

House Bill 3365

Sponsored by Representative HUDSON; Representative GOMBERG, Senator PATTERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits manufacturer or supplier from manufacturing, selling, offering to sell or distributing cosmetic or ingredient developed through use of animal test. Provides certain exemptions.

Provides exemption for cosmetic developed through use of animal test, or containing ingredient used in animal test, before effective date of Act.

Allows donation of noncomplying cosmetic to homeless shelter, hospital, animal shelter, corrections facility or emergency shelter. Allows receiving entity to distribute cosmetic to individual receiving services from entity.

Authorizes Director of Oregon Health Authority to adopt rules to implement and enforce prohibition. Authorizes director to investigate suspected violations. Directs Oregon Health Authority to publish annual report of violations.

Punishes violation by maximum civil penalty of \$10,000 for first violation and \$2,500 for second or subsequent violation. Authorizes Attorney General to enforce prohibition and seek recovery of civil penalties.

A BILL FOR AN ACT

1 Relating to testing cosmetics on animals.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. As used in this section and sections 2, 3, 5 and 7 of this 2021 Act:**

4 (1) **“Animal” means a live, nonhuman vertebrate.**

5 (2) **“Animal test” means the internal or external application of a cosmetic or an ingre-**
6 **dient of a cosmetic to a body part of an animal.**

7 (3) **“Cosmetic” means an item, or any component of the item, that is intended to be ap-**
8 **plied to or introduced into a human body or any part of a human body for cleansing,**
9 **beautifying, promoting attractiveness or altering appearance.**

10 (4) **“Ingredient” means any single chemical entity or mixture used as a component in the**
11 **manufacture of a cosmetic.**

12 (5) **“Manufacturer” means a person whose name appears on the label of a cosmetic pur-**
13 **suant to the requirements of 21 C.F.R. 701.12.**

14 (6) **“Supplier” means a person that supplies, directly or through a third party, any in-**
15 **redient used by a manufacturer in the formulation of a cosmetic.**

16 **SECTION 2. (1) In this state:**

17 (a) **A manufacturer may not manufacture, sell, offer to sell or distribute a cosmetic that**
18 **has been developed through use of an animal test.**

19 (b) **A supplier may not manufacture, sell, offer to sell or distribute an ingredient that**
20 **has been developed through use of an animal test.**

21 (2) **This section does not apply to a cosmetic or ingredient that has been developed**
22 **through use of an animal test if the animal test was conducted:**

23 (a) **Pursuant to a requirement of a federal or state agency and all of the following apply:**

24 (A) **A specific human health problem in relation to the cosmetic or ingredient is sub-**
25

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **stantiated;**

2 **(B) The need to conduct an animal test is:**

3 **(i) Justified; and**

4 **(ii) Supported by a detailed research protocol, proposed as the basis for evaluation of the**
5 **cosmetic or ingredient, that will be supervised by an institutional animal care and use com-**
6 **mittee, if supervision by an institutional animal care and use committee is required;**

7 **(C) The federal or state agency does not accept an alternative method of testing that**
8 **does not involve animals; and**

9 **(D) The ingredient is in wide use and cannot be replaced by another ingredient capable**
10 **of performing a similar function.**

11 **(b) Outside of the United States, pursuant to a legal requirement of a foreign regulatory**
12 **authority, if the foreign regulatory authority does not accept an alternative method of test-**
13 **ing that does not involve animals.**

14 **(c) Pursuant to a requirement established by 21 U.S.C. 351 to 360fff-8 of the Federal Food,**
15 **Drug and Cosmetic Act.**

16 **(d) For medical or pharmacological purposes to comply with a requirement of a federal**
17 **or state agency or a foreign regulatory authority, and no evidence from the animal test is**
18 **used to comply with a federal or Oregon requirement concerning the safety or efficacy of the**
19 **cosmetic or ingredient.**

20 **(3) This section does not prohibit a manufacturer or supplier from retaining, reviewing**
21 **or assessing evidence from an animal test described in subsection (2) of this section if:**

22 **(a) The animal test was required because the federal or state agency or foreign regula-**
23 **tory authority does not accept an alternative method of testing that does not involve ani-**
24 **mals;**

25 **(b) The medical or pharmacological purpose of the animal test has been documented;**

26 **(c) The ingredient that was the subject of the animal test has been used for a purpose**
27 **other than development of a cosmetic for at least one year before the manufacturer or sup-**
28 **plier retains, reviews or assesses the evidence; and**

29 **(d) The manufacturer or supplier does not use the evidence to develop a cosmetic or in-**
30 **redient.**

31 **SECTION 3. Section 2 of this 2021 Act does not apply to a cosmetic that:**

32 **(1) Has not been developed through use of an animal test in violation of section 2 of this**
33 **2021 Act but was developed through use of an animal test before the effective date of this**
34 **2021 Act, even if the cosmetic was manufactured after the effective date of this 2021 Act.**

35 **(2) Does not contain an ingredient that has been used in an animal test in violation of**
36 **section 2 of this 2021 Act but contains an ingredient that was used in an animal test before**
37 **the effective date of this 2021 Act, even if the ingredient was manufactured after the effec-**
38 **tive date of this 2021 Act.**

39 **SECTION 4. Section 3 of this 2021 Act is repealed on January 2, 2032.**

40 **SECTION 5. Notwithstanding section 2 (2) of this 2021 Act:**

41 **(1) A cosmetic that does not meet the requirements of section 2 of this 2021 Act may be**
42 **donated to a homeless shelter, hospital, animal shelter, corrections facility or emergency**
43 **shelter.**

44 **(2) An entity described in subsection (1) of this section that receives a cosmetic donated**
45 **pursuant to subsection (1) of this section may distribute the cosmetic to an individual who**

1 is receiving services from the entity.

2 **SECTION 6.** (1) The Director of the Oregon Health Authority may adopt rules to imple-
3 ment and enforce section 2 of this 2021 Act.

4 (2) If the director reasonably suspects that section 2 of this 2021 Act has been violated,
5 the director, or a representative of the director, may investigate a manufacturer or supplier.
6 Investigation may include review of the testing data of a manufacturer or supplier.

7 (3) A manufacturer or supplier shall grant the director or a representative of the director
8 reasonable access for conducting an investigation described in subsection (2) of this section.

9 (4) Information obtained under this section must be protected as a trade secret.

10 (5) The Oregon Health Authority shall annually publish on its website a report of vio-
11 lations of section 2 of this 2021 Act. For each violation, the report must identify:

12 (a) The product.

13 (b) The date or dates of the violation.

14 (c) The name of any manufacturer that committed the violation.

15 (d) The name of any supplier that committed the violation.

16 **SECTION 7.** (1) The Director of the Oregon Health Authority may impose a civil penalty
17 against a manufacturer or supplier that violates section 2 of this 2021 Act. The civil penalty
18 may not exceed:

19 (a) \$10,000 for a first violation.

20 (b) \$2,500 for a second or subsequent violation.

21 (2) Each day that a violation of section 2 of this 2021 Act occurs constitutes a separate
22 offense subject to a civil penalty. The first day that a violation occurs constitutes an offense
23 subject to a civil penalty under subsection (1)(a) of this section. Each additional day that a
24 violation occurs constitutes an offense subject to a civil penalty under subsection (1)(b) of
25 this section.

26 (3) The director shall impose civil penalties under this section as provided in ORS 183.745.

27 **SECTION 8.** The Attorney General may bring an action at the request of the Director
28 of the Oregon Health Authority, in the name of the state, seeking:

29 (1) Injunctive relief to prevent or end a violation of section 2 of this 2021 Act.

30 (2) To recover civil penalties imposed under section 7 of this 2021 Act.

31 (3) To obtain access for investigation under section 6 of this 2021 Act.

32 (4) To recover attorney fees and other enforcement costs and disbursements.

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