

SENATE BILL 729

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By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Prohibition on Testing Cosmetics on Animals**

3 FOR the purpose of prohibiting a person from conducting or contracting for animal testing
4 in the development of a cosmetic; prohibiting a manufacturer from selling or offering
5 for sale in the State a cosmetic under certain circumstances beginning on a certain
6 date; providing that certain provisions of this Act do not apply to certain animal
7 testing; prohibiting a political subdivision from adopting or enforcing certain
8 provisions of local law; establishing certain penalties for certain violations of this
9 Act; requiring a certain person to provide certain evidence under certain
10 circumstances; authorizing a local law enforcement agency to enforce certain
11 provisions of this Act; authorizing a State's Attorney to seek certain relief and review
12 certain testing data under certain circumstances; providing that certain testing data
13 is entitled to certain protection; providing that certain penalty provisions are not
14 applicable to violations of certain provisions of this Act; providing for the
15 construction of certain provisions of this Act; defining certain terms; requiring a
16 manufacturer with a certain inventory to sell or otherwise dispose of the inventory
17 on or before a certain date; providing for a delayed effective date; and generally
18 relating to a prohibition on testing cosmetics on animals.

19 BY adding to
20 Article – Health – General
21 Section 21–259.2
22 Annotated Code of Maryland
23 (2019 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article – Health – General
26 Section 21–1215
27 Annotated Code of Maryland
28 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

21-259.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “ANIMAL TESTING” MEANS THE INTERNAL OR EXTERNAL
APPLICATION OR EXPOSURE OF A COSMETIC TO THE SKIN, EYE, OR ANY OTHER BODY
PART OF A LIVE NONHUMAN VERTEBRATE.

(3) “INGREDIENT” HAS THE MEANING STATED IN 21 C.F.R. §
700.3(E).

(4) “MANUFACTURER” MEANS ANY PERSON WHOSE NAME APPEARS
ON THE LABEL OF A COSMETIC IN ACCORDANCE WITH THE REQUIREMENTS OF 21
C.F.R. § 701.12.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
PERSON MAY NOT CONDUCT OR CONTRACT FOR ANIMAL TESTING IN THE
DEVELOPMENT OF A COSMETIC.

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
BEGINNING JULY 1, 2021, A MANUFACTURER MAY NOT SELL OR OFFER FOR SALE IN
THE STATE A COSMETIC IF THE MANUFACTURER KNOWS OR REASONABLY SHOULD
HAVE KNOWN THAT THE FINAL PRODUCT OR ANY INDIVIDUAL COMPONENT OF THE
FINAL PRODUCT WAS DEVELOPED OR MANUFACTURED USING ANIMAL TESTING
THAT WAS CONDUCTED OR CONTRACTED BY OR FOR THE MANUFACTURER OR ANY
ENTITY THAT SUPPLIES, DIRECTLY OR THROUGH A THIRD PARTY, ANY INGREDIENT
USED BY A MANUFACTURER IN THE FORMULATION OF A COSMETIC ON OR AFTER
JANUARY 1, 2021.

(C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY
TO ANIMAL TESTING THAT IS:

(1) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT
OF A FEDERAL OR STATE REGULATORY AGENCY IF:

(i) THE COSMETIC OR INGREDIENT IN THE COSMETIC THAT IS
TESTED IS IN WIDE USE AND CANNOT BE REPLACED BY ANOTHER INGREDIENT THAT
IS CAPABLE OF PERFORMING A SIMILAR FUNCTION IN THE PRODUCT;

(II) A SPECIFIC HUMAN HEALTH PROBLEM RELATING TO THE COSMETIC OR AN INGREDIENT IN THE COSMETIC 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 IN THE COSMETIC; AND

(III) ANIMAL TESTING IS THE ONLY METHOD OF TESTING THAT IS ACCEPTED FOR THE RELEVANT PURPOSE BY THE FEDERAL OR STATE REGULATORY AGENCY;

(2) CONDUCTED OR CONTRACTED TO COMPLY WITH REQUIREMENT OF A REGULATORY AGENCY OF A FOREIGN JURISDICTION, IF NO EVIDENCE DERIVED FROM THE TESTING WAS RELIED ON TO SUBSTANTIATE THE SAFETY OF A COSMETIC SOLD BY THE MANUFACTURER WITHIN THE STATE;

(3) PERFORMED ON A COSMETIC OR AN INGREDIENT IN A COSMETIC SUBJECT TO THE REQUIREMENTS OF SUBCHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT;

(4) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT OF A FEDERAL, STATE, OR FOREIGN REGULATORY AGENCY FOR PURPOSES UNRELATED TO COSMETICS TESTING, IF:

(I) NO EVIDENCE DERIVED FROM THE TESTING WAS RELIED ON TO SUBSTANTIATE THE SAFETY OF A COSMETIC SOLD BY THE MANUFACTURER WITHIN THE STATE;

(II) DOCUMENTARY EVIDENCE DEMONSTRATES THAT THE INTENT OF THE TEST THAT WAS PERFORMED WAS UNRELATED TO COSMETICS TESTING;

(III) THE INGREDIENT THAT WAS THE SUBJECT OF THE TESTING HAS BEEN USED FOR PURPOSES UNRELATED TO COSMETICS FOR AT LEAST 12 MONTHS; AND

(IV) THERE WAS NO ALTERNATIVE TO TESTING ON AN ANIMAL AT THE TIME OF THE STUDY; OR

(5) PERFORMED ON:

(I) A COSMETIC THAT, IN ITS FINAL FORM, WAS TESTED ON ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE COSMETIC IS

1 MANUFACTURED ON OR AFTER JANUARY 1, 2021; OR

2 (II) A COSMETIC INGREDIENT THAT WAS SOLD IN THE STATE
3 AND TESTED ON ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE
4 INGREDIENT IS MANUFACTURED ON OR AFTER JANUARY 1, 2021.

5 (D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A COSMETICS
6 MANUFACTURER FROM REVIEWING, ASSESSING, OR RETAINING DATA RESULTING
7 FROM ANIMAL TESTING.

8 (E) A POLITICAL SUBDIVISION OF THE STATE MAY NOT ADOPT OR ENFORCE
9 A PROVISION OF A LOCAL LAW RELATING TO ANIMAL TESTING ON COSMETICS OR
10 ANIMAL TESTING ON INGREDIENTS USED IN COSMETICS.

11 (F) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
12 PENALTY:

13 (I) NOT EXCEEDING \$5,000 FOR THE FIRST OFFENSE; AND

14 (II) NOT EXCEEDING \$1,000 FOR EACH SUBSEQUENT OFFENSE.

15 (2) EACH VIOLATION OF THIS SECTION WITH RESPECT TO A
16 SEPARATE ANIMAL AND EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE
17 VIOLATION UNDER THIS SECTION.

18 (3) IF A PERSON WHO IS ALLEGED TO HAVE VIOLATED THIS SECTION
19 CLAIMS THE PROHIBITION IN SUBSECTION (B) DOES NOT APPLY BECAUSE THE
20 TESTING FALLS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION, THE PERSON
21 SHALL PROVIDE CLEAR, DOCUMENTED EVIDENCE OF THE DATE ON WHICH THE DATA
22 WAS GENERATED.

23 (G) (1) A LOCAL LAW ENFORCEMENT AGENCY MAY ENFORCE THE
24 PROVISIONS OF THIS SECTION.

25 (2) (I) THE STATE'S ATTORNEY FOR EACH COUNTY MAY SEEK
26 APPROPRIATE RELIEF FOR VIOLATIONS OF THIS SECTION.

27 (II) A STATE'S ATTORNEY, IN DETERMINING WHETHER A
28 VIOLATION OF THIS SECTION OCCURRED, MAY REVIEW ANY TESTING DATA ON
29 WHICH A MANUFACTURER HAS RELIED IN DETERMINING THE SAFETY OF A
30 COSMETIC OR AN INGREDIENT IN A COSMETIC SOLD IN THE STATE.

31 (III) ANY TESTING DATA REVIEWED UNDER SUBPARAGRAPH (II)

1 **OF THIS PARAGRAPH IS ENTITLED TO PROTECTION AS A TRADE SECRET.**

2 21–1215.

3 (a) This section does not apply to a violation of § 21–220(b)(4) **OR § 21–259.2** of
4 this title.

5 (b) A person who violates any provision of Subtitle 2 of this title or any regulation
6 adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject
7 to:

8 (1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or
9 both; or

10 (2) If the person has been convicted once of violating Subtitle 2 of this title,
11 a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

12 (c) In addition to any criminal penalties imposed under this section, a person who
13 violates any provision of Subtitle 2 of this title, any rule or regulation adopted under
14 Subtitle 2 of this title, or any term, condition, or limitation of any license or registration
15 issued under Subtitle 2 of this title:

16 (1) Is subject to a civil penalty not exceeding \$5,000, in an action in any
17 District Court; and

18 (2) May be enjoined from continuing the violation.

19 (d) Each day on which a violation occurs is a separate violation under this section.

20 **SECTION 2. AND BE IT FURTHER ENACTED,** That a manufacturer with
21 inventory that would violate § 21–259.2 of the Health – General Article, as enacted by
22 Section 1 of this Act, shall sell or otherwise dispose of the inventory on or before June 30,
23 2021.

24 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect
25 January 1, 2021.