

SENATE BILL 729

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By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **Public Health – Prohibition on Testing Cosmetics on Animals**

3 FOR the purpose of prohibiting a person from conducting or contracting for animal testing
4 in the development of a cosmetic; prohibiting a manufacturer from selling or offering
5 for sale in the State a cosmetic under certain circumstances beginning on a certain
6 date; providing that certain provisions of this Act do not apply to certain animal
7 testing; prohibiting a political subdivision from adopting or enforcing certain
8 provisions of local law; establishing certain penalties for certain violations of this
9 Act; requiring a certain person to provide certain evidence under certain
10 circumstances; authorizing a local law enforcement agency to enforce certain
11 provisions of this Act; authorizing a State’s Attorney to seek certain relief and review
12 certain testing data under certain circumstances; providing that certain testing data
13 is entitled to certain protection; providing that certain penalty provisions are not
14 applicable to violations of certain provisions of this Act; providing for the
15 construction of certain provisions of this Act; defining certain terms; requiring a
16 manufacturer with a certain inventory to sell or otherwise dispose of the inventory
17 on or before a certain date; providing for a delayed effective date; and generally
18 relating to a prohibition on testing cosmetics on animals.

19 BY adding to
20 Article – Health – General
21 Section 21–259.2
22 Annotated Code of Maryland
23 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Health – General
3 Section 21–1215
4 Annotated Code of Maryland
5 (2019 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 **21–259.2.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “ANIMAL TESTING” MEANS THE INTERNAL OR EXTERNAL
13 APPLICATION OR EXPOSURE OF A COSMETIC TO THE SKIN, EYE, OR ANY OTHER BODY
14 PART OF A LIVE NONHUMAN VERTEBRATE.

15 (3) “INGREDIENT” HAS THE MEANING STATED IN 21 C.F.R. §
16 700.3(E).

17 (4) “MANUFACTURER” MEANS ANY PERSON WHOSE NAME APPEARS
18 ON THE LABEL OF A COSMETIC IN ACCORDANCE WITH THE REQUIREMENTS OF 21
19 C.F.R. § 701.12.

20 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
21 PERSON MAY NOT CONDUCT OR CONTRACT FOR ANIMAL TESTING IN THE
22 DEVELOPMENT OF A COSMETIC.

23 (2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
24 BEGINNING JULY 1, 2021, A MANUFACTURER MAY NOT SELL OR OFFER FOR SALE IN
25 THE STATE A COSMETIC IF THE MANUFACTURER KNOWS OR REASONABLY SHOULD
26 HAVE KNOWN THAT THE FINAL PRODUCT OR ANY INDIVIDUAL COMPONENT OF THE
27 FINAL PRODUCT WAS DEVELOPED OR MANUFACTURED USING ANIMAL TESTING
28 THAT WAS CONDUCTED OR CONTRACTED BY OR FOR THE MANUFACTURER OR ANY
29 ENTITY THAT SUPPLIES, DIRECTLY OR THROUGH A THIRD PARTY, ANY INGREDIENT
30 USED BY A MANUFACTURER IN THE FORMULATION OF A COSMETIC ON OR AFTER
31 JANUARY 1, 2021.

32 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY
33 TO ANIMAL TESTING THAT IS:

1 **(1) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT**
2 **OF A FEDERAL OR STATE REGULATORY AGENCY IF:**

3 **(I) THE COSMETIC OR INGREDIENT IN THE COSMETIC THAT IS**
4 **TESTED IS IN WIDE USE AND CANNOT BE REPLACED BY ANOTHER INGREDIENT THAT**
5 **IS CAPABLE OF PERFORMING A SIMILAR FUNCTION IN THE PRODUCT;**

6 **(II) A SPECIFIC HUMAN HEALTH PROBLEM RELATING TO THE**
7 **COSMETIC OR AN INGREDIENT IN THE COSMETIC IS SUBSTANTIATED AND THE NEED**
8 **TO CONDUCT ANIMAL TESTING IS JUSTIFIED AND SUPPORTED BY A DETAILED**
9 **PROTOCOL FOR RESEARCH THAT IS PROPOSED AS THE BASIS FOR THE EVALUATION**
10 **OF THE COSMETIC OR INGREDIENT IN THE COSMETIC; AND**

11 **(III) ANIMAL TESTING IS THE ONLY METHOD OF TESTING THAT**
12 **IS ACCEPTED FOR THE RELEVANT PURPOSE BY THE FEDERAL OR STATE**
13 **REGULATORY AGENCY;**

14 **(2) CONDUCTED OR CONTRACTED TO COMPLY WITH THE**
15 **REQUIREMENT OF A REGULATORY AGENCY OF A FOREIGN JURISDICTION, IF NO**
16 **EVIDENCE DERIVED FROM THE TESTING WAS RELIED ON TO SUBSTANTIATE THE**
17 **SAFETY OF A COSMETIC SOLD BY THE MANUFACTURER WITHIN THE STATE;**

18 **(3) PERFORMED ON A COSMETIC OR AN INGREDIENT IN A COSMETIC**
19 **SUBJECT TO THE REQUIREMENTS OF SUBCHAPTER V OF THE FEDERAL FOOD,**
20 **DRUG, AND COSMETIC ACT;**

21 **(4) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT**
22 **OF A FEDERAL, STATE, OR FOREIGN REGULATORY AGENCY FOR PURPOSES**
23 **UNRELATED TO COSMETICS TESTING, IF:**

24 **(I) NO EVIDENCE DERIVED FROM THE TESTING WAS RELIED ON**
25 **TO SUBSTANTIATE THE SAFETY OF A COSMETIC SOLD BY THE MANUFACTURER**
26 **WITHIN THE STATE;**

27 **(II) DOCUMENTARY EVIDENCE DEMONSTRATES THAT THE**
28 **INTENT OF THE TEST THAT WAS PERFORMED WAS UNRELATED TO COSMETICS**
29 **TESTING;**

30 **(III) THE INGREDIENT THAT WAS THE SUBJECT OF THE TESTING**
31 **HAS BEEN USED FOR PURPOSES UNRELATED TO COSMETICS FOR AT LEAST 12**
32 **MONTHS; AND**

33 **(IV) THERE WAS NO ALTERNATIVE TO TESTING ON AN ANIMAL AT**
34 **THE TIME OF THE STUDY; OR**

1 **(5) PERFORMED ON:**

2 **(I) A COSMETIC THAT, IN ITS FINAL FORM, WAS TESTED ON**
3 **ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE COSMETIC IS**
4 **MANUFACTURED ON OR AFTER JANUARY 1, 2021; OR**

5 **(II) A COSMETIC INGREDIENT THAT WAS SOLD IN THE STATE**
6 **AND TESTED ON ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE**
7 **INGREDIENT IS MANUFACTURED ON OR AFTER JANUARY 1, 2021.**

8 **(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A COSMETICS**
9 **MANUFACTURER FROM REVIEWING, ASSESSING, OR RETAINING DATA RESULTING**
10 **FROM ANIMAL TESTING.**

11 **(E) A POLITICAL SUBDIVISION OF THE STATE MAY NOT ADOPT OR ENFORCE**
12 **A PROVISION OF A LOCAL LAW RELATING TO ANIMAL TESTING ON COSMETICS OR**
13 **ANIMAL TESTING ON INGREDIENTS USED IN COSMETICS.**

14 **(F) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
15 **PENALTY:**

16 **(I) NOT EXCEEDING \$5,000 FOR THE FIRST OFFENSE; AND**

17 **(II) NOT EXCEEDING \$1,000 FOR EACH SUBSEQUENT OFFENSE.**

18 **(2) EACH VIOLATION OF THIS SECTION WITH RESPECT TO A**
19 **SEPARATE ANIMAL AND EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE**
20 **VIOLATION UNDER THIS SECTION.**

21 **(3) IF A PERSON WHO IS ALLEGED TO HAVE VIOLATED THIS SECTION**
22 **CLAIMS THE PROHIBITION IN SUBSECTION (B) DOES NOT APPLY BECAUSE THE**
23 **TESTING FALLS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION, THE PERSON**
24 **SHALL PROVIDE CLEAR, DOCUMENTED EVIDENCE OF THE DATE ON WHICH THE DATA**
25 **WAS GENERATED.**

26 **(G) (1) A LOCAL LAW ENFORCEMENT AGENCY MAY ENFORCE THE**
27 **PROVISIONS OF THIS SECTION.**

28 **(2) (I) THE STATE'S ATTORNEY FOR EACH COUNTY MAY SEEK**
29 **APPROPRIATE RELIEF FOR VIOLATIONS OF THIS SECTION.**

30 **(II) A STATE'S ATTORNEY, IN DETERMINING WHETHER A**
31 **VIOLATION OF THIS SECTION OCCURRED, MAY REVIEW ANY TESTING DATA ON**

1 WHICH A MANUFACTURER HAS RELIED IN DETERMINING THE SAFETY OF A
2 COSMETIC OR AN INGREDIENT IN A COSMETIC SOLD IN THE STATE.

3 (III) ANY TESTING DATA REVIEWED UNDER SUBPARAGRAPH (II)
4 OF THIS PARAGRAPH IS ENTITLED TO PROTECTION AS A TRADE SECRET.

5 21-1215.

6 (a) This section does not apply to a violation of § 21-220(b)(4) OR § 21-259.2 of
7 this title.

8 (b) A person who violates any provision of Subtitle 2 of this title or any regulation
9 adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject
10 to:

11 (1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or
12 both; or

13 (2) If the person has been convicted once of violating Subtitle 2 of this title,
14 a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

15 (c) In addition to any criminal penalties imposed under this section, a person who
16 violates any provision of Subtitle 2 of this title, any rule or regulation adopted under
17 Subtitle 2 of this title, or any term, condition, or limitation of any license or registration
18 issued under Subtitle 2 of this title:

19 (1) Is subject to a civil penalty not exceeding \$5,000, in an action in any
20 District Court; and

21 (2) May be enjoined from continuing the violation.

22 (d) Each day on which a violation occurs is a separate violation under this section.

23 SECTION 2. AND BE IT FURTHER ENACTED, That a manufacturer with
24 inventory that would violate § 21-259.2 of the Health – General Article, as enacted by
25 Section 1 of this Act, shall sell or otherwise dispose of the inventory on or before June 30,
26 2021.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 January 1, 2021.