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**SUBSTITUTE SENATE BILL 5703**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

READ FIRST TIME 02/03/22.

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

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

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

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

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires  
19 otherwise.

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

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

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

6 (4) "Manufacturer" has the same meaning as defined in RCW  
7 70A.350.010.

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

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

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

13 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2025, no person  
14 may manufacture, knowingly sell, offer for sale, distribute for sale,  
15 or distribute for use in this state any cosmetic product that  
16 contains any of the following intentionally added chemicals or  
17 chemical classes:

18 (a) Ortho-phthalates;

19 (b) Perfluoroalkyl and polyfluoroalkyl substances;

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

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

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

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

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

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

26 (i) p-phenylenediamine and its salts (CAS 106-50-3).

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

32 (3) (a) By December 1, 2022, the department in consultation with  
33 the department of health must create and adopt a community engagement  
34 plan to: (i) Test cosmetic products marketed, including internet  
35 sales, to women of color and identify potentially harmful chemicals  
36 or chemical classes contained in or added to the product; (ii) seek  
37 information through outreach and provide culturally appropriate  
38 education concerning identified chemicals or chemical classes  
39 contained in or added to cultural and other cosmetic products,

1 prioritizing engagement with vulnerable populations; and (iii)  
2 determine priority products and priority chemicals to be regulated in  
3 accordance with chapter 70A.350 RCW and whether additional regulation  
4 is needed to address chemicals or chemical classes contained in or  
5 added to cosmetic products.

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

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

12 NEW SECTION. **Sec. 4.** (1) A manufacturer violating a requirement  
13 of this chapter, a rule adopted under this chapter, or an order  
14 issued under this chapter, is subject to a civil penalty not to  
15 exceed \$5,000 for each violation in the case of a first offense.  
16 Manufacturers who are repeat violators are subject to a civil penalty  
17 not to exceed \$10,000 for each repeat offense.

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

21 (3) All penalties collected under this chapter shall be deposited  
22 in the model toxics control operating account created in RCW  
23 70A.305.180.

24 NEW SECTION. **Sec. 5.** This chapter may be known and cited as the  
25 toxic-free cosmetics act.

26 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
27 constitute a new chapter in Title 70A RCW.

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