S-3430.1

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**SENATE BILL 5703**

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

**By** Senators Das, Cleveland, Kuderer, Lovelett, Nobles, Randall, Robinson, Rolfes, Saldaña, Stanford, Trudeau, Wellman, and C. Wilson

AN ACT Relating to the use and disclosure 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) The legislature further finds that harmful ingredients in cosmetics and personal care products disproportionately affect women of color. Some of the most toxic ingredients are marketed towards women of color and women who use these products may be more likely to experience harmful health effects. Every day, citizens of Washington may be using personal care products without realizing that the products contain chemicals that present serious health risks. Nail and hair salon workers, and other workers in the beauty industry, regularly and frequently handle a multitude of products that contain ingredients that may be classified as carcinogens, reproductive toxicants, asthmagens, neurotoxicants, allergens, and other chemicals of concern. Extended exposure on a daily basis makes it imperative that workers be provided with information on potential hazards.

(3) 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, require manufacturers to disclose information on their websites to provide consumers and workers with ingredient information about cosmetic products that encourages informed purchasing decisions and reduces public health impacts from exposure to potentially harmful chemicals, 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) "Coal tar compounds" means chemicals in coal tar including, but not limited to, coal tar (CAS 65996-92-1) and carbon black (CAS 1333-86-4).

(2)(a) "Cosmetic product" includes articles 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, and articles intended for use as a component of such an article.

(b) "Cosmetic product" includes cosmetics marketed to professionals.

(c) "Cosmetic product" does not include soap, dietary supplements, or food and drugs approved by the United States food and drug administration.

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

(4) "Formaldehyde releasing agent" means a chemical that releases formaldehyde.

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

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

(7) "Parabens" means esters of parahydroxybenzoic acid including, but not limited to, methylparaben (99-76-3), ethylparaben, propylparaben (CAS 94-13-3), and butylparaben (CAS 94-26-8).

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

(9) "Phenolic compounds" has the same meaning as defined in RCW 70A.350.010.

(10) "Practical quantitation limit" means the minimum concentration of an analyte that can be measured with a high degree of confidence that the analyte is present at the reported concentration.

(11) "Undisclosed synthetic fragrances" means chemicals made by humans that serve the function of being a fragrance in a cosmetic product and have not been disclosed to the public on a label or on a manufacturer's website.

(12) "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 chemicals or chemical classes above the practical quantitation limit:

(a) Ortho-phthalates;

(b) Perfluoroalkyl and polyfluoroalkyl substances;

(c) Phenolic compounds;

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

(e) Arsenic and arsenic compounds (CAS 7440-38-2);

(f) Ethylene glycol (CAS 107-21-1);

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

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

(i) Styrene (CAS 100-42-5);

(j) 1,4-dioxane (CAS 123-91-1);

(k) Cadmium and cadmium compounds (CAS 7440-43-9);

(l) Octamethylcyclotetrasiloxane (CAS 556-67-2);

(m) Decamethylcyclopentasiloxane (CAS 541-02-6);

(n) Toluene (CAS 108-88-3);

(o) Parabens;

(p) Lead and lead compounds (CAS 7439-92-1);

(q) Asbestos;

(r) Hydroquinone (CAS 123-31-9);

(s) 2-Ethylhexyl acrylate (CAS 103-11-7);

(t) Ethyl acrylate (CAS 140-88-5);

(u) Aluminum salts;

(v) Sodium laurel sulfate (CAS 151-21-3);

(w) Sodium laureth sulfate (CAS 3088-31-1);

(x) Benzalkonium chloride (CAS 8001-54-5);

(y) Coal tar compounds;

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

(aa) Methylisothiazolinone (CAS 2682-20-4);

(bb) Methylchloroisothiazolinone (CAS 26172-55-4);

(cc) m-phenylenediamine and its salts (CAS 108-42-5);

(dd) o-phenylenediamine and its salts (CAS 95-54-5);

(ee) p-phenylenediamine and its salts (CAS 106-50-3); and

(ff) Any undisclosed synthetic fragrances not listed in this subsection.

(2)(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 to women of color and identify potentially harmful ingredients; (ii) seek information through outreach and provide culturally appropriate education concerning identified harmful ingredients used in cultural and other cosmetic products, prioritizing engagement with vulnerable populations; and (iii) obtain recommendations for priority chemicals or products to be regulated in accordance with chapter 70A.350 RCW.

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

NEW SECTION. **Sec.**  A manufacturer of a cosmetic product that is manufactured on or after January 1, 2023, is required to have the following information on its website for each cosmetic product sold in this state:

(1) Information that satisfies all of the labeling requirements pursuant to the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), and the federal fair packaging and labeling act (15 U.S.C. Sec. 1451 et seq.); and

(2) A list of chemicals or chemical classes intentionally added to the product if the chemicals are identified by the department as a:

(a) High priority chemical of high concern for children under chapter 70A.430 RCW; or

(b) High priority chemical under chapter 70A.350 RCW.

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 6 of this act constitute a new chapter in Title 70A RCW.

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