

STATE OF NEW YORK

5653--B

2021-2022 Regular Sessions

IN ASSEMBLY

February 22, 2021

Introduced by M. of A. L. ROSENTHAL, BARRETT, GOTTFRIED, EPSTEIN, WEPRIN, GONZALEZ-ROJAS, SIMON, JACKSON, STERN, ENGLEBRIGHT, TAPIA, STIRPE, SEAWRIGHT, DINOWITZ, BRONSON, KELLES, FAHY -- Multi-Sponsored by -- M. of A. GLICK -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- 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.

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

LBD00380-06-2

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

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

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

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

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

15 (ii) a specific human health problem relating to the cosmetic or
16 ingredient is substantiated and the need to conduct animal testing is
17 justified and supported by a detailed protocol for research that is
18 proposed as the basis for the evaluation of the cosmetic or ingredient;
19 and

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

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

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

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

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

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

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

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

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

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

46 6. The attorney general may upon a determination that there is a
47 reasonable likelihood of a violation of this section, review any testing
48 data on which a manufacturer has relied in determining the safety of a
49 cosmetic or an ingredient in a cosmetic sold in the state. Any informa-
50 tion disclosed under this section shall be protected as a trade secret
51 and the attorney general shall enter into a protective order with the
52 manufacturer before receipt of such information from the manufacturer.
53 The attorney general shall take other appropriate measures as necessary
54 to preserve the confidentiality of the information produced pursuant to
55 this section. The attorney general may bring an action or special
56 proceeding in the supreme court for a judgment enjoining the continuance

1 of such violation and for a civil penalty of not more than five thousand
2 dollars for the first violation and not more than one thousand dollars
3 per day if the violation continues.

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

8 § 2. This act shall take effect January 1, 2023.