ACT 104

S.B. NO. 2571

A Bill for an Act Relating to Water Pollution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that two chemicals contained in many sunscreens, oxybenzone and octinoxate, have significant harmful impacts on Hawaii's marine environment and residing ecosystems, including coral reefs that protect Hawaii's shoreline. Oxybenzone and octinoxate cause mortality in

developing coral; increase coral bleaching that indicates extreme stress, even at temperatures below 87.8 degrees Fahrenheit; and cause genetic damage to coral and other marine organisms. These chemicals have also been shown to degrade corals' resiliency and ability to adjust to climate change factors and inhibit recruitment of new corals. Furthermore, oxybenzone and octinoxate appear to increase the probability of endocrine disruption. Scientific studies show that both chemicals can induce feminization in adult male fish and increase reproductive diseases in marine invertebrate species (e.g., sea urchins), vertebrate species (e.g., fish such as wrasses, eels, and parrotfish), and mammals (in species similar to the Hawaiian monk seal). The chemicals also induce deformities in the embryonic development of fish, sea urchins, coral, and shrimp and induce neurological behavioral changes in fish that threaten the continuity of fish populations. In addition, species that are listed on the federal Endangered Species Act and inhabit Hawaii's waters, including sea turtle species, marine mammals, and migratory birds, may be exposed to oxybenzone and octinoxate contamination.

The legislature further finds that environmental contamination of oxybenzone and octinoxate persists in Hawaii's coastal waters, as the contamination is constantly refreshed and renewed every day by swimmers and beachgoers. Swimming and other water activities cause these chemicals to pollute Hawaii's water unless they are actively mitigated. Sewage contamination of coastal waters is another source of oxybenzone and octinoxate environmental contamination, as these chemicals are not removed by the State's wastewater treatment system. Oxybenzone and octinoxate are also discharged to the ground and surface waters from cesspools, leaking septic systems, and municipal wastewater collection and treatment systems. The legislature additionally finds that elevated levels of oxybenzone and octinoxate have been detected at popular swimming beaches and critical coral reef areas throughout the State, including Waimea bay, Hanauma bay, and Waikiki beach on Oahu, and Honolua bay and 'Ahihi-Kīna'u natural area reserve on Maui.

Accordingly, the purpose of this Act is to preserve marine ecosystems, including coral reefs, by, beginning January 1, 2021, prohibiting the sale, offer for sale, and distribution in Hawaii of sunscreen containing oxybenzone and octinoxate without a prescription from a licensed healthcare provider.

SECTION 2. Chapter 342D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"**§342D- Sale and distribution of sunscreen containing oxybenzone or octinoxate, or both; 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) 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. New statutory material is underscored.[1]

SECTION 5. This Act shall take effect on July 1, 2018.

(Approved July 3, 2018.)

Note

1. Edited pursuant to HRS §23G-16.5.