

# STATE OF NEW YORK

4839--A

2021-2022 Regular Sessions

## IN SENATE

February 16, 2021

Introduced by Sens. BIAGGI, ADDABBO, BRISPORT, COONEY, HOYLMAN, KRUEGER, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the sale of cosmetics tested on animals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 399-aaaaa to read as follows:

3 § 399-aaaaa. Selling of animal tested cosmetics. 1. For the purposes  
4 of this section the following terms shall have the following meanings:

5 (a) "Cosmetic" shall mean articles intended to be rubbed, poured,  
6 sprinkled, or sprayed on, introduced into, or otherwise applied to the  
7 human body or any part thereof for cleansing, beautifying, promoting  
8 attractiveness, or altering the appearance, including but not limited to  
9 personal hygiene products such as deodorant, shampoo or conditioner.

10 (b) "Animal testing" shall mean the internal or external application  
11 of a cosmetic, either in its final form or any ingredient thereof, to  
12 the skin, eyes, or other body part of a live non-human vertebrate.

13 (c) "Ingredient" shall have the same meaning as defined in 21 CFR  
14 700.3(e).

15 (d) "Manufacturer" shall mean any person whose name appears on the  
16 label of a cosmetic pursuant to the requirements of 21 CFR 701.12.

17 (e) "Supplier" shall mean any entity that supplies, directly or  
18 through a third party, any ingredient used by a manufacturer in the  
19 formulation of a cosmetic.

20 2. Except as otherwise provided in this section, it shall be unlawful  
21 for a manufacturer to import for profit, sell or offer for sale in the  
22 state, any cosmetic which the manufacturer knew or reasonably should  
23 have known that animal testing was conducted or contracted by or on  
24 behalf of the manufacturer or any supplier of the manufacturer if the  
25 animal testing was conducted after the effective date of this section.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 3. This section does not apply to animal testing that is conducted:

2 (a) As a requirement of any federal or state regulatory agency if:

3 (i) the cosmetic or an ingredient in the cosmetic which is being test-  
4 ed is in wide use and cannot be replaced by another ingredient which is  
5 capable of performing a similar function; and

6 (ii) a specific human health problem relating to the cosmetic or  
7 ingredient is substantiated and the need to conduct animal testing is  
8 justified and supported by a detailed protocol for research that is  
9 proposed as the basis for the evaluation of the cosmetic or ingredient;  
10 and

11 (iii) there does not exist a method of testing other than animal test-  
12 ing that is accepted for the relevant purpose by a federal or state  
13 regulatory agency.

14 (b) As a requirement of any regulatory agency of a foreign jurisdic-  
15 tion, if no evidence derived from such testing was relied upon to  
16 substantiate the safety of a cosmetic sold within the state by the  
17 manufacturer.

18 (c) For any product or ingredient in a cosmetic which is subject to  
19 the requirements under 21 USC subchapter V.

20 (d) For purposes not related to cosmetics as required by any federal,  
21 state or foreign regulatory agency, provided that no evidence derived  
22 from such testing was relied upon to substantiate the safety of a  
23 cosmetic sold within the state by the manufacturer, unless:

24 (i) documentary evidence exists that the intent of the animal testing  
25 was unrelated to cosmetics; and

26 (ii) there is a history of the use of the ingredient unrelated to  
27 cosmetics for a minimum of twelve months.

28 4. This section does not apply to a cosmetic:

29 (a) If in its final form, such cosmetic was tested on animals before  
30 the effective date of this section, even if the cosmetic is manufactured  
31 on or after such date.

32 (b) If an ingredient contained in such cosmetic was tested on animals  
33 and sold in New York state before the effective date of this section,  
34 even if such ingredient is manufactured on or after such date.

35 5. This section may not be construed to prevent a manufacturer from  
36 reviewing, assessing or retaining data resulting from animal testing.

37 6. The attorney general may upon a determination that there is a  
38 reasonable likelihood of a violation of this section, review any testing  
39 data on which a manufacturer has relied in determining the safety of a  
40 cosmetic or an ingredient in a cosmetic sold in the state. Any informa-  
41 tion disclosed under this section shall be protected as a trade secret  
42 and the attorney general shall enter into a protective order with the  
43 manufacturer before receipt of such information from the manufacturer.  
44 The attorney general shall take other appropriate measures as necessary  
45 to preserve the confidentiality of the information produced pursuant to  
46 this section. The attorney general may bring an action or special  
47 proceeding in the supreme court for a judgment enjoining the continuance  
48 of such violation and for a civil penalty of not more than five thousand  
49 dollars for the first violation and not more than one thousand dollars  
50 per day if the violation continues.

51 7. No county or other political subdivision of the state may establish  
52 or continue any prohibition on or relating to animal testing, as defined  
53 in this section that is not identical to the prohibitions established in  
54 this section.

55 § 2. This act shall take effect January 1, 2022.