



The Toxic-Free Cosmetics Act **(AB495 - Muratsuchi)**

Proposal:

AB 495, the Toxic-Free Cosmetics Act, expands existing programs that regulate harmful cosmetics in California. The bill declares that cosmetic products containing any of the following highly toxic chemicals referenced in the bill will be considered adulterated and, as such, cannot be sold in California. The chemicals, all of which have been banned by the European Union, include:

- Asbestos
- Dibutyl phthalate
- Diethylhexyl phthalate
- Formaldehyde
- Paraformaldehyde
- Methylene glycol
- Quaternium-15
- Isobutylparaben
- Isopropylparaben
- Lead
- Long chain PFAS chemicals banned in the EU
- Mercury
- M- and O- Phenylenediamine

Background

Current federal law:

The Federal Food, Drug and Cosmetic Act of 1938 prohibits the sale of cosmetics containing any “poisonous or deleterious substance.” Despite this law, however, the federal Food and Drug Administration, which administers the Act, does not conduct pre-market safety testing or review to ensure that cosmetic products are safe. Cosmetic manufacturers do not have to prove to the FDA that a product is safe before selling it, and any safety studies performed on a product by a manufacturer do not have to be provided to the FDA or the public. The cosmetic industry is largely self-regulated, and government action occurs, if at all, after consumers have been exposed to, and harmed by, a hazardous product. Unlike food and drugs, the FDA does not even have the statutory authority to initiate mandatory recalls of cosmetic products that are harming consumers to remove these products from store shelves.

Current California law:

California state law, enacted in 1996, also mirrors federal law and provides that cosmetics containing poisonous or deleterious substances, that are injurious to users, are considered “adulterated” and may not be sold in the state. The California Department of Public Health oversees the state’s adulterated cosmetics prohibition, but has done little to enforce it. The department has not developed regulations to implement the adulterated cosmetics law, and has not further defined a “poisonous or deleterious substance” that can cause injury to a cosmetic user.

State law also established the California Safe Cosmetics Program within the Department of Public Health. This program requires cosmetics manufacturers to report to the program the presence of any Prop. 65 carcinogen or reproductive toxicant in a cosmetic product sold in the state. The Safe Cosmetics Program then makes that information publicly available.

Since 2009, 613 cosmetics companies have reported to the Safe Cosmetics Program the sale of over 75,000 beauty and personal care products in California containing chemicals linked to cancer, birth defects or reproductive harm. Additionally, numerous tests have confirmed that lead and asbestos frequently contaminate certain cosmetics.

Actions by other nations and by major retailers

While cosmetic products sold in California and the United States are largely unregulated, more than 40 other nations – and even retailers -- have proactively prohibited or restricted the use of hundreds to thousands of cosmetic ingredients. The European Union and the Association of South East Asian Nations, for example, each set standards for cosmetics sold in their member nations and as such, prohibit or greatly restrict the use of nearly 1400 chemicals in cosmetics. Canada, Japan, Argentina, Brazil, Canada and even Australia have followed suit and banned or restricted numerous chemicals often found in American cosmetics. Finally, even major retailers, such as Target, Walgreens, CVS, Rite Aid and Credo Beauty have developed their own lists of chemicals that manufacturers may not include, or must limit, in the retailers' store brand cosmetic products.

The problem

Due to a lack of regulation and government oversight, Californians cannot be sure that the cosmetics and personal care products they purchase are free of toxic ingredients. No one wants to use face powder contaminated with asbestos, lipstick that contains lead, or baby shampoo with formaldehyde. Californians deserve, and urgently need, protections against harmful chemicals in the cosmetic products they use every day.

The solution:

AB 495 by California Assembly Members Al Muratsuchi and Buffy Wicks clarifies in statute that cosmetics containing some of the most well-known carcinogens, reproductive toxins, and endocrine disruptors, are “adulterated cosmetics” – cosmetics that may not be sold in California.

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12/20/19