STATE OF NEW YORK

4839--B

2021-2022 Regular Sessions

IN SENATE

February 16, 2021

Introduced by Sens. BIAGGI, ADDABBO, BOYLE, BRISPORT, COONEY, HOYLMAN, KRUEGER, MYRIE, REICHLIN-MELNICK, 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 -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

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

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

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

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

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

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

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

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

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

(i) the cosmetic or an ingredient in the cosmetic which is being tested is in wide use and cannot be replaced by another ingredient which is capable of performing a similar function; and

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

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

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

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

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

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

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

4. This section does not apply to a cosmetic:

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

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

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

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

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

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