

CHAPTER 233

SALE OF COSMETICS TESTED ON ANIMALS

§1500-M. Sale or offer for sale of cosmetics tested on animals

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cosmetic" means:

- (1) An article intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part of the body for cleansing, beautifying, promoting attractiveness or altering the appearance; and
- (2) An article intended for use as a component of an article identified in subparagraph (1).

"Cosmetic" does not include soap. [PL 2021, c. 160, §1 (NEW).]

B. "Cosmetic animal testing" means the internal or external application or exposure of any cosmetic product, cosmetic ingredient or nonfunctional constituent to the skin, eyes or any other body part, organ or extremity of a live, nonhuman vertebrate. [PL 2021, c. 160, §1 (NEW).]

C. "Cosmetic ingredient" has the same meaning as "ingredient," as defined in 21 Code of Federal Regulations, Section 700.3(e) (2021). [PL 2021, c. 160, §1 (NEW).]

D. "Cosmetic product" means a cosmetic the manufacture of which has been completed. [PL 2021, c. 160, §1 (NEW).]

E. "Manufacturer" means an entity that is a manufacturer required to specify conspicuously its name and place of business on the label of a cosmetic in package form pursuant to 21 Code of Federal Regulations, Section 701.12. [PL 2021, c. 160, §1 (NEW).]

F. "Nonfunctional constituent" means an incidental ingredient listed in 21 Code of Federal Regulations, Section 701.3(l) (2021). [PL 2021, c. 160, §1 (NEW).]

G. "Supplier" means an entity that provides, whether directly or through a 3rd party, a cosmetic ingredient used by a manufacturer in the formulation of a cosmetic product. [PL 2021, c. 160, §1 (NEW).]

[PL 2021, c. 160, §1 (NEW).]

2. Prohibition on the sale or offer for sale of certain cosmetics. Notwithstanding any other provision of law to the contrary, a manufacturer may not sell or offer to sell in the State a cosmetic if the cosmetic was developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer or any supplier of the manufacturer on or after November 1, 2021.

A county or any other political subdivision of the State may not establish or continue any prohibition on or relating to cosmetic animal testing that is not identical to the prohibitions in this section.

[PL 2021, c. 160, §1 (NEW).]

3. Exemptions. This section does not apply to:

A. Cosmetic animal testing:

- (1) Conducted outside of the United States and in order to comply with a requirement of a foreign regulatory authority as long as no evidence derived from the testing was relied upon to substantiate the safety of the cosmetic ingredient or cosmetic product being sold by the manufacturer in the State;

- (2) Conducted for any cosmetic or cosmetic ingredient subject to regulation under Chapter V of the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 351;
- (3) Conducted for a cosmetic ingredient intended to be used in a product that is not a cosmetic product and conducted pursuant to a requirement of a federal, state or foreign regulatory authority as long as no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold in this State by a manufacturer, unless all of the following apply:
- (a) There is no nonanimal alternative method or strategy recognized by any federal or state agency or the International Organisation for Economic Co-operation and Development or its successor organization for the relevant safety endpoints for the cosmetic ingredient or nonfunctional constituent;
 - (b) There is documented evidence of the noncosmetic intent of the test; and
 - (c) There is a history of use of the ingredient outside of cosmetics at least 12 months prior to the reliance; or
- (4) Requested, required or conducted by a federal or state regulatory authority and all of the following apply:
- (a) There is no nonanimal alternative method or strategy recognized by any federal or state agency or the International Organisation for Economic Co-operation and Development or its successor organization for the relevant safety endpoints for the cosmetic ingredient or nonfunctional constituent;
 - (b) The cosmetic ingredient or nonfunctional constituent poses a risk of causing a specific human health problem that is substantiated and the need to conduct cosmetic animal testing is justified and is supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetic ingredient or nonfunctional constituent; and
 - (c) The cosmetic ingredient or nonfunctional constituent is in wide use and, in the case of a cosmetic ingredient, cannot be replaced by another cosmetic ingredient capable of performing a similar function; [PL 2021, c. 160, §1 (NEW).]
- B. A cosmetic if the cosmetic in its final form was tested on animals before November 1, 2021, even if the cosmetic is manufactured on or after that date as long as no new cosmetic animal testing in violation of this section occurred on or after November 1, 2021; [PL 2021, c. 160, §1 (NEW).]
- C. A cosmetic ingredient if it was tested on animals before November 1, 2021, even if the ingredient is manufactured on or after that date as long as no new cosmetic animal testing in violation of this section occurred on or after November 1, 2021; or [PL 2021, c. 160, §1 (NEW).]
- D. A cosmetic manufacturer reviewing, assessing or retaining evidence from a cosmetic animal test. [PL 2021, c. 160, §1 (NEW).]
- [PL 2021, c. 160, §1 (NEW).]

4. Penalties. A manufacturer that sells or offers for sale a cosmetic in violation of subsection 2 commits a civil violation punishable by a fine of not more than \$5,000 for the first day of the violation for selling or offering for sale that cosmetic and an additional fine of \$1,000 for each day that the violation for selling or offering for sale that cosmetic continues.
[PL 2021, c. 160, §1 (NEW).]

5. Enforcement. A violation of this section may be enforced by the Attorney General or by the district attorney for the county in which the violation occurred. Notwithstanding any law to the contrary, all fines levied and collected for violations of this section, less court costs, must be distributed to the agency bringing the action that resulted in the fine. The State may bring an action in Superior Court to enjoin any manufacturer from violating this section, regardless of whether proceedings have

been or may be instituted in the District Court or whether civil proceedings have been or may be instituted.

[PL 2021, c. 160, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 160, §1 (NEW).

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