

# SENATE BILL REPORT

## ESHB 1097

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As of February 15, 2024

**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, Goodman, Leavitt, Ramel, Peterson, Fitzgibbon, Macri, Simmons, Reeves, Thai, Gregerson, Stonier, Pollet, Kloba, Santos and Ormsby).

**Brief History:** Passed House: 1/25/24, 90-3.

**Committee Activity:** Business, Financial Services, Gaming & Trade: 2/15/24.

### Brief Summary of 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.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

**Staff:** Clint McCarthy (786-7319)

**Background:** The Federal Food, Drug, and Cosmetic Act (FDCA) directs the Food and Drug Administration (FDA) to ensure that cosmetics are safe and properly labeled. The FDCA does not specifically require the use of animals in testing cosmetics for safety nor does the FDCA subject cosmetics to FDA premarket approval. The FDA does not certify claims such as "Cruelty-Free" or "Not Tested on Animals" on cosmetic labeling.

To date, eleven states have enacted laws prohibiting manufacturers from selling cosmetic

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products that were developed or manufactured using animal testing:

- California;
- Hawaii;
- Illinois;
- Louisiana;
- Maine;
- Maryland;
- Nevada;
- New Jersey;
- New York;
- Oregon; and
- Virginia.

Washington State statute is silent on the manufacture or development of cosmetics that use cosmetic animal testing.

**Summary of Bill:** Manufacturers are prohibited from selling or offering for sale a cosmetic if the cosmetic was developed or manufactured using cosmetic animal testing beginning January 1, 2025.

A cosmetic is defined as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into or otherwise applied to the human body for the purpose of cleansing, beautifying, promoting attractiveness, or altering one's appearance.

Exceptions. Manufacturers may 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 evidence derived from the testing was not 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 FDCA;
- conducted for a cosmetic ingredient intended to be used in a noncosmetic product, and is conducted under a federal, state, or foreign regulatory authority regulation, if evidence derived from the testing was not relied upon to substantiate the safety of a cosmetic sold in Washington, unless:
  1. there is documented evidence of the noncosmetic intent of the test; and
  2. there is history of the ingredient's use outside of cosmetics at least 12 months before the reliance; or
- requested, required, or conducted by a federal or state regulatory authority and the following additional criteria are satisfied:
  1. there is no nonanimal alternative method or strategy recognized by any federal or state agency or organization;

2. the cosmetic ingredient or nonfunctional constituent poses a risk of causing a specific human health problem that is substantiated, and the need to conduct animal testing is justified and supported by a detailed research protocol; and
3. the cosmetic ingredient is in wide use and cannot be replaced by another cosmetic ingredient capable of performing a similar function.

The prohibition on manufacturers selling a cosmetic developed or manufactured using cosmetic animal testing conducted or contracted for by the manufacturer or its supplier does not apply when:

- a cosmetic in its final form, or ingredient in a cosmetic, was tested on animals before January 1, 2025, even if the cosmetic or ingredient is manufactured after January 1, 2025, provided that no new animal testing occurs after that date by or on the behalf of the manufacturer; or
- a cosmetic manufacturer reviews, assesses, or retains evidence from a cosmetic animal test.

Enforcement and Preemption. Manufacturers in violation of these regulations commit a civil violation punishable by a fine up to \$5,000 for each violation.

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:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2025.

**Staff Summary of Public Testimony:** PRO: This bill has received bipartisan support and represents progress in the cosmetics industry. There are more options for testing that are effective and do not require animal testing. Legislation like this is being implemented worldwide. Oregon is the newest state among the 12 states that have enacted laws similar to this. The unreliability of animal testing does not justify the extreme tests on animals. Animals do not share physiology with humans, and the testing is not effective. More accurate technology already exists. These methods cost hundreds of thousands of dollars less and they are more accurate. This is the fourth year that we are working on this bill, please schedule the bill for executive session. Cruel and archaic practices like smearing ingredients on the skin of animals should not be allowed. Let's make Washington a more caring and compassionate place. Not only is animal testing unnecessary, it is not a sure way to ensure safety for humans. There is a global demand for products not tested on animals. Manufacturing animal cruelty free cosmetics has been part of Lush Cosmetics vision for a long time. We believe in funding better science. This bill has been drafted to mirror the

Federal Humane Cosmetics Act.

**Persons Testifying:** PRO: Brenna Anderst, Pasado's Safe Haven/Education & Advocacy Director; Amanda Fox, Animal Rights Initiative; Wendy Linton; Hannah Thompson-Garner, Northwest Animal Rights Network (NARN); Hilary Pickles, Lush Fresh Handmade Cosmetics; Dan Paul, The Humane Society of the United States; Wendy Linton.

**Persons Signed In To Testify But Not Testifying:** No one.