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**SECOND SUBSTITUTE SENATE BILL 5703**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Das, Cleveland, Kuderer, Lovelett, Nobles, Randall, Robinson, Rolfes, Saldaña, Stanford, Trudeau, Wellman, and C. Wilson)

AN ACT Relating to the use of toxic chemicals in cosmetic products; adding a new chapter to Title 70A RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that certain chemicals used in cosmetic products are linked to harmful impacts on health, such as cancer, birth defects, damage to the reproductive system, organ system toxicity, and endocrine disruption. Many of these chemicals have been identified by the state of Washington as high priority chemicals of concern.

(2) In order to ensure the safety of cosmetic products and protect Washington citizens from toxic exposures, the legislature intends to prohibit use of toxic chemicals found in cosmetic and personal care products and join other jurisdictions in creating a safer global standard for cosmetic products and bringing more sustainable, safer ingredients to the marketplace.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cosmetic product" has the same meaning as the term "cosmetic" as defined in RCW 69.04.011.

(2) "Department" means the department of ecology.

(3) "Formaldehyde releasing agent" means a chemical that releases formaldehyde as determined by the department.

(4) "Manufacturer" has the same meaning as defined in RCW 70A.350.010.

(5) "Ortho-phthalates" means esters of ortho-phthalic acid.

(6) "Perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as defined in RCW 70A.350.010.

(7) "Vulnerable populations" has the same meaning as defined in RCW 70A.02.010.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2025, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains any of the following intentionally added chemicals or chemical classes:

(a) Ortho-phthalates;

(b) Perfluoroalkyl and polyfluoroalkyl substances;

(c) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

(d) Methylene glycol (CAS 463-57-0);

(e) Mercury and mercury compounds (CAS 7439-97-6);

(f) Triclosan (CAS 3380-34-5);

(g) m-phenylenediamine and its salts (CAS 108-45-2); and

(h) o-phenylenediamine and its salts (CAS 95-54-5).

(2) Beginning January 1, 2025, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains lead or lead compounds (CAS 7439-92-1) at ten parts per million (ppm) or above, or as otherwise determined by the department through rule making.

(3) In-state retailers in possession of cosmetic products on the date that restrictions on the sale of the products become effective under this section may exhaust their existing stock through sales to the public until January 1, 2026.

(4)(a) By December 1, 2022, the department in consultation with the department of health must create and adopt a community engagement plan to: (i) Test cosmetic products marketed, including internet sales, to women of color and identify potentially harmful chemicals or chemical classes contained in or added to the product; (ii) seek information through outreach and provide culturally appropriate education concerning identified chemicals or chemical classes contained in or added to cultural and other cosmetic products, prioritizing engagement with vulnerable populations; and (iii) determine priority products and priority chemicals to be regulated in accordance with chapter 70A.350 RCW and whether additional regulation is needed to address chemicals or chemical classes contained in or added to cosmetic products.

(b) The plan must include methods for outreach and communication with those who face barriers to participation, such as language or otherwise.

(5) For the purposes of this section, cosmetic products do not include prescription drugs approved by the United States food and drug administration.

NEW SECTION. **Sec.**  (1) A manufacturer violating a requirement of this chapter, a rule adopted under this chapter, or an order issued under this chapter, is subject to a civil penalty not to exceed $5,000 for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed $10,000 for each repeat offense.

(2) Any penalty provided for in this section, and any order issued by the department under this chapter, may be appealed to the pollution control hearings board.

(3) All penalties collected under this chapter shall be deposited in the model toxics control operating account created in RCW 70A.305.180.

NEW SECTION. **Sec.**  This chapter may be known and cited as the toxic-free cosmetics act.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 70A RCW.

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