

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



SB656 Public Health - Cosmetic Products - Enforcement and Penalties for Prohibited Ingredients (Crown and Care Act - Protecting Communities from Harmful Hair Chemicals)
Health Committee
March 31, 2026

Position: Unfavorable Unless Amended

Background: SB656 would, in addition to enhancing other penalties, authorize a right to private action for citizens who have been harmed by products sold in Maryland which contain ingredients which are prohibited.

Comments: The Maryland Retailers Alliance (MRA) would respectfully urge that the penalties and private right of action proposed by SB656 *Public Health - Cosmetic Products - Enforcement and Penalties for Prohibited Ingredients (Crown and Care Act - Protecting Communities from Harmful Hair Chemicals)* be focused on manufacturers who continue to produce products containing prohibited ingredients for sale in Maryland. To that end, we would recommend the following amendments:

- on page 5, lines 19-21: D) (1) IN ADDITION TO ANY OTHER PENALTIES UNDER THIS TITLE, A **PERSON MANUFACTURER** WHO VIOLATES THIS SECTION IS LIABLE FOR CIVIL DAMAGES RESULTING FROM ACTUAL HARM SUSTAINED BY THE INDIVIDUAL RESULTING FROM THE VIOLATION.
- On page 6, lines 4-5: (E) (1) THE DEPARTMENT MAY INVESTIGATE ANY COMPLAINT ALLEGING THAT A **PERSON MANUFACTURER** HAS VIOLATED THIS SECTION.

Additionally, we would recommend consideration of the following concepts which could be incorporated into the bill through the amendment process:

- A retailer that does not manufacture or materially alter the product shall not be liable unless the retailer has actual knowledge of a violation.
- A manufacturer shall certify that each product sold in the State complies with prohibited ingredient requirements.
- It shall be an affirmative defense that the retailer relied in good faith on a manufacturer's certification or labeling indicating compliance.
- An online retail marketplace which allows third-party sales shall not be liable for the sale of prohibited products by third-party sellers if the marketplace policies require sellers to comply with State law.
- A person may not bring an action unless the alleged violator has been provided 60 days' notice and opportunity to cure.

The existing law prohibiting certain ingredients in cosmetic products already imposes fines in the tens of thousands of dollars in addition to possible imprisonment for both manufacturers and retailers who knowingly sell in Maryland products containing the prohibited ingredients. The prohibition went into effect in Maryland in January 2025 and was modeled after a similar ban which passed in California, which went into effect at the same time. At this time, there is insubstantial evidence to prove that the existing penalties are insufficient if the prohibition is appropriately enforced.

MRA sends regular communications to our members with legislative updates and alerts for policies like product and ingredient bans, but we do not represent every retailer, nor do we represent product manufacturers or salons, so our informational alerts do not reach all impacted businesses. Additionally, as the ingredient prohibitions have passed on a state-by-state basis, products containing them are still largely available in neighboring markets and through online retailers for customers who wish to purchase them. MRA is not aware of any widespread educational campaign occurring at the State level in recent years to ensure that manufacturers, retailers, salons, and customers were aware of the prohibition going into effect.

While business entities that knowingly sell these prohibited products should be held accountable under the existing law, the permanent removal of these items from sale and use in Maryland is a manufacturing issue. Retailers that are aware of the prohibition should phase out these products from their inventory, but complications may arise from their ability to be sold in neighboring states, and retail businesses ultimately face an extremely arduous task if they are expected to review the ingredients included in every single product sold in their store through contracts with outside brands. Other legislation being considered this year (HB1357 Consumer Protection - Menstrual Hygiene Products - Labeling Requirements) regarding product ingredients is appropriately focusing on manufacturer requirements rather than retailers. Should the legislature wish to impose additional penalties to enhance enforcement, they should apply to the entities that are manufacturing the products with prohibited ingredients and continuing to sell them into the state through direct-to-consumer sales practices or partnerships with third-party retailers and salons.

For these reasons, MRA would respectfully request that the Committee discuss and adopt our proffered amendments. Thank you for your consideration.