ingredient is manufactured on or
10 after that date; or

11 (3) A manufacturer reviewing, assessing, or retaining
12 evidence from animal testing.

13 (h) Counties or other political subdivisions of the State
14 shall not establish any prohibition on or relating to animal
15 tests as defined in this section that are not identical to the
16 prohibitions set forth in this section and that do not include
17 the exemptions contained in this section.

18 (i) For the purposes of this section:

19 "Animal test" means the internal or external application of
20 a cosmetic, either in its final form or any ingredient thereof,



1 to the skin, eyes, or other body part of a live, nonhuman
2 vertebrate.

3 "Cosmetic" means any article intended to be rubbed, poured,
4 sprinkled, or sprayed on, introduced into, or otherwise applied
5 to the human body or any part thereof for cleansing,
6 beautifying, promoting attractiveness, or altering the
7 appearance, including personal hygiene products such as
8 deodorant, shampoo, or conditioner.

9 "Ingredient" means any component of a cosmetic defined by
10 title 21 Code of Federal Regulations section 700.3, as amended.

11 "Manufacturer" means any person whose name appears on the
12 label of a cosmetic product pursuant to the requirements of
13 title 21 Code of Federal Regulations section 701.12, as amended.

14 "Supplier" means any entity that supplies, directly or
15 through a third party, any ingredient used in the formulation of
16 a manufacturer's cosmetic."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.



S.B. NO. 2754

1 SECTION 5. This Act shall take effect on January 1, 2021.

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INTRODUCED BY:

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S.B. NO. 2154

Report Title:

Cosmetics; Cruelty-Free; Animal Testing; Prohibition; Fines

Description:

Bans the import for profit, sale, and offer for sale of any cosmetic in the State if the final product or any component of the final product was developed or manufactured using animal testing performed on or after 1/1/2021.

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