THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2949

JAN 2 1 2022

A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

SECTION 1. The legislature finds that the United States Food and Drug Administration regulates sunscreens to ensure they meet safety and effectiveness standards. Products containing certain active ingredients may be marketed without a new drug application if the Food and Drug Administration considers them to be generally recognized as safe and effective for their intended use. The Food and Drug Administration categorizes each active ingredient in a sunscreen product as:

(1) Generally recognized as safe and effective for the claimed therapeutic indication;

(2) Not generally recognized as safe and effective or unacceptable indications; or

(3) Lacking sufficient data to permit final classification as generally recognized as safe and effective.

On September 24, 2021, the Food and Drug Administration posted a proposed updated order for sunscreen products sold in the United States which would trim the list of sunscreen active

ingredients generally recognized as safe and effective from sixteen to two: zinc oxide and titanium dioxide.

The legislature further finds that some sunscreens have recently been demonstrated to pose toxicologic threats, such as hormone disruption and detrimental health outcomes in children. While the State has already banned the sale and distribution of sunscreen products containing oxybenzone and octinoxate, additional action is required to prohibit other potentially harmful ingredients.

The purpose of this Act is to prevent the sale and distribution of sunscreen products that contain ingredients not generally recognized as safe and effective as defined by the Food and Drug Administration.

SECTION 2. Section 342D-21, Hawaii Revised Statutes, is amended to read as follows:

"**[~~[~~]§342D-21[~~]~~] Sale and distribution of sunscreen containing oxybenzone or octinoxate, or both; <u>ingredients not generally recognized as safe and effective;</u> prohibition.** (a) Beginning January 1, 2021, it shall be unlawful to sell, offer for sale, or distribute for sale in the State any sunscreen that

contains oxybenzone or octinoxate, or both, without a prescription issued by a licensed healthcare provider.

(b) No county shall enact any ordinance or regulatory restriction to prohibit the sale, use, labeling, packaging, handling, distribution, or advertisement of sunscreens containing oxybenzone or octinoxate, or both, prior to January 1, 2021.

(c) Beginning January 1, 2024, it shall be unlawful to sell, offer for sale, or distribute for sale in the State any sunscreen that contains ingredients not generally recognized as safe and effective, as defined by the Food and Drug Administration, without a prescription issued by a licensed healthcare provider.

(d) No county shall enact any ordinance or regulatory restriction to prohibit the sale, use, labeling, packaging, handling, distribution, or advertisement of sunscreens containing ingredients not generally recognized as safe and effective, as defined by the Food and Drug Administration, prior to January 1, 2024.

[~~(e)~~] (e) For purposes of this section:

"Licensed healthcare provider" means a physician or osteopathic physician licensed pursuant to chapter 453, or an advanced practice registered nurse licensed pursuant to chapter 457.

"Octinoxate" refers to the chemical (RS)-2-Ethylhexyl (2E)-3-(4-methoxyphenyl)prop-2-enoate under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 5466-77-3; the synonyms of which include but are not limited to ethylhexyl methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, Neo Heliopan AV, NSC 26466, Parsol MOX, Parsol MCX, and Uvinul MC80; and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 370 nanometers to 220 nanometers in a sunscreen.

"Oxybenzone" refers to the chemical (2-Hydroxy-4-methoxyphenyl)-phenylmethanone under the International Union of Pure and Applied Chemistry chemical nomenclature registry; that has a chemical abstract service registry number 131-57-7; the synonyms of which include but are not limited to benzophenone-3, Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, Uvasorb MET/C, Syntase 62, UV 9, Uvinul 9, Uvinul M-40, Uvistat 24, USAF Cy-9,

Uniphenone-3U, 4-methoxy-2-hydroxybenzophenone and Milestab 9; and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 370 nanometers to 220 nanometers in a sunscreen.

"Prescription" means an order for medication, that is dispensed to or for an ultimate user. "Prescription" shall not include an order for medication that is dispensed for immediate administration to the ultimate user, such as a chart order to dispense a drug to a bed patient for immediate administration in a hospital. "Prescription" includes an order for a sunscreen.

"Sunscreen" means a product marketed or intended for topical use to prevent sunburn. Sunscreen does not include products marketed or intended for use as a cosmetic, as defined in section 328-1, for the face."

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

S.B. NO. 2949

Report Title:
Sunscreens; Generally Recognized as Safe and Effective; Food and Drug Administration

Description:
Prohibits the sale and distribution of sunscreen products containing ingredients not generally recognized as safe and effective as defined by the Food and Drug Administration.

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