

JAN 22 2021

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# 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



1 importation and sale of cosmetics that have been tested on  
2 animals. Today, more than thirty countries have banned cosmetic  
3 animal testing and several others have 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 beginning January 1, 2022. It is not the intent of this  
7 Act to penalize retailers or consumers who rely on manufacturers  
8 to meet state laws or rules, nor is it the intent to prohibit  
9 the continued import or export of cosmetic products in the State  
10 from or to other countries if the safety of the product sold in  
11 the State does not rely on data from animal testing that was  
12 performed after 2021. This approach is consistent with the  
13 implementation of the European Union regulations and the  
14 recently adopted laws in California, 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.

5 (b) The prohibitions in subsection (a) shall not apply to:

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

9 (A) The cosmetic or an ingredient in the cosmetic  
10 that is being tested is in wide use and cannot be  
11 replaced by another cosmetic or ingredient  
12 capable of performing a similar function;

13 (B) A specific human health problem relating to the  
14 cosmetic or ingredient is substantiated and the  
15 need to conduct animal tests is justified and is  
16 supported by a detailed research protocol  
17 proposed as the basis for the evaluation of the  
18 cosmetic or ingredient; and

19 (C) There is no nonanimal testing method accepted for  
20 the relevant purpose by the applicable federal or  
21 state regulatory authority;



- 1        (2) An animal test that was conducted to comply with a  
2        requirement of a foreign regulatory authority, if no  
3        evidence derived from that test was relied upon to  
4        substantiate the safety of a cosmetic sold within the  
5        State by the manufacturer;
- 6        (3) An animal test that was conducted on any product or  
7        ingredient subject to the requirements of subchapter V  
8        of the Federal Food, Drug, and Cosmetic Act (21 United  
9        States Code 351 et seq.), as amended; or
- 10       (4) Except as otherwise provided in this subsection, an  
11       animal test that was conducted for purposes unrelated  
12       to cosmetics pursuant to a requirement of a federal,  
13       state, or foreign regulatory agency; provided that no  
14       evidence derived from the testing was relied upon to  
15       substantiate the safety of a cosmetic sold within this  
16       State by the manufacturer. If evidence from such  
17       testing was relied upon for that purpose, the  
18       prohibition in paragraph (1) does not apply if:
- 19       (A) Documentary evidence exists of the intent of the  
20       test that was unrelated to cosmetics; and



1           (B) The ingredient that was the subject of the  
2           testing has been used for purposes unrelated to  
3           cosmetics for not less than twelve months prior  
4           to the reliance.

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

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

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

18           (f) Any information disclosed under this section shall be  
19           protected as a trade secret and a prosecuting attorney shall  
20           enter into a protective order with the manufacturer before  
21           receipt of the information from a manufacturer. A prosecuting

1 attorney shall take other appropriate measures necessary to  
2 preserve the confidentiality of the information produced  
3 pursuant to this section.

4 (g) This section shall not apply to:

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

8 (2) An ingredient in a cosmetic if the ingredient was sold  
9 in this State and tested on animals before January 1,  
10 2022, even if the ingredient is manufactured on or  
11 after that date; or

12 (3) A manufacturer reviewing, assessing, or retaining  
13 evidence from animal testing as defined in this  
14 section.

15 (h) Counties or other political subdivisions of the State  
16 shall not establish any prohibition on or relating to animal  
17 tests as defined in this section that are not identical to the  
18 prohibitions set forth in this section and that do not include  
19 the exemptions contained in this section.

20 (i) For the purposes of this section:



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

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

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

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

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

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



1 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: Mike Hubbard



# S.B. NO. 345

**Report Title:**

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

**Description:**

Bans 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.

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

