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SB-1249 Animal testing: cosmetics. (2017-2018)

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Senate Bill No. 1249

CHAPTER 899

An act to add Section 1834.9.5 to the Civil Code, relating to animal testing.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1249, Galgiani. Animal testing: cosmetics.

Existing law prohibits manufacturers and contract testing facilities from using traditional animal testing methods within this state when an appropriate alternative test method has been scientifically validated and recommended by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) or other specified agencies.

This bill would make it unlawful for a manufacturer to import for profit, sell, or offer for sale in this state, any cosmetic, as defined, 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, except as specified. The bill would specify that a violation of its provisions is punishable by an initial fine of \$5,000 and an additional fine of \$1,000 for each day the violation continues, and may be enforced by the district attorney or city attorney in the county or city in which the violation occurred, as specified. The bill would not apply to a cosmetic in its final form or to an ingredient, if the cosmetic or ingredient was sold in California or tested on animals before January 1, 2020, as specified. The bill would authorize cosmetic inventory in violation of the bill's provisions to be sold for a period of 180 days. The bill would prohibit a county or political subdivision of the state from establishing or continuing any prohibition on or relating to animal tests that is not identical to the prohibitions in the bill and that does not include the exemptions contained in the bill.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1834.9.5 is added to the Civil Code, to read:

1834.9.5. (a) Notwithstanding any other law, 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.

(b) For purposes of this section, the following terms apply:

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

(2) "Cosmetic" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, but not limited to, personal hygiene products such as deodorant, shampoo, or conditioner.

(3) "Ingredient" means any component of a cosmetic as defined by Section 700.3 of Title 21 of the Code of Federal Regulations.

(4) "Manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

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

(c) The prohibitions in subdivision (a) do not apply to the following:

(1) An animal test of any cosmetic that is required by a federal or state regulatory authority if all of the following apply:

(A) The ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function.

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

(C) There is not a nonanimal alternative method accepted for the relevant endpoint by the relevant federal or state regulatory authority.

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

(3) An animal test that was conducted on any product or ingredient subject to the requirements of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).

(4) An animal test that was conducted for noncosmetic purposes in response to a requirement of a federal, state, or foreign regulatory authority, if no evidence derived from the test was relied upon to substantiate the safety of the cosmetic sold in California by the manufacturer. A manufacturer is not prohibited from reviewing, assessing, or retaining evidence from an animal test conducted pursuant to this paragraph.

(d) A violation of this section shall be punishable by a fine of five thousand dollars (\$5,000) and an additional one thousand dollars (\$1,000) for each day the violation continues.

(e) A violation of this section may be enforced by the district attorney of the county in which the violation occurred, or by the city attorney of the city in which the violation occurred. The civil fine shall be paid to the entity that is authorized to bring the action.

(f) A district attorney or city attorney may, upon a determination that there is a reasonable likelihood of a violation of this section, review the testing data upon which a cosmetic manufacturer has relied in the development or manufacturing of the relevant cosmetic product sold in the state. Information provided under this section shall be protected as a trade secret as defined in subdivision (d) of Section 3426.1. Consistent with the procedures described in Section 3426.5, a district attorney or city attorney shall enter a protective order with a manufacturer before receipt of information from a manufacturer pursuant to this section, and shall take other appropriate measures necessary to preserve the confidentiality of information provided pursuant to this section.

(g) This section shall not apply to either of the following:

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

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

(h) Notwithstanding any other provision of this section, cosmetic inventory found to be in violation of this section may be sold for a period of 180 days.

(i) No county or political subdivision of the state may establish or continue any prohibition on or relating to animal tests, as defined in this section, that is not identical to the prohibitions set forth in this section and that does not include the exemptions contained in subdivision (c).

(j) This section shall become operative on January 1, 2020.