

HOUSE No. 1990

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr. and George N. Peterson, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to safe cosmetics in the Commonwealth of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>

HOUSE No. 1990

By Messrs. Jones of North Reading and Peterson of Grafton, a petition (accompanied by bill, House, No. 1990) of Bradley H. Jones, Jr. and others relative to health concerns of cosmetics . Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to safe cosmetics in the Commonwealth of Massachusetts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 94 of the General Laws, as appearing in the 2010 official edition, is
2 hereby amended by inserting after section 329 the following new section:-
3 Section 330. As used in this section, section 330A, section 330B, and section 330C, the
4 following terms, shall, unless the context clearly indicates otherwise, have the following
5 meanings:-
6 “Authoritative body”, any federal, state, or private agency or formally organized program or
7 group recognized pursuant to the General Laws as being authoritative for the purpose of
8 identifying chemicals that cause cancer, or reproductive, or developmental toxicity, provided that
9 said group uses universally accepted means of modern science, research, and technology.
10 “Bureau”, the bureau of environmental health.
11 “Commissioner”, the commissioner of public health.
12 “Chemical identified as causing cancer or reproductive or developmental toxicity”, a chemical
13 identified pursuant to section 330B of chapter 94 or by an authoritative body, including, but not
14 limited to: (a) a substance listed as known or reasonable anticipated to be a human carcinogen in
15 a National Toxicology Report; (b) a substance given an overall carcinogenicity evaluation of
16 Group 1, Group 2A or Group 2B by the International Agency for Research on Cancer; (c) a
17 substance identified as a Group A, Group B1, or Group B2 carcinogen, or as a known or likely
18 carcinogen by the United States Environmental Protection Agency; (d) a substance identified as
19 having some clear evidence of adverse developmental, male reproductive, or female reproductive
20 toxicity effects in a report by an expert panel of the National Toxicology Program’s Center for
21 the Evaluation of Risks to Human Reproduction.
22 “Contaminant”, an impurity, of an extraneous nature, associated with a cosmetic product,

23 provided that it is not universally accepted as benign or innocuous.

24 “Department”, the department of public health.

25 “Director”, the director of the bureau of environmental health.

26 “Ingredient”, a chemical in a cosmetic, including, but not limited to: (a) chemicals that provide
27 a technical or functional effect; (b) chemicals that have no technical or functional effect in the
28 cosmetic but are present by reason of having been incorporated into the cosmetic as an ingredient
29 of another cosmetic ingredient; (c) processing aids that are present by reason of having been
30 added to a cosmetic during the processing of such cosmetic; (d) substances that are present by
31 reason of having been added to a cosmetic during processing for their technical or functional
32 effect; (e) contaminants present at levels above technically feasible detection limits; (f)
33 contaminants that may leach from container materials or form via reactions over the shelf life of
34 a cosmetic and that may be present at levels above technically feasible detection limits; (g)
35 components of a fragrance, flavor, or preservative declared individually by their appropriate
36 label names; (h) any chemical identified by the phrase “and other ingredients” and determined to
37 be a trade secret pursuant to the procedure established in Part 20 of Section 720.8 of Part 720 of
38 Title 21 of the Code of Federal Regulations; or (i) any individual component of a petroleum-
39 derived or other ingredient that the Commissioner or the Director determines to be considered an
40 ingredient.

41 “Ingredient of concern”, any ingredient reported to the bureau by a manufacturer for being a
42 chemical identified as causing cancer, or reproductive, or developmental toxicity.

43 “Manufacturer”, any entity, including a distributor, whose name appears on the label of a
44 cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of
45 Federal Regulations.

46 Section 330A. (a) Any manufacturer of any cosmetic product subject to regulation by the
47 federal Food and Drug Administration that is sold in the commonwealth shall, on a schedule and
48 in electronic or other format as determined by the bureau, provide the bureau with a complete
49 and accurate list of its cosmetic products that, as of the date of submission, are sold in the state
50 and that contain any ingredient that is a chemical identified as causing cancer, or reproductive, or
51 developmental toxicity, as defined in section 330. When the ingredient is a cosmetic ingredient
52 intended to be used in the compounding of a subsequent cosmetic ingredient or a finished
53 product, the manufacturer shall provide the necessary safety and testing data to purchasers or
54 users of the cosmetic ingredient to enable the purchaser or user to accurately comply with the
55 requirements of this section. Any ingredient determined to be a trade secret shall be treated by
56 the bureau in a manner consistent with the requirements of Part 20 and Part 720 of the Title of
57 the Code of Federal Regulations. Any information submitted by a manufacturer pursuant to this
58 section shall identify each chemical both by name and Chemical Abstract Service number and
59 shall specify the product or products in which the chemical is contained.

60 (b) Each such manufacturer shall submit said list one year after this act takes effect and shall
61 update said list according to a schedule determined by the bureau.

62 (c) The commissioner shall compile and maintain a master list of all manufacturers selling

63 cosmetics, in the commonwealth, that sell or distribute products that contain ingredients that are
64 chemicals identified as causing cancer, or reproductive, or developmental toxicity, as well as, a
65 master list of all ingredients of concern.

66 □(d) Up-to-date master lists shall be reported to the attorney general, the executive office of
67 energy and environmental affairs, the department, as well as, the General Court and made
68 available to the public on an annual basis as determined by the commissioner.

69 □(e) This section shall not apply to any manufacturer of cosmetic products with annual
70 aggregate sales of cosmetic products, both within and outside of Massachusetts, of less than
71 \$8,000,000 during the previous year.

72 □Section 330B. (a) In order to determine the potential health effects of exposure to ingredients
73 of concern in cosmetics sold in the commonwealth, the bureau may conduct an investigation of
74 one or more cosmetic products that contain said ingredients of concern or of other ingredients
75 that are of concern to the bureau for potentially causing cancer or biologically adverse effects on
76 the reproductive systems of female or male humans or animals, including alterations to the
77 female or male reproductive system development, the related endocrine system, fertility,
78 pregnancy, pregnancy outcomes, or modifications in other functions that are dependent on the
79 integrity of the reproductive system.

80 □(b) An investigation conducted pursuant to subsection (a) may include, but not be limited to, a
81 review of available health effects data and studies, worksite health hazard evaluations,
82 epidemiological studies to determine the health effects of exposure to chemicals in various
83 subpopulations, and exposure assessments to determine total exposures to individuals in various
84 settings.

85 □(c) If an investigation is conducted the director may require the manufacturer of any product
86 subject to the investigation to submit relevant health data and studies to the bureau.

87 □(d) The bureau may require a manufacturer of products subject to investigation to submit to the
88 bureau relevant health data and studies reasonably available to the manufacturer and other
89 available information as requested by the bureau, including, but not limited to:

90 □(1) all reasonably available information regarding the physical, chemical, and toxicological
91 properties of chemicals in products under investigation;

92 □(2) the concentration of ingredients of concern in the product under investigation;

93 □(3) the amount by volume or weight of the product that comprises the average daily application
94 or use;

95 □(4) sales and use data necessary to determine where the product is used in the occupational
96 setting;

97 □(5) exposure and fate information;

98 □(6) tests of the finished cosmetics; and

99 □(7) any other information used to substantiate the safety of such cosmetics or ingredients.

100 □(e) The bureau shall establish reasonable deadlines for the submittal of information required
101 pursuant to section 330B.

102 □(f) This section shall not apply to any manufacturer of cosmetic products with annual aggregate

103 sales of cosmetic products, both within and outside of Massachusetts, of less than \$8,000,000
104 during the previous fiscal year.

105 □Section 330C. (a) The commissioner and the director shall require manufacturers to label
106 cosmetic products sold and distributed in the commonwealth with a consumer warning if the
107 product contains a known carcinogen or chemical identified as causing reproductive or
108 developmental toxicity. The label shall include the signal word “WARNING or CAUTION” and
109 the commissioner and the director shall promulgate such rules and regulations as it shall deem
110 necessary to implement the provisions of this section.

111 □ (b) All cosmetics that are available for retail sale shall be labeled in a manner that complies
112 with the requirements under subsection (a) and manufacturers shall comply with subsection (a)
113 no later than 2 years after the passage of this act.

114 □(c) If a manufacturer, who sells cosmetic products containing chemical identified as causing
115 cancer or reproductive or developmental toxicity, fails to comply with this section, the
116 manufacturer’s relevant products shall be deemed adulterated and misbranded pursuant to
117 section 186 and section 187 of chapter 94.

118 □(d) The bureau shall report to the attorney general, the executive office of energy and
119 environmental affairs, the department, as well as, the General Court investigations made
120 pursuant to subsection (a) of section 330B, enforcement action, and recommendations, if any,
121 together with drafts of legislation necessary to carry out its recommendations, by filing the same
122 with the clerk of the House of Representatives on an annual basis as determined by the
123 commissioner.

124 □(e) This section shall not apply to any manufacturer of cosmetic products with annual
125 aggregate sales of cosmetic products, both within and outside of Massachusetts, of less than
126 \$8,000,000 during the previous fiscal year.

127 □SECTION 2. Section 186 of said chapter 94, is hereby amended by inserting after the word,
128 “use.” in line 107, the following new paragraph:- Sixth, if a product containing a chemical
129 identified as causing cancer or reproductive or developmental toxicity is not labeled pursuant to
130 section 330C of chapter 94.

131 □SECTION 3. Section 187 of said chapter 94, is hereby amended by inserting after the word,
132 “misleading.” in line 175, the following new paragraph:- Fourth, if a product containing a
133 chemical identified as causing cancer or reproductive or developmental toxicity is not labeled
134 pursuant to section 330C of chapter 94.

135 □SECTION 4. Notwithstanding any general or special law to the contrary, there shall be a
136 special commission, referred to as the Commission on Safe Cosmetics, to study and report on the
137 implementation of the Massachusetts Safe Cosmetics Act, as well as the need for additional
138 legislation to regulate cosmetics sold and distributed in the commonwealth.

139 □The commission shall consist of the attorney general or his designee; the commissioner of the
140 department of environmental protection or his designee; the secretary of energy and
141 environmental affairs or his designee; the commissioner of public health or his designee; the
142 director of environmental health or his designee; 3 members of the house of representatives, 2 of

143 whom shall be appointed by the speaker of the house, and 1 of whom shall be appointed by the
144 minority leader of the house; 3 members of the senate, 2 of whom shall be appointed by the
145 senate president, and 1 of whom shall be appointed by the senate minority leader; 5 members
146 appointed by the attorney general, 1 of whom shall be a distributor of cosmetics, 2 of whom shall
147 be experts in the area of toxicity: one from the UMass Lowell Center for Sustainable Production
148 and one from The Warner Institute of Green Chemistry, and 2 of whom shall be the owners of
149 businesses in the commonwealth that sells cosmetics: 1 of whom has signed the Compact for Safe
150 Cosmetics and 1 of whom has not signed said compact ; and 1 member shall be appointed by the
151 governor.

152 The scope of the commission shall include, but not be limited to: researching, evaluating, and
153 developing recommendations regarding the economic, environmental, and public health benefits
154 and costs of regulating cosmetics sold and distributed in the commonwealth, specifically of
155 phasing out ingredients containing chemicals identified as causing cancer or reproductive or
156 developmental toxicity, pursuant to section 330 of chapter 94, and when possible substituting
157 them with safer alternatives. The commission shall research, assess, and develop
158 recommendations regarding the commonwealth's current green chemistry capacity and the
159 commonwealth's economic development potential for safe cosmetics ingredients.

160 The commission shall consult with environmental advocacy organizations, such as the
161 Massachusetts Breast Cancer Coalition, Clean Water Action, and the Massachusetts Coalition for
162 Occupational Safety and Health, as well as, manufacturers, retailers, local units of government,
163 and other interested parties, including providing at least one opportunity for public comment as
164 well as the public review of the commission's draft report. The commission shall prepare a final
165 report of the findings and recommendations together with recommendations for legislation to
166 implement those recommendations by filing the same with the clerks of the senate and house not
167 later than 8 months following the passage of this act. The commission shall not receive
168 compensation.

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