

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Agriculture and Environment

From: Cheryl Kakazu Park, Director

Date: February 3, 2021, 1:00 p.m.
Via Videoconference

Re: Testimony on S.B. No. 345
Relating to Cosmetics

Thank you for the opportunity to submit testimony on this bill, which would ban animal-tested cosmetics. The Office of Information Practices (OIP) takes no position on the substance of this bill, but has concerns about a confusing provision relating to protection of disclosed information and has **suggested an amendment.**

Subsection 321-__(f) on bill page 5 provides protection “as a trade secret” for “information disclosed under this section.” First, the proposed section does not require disclosure of information, so it’s not entirely clear what information the provision refers to. Another subsection, (e), allows a prosecutor to review testing information, which may be the information referred to, but subsection (e) does not actually require the manufacturer to disclose that or any other information. Second, protection “as a trade secret” is an unsuitable standard since “trade secret” is a term with a specifically defined meaning in the Uniform Trade Secrets Act, chapter 482B, of "information, including a formula, pattern, compilation, program device, method, technique, or process that . . . [d]erives independent economic value . . . from not being generally known to . . . other

persons who can obtain economic value from its disclosure or use[.]” In other words, unless a manufacturer is using a secret testing method that other manufacturers could benefit from stealing, testing information is not likely a trade secret. A more suitable form of protection for testing information and other manufacturer-provided information would be to require it to be kept confidential to the extent it qualifies as confidential business information protected under the Uniform Information Practices Act.

OIP recommends that this Committee: **(1) add in a disclosure provision so it will be clear what information must be disclosed** under the new section, **and (2) amend the protection to clearly reflect the context in which the Committee intends** the information is intended to be protected – e.g., protected from public disclosure vs. from being used in evidence. If subsection (f) was intended to refer to testing information reviewed by prosecutors under subsection (e), and was not intended to protect that testing information from being used as evidence in a subsequent prosecution, then **OIP recommends amending subsection (e) to specifically require disclosure of that information, as follows:**

A prosecuting attorney may, upon a determination that there is a reasonable likelihood that a violation has occurred under this section, require a cosmetic manufacturer to disclose for the prosecuting attorney’s review the testing data upon which [a] the cosmetic manufacturer has relied . . .

and replacing the first sentence of subsection (f) with the following:

To the extent testing data disclosed under this section may be withheld from public disclosure as confidential business information or otherwise under section 92F-13, it shall be treated as confidential and

shall not be disclosed except to the extent necessary for enforcement of this section.

Thank you for considering OIP's concerns and suggested amendments.

TABLE 1. STANDARD COSMETIC SAFETY TESTS: ANIMALS VS. ALTERNATIVES - TIME, COST, ACCURACY

ANIMAL TEST	TIME	COST, \$	ACCURACY	ALTERNATIVE TEST	TIME	COST, \$	ACCURACY
Skin absorption: Substance is rubbed onto shaved backs of rats who are killed	1 day	1000-5000	Over predicts by a factor of 3	Ex vivo human skin-based tests for this are well established	1 day	1000-5000	Highly accurate as uses human skin
Irritation/ corrosion (skin): Substance is rubbed into the shaved backs of rabbits and they may then be killed	2 weeks	1,800	56%	Reconstituted human epidermis (RHE) skin models are accepted	1 day	500-850	76%
Irritation/ corrosion (eye): Substance placed into the eyes of live rabbits and they may be then be killed	3 weeks	1,800	Very unreliable, low to moderate correlation with humans	Eyes from animals killed for food can detect non-irritants and severe irritants (BCOP and ICE ex vivo eye models). Human corneal epithelial models (HCE) can detect non-irritants	1 day	1,400 (BCOP)	82% (HCE predictive of rabbit test)
Skin sensitisation: Substance is rubbed onto the shaved skin of guinea pigs or painted into ears of mice who are then killed	3-4 weeks for guinea pigs or 6 days for mice	9,300 (LLNA)	72-82% (for mouse test)	Several tests based on human skin cells have been accepted (DPRA, Keratinocyte assay, and h-CLAT)	1-2 days	8,400	90-100% (using strategy of 1-3 tests)
Acute toxicity: Rats are exposed to very high dose of substance such that a number of them are expected to die	14 days	1,800	Results can differ between species by several orders of magnitude	Cell based tests such as the NRU3T3 can predict lack of toxicity very accurately	1 day	1,300	81% (predicting non-toxic substances)
Mutagenicity/ genotoxicity: Substance force-fed or injected into mice or rats who are then killed	14 days	20,000-32,000	Not known	A testing battery of 2 or 3 cell-based tests. Positives should be assumed to be genotoxic	1-3 days	8,000-20,000	85-90% (predictive of the rat test)
Repeated dose: Rats are force-fed, forced to inhale or have substance rubbed onto their skin daily before they are killed	28 or 90 days	140,000 (90-day)	40-60%	TTC concept or read across from similar substances with test data	1-2 days	3000 for expert time	n/a

https://www.crueltyfreeinternational.org/sites/default/files/alternativesreport_2017extra_email.pdf

February 3, 2021

Senate Agriculture and Environment Committee

RE: SUPPORT FOR SB345; RELATING TO COSMETICS

Submitted By: Inga Gibson, Pono Advocacy, on behalf of Cruelty Free International
PonoAdvocacy@gmail.com, 808.922.9910

Dear Honorable Chair Gabbard and Members of the AEN Committee,

We respectfully urge your **support on SB345**, which would prohibit the import for profit, sale, and offer for sale of any cosmetic in the State if the final product or any component of the final product was developed or manufactured using animal testing performed on or after 1/1/2022. Effective 1/1/2022.

After conferring with the Department of Health we request one minor technical amendment, below:

Page 2, line 18 Change to a new section under **Chapter 328, not Chapter 321**
"~~S321~~**328**— Cosmetics; animal testing; prohibition.

Modern cosmetic safety testing standards and practices no longer require the use of animals. These new testing methods are also more reliable, effective and efficient. Three states, California, Nevada and Illinois have already enacted this same legislation, along with more than 30 countries. Manufacturers have therefore already discontinued cosmetic testing on animals. This measure would simply formally align Hawaii with this national trend.

Please see below letters of support from the Personal Care Products Council, representing more than 500 cosmetic companies and manufacturers nationwide, and an additional letter of support from The Body Shop, who is one of the hundreds of companies who have long discontinued the sale of cosmetic products tested on animals,

Please note that this bill **does not prohibit medical or research testing**, only testing for cosmetics, and provides additional exemptions to prevent conflict with any federal laws.

Thank you for your consideration of this testimony.



STATEMENT IN SUPPORT OF CFI/PCPC ANIMAL TESTING BAN AGREEMENT

In 2019, Cruelty Free International¹(CFI) and the Personal Care Products Council² (PCPC) forged a compromise agreement on state animal testing legislation. The model legislation will ban cosmetics products from being sold in states if those products or their ingredients have been tested on animals. The legislation makes necessary exceptions if, for example, the testing is mandated by federal, state or foreign regulators, and allows companies to rely on existing data from testing that was done to address regulatory requirements for non-cosmetic purposes under specific conditions.

Cosmetics and personal care products companies have been strong leaders in the search for and development of alternative cosmetics testing methods for safety assessments, and have worked with regulators in the U.S. and globally to gain acceptance of these methods. For nearly four decades, PCPC member companies have been at the forefront in significantly reducing the use of animals in product safety testing.

The legislation reflects months of discussions between PCPC and CFI, and represents a shared commitment to address the safety of humans and animals, while preserving access to so many products that consumers trust and rely on every day.

The cosmetics industry has long worked toward eliminating the use of animal testing, and this legislation is an effective measure that balances our common goal to make cosmetics animal testing obsolete globally.

¹ Cruelty Free International is the leading organization working to create a world where nobody wants or believes we need to experiment on animals. Our dedicated team are experts in their fields, combining award-winning campaigning, political lobbying, pioneering undercover investigations, scientific and legal expertise and corporate responsibility. Educating, challenging and inspiring others across the globe to respect and protect animals, we investigate and expose the reality of life for animals in laboratories, challenge decision-makers to make a positive difference for animals, and champion better science and cruelty free living.

² Based in Washington, D.C., the Personal Care Products Council (PCPC) is the leading national trade association representing the global cosmetic and personal care products companies. Founded in 1894, PCPC's 600 member companies manufacture, distribute and supply the vast majority of finished personal care products marketed in the U.S. As the makers of a diverse range of products millions of consumers rely on and trust every day – from sunscreens, toothpaste and shampoo to moisturizer, lipstick and fragrance – personal care products companies are global leaders committed to product safety, quality and innovation.



January 27, 2021

Honorable Senate President Ronald Kouchi
cc. Honorable Committee Chair Senator Baker, Chang, Misalucha, Nishihara, Riviere, Buenaventura, Fevella.

RE: Strong Support for SB 345 Hawaii Cruelty Free Cosmetics Act

Aloha Senator Kouchi,

The Body Shop is pleased to support the Hawaii Cruelty Free Cosmetics Act (SB 345) SB 345 will prohibit the sale of any cosmetic product that has been tested on animals after the date January 1, 2022 thus bringing Hawaii in line with California, Nevada and Illinois as well as with over 40 countries which already prohibit the sale of new animal-tested cosmetics.

As a company that has relied on non-animal safety tests to ensure our products meet cosmetic safety needs, we have direct experience with the utility and success of these modern approaches. With a plethora of ingredients available that have already been proven safe as well as the growth in modern non-animal safety tests available, there is no reason to test cosmetic products or ingredients on animals. Moreover, we know that being cruelty free is deeply important to our customers.

Eliminating the sale of animal tested cosmetics in Hawaii is a move that is welcomed by our company and one that will help the move the US in the right direction helping to ensure that animals are no longer harmed for the sake of cosmetics anywhere in the world.

We respectfully urge your support for SB 345.

Sincerely,



Nicolas Debray
President, Americas
The Body Shop

February 2, 2021

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Committee on Agriculture and Environment
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: SUPPORT Senate Bill 345

Chair Gabbard and Vice Chair Nishihara:

On behalf of the members of the Personal Care Products Council (PCPC),¹ I am writing to express our support for Senate Bill 345.

In 2019, PCPC and Cruelty Free International forged a compromise agreement on state animal testing legislation. The model legislation bans cosmetics products from being sold in states if those products or their ingredients have been tested on animals. The legislation makes necessary exceptions if, for example, the testing is mandated by federal, state or foreign regulators, and allows companies to rely on existing data from testing that was done to address regulatory requirements for non-cosmetic purposes under specific conditions.

The model language represents a shared commitment to address the safety of humans and animals, while preserving access to so many products that consumers trust and rely on every day. The cosmetics industry has long worked toward eliminating the use of animal testing, and this language is an effective measure that balances our common goal to make cosmetics animal testing obsolete globally.

We appreciate your leadership on this issue.

Sincerely,



Karin Ross
Vice President, Government Affairs

¹ Based in Washington, D.C., the Personal Care Products Council (PCPC) is the leading national trade association representing global cosmetics and personal care products companies. Founded in 1894, PCPC's approximately 600 member companies manufacture, distribute, and supply the vast majority of finished personal care products marketed in the U.S. As the makers of a diverse range of products millions of consumers rely on and trust every day – from sunscreens, toothpaste, and shampoo to moisturizer, lipstick, and fragrance – personal care products companies are global leaders committed to product safety, quality, and innovation.



**THE HUMANE SOCIETY
OF THE UNITED STATES**

1255 23rd Street, NW
Suite 450
Washington, DC 20037
P 202-452-1100
F 202-778-6132
humanesociety.org

February 2, 2021

RE: Support for Senate Bill 345, Relating to Cosmetics.

Dear Chair Gabbard and Members of the Senate Committee on Agriculture and Environment,

Susan Atherton
Co-Chair

Thomas J. Sabatino
Co-Chair

Kitty Block
*President and CEO and
Chief International Officer*

G. Thomas Waite III
*Treasurer
Chief Financial Officer and
Acting Chief Operating Officer*

Katherine L. Karl
*General Counsel and
Chief Legal Officer*

Michael Barsness
*Controller and
Deputy Treasurer*

Johanie V. Parra
Secretary

DIRECTORS

Jeffrey J. Arciniaco

Susan Atherton

Eric L. Bernthal, Esq.

Georgina Bloomberg

J. Elizabeth Bradham

Jerry Cesak

Neil B. Fang, Esq., CPA

Caren M. Fleit

Spencer B. Haber

Cathy Kangas

Paula A. Kislak, D.V.M.

Charles A. Laue

Kathleen M. Linehan, Esq.

Mary I. Max

C. Thomas McMillen

Judy Ney

Sharon Lee Patrick

Marsha R. Perelman

Jonathan M. Ratner

Thomas J. Sabatino, Jr.

Walter J. Stewart, Esq.

Jason Weiss

David O. Wiebers, M.D.

I appreciate the opportunity to submit this written testimony on behalf of our Hawaii members and supporters urging the committee to pass SB 345, which prohibits a manufacturer from importing for profit, selling, or offering for sale in Hawaii any cosmetic, for which an animal test was conducted or contracted by or on behalf of the manufacturer, or any supplier of the manufacturer, on or after January 1, 2022.

There is strong corporate support for ending animal testing for cosmetics. SB 345 has received a letter of support from O'o Hawaii, a cosmetics company located in Oahu (see attached). In addition, the Humane Cosmetics Act, federal legislation to end the production and sale of animal-tested cosmetics, has been endorsed by more than 325 individual companies in the cosmetics industry and was introduced with the full support of the Personal Care Products Council, the largest cosmetics trade association representing approximately 600 companies in the United States.

In traditional animal tests, rabbits, guinea pigs, mice, and rats have substances forced down their throats, dripped into their eyes, or smeared onto their skin before they are killed. These test methods are unreliable predictors of human safety. Different species can respond differently when exposed to the same chemicals. Consequently, animal tests may under- or over-estimate real-world hazards to people. In addition, results from animal tests can be quite variable and difficult to interpret.

Fortunately, animal testing for cosmetics is completely unnecessary. There are no animal testing requirements for cosmetic safety substantiation in the United States. Companies can already create great products using thousands of available ingredients that have a history of safe use and do not require new testing. For new ingredients where animal testing may currently be used, many non-animal methods have been, and continue to be, developed. Non-animal methods can combine human cell-based tests and sophisticated computer models to deliver human-relevant results at less cost and in less time than the animal tests.

SB 345 contains some exceptions that allow for sale of products with new animal testing under certain conditions including testing: (1) Required by a federal or state agency when there is a specific human health concern and there is no available alternative test or alternative ingredient; (2) Required by a foreign regulatory authority, if no evidence derived from such test was relied upon to substantiate the safety of a cosmetic sold within Hawaii; (3) Conducted on a product or ingredient classified as a drug by the Federal Food, Drug, and Cosmetic Act; and (4) Conducted for non-cosmetic purposes if no evidence derived from such test was relied upon to substantiate the safety of a cosmetic sold within Hawaii without documented evidence that the testing was done to satisfy non-cosmetic testing requirements and the ingredient was in use in a non-cosmetic product for at least 12 months. These limited exceptions recognize the realities of chemical testing laws around the globe while also creating the incentive for cosmetic companies to push for the development and acceptance of additional non-animal test methods.



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Jason Weiss
David O. Wiebers, M.D.

There has been a global trend toward eliminating cosmetic animal testing. In 2019, California became the first state in the country to ban the sale of cosmetics newly tested on animals followed by Nevada and Illinois in 2019. All these laws went into effect on January 1, 2020. Historically, the European Union (EU) began the trend in 2013 by finalizing a ban on the sale of cosmetics tested on animals, creating the world's largest cruelty-free cosmetics marketplace. This ban compelled cosmetic companies around the world to end animal testing and invest in the development of non-animal alternatives instead. Similar bans have also been enacted in Israel, Norway, India, and Switzerland and are under consideration in several other countries. In order to sell their products in any of these countries, cosmetic companies must already comply with bans on animal testing.

Thank you for your consideration on this important topic. The Humane Society of the United States respectfully urges the committee to pass SB 345 and help bring about an end to the use of animal testing in cosmetics.

Sincerely,

Lindsay Vierheilig
Hawaii State Director
The Humane Society of the United States
lvierheilig@humanesociety.org
808-462-3561



hawaii

www.oohawaii.com

(808) 341-0143

The Honorable Mike Gabbard
Chair, Senate Committee on Agriculture and Environment
The Honorable Clarence K. Nishihara
Vice-Chair, Senate Committee on Agriculture and Environment
The Honorable members of the Senate Committee on Agriculture and Environment

Hawaii State Capitol
415 S Beretania St.
Honolulu, HI 96813

January 31, 2021

RE: Please Support HB 1088 SB 345

Dear Chairman Gabbard Vice-Chair Nishihara, and the members of the Senate Committee on Agriculture and Environment:

My name is Holly Harding and I am the CEO of O'o Hawaii. We are a company that produces high quality, skincare products without the need for animal testing. We export our products all over the world including Korea, Japan, Hong Kong, Europe, Israel, India and Canada. I am writing to express my strong support of HB 1088 and SB 345 which would prohibit the sale of cosmetic products that have been tested on animals.

Animal testing for cosmetics is completely unnecessary. Cosmetics products can be created using thousands of ingredients that have already been proven to be safe. In addition, there are many non-animal test methods available that can be used for safety evaluations of new ingredients. These alternatives provide data that is more relevant to humans and offer savings in time and cost from traditional animal tests. In addition, most animals have a skin pH that is more neutral than humans at roughly a 7. Human skin is more acidic, thus making testing of human products on animals irrelevant.

More than 30 countries including the European Union, India, Israel, Norway and Switzerland have already banned production and sale of animal-tested cosmetics, and international companies must already be in compliance with bans in those countries. Laws to end the sale of animal-tested cosmetics have also passed in California, Nevada and Illinois. Passage of HB 1088 and SB 345 would help push for harmonization of U.S. cosmetic policy with these states and countries and facilitate the trade of safe and humane cosmetic products worldwide.



hawaii
www.oohawaii.com
(808) 341-0143

Hawaii can be at the forefront of establishing a cruelty-free cosmetics market in the United States. Please support HB 1088 and SB 345.

Sincerely,

Holly Harding

CEO

SB-345

Submitted on: 2/1/2021 1:18:12 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sunshine Eckstrom	Individual	Support	No

Comments:

Testing cosmetics on animals is cruel and unnecessary. Companies who continue to utilize these outdated and torturous methods should not be allowed to profit in this state. Please ban the sale of any cosmetics which have been tested on animals.

SB-345

Submitted on: 2/1/2021 1:35:25 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
josh robinson	Individual	Support	No

Comments:

As a society we should strive to be better. This is an opportunity to do that. There is no need in modern times to test anything on helpless animals.

SB-345

Submitted on: 2/1/2021 3:24:13 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Will Caron	Individual	Support	No

Comments:

Dear committee,

Please support this bill.

Mahalo!

SB-345

Submitted on: 2/1/2021 5:25:43 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Juliana Benson	Individual	Support	No

Comments:

I fully support this bill. Cruelty-free cosmetic products are becoming more popular as more individuals learn about the inhumane nature of animal testing in the cosmetic industry. Passing this bill will not hurt the cosmetic industry, but instead will provide an avenue to boost business for new cruelty-free products and businesses. Cruelty-free is the future in this industry. Many stores even have sections labeled "cruelty-free" where they house products from this industry. These sections of stores are growing and so is consumer demand. This clearly shows the demand for this type of product and the community's interest in ending the testing of cosmetic products on animals.

SB-345

Submitted on: 2/1/2021 8:07:19 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Meeks	Individual	Support	No

Comments:

Testing cosmetic products on animals is an outdated and inhumane practice. Animal testing causes unnecessary pain, suffering, fear, and death to animals. I support banning the sale of cosmetic products that have been tested on animals.

SB-345

Submitted on: 2/1/2021 9:13:57 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments:

Let's do the right thing and put an end to supporting the torture of animals for cosmetics.

SB-345

Submitted on: 2/2/2021 9:03:03 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Fatima	Individual	Support	No

Comments:

Animals suffer cruel testing for cosmetic brands to get an extra buck. There are plenty of brands who have gone cruelty-free and vegan; which is better for your body/skin, animals AND for the environment. Animal testing is obsolete.

I support his bill and you should too.

SB-345

Submitted on: 2/2/2021 10:32:28 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Individual	Support	No

Comments:

To: The Honorable Michael Gabbard, Chair,

The Honorable Clarence Nishihara, Vice Chair, and Members of the

Senate Committee on Agriculture and Environment

From: Ted Bohlen

Re: Hearing SB345– RELATING TO COSMETICS

Wednesday February 3, 2021, 1:00 p.m., by videoconference

Position: **Support**

This bill would ban the import for profit, sale, and offer for sale of any cosmetic in the State if the final product or any component of the final product was developed or manufactured using animal testing performed on or after 1/1/2022.

Animal testing has been cruel and is no longer necessary to develop products, as the actions by other major jurisdiction such as California and the EU shows. I support the intent of this bill, though not necessarily the placement in HRS c. 321.