



GOV. MSG. NO. 1262

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 1, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 1, 2021, the following bill was signed into law:

SB345 SD2 HD1 CD1

RELATING TO COSMETICS
ACT 160 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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 California Manufacturers and Technology
15 Association. The California ban took effect on January 1, 2020,
16 and was joined by Nevada and Illinois. In 2013, the United
17 States' largest trading partner, the European Union, ended the
18 importation and sale of cosmetics that have been tested on



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

3 The purpose of this Act is to prohibit manufacturers from
4 selling cosmetic products in the State that are tested on
5 animals on or after January 1, 2022, in a cruel manner. It is
6 not the intent of this Act to penalize retailers or consumers
7 who rely on manufacturers to meet state laws or rules, nor is it
8 the intent to prohibit the continued import or export of
9 cosmetic products in the State from or to other countries if the
10 safety of the product sold in the State does not rely on data
11 from animal testing that was performed after 2021. This
12 approach is consistent with the implementation of the European
13 Union regulations and the recently adopted laws in California,
14 Nevada, and Illinois.

15 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
16 amended by adding a new section to part I to be appropriately
17 designated and to read as follows:

18 "§321- Cosmetics; animal testing; prohibition. (a)
19 Notwithstanding any other law to the contrary, and except as
20 otherwise provided in this section, it shall be unlawful for a
21 manufacturer to import for profit, sell, or offer for sale in



1 the State any cosmetic for which the manufacturer knew or
2 reasonably should have known that an animal test was conducted
3 or contracted, by or on behalf of the manufacturer or any
4 supplier of the manufacturer, on or after January 1, 2022, in a
5 cruel manner, as identified in section 711-1108.5(1)(a).

6 (b) A violation of this section shall be punishable by a
7 fine of \$5,000 and an additional \$1,000 for each day the
8 violation continues.

9 (c) A violation of this section may be enforced by the
10 prosecuting attorney of the county in which the violation
11 occurred. The fine shall be paid to the county in which the
12 violation occurred.

13 (d) A prosecuting attorney may, upon a determination that
14 there is a reasonable likelihood that a violation has occurred
15 under this section, require a cosmetic manufacturer to disclose
16 for the prosecuting attorney's review the testing data upon
17 which the cosmetic manufacturer has relied in the development or
18 manufacturing of the relevant cosmetic product sold in the
19 State.

20 (e) To the extent testing data disclosed under this
21 section may be withheld from public disclosure as confidential



1 business information or otherwise under section 92F-13, it shall
2 be treated as confidential and shall not be disclosed except to
3 the extent necessary for enforcement of this section. A
4 prosecuting attorney shall take other appropriate measures
5 necessary to preserve the confidentiality of the information
6 produced pursuant to this section.

7 (f) Counties or other political subdivisions of the State
8 shall not establish any prohibition on or relating to animal
9 tests as defined in this section that are not identical to the
10 prohibitions set forth in this section and that do not include
11 the exemptions contained in this section.

12 (g) This section shall not apply to:

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

16 (A) The cosmetic or an ingredient in the cosmetic
17 that is being tested is in wide use and cannot be
18 replaced by another cosmetic or ingredient
19 capable of performing a similar function;

20 (B) A specific human health problem relating to the
21 cosmetic or ingredient is substantiated and the



1 need to conduct animal tests is justified and is
2 supported by a detailed research protocol
3 proposed as the basis for the evaluation of the
4 cosmetic or ingredient; and

5 (C) There is no non-animal testing method accepted
6 for the relevant purpose by the applicable
7 federal or state regulatory authority;

8 (2) An animal test that was conducted to comply with a
9 requirement of a foreign regulatory authority, if no
10 evidence derived from that test was relied upon to
11 substantiate the safety of a cosmetic sold within the
12 State by the manufacturer;

13 (3) An animal test that was conducted on any product or
14 ingredient subject to the requirements of subchapter V
15 of the Federal Food, Drug, and Cosmetic Act (21 United
16 States Code 351 et seq.), as amended;

17 (4) Except as otherwise provided in this subsection, an
18 animal test that was conducted for purposes unrelated
19 to cosmetics pursuant to a requirement of a federal,
20 state, or foreign regulatory agency; provided that no
21 evidence derived from the testing was relied upon to



1 substantiate the safety of a cosmetic sold within this
2 State by the manufacturer; provided further that if
3 evidence from such testing was relied upon for that
4 purpose, the prohibition in paragraph (1) does not
5 apply if:

6 (A) Documentary evidence exists of the intent of the
7 test that was unrelated to cosmetics; and

8 (B) The ingredient that was the subject of the
9 testing has been used for purposes unrelated to
10 cosmetics for not less than twelve months prior
11 to the reliance;

12 (5) A cosmetic if the cosmetic in its final form was
13 tested on animals before January 1, 2022, even if the
14 cosmetic is manufactured on or after that date;

15 (6) An ingredient in a cosmetic if the ingredient was sold
16 in this State and tested on animals before January 1,
17 2022, even if the ingredient is manufactured on or
18 after that date; or

19 (7) A manufacturer reviewing, assessing, or retaining
20 evidence from animal testing as defined in this
21 section.



1 (h) As used in this section:

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

6 "Cosmetic" means any article intended to be rubbed, poured,
7 sprinkled, or sprayed on; introduced into; or otherwise applied
8 to the human body or any part thereof for cleansing,
9 beautifying, promoting attractiveness, or altering the
10 appearance, including personal hygiene products such as
11 deodorant, shampoo, or conditioner.

12 "Ingredient" means any component of a cosmetic as defined
13 by title 21 Code of Federal Regulations section 700.3, as
14 amended.

15 "Manufacturer" means any person whose name appears on the
16 label of a cosmetic product pursuant to the requirements of
17 title 21 Code of Federal Regulations section 701.12, as amended.

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



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on January 1, 2022.

APPROVED this 01 day of JUL, 2021



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 345, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives