

HOUSE BILL REPORT

SHB 1615

As Passed House:
January 28, 2022

Title: An act relating to the sale of cosmetics tested on animals.

Brief Description: Concerning the sale of cosmetics tested on animals.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Walen, Ryu, Leavitt, Fitzgibbon, Wicks, Bateman, Simmons, Duerr, Chase, Ramel, Springer, Berg, Goodman, Macri, Peterson, Slatter, Bergquist, Riccelli and Ormsby).

Brief History:

Committee Activity:

Consumer Protection & Business: 1/17/22, 1/19/22 [DPS].

Floor Activity:

Passed House: 1/28/22, 89-5.

Brief Summary of Substitute Bill

- Establishes that it is unlawful for manufacturers to sell a cosmetic developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer or its supplier, subject to exceptions.
- Establishes fines for manufacturer violations up to \$5,000 per violation.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Kirby, Chair; Walen, Vice Chair; Ryu and Santos.

Minority Report: Without recommendation. Signed by 2 members: Representatives Vick, Ranking Minority Member; Corry.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Michelle Rusk (786-7153).

Background:

Washington regulates business practices and requirements pursuant to Title 19 RCW and regulates intrastate commerce in drugs and cosmetics under Title 69 RCW.

The Consumer Protection Act (CPA) prohibits unfair or deceptive practices in trade or commerce, and the formation of contracts, combinations, and conspiracies in restraint of trade or commerce, and monopolies. Persons injured by violations of the CPA may bring a civil action to enjoin further violations and recover actual damages, costs, and attorney's fees.

The Attorney General may also bring an action against any person to enjoin violations of the CPA and obtain restitution. The prevailing party may, at the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to the statutorily authorized maximums against any person who violates the CPA. Civil penalties are paid to the state.

Summary of Substitute Bill:

Beginning January 1, 2023, it is unlawful for manufacturers to sell or offer for sale in Washington a cosmetic that was developed or manufactured using cosmetic animal testing conducted or contracted for by the manufacturer or its supplier.

"Cosmetic" is defined as any article intended to be rubbed, poured, sprinkled, or sprayed on or otherwise applied to the human body for cleansing, promoting attractiveness, or altering the appearance, but does not include soap.

"Cosmetic animal testing" is defined as the internal or external application or exposure of any cosmetic product or cosmetic ingredient to the skin, eyes, or other body part of a live, nonhuman vertebrate.

"Cosmetic product" means a finished cosmetic, the manufacture of which has been completed, and "cosmetic ingredient" means any single chemical entity or mixture used as a component in the manufacture of a cosmetic, as defined in Food and Drug Administration federal regulations on January 1, 2023.

"Manufacture" has the same meaning as "to manufacture" in the Washington business and occupancy tax chapter

Exceptions.

It is not unlawful for manufacturers to sell a cosmetic developed or manufactured using cosmetic animal testing conducted or contracted for by the manufacturer, or its supplier,

when such cosmetic animal testing is:

- conducted outside of the United States to comply with a foreign regulatory authority's requirement if no evidence derived from the testing was relied upon to substantiate the safety of the cosmetic ingredient or cosmetic product sold by a manufacturer in Washington;
- conducted for any cosmetic or cosmetic ingredient subject to regulation under applicable portions of the Federal Food, Drug, and Cosmetic Act;
- conducted for a cosmetic ingredient intended to be used in a product that is not a cosmetic product, and is conducted under a requirement of a federal, state, or foreign regulatory authority, if no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold in Washington, unless additional criteria are satisfied, including that there is no nonanimal alternative method recognized; and
- requested, required, or conducted by a federal or state regulatory authority and additional criteria are satisfied, including that the cosmetic ingredient is in wide use and cannot be replaced by another cosmetic ingredient capable of performing a similar function.

It is also not unlawful for manufacturers to sell a cosmetic developed or manufactured using cosmetic animal testing conducted or contracted for by the manufacturer, or its supplier, when:

- a cosmetic in its final form, or ingredient in a cosmetic, was tested on animals before January 1, 2023, even if the cosmetic or ingredient is manufactured after January 1, 2023, provided that no new animal testing occurs after that date; or
- a cosmetic manufacturer reviews, assesses, or retains evidence from a cosmetic animal test.

Enforcement and Preemption.

Manufacturers in violation of these requirements commit a civil violation punishable by a fine of not more than \$5,000 for each violation. A violation of the requirements also constitutes an unfair or deceptive act or practice and violation of the CPA.

No political subdivision may establish or continue any prohibition on or relating to cosmetic animal testing that is not identical to the prohibition established.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2023.

Staff Summary of Public Testimony:

(In support) Consumers are increasingly aware of the ethical issues involved with animal testing and demanding new kinds of products. Cosmetic animal testing involves painful and

unnecessary experiments performed on vulnerable animals, despite the fact that animals are not a reliable prediction for human response, and there are reliable, affordable, and faster alternative options, including using the thousands of ingredients already verified as safe. The Food and Drug Administration has never required animal testing for cosmetics, but the phrase "cruelty free" also is not officially regulated and could mean anything. Similar bans are being implemented worldwide, with 41 countries banning or limiting cosmetic testing on animals and eight states passing similar legislation. The proposed requirements mirror the federal Humane Cosmetics Act, which is bipartisan legislation supported by the Humane Society and the Personal Care Products Council. Almost 6,000 companies have already prohibited animal testing in their development, and the cosmetics industry backs this effort because of the unreliability of animal testing.

(Opposed) None.

Persons Testifying: Representative Amy Wale, prime sponsor; Josh Diamond and Amanda Henson, Animal Rights Initiative; Brenna Anderst, Pasado's Safe Haven; Dan Paul, the Humane Society of the United States; Hannah Thompson-Garner and Steph Taylor, Northwest Animal Rights Network (NARN); and Jordan Ruggles.

Persons Signed In To Testify But Not Testifying: None.