

JAN 18 2019

---

# A BILL FOR AN ACT

---

RELATING TO COSMETICS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that for more than fifty  
2 years, cosmetic manufacturers have used animals in painful tests  
3 to assess the safety of chemicals used in cosmetic products.  
4 Today, modern approaches that are cheaper, faster, and more  
5 reliable at predicting adverse human reactions are widely  
6 available and are becoming more accessible each year. In  
7 addition, companies now have thousands of existing cosmetic  
8 ingredients with histories of safe use that have long been sold  
9 and utilized.

10       California was the first state to prohibit the sale of  
11 cosmetics tested on animals, which was supported by dozens of  
12 cosmetic companies and industry associations including the  
13 Personal Care Products Council, California Retailers  
14 Association, and the California Manufacturers and Technology  
15 Association. The California ban takes effect in 2020. In 2013,  
16 the United State's largest trading partner, the European Union,  
17 ended the importation and sale of cosmetics that have been



1 tested on animals. Today, more than thirty countries have  
2 banned cosmetic animal testing and several others have  
3 legislation pending.

4 The purpose of this Act is to prohibit manufacturers from  
5 selling cosmetic products in the State that are tested on  
6 animals after 2020. It is not the intent of this Act to  
7 penalize retailers or consumers who rely on manufacturers to  
8 meet state laws or rules, nor is it the intent to prohibit the  
9 continued import or export of cosmetic products into the State  
10 from other countries, regardless of the testing requirements of  
11 other countries, if the safety of the product sold in the State  
12 does not rely on animal testing data that was performed after  
13 2020. This approach is consistent with the implementation of  
14 the European Union regulations and the recently adopted  
15 California law.

16 SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
17 amended by adding a new section to part I to be appropriately  
18 designated and to read as follows:

19 "§328- Cosmetics; animal testing; prohibition. (a)  
20 Notwithstanding any other law, it shall be unlawful for a  
21 manufacturer to import for profit, sell, or offer for sale in



## S.B. NO. 756

1 this State, any cosmetic, for which an animal test was conducted  
2 or contracted by or on behalf of the manufacturer, or any  
3 supplier of the manufacturer, on or after January 1, 2021.

4 (b) For purposes of this section:

5 "Animal test" means the internal or external application of  
6 a cosmetic, either in its final form or any ingredient thereof,  
7 to the skin, eyes, or other body part of a live, nonhuman  
8 vertebrate.

9 "Cosmetic" means any article intended to be rubbed, poured,  
10 sprinkled, or sprayed on, introduced into, or otherwise applied  
11 to the human body or any part thereof for cleansing,  
12 beautifying, promoting attractiveness, or altering the  
13 appearance, including, but not limited to, personal hygiene  
14 products such as deodorant, shampoo, or conditioner.

15 "Drug" means an article as defined in section 201(g) of the  
16 Federal Food, Drug, and Cosmetic Act.

17 "Ingredient" means any component of a cosmetic as defined  
18 by title 21 Code of Federal Regulations section 700.3.

19 "Manufacturer" means any person whose name appears on the  
20 label of a cosmetic product pursuant to the requirements of  
21 title 21 Code of Federal Regulations section 701.12.



## S.B. NO. 756

1       "Supplier" means any entity that supplies, directly or  
2 through a third party, any ingredient used in the formulation of  
3 a manufacturer's cosmetic.

4       (c) The prohibitions in subsection (a) shall not apply to:

5       (1) An animal test of the cosmetic that is required by a  
6 federal or state regulatory authority if all of the  
7 following apply:

8       (A) The ingredient tested is in wide use and cannot  
9 be replaced by another ingredient capable of  
10 performing a similar function;

11       (B) A specific human health problem is substantiated  
12 and the need to conduct animal tests is justified  
13 and is supported by a detailed research protocol  
14 proposed as the basis for the evaluation; and

15       (C) There is no nonanimal testing method accepted for  
16 the relevant endpoint by the applicable federal  
17 or state regulatory authority;

18       (2) An animal test that was conducted to comply with a  
19 requirement of a foreign regulatory authority, if no  
20 evidence derived from such tests was relied upon to



## S.B. NO. 756

1           substantiate the safety of a cosmetic sold within the  
2           State by the manufacturer;

3       (3) An animal test that was conducted on any product or  
4           ingredient subject to the requirements of subchapter V  
5           of the Federal Food, Drug, and Cosmetic Act (21 U.S.C  
6           351 et seq.); and

7       (4) An animal test that was conducted for noncosmetic  
8           purposes in response to a written requirement of a  
9           federal, state, or foreign regulatory authority;  
10          provided that no evidence derived from such test is  
11          relied upon to substantiate the safety of a cosmetic  
12          sold within the State by the manufacturer. A  
13          manufacturer is not prohibited from reviewing,  
14          assessing, or retaining evidence from an animal test  
15          conducted pursuant to this paragraph.

16       (d) A violation of this section shall be punishable by a  
17       fine of \$5,000 and an additional \$1,000 for each day the  
18       violation continues.

19       (e) A violation of this section may be enforced by the  
20       prosecuting attorney of the county in which the violation



1 occurred. The fine shall be paid to the county in which the  
2 violation occurred.

3 (f) A prosecuting attorney may, upon reasonable belief  
4 that a violation has occurred under this section, review the  
5 testing data upon which a cosmetic manufacturer has relied in  
6 the development or manufacturing of the relevant cosmetic  
7 product sold in the State.

8 (g) Any information disclosed under this section shall be  
9 protected as a trade secret and a prosecuting attorney shall  
10 enter into a protective order with a manufacturer before receipt  
11 of the information from a manufacturer. A prosecuting attorney  
12 shall take other appropriate measures necessary to preserve the  
13 confidentiality of the information produced pursuant to this  
14 section.

15 (h) This section shall not apply to animal testing  
16 conducted on an ingredient or cosmetic in its final form if the  
17 animal testing took place prior to the effective date of Act  
18 \_\_\_\_\_ , Session Laws of Hawaii 2019."

19 SECTION 3. New statutory material is underscored.  
20



# S.B. NO. 756

1 SECTION 4. This Act shall take effect on January 1, 2020.

2

INTRODUCED BY:

*Mike Gabbard*  
*Yee Hong*  
*D.C. Kirk-Ang*  
*Paul F. Alt*  
*Matt*  
*Bernie de Beer*



# S.B. NO. 756

**Report Title:**

Cruelty-free; Animal Testing; Cosmetics; Prohibition; Fines

**Description:**

Bans, beginning January 1, 2020, the import for profit, sale, and offer for sale of any cosmetic in the State, if the final product or any component of the product was developed or manufactured using animal testing performed on or after January 1, 2020. Effective January 1, 2020.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

