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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 328, 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 "§328- 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) 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 (c) 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 (d) A prosecuting attorney may, upon a determination that  
13 there is a reasonable likelihood that a violation has occurred  
14 under this section, require a cosmetic manufacturer to disclose  
15 for the prosecuting attorney's review the testing data upon  
16 which the cosmetic manufacturer has relied in the development or  
17 manufacturing of the relevant cosmetic product sold in the  
18 State.

19 (e) To the extent testing data disclosed under this  
20 section may be withheld from public disclosure as confidential  
21 business information or otherwise under section 92F-13, it shall



1 be treated as confidential and shall not be disclosed except to  
2 the extent necessary for enforcement of this section. A  
3 prosecuting attorney shall take other appropriate measures  
4 necessary to preserve the confidentiality of the information  
5 produced pursuant to this section.

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

11 (g) This section shall not apply to:

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

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

19 (B) A specific human health problem relating to the  
20 cosmetic or ingredient is substantiated and the  
21 need to conduct animal tests is justified and is



1           supported by a detailed research protocol  
2           proposed as the basis for the evaluation of the  
3           cosmetic or ingredient; and

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

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

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

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



- 1           State by the manufacturer; provided that if evidence  
2           from such testing was relied upon for that purpose,  
3           the prohibition in paragraph (1) does not apply if:  
4           (A) Documentary evidence exists of the intent of the  
5           test that was unrelated to cosmetics; and  
6           (B) The ingredient that was the subject of the  
7           testing has been used for purposes unrelated to  
8           cosmetics for not less than twelve months prior  
9           to the reliance;  
10          (5) A cosmetic if the cosmetic in its final form was  
11          tested on animals before January 1, 2022, even if the  
12          cosmetic is manufactured on or after that date;  
13          (6) An ingredient in a cosmetic if the ingredient was sold  
14          in this State and tested on animals before January 1,  
15          2022, even if the ingredient is manufactured on or  
16          after that date; or  
17          (7) A manufacturer reviewing, assessing, or retaining  
18          evidence from animal testing as defined in this  
19          section.  
20          (h) 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 May 6, 2137.



**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 5/6/2137.  
(SD2)

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