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HOUSE BILL 1097

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State of Washington

68th Legislature

2023 Regular Session

By Representative Walen

Prefiled 12/30/22.

1 AN ACT Relating to the sale of cosmetics tested on animals;  
2 adding a new chapter to Title 69 RCW; providing an effective date;  
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1)(a) "Cosmetic" means articles intended:

9 (i) To be rubbed, poured, sprinkled, or sprayed on, introduced  
10 into, or otherwise applied to the human body or any part thereof for  
11 cleansing, beautifying, promoting attractiveness, or altering the  
12 appearance; or

13 (ii) For use as a component of any articles under (a)(i) of this  
14 subsection.

15 (b) "Cosmetic" does not include soap.

16 (2) "Cosmetic animal testing" means the internal or external  
17 application or exposure of any cosmetic product, or any cosmetic  
18 ingredient or nonfunctional constituent, to the skin, eyes, or any  
19 other body part of a live, nonhuman vertebrate.

1 (3) "Cosmetic ingredient" means any single chemical entity or  
2 mixture used as a component in the manufacture of a cosmetic product,  
3 as defined in 21 C.F.R. Sec. 700.3(e) on January 1, 2024.

4 (4) "Cosmetic product" means a finished cosmetic, the manufacture  
5 of which has been completed.

6 (5) "Manufacture" has the same meaning as "to manufacture" in RCW  
7 82.04.120.

8 (6) "Manufacturer" means any entity required to specify  
9 conspicuously its name and place of business on the label of a  
10 cosmetic in package form under 21 C.F.R. Sec. 701.12 on January 1,  
11 2024.

12 (7) "Nonfunctional constituent" means any incidental ingredient  
13 as defined in 21 C.F.R. Sec. 701.3(1) on January 1, 2024.

14 (8) "Supplier" means any entity that provides, whether directly  
15 or through a third party, any cosmetic ingredient used by a  
16 manufacturer in the formulation of a cosmetic product.

17 NEW SECTION. **Sec. 2.** Beginning January 1, 2024, it is unlawful  
18 for a manufacturer to sell or offer for sale in this state a cosmetic  
19 if the cosmetic was developed or manufactured using cosmetic animal  
20 testing that was conducted or contracted for by the manufacturer or  
21 any supplier of the manufacturer.

22 NEW SECTION. **Sec. 3.** Section 2 of this act does not apply with  
23 respect to cosmetic animal testing:

24 (1) Conducted outside of the United States in order to comply  
25 with a requirement of a foreign regulatory authority if no evidence  
26 derived from the testing was relied upon to substantiate the safety  
27 of the cosmetic ingredient or cosmetic product being sold by the  
28 manufacturer in Washington;

29 (2) Conducted for any cosmetic or cosmetic ingredient subject to  
30 regulation under 21 U.S.C. Sec. 351 et seq., of the federal food,  
31 drug, and cosmetic act;

32 (3) Conducted for a cosmetic ingredient intended to be used in a  
33 product that is not a cosmetic product and is conducted under a  
34 requirement of a federal, state, or foreign regulatory authority if  
35 no evidence derived from the testing was relied upon to substantiate  
36 the safety of a cosmetic sold in Washington by a cosmetics  
37 manufacturer, unless all of the following apply:

1 (a) There is no nonanimal alternative method or strategy  
2 recognized by any federal or state agency or the organization for  
3 economic cooperation and development for the relevant safety  
4 endpoints for the cosmetic ingredient or nonfunctional constituent;

5 (b) There is documented evidence of the noncosmetic intent of the  
6 test; and

7 (c) There is a history of use of the ingredient outside of  
8 cosmetics at least 12 months before the reliance; or

9 (4) Requested, required, or conducted by a federal or state  
10 regulatory authority and each of the following apply:

11 (a) There is no nonanimal alternative method or strategy  
12 recognized by any federal or state agency or the organization for  
13 economic cooperation and development for the relevant safety  
14 endpoints for the cosmetic ingredient or nonfunctional constituent;

15 (b) The cosmetic ingredient or nonfunctional constituent poses a  
16 risk of causing a specific human health problem that is substantiated  
17 and the need to conduct cosmetic animal testing is justified and  
18 supported by a detailed research protocol proposed as the basis for  
19 the evaluation of the cosmetics ingredient or nonfunctional  
20 constituent; and

21 (c) That the cosmetic ingredient or nonfunctional constituent is  
22 in wide use and, in the case of a cosmetic ingredient, cannot be  
23 replaced by another cosmetic ingredient capable of performing a  
24 similar function.

25 NEW SECTION. **Sec. 4.** Section 2 of this act does not apply to:

26 (1) A cosmetic if the cosmetic in its final form was tested on  
27 animals before January 1, 2024, even if the cosmetic is manufactured  
28 on or after January 1, 2024, if no new animal testing in violation of  
29 this chapter occurs after January 1, 2024;

30 (2) An ingredient in a cosmetic if the ingredient was tested on  
31 animals before January 1, 2024, even if the ingredient is  
32 manufactured on or after January 1, 2024, if no new animal testing in  
33 violation of this chapter occurs after January 1, 2024; or

34 (3) A cosmetic manufacturer reviewing, assessing, or retaining  
35 evidence from a cosmetic animal test.

36 NEW SECTION. **Sec. 5.** No county or political subdivision of the  
37 state may establish or continue any prohibition on or relating to

1 cosmetic animal testing that is not identical to the prohibitions set  
2 forth in this chapter.

3 NEW SECTION. **Sec. 6.** A manufacturer that sells or offers for  
4 sale a cosmetic in violation of this chapter commits a civil  
5 violation punishable by a fine of not more than \$5,000 for each  
6 violation.

7 NEW SECTION. **Sec. 7.** The legislature finds that the practices  
8 covered by this chapter are matters vitally affecting the public  
9 interest for the purpose of applying the consumer protection act,  
10 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
11 relation to the development and preservation of business and is an  
12 unfair or deceptive act in trade or commerce and an unfair method of  
13 competition for the purpose of applying the consumer protection act,  
14 chapter 19.86 RCW.

15 NEW SECTION. **Sec. 8.** This chapter may be known and cited as the  
16 cruelty free cosmetics act.

17 NEW SECTION. **Sec. 9.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2024.

22 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act  
23 constitute a new chapter in Title 69 RCW.

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