



Sen. Linda Holmes

Adopted in Senate on Oct 29, 2019

10100SB0558sam001

LRB101 04319 CPF 63920 a

1 AMENDMENT TO SENATE BILL 558

2 AMENDMENT NO. _____. Amend Senate Bill 558 by replacing
3 everything after the enacting clause with the following:

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

6 (410 ILCS 620/17.2)

7 Sec. 17.2. Cosmetic testing on animals.

8 (a) In this Section:

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

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

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

1 Regulations.

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

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

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

14 (c) The prohibitions in subsection (b) do not apply to the
15 following:

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

19 (A) an ingredient is in wide use and cannot be
20 replaced by another ingredient capable of performing a
21 similar function;

22 (B) a specific human health problem is
23 substantiated and the need to conduct animal tests is
24 justified and supported by a detailed research
25 protocol proposed as the basis for the evaluation; and

26 (C) there is not a nonanimal alternative method

1 accepted for the relevant endpoint by the relevant
2 federal or State regulatory authority.

3 (2) An animal test that was conducted to comply with a
4 requirement of a foreign regulatory authority, if no
5 evidence derived from the test was relied upon to
6 substantiate the safety of the cosmetic being sold in
7 Illinois by the manufacturer.

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

11 (4) An animal test that was conducted for noncosmetic
12 purposes in response to a requirement of a federal, State,
13 or foreign regulatory authority, if no evidence derived
14 from the test was relied upon by the manufacturer to
15 substantiate the safety of the cosmetic sold within this
16 State, unless both of the following apply:

17 (A) there is documented evidence of the
18 noncosmetic intent of the test; and

19 (B) there is a history of use of the ingredient
20 outside of cosmetics at least 12 months prior to the
21 test being conducted. ~~to substantiate the safety of the~~
22 ~~cosmetic sold in Illinois by the manufacturer. A~~
23 ~~manufacturer is not prohibited from reviewing,~~
24 ~~assessing, or retaining evidence from an animal test~~
25 ~~conducted under this paragraph.~~

26 (d) A violation of this Section shall be punishable by an

1 initial civil penalty of \$5,000 for the first day of each
2 violation and an additional civil penalty of \$1,000 for each
3 day the violation continues.

4 (e) A violation of this Section may be enforced by the
5 State's Attorney of the county in which the violation occurred.
6 The civil penalty shall be paid to the entity that is
7 authorized to bring the action.

8 (f) A State's Attorney may, upon a determination that there
9 is a reasonable likelihood of a violation of this Section,
10 review the testing data upon which a cosmetic manufacturer has
11 relied in the development or manufacturing of the relevant
12 cosmetic product sold in this State. Information provided under
13 this Section shall be protected as a trade secret as defined in
14 Section 2 of the Illinois Trade Secrets Act. In an action under
15 this Section, a court shall preserve the secrecy of an alleged
16 trade secret by reasonable means, which may include granting
17 protective orders in connection with discovery proceedings,
18 holding in-camera hearings, sealing the records of the action,
19 and ordering any person involved in the litigation not to
20 disclose an alleged trade secret without prior court approval.
21 Consistent with the procedures described in this subsection, a
22 State's Attorney shall enter a protective order with a
23 manufacturer before receipt of information from a manufacturer
24 under this Section, and shall take other appropriate measures
25 necessary to preserve the confidentiality of information
26 provided under this Section.

1 (g) This Section does not apply to:

2 (1) animal testing conducted on an ingredient or
3 cosmetic in its final form if the testing took place prior
4 to the effective date of this amendatory Act of the 101st
5 General Assembly; or

6 (2) a manufacturer reviewing, assessing, or retaining
7 information, data, or evidence obtained from animal
8 testing. This Section does not apply to animal testing
9 conducted on an ingredient or cosmetic in its final form if
10 the testing took place prior to the effective date of this
11 amendatory Act of the 101st General Assembly.

12 (h) Notwithstanding any other provision of this Section,
13 cosmetic inventory in violation of this Section may be sold on
14 or before June 1, 2020 ~~for a period of 180 days.~~

15 (i) A home rule unit may not regulate the testing of
16 cosmetics on animals in a manner inconsistent with the
17 regulation by the State of the testing of cosmetics on animals
18 under this Section. This subsection is a limitation under
19 subsection (i) of Section 6 of Article VII of the Illinois
20 Constitution on the concurrent exercise by home rule units of
21 powers and functions exercised by the State.

22 (Source: P.A. 101-303, eff. 8-9-19.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."