

**ACT 160**

S.B. NO. 345

A Bill for an Act Relating to Cosmetics.

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

SECTION 1. The legislature finds that for more than fifty years, cosmetic manufacturers have used animals in painful tests to assess the safety of chemicals used in cosmetic products. Today, modern approaches that are cheaper, faster, and more reliable at predicting adverse human reactions are widely available and are becoming more accessible each year. In addition, companies now have thousands of existing cosmetic ingredients with histories of safe use that have long been sold and utilized.

California was the first state to prohibit the sale of cosmetics tested on animals, which was supported by dozens of cosmetic companies and industry associations, including the Personal Care Products Council, California Retailers Association, and California Manufacturers and Technology Association. The

California ban took effect on January 1, 2020, and was joined by Nevada and Illinois. In 2013, the United States' largest trading partner, the European Union, ended the importation and sale of cosmetics that have been tested on animals. Today, more than thirty countries have banned cosmetic animal testing, and several others have legislation pending.

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

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

**“§321- Cosmetics; animal testing; prohibition.** (a) Notwithstanding any other law to the contrary, and except as otherwise provided in this section, it shall be unlawful for a manufacturer to import for profit, sell, or offer for sale in the State any cosmetic for which the manufacturer knew or reasonably should have known that an animal test was conducted or contracted, by or on behalf of the manufacturer or any supplier of the manufacturer, on or after January 1, 2022, in a cruel manner, as identified in section 711-1108.5(1)(a).

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

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

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

(e) To the extent testing data disclosed under this section may be withheld from public disclosure as confidential business information or otherwise under section 92F-13, it shall be treated as confidential and shall not be disclosed except to the extent necessary for enforcement of this section. A prosecuting attorney shall take other appropriate measures necessary to preserve the confidentiality of the information produced pursuant to this section.

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

(g) This section shall not apply to:

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

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

(B) A specific human health problem relating to the cosmetic or ingredient is substantiated and the need to conduct animal tests is justified and is supported by a detailed research proto-

col proposed as the basis for the evaluation of the cosmetic or ingredient; and

- (C) There is no non-animal testing method accepted for the relevant purpose by the applicable federal or state regulatory authority;
- (2) An animal test that was conducted to comply with a requirement of a foreign regulatory authority, if no evidence derived from that test was relied upon to substantiate the safety of a cosmetic sold within the State by the manufacturer;
- (3) An animal test that was conducted on any product or ingredient subject to the requirements of subchapter V of the Federal Food, Drug, and Cosmetic Act (21 United States Code 351 et seq.), as amended;
- (4) Except as otherwise provided in this subsection, an animal test that was conducted for purposes unrelated to cosmetics pursuant to a requirement of a federal, state, or foreign regulatory agency; provided that no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer; provided further that if evidence from such testing was relied upon for that purpose, the prohibition in paragraph (1) does not apply if:
  - (A) Documentary evidence exists of the intent of the test that was unrelated to cosmetics; and
  - (B) The ingredient that was the subject of the testing has been used for purposes unrelated to cosmetics for not less than twelve months prior to the reliance;
- (5) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2022, even if the cosmetic is manufactured on or after that date;
- (6) An ingredient in a cosmetic if the ingredient was sold in this State and tested on animals before January 1, 2022, even if the ingredient is manufactured on or after that date; or
- (7) A manufacturer reviewing, assessing, or retaining evidence from animal testing as defined in this section.
- (h) As used in this section:

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

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

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

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

“Supplier” means any entity that supplies, directly or through a third party, any ingredient used in the formulation of a manufacturer’s cosmetic.”

**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.<sup>1</sup>

SECTION 5. This Act shall take effect on January 1, 2022.  
(Approved July 1, 2021.)

**Note**

1. Edited pursuant to HRS §23G-16.5.