

# SB0241



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB0241

Introduced 1/31/2019, by Sen. Linda Holmes

#### SYNOPSIS AS INTRODUCED:

410 ILCS 620/17.2 new

Amends the Illinois Food, Drug, and Cosmetic Act. Provides that it is unlawful for a manufacturer to import for profit, sell, or offer for sale in this State any cosmetic, if the cosmetic was developed or manufactured using an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer, on or after January 1, 2020. Provides exceptions to the prohibition. Provides that a violation of the Act shall be punishable by an initial fine of \$5,000 for the first day of each violation and an additional fine of \$1,000 for each day the violation continues. Provides that a violation may be enforced by the State's Attorney of the county in which the violation occurred or by the municipal attorney of the municipality in which the violation occurred. Effective immediately.

LRB101 06224 CPF 51249 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Food, Drug and Cosmetic Act is  
5 amended by adding Section 17.2 as follows:

6 (410 ILCS 620/17.2 new)

7 Sec. 17.2. Cosmetic testing on animals.

8 (a) In this Section:

9 "Animal test" means the internal or external  
10 application of a cosmetic, either in its final form or any  
11 ingredient thereof, to the skin, eyes, or other body part  
12 of a live, nonhuman vertebrate.

13 "Cosmetic" has the meaning provided in Section 2 of  
14 this Act.

15 "Ingredient" means any component of a cosmetic product  
16 as defined by Section 700.3 of Title 21 of the Code of  
17 Federal Regulations.

18 "Manufacturer" means any person whose name appears on  
19 the label of a cosmetic in package form under Section  
20 701.12 of Title 21 of the Code of Federal Regulations.

21 "Supplier" means any entity that supplies, directly or  
22 through a third party, any ingredient used in the  
23 formulation of a manufacturer's cosmetic.

1       (b) Notwithstanding any other law, it is unlawful for a  
2 manufacturer to import for profit, sell, or offer for sale in  
3 this State any cosmetic, if the cosmetic was developed or  
4 manufactured using an animal test that was conducted or  
5 contracted by the manufacturer, or any supplier of the  
6 manufacturer, on or after January 1, 2020.

7       (c) The prohibitions in subsection (b) do not apply to the  
8 following:

9           (1) An animal test of any cosmetic that is required by  
10 a federal or State regulatory authority, if each of the  
11 following apply:

12               (A) an ingredient is in wide use and cannot be  
13 replaced by another ingredient capable of performing a  
14 similar function;

15               (B) a specific human health problem is  
16 substantiated and the need to conduct animal tests is  
17 justified and supported by a detailed research  
18 protocol proposed as the basis for the evaluation; and

19               (C) there is not a nonanimal alternative method  
20 accepted for the relevant endpoint by the relevant  
21 federal or State regulatory authority.

22           (2) An animal test that was conducted to comply with a  
23 requirement of an out-of-state regulatory authority, if no  
24 evidence derived from the test was relied upon to  
25 substantiate the safety of the cosmetic being sold in  
26 Illinois by the manufacturer.

1           (3) An animal test that was conducted on any product or  
2           ingredient subject to the requirements of Subchapter V of  
3           the Federal Food, Drug, and Cosmetic Act.

4           (4) An animal test that was conducted for noncosmetic  
5           purposes in response to a requirement of a federal, State,  
6           or foreign regulatory authority, if no evidence derived  
7           from the test was relied upon to substantiate the safety of  
8           the cosmetic sold in Illinois by the manufacturer. A  
9           manufacturer is not prohibited from reviewing, assessing,  
10           or retaining evidence from an animal test conducted under  
11           this paragraph.

12           (d) A violation of this Section shall be punishable by an  
13           initial civil penalty of \$5,000 for the first day of each  
14           violation and an additional civil penalty of \$1,000 for each  
15           day the violation continues.

16           (e) A violation of this Section may be enforced by the  
17           State's Attorney of the county in which the violation occurred  
18           or by the municipal attorney of the municipality in which the  
19           violation occurred. The civil penalty shall be paid to the  
20           entity that is authorized to bring the action.

21           (f) A State's Attorney or municipal attorney may, upon a  
22           determination that there is a reasonable likelihood of a  
23           violation of this Section, review the testing data upon which a  
24           cosmetic manufacturer has relied in the development or  
25           manufacturing of the relevant cosmetic product sold in this  
26           State. Information provided under this Section shall be

1 protected as a trade secret as defined in Section 2 of the  
2 Illinois Trade Secrets Act. In an action under this Section, a  
3 court shall preserve the secrecy of an alleged trade secret by  
4 reasonable means, which may include granting protective orders  
5 in connection with discovery proceedings, holding in-camera  
6 hearings, sealing the records of the action, and ordering any  
7 person involved in the litigation not to disclose an alleged  
8 trade secret without prior court approval. Consistent with the  
9 procedures described in this subsection, a State's Attorney or  
10 municipal attorney shall enter a protective order with a  
11 manufacturer before receipt of information from a manufacturer  
12 under this Section, and shall take other appropriate measures  
13 necessary to preserve the confidentiality of information  
14 provided under this Section.

15 (g) This Section does not apply to either of the following:

16 (1) A cosmetic, if the cosmetic in its final form was  
17 sold in Illinois or tested on animals prior to January 1,  
18 2020, even if the cosmetic is manufactured after that date.

19 (2) An ingredient, if the ingredient was sold in  
20 Illinois or tested on animals prior to January 1, 2020,  
21 even if the ingredient is manufactured after that date.

22 (h) Notwithstanding any other provision of this Section,  
23 cosmetic inventory in violation of this Section may be sold for  
24 a period of 180 days.

25 (i) A home rule unit may not regulate the testing of  
26 cosmetics on animals in a manner inconsistent with the

1 regulation by the State of the testing of cosmetics on animals  
2 under this Section. This subsection is a limitation under  
3 subsection (i) of Section 6 of Article VII of the Illinois  
4 Constitution on the concurrent exercise by home rule units of  
5 powers and functions exercised by the State.

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.