

# SENATE BILL 729

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By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Prohibition on Testing Cosmetics on Animals**

3 FOR the purpose of prohibiting a person from conducting or contracting for animal testing  
4 in the development of a cosmetic; prohibiting a manufacturer from selling or offering  
5 for sale in the State a cosmetic under certain circumstances beginning on a certain  
6 date; providing that certain provisions of this Act do not apply to certain animal  
7 testing; prohibiting a political subdivision from adopting or enforcing certain  
8 provisions of local law; establishing certain penalties for certain violations of this  
9 Act; requiring a certain person to provide certain evidence under certain  
10 circumstances; authorizing a local law enforcement agency to enforce certain  
11 provisions of this Act; authorizing a State’s Attorney to seek certain relief and review  
12 certain testing data under certain circumstances; providing that certain testing data  
13 is entitled to certain protection; providing that certain penalty provisions are not  
14 applicable to violations of certain provisions of this Act; providing for the  
15 construction of certain provisions of this Act; defining certain terms; requiring a  
16 manufacturer with a certain inventory to sell or otherwise dispose of the inventory  
17 on or before a certain date; providing for a delayed effective date; and generally  
18 relating to a prohibition on testing cosmetics on animals.

19 BY adding to

20 Article – Health – General  
21 Section 21–259.2  
22 Annotated Code of Maryland  
23 (2019 Replacement Volume)

24 BY repealing and reenacting, with amendments,

25 Article – Health – General  
26 Section 21–1215  
27 Annotated Code of Maryland  
28 (2019 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **21-259.2.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (2) “ANIMAL TESTING” MEANS THE INTERNAL OR EXTERNAL  
8 APPLICATION OR EXPOSURE OF A COSMETIC TO THE SKIN, EYE, OR ANY OTHER BODY  
9 PART OF A LIVE NONHUMAN VERTEBRATE.

10 (3) “INGREDIENT” HAS THE MEANING STATED IN 21 C.F.R. §  
11 700.3(E).

12 (4) “MANUFACTURER” MEANS ANY PERSON WHOSE NAME APPEARS  
13 ON THE LABEL OF A COSMETIC IN ACCORDANCE WITH THE REQUIREMENTS OF 21  
14 C.F.R. § 701.12.

15 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A  
16 PERSON MAY NOT CONDUCT OR CONTRACT FOR ANIMAL TESTING IN THE  
17 DEVELOPMENT OF A COSMETIC.

18 (2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,  
19 BEGINNING JULY 1, 2021, A MANUFACTURER MAY NOT SELL OR OFFER FOR SALE IN  
20 THE STATE A COSMETIC IF THE MANUFACTURER KNOWS OR REASONABLY SHOULD  
21 HAVE KNOWN THAT THE FINAL PRODUCT OR ANY INDIVIDUAL COMPONENT OF THE  
22 FINAL PRODUCT WAS DEVELOPED OR MANUFACTURED USING ANIMAL TESTING  
23 THAT WAS CONDUCTED OR CONTRACTED BY OR FOR THE MANUFACTURER OR ANY  
24 ENTITY THAT SUPPLIES, DIRECTLY OR THROUGH A THIRD PARTY, ANY INGREDIENT  
25 USED BY A MANUFACTURER IN THE FORMULATION OF A COSMETIC ON OR AFTER  
26 JANUARY 1, 2021.

27 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY  
28 TO ANIMAL TESTING THAT IS:

29 (1) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT  
30 OF A FEDERAL OR STATE REGULATORY AGENCY IF:

31 (I) THE COSMETIC OR INGREDIENT IN THE COSMETIC THAT IS  
32 TESTED IS IN WIDE USE AND CANNOT BE REPLACED BY ANOTHER INGREDIENT THAT  
33 IS CAPABLE OF PERFORMING A SIMILAR FUNCTION IN THE PRODUCT;

1           **(II) A SPECIFIC HUMAN HEALTH PROBLEM RELATING TO THE**  
2 **COSMETIC OR AN INGREDIENT IN THE COSMETIC IS SUBSTANTIATED AND THE NEED**  
3 **TO CONDUCT ANIMAL TESTING IS JUSTIFIED AND SUPPORTED BY A DETAILED**  
4 **PROTOCOL FOR RESEARCH THAT IS PROPOSED AS THE BASIS FOR THE EVALUATION**  
5 **OF THE COSMETIC OR INGREDIENT IN THE COSMETIC; AND**

6           **(III) ANIMAL TESTING IS THE ONLY METHOD OF TESTING THAT**  
7 **IS ACCEPTED FOR THE RELEVANT PURPOSE BY THE FEDERAL OR STATE**  
8 **REGULATORY AGENCY;**

9           **(2) CONDUCTED OR CONTRACTED TO COMPLY WITH REQUIREMENT**  
10 **OF A REGULATORY AGENCY OF A FOREIGN JURISDICTION, IF NO EVIDENCE DERIVED**  
11 **FROM THE TESTING WAS RELIED ON TO SUBSTANTIATE THE SAFETY OF A COSMETIC**  
12 **SOLD BY THE MANUFACTURER WITHIN THE STATE;**

13           **(3) PERFORMED ON A COSMETIC OR AN INGREDIENT IN A COSMETIC**  
14 **SUBJECT TO THE REQUIREMENTS OF SUBCHAPTER V OF THE FEDERAL FOOD,**  
15 **DRUG, AND COSMETIC ACT;**

16           **(4) CONDUCTED OR CONTRACTED TO COMPLY WITH A REQUIREMENT**  
17 **OF A FEDERAL, STATE, OR FOREIGN REGULATORY AGENCY FOR PURPOSES**  
18 **UNRELATED TO COSMETICS TESTING, IF:**

19           **(I) NO EVIDENCE DERIVED FROM THE TESTING WAS RELIED ON**  
20 **TO SUBSTANTIATE THE SAFETY OF A COSMETIC SOLD BY THE MANUFACTURER**  
21 **WITHIN THE STATE;**

22           **(II) DOCUMENTARY EVIDENCE DEMONSTRATES THAT THE**  
23 **INTENT OF THE TEST THAT WAS PERFORMED WAS UNRELATED TO COSMETICS**  
24 **TESTING;**

25           **(III) THE INGREDIENT THAT WAS THE SUBJECT OF THE TESTING**  
26 **HAS BEEN USED FOR PURPOSES UNRELATED TO COSMETICS FOR AT LEAST 12**  
27 **MONTHS; AND**

28           **(IV) THERE WAS NO ALTERNATIVE TO TESTING ON AN ANIMAL AT**  
29 **THE TIME OF THE STUDY; OR**

30           **(5) PERFORMED ON:**

31           **(I) A COSMETIC THAT, IN ITS FINAL FORM, WAS TESTED ON**  
32 **ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE COSMETIC IS**

1 MANUFACTURED ON OR AFTER JANUARY 1, 2021; OR

2 (II) A COSMETIC INGREDIENT THAT WAS SOLD IN THE STATE  
3 AND TESTED ON ANIMALS BEFORE JANUARY 1, 2021, WHETHER OR NOT THE  
4 INGREDIENT IS MANUFACTURED ON OR AFTER JANUARY 1, 2021.

5 (D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A COSMETICS  
6 MANUFACTURER FROM REVIEWING, ASSESSING, OR RETAINING DATA RESULTING  
7 FROM ANIMAL TESTING.

8 (E) A POLITICAL SUBDIVISION OF THE STATE MAY NOT ADOPT OR ENFORCE  
9 A PROVISION OF A LOCAL LAW RELATING TO ANIMAL TESTING ON COSMETICS OR  
10 ANIMAL TESTING ON INGREDIENTS USED IN COSMETICS.

11 (F) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL  
12 PENALTY:

13 (I) NOT EXCEEDING \$5,000 FOR THE FIRST OFFENSE; AND

14 (II) NOT EXCEEDING \$1,000 FOR EACH SUBSEQUENT OFFENSE.

15 (2) EACH VIOLATION OF THIS SECTION WITH RESPECT TO A  
16 SEPARATE ANIMAL AND EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE  
17 VIOLATION UNDER THIS SECTION.

18 (3) IF A PERSON WHO IS ALLEGED TO HAVE VIOLATED THIS SECTION  
19 CLAIMS THE PROHIBITION IN SUBSECTION (B) DOES NOT APPLY BECAUSE THE  
20 TESTING FALLS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION, THE PERSON  
21 SHALL PROVIDE CLEAR, DOCUMENTED EVIDENCE OF THE DATE ON WHICH THE DATA  
22 WAS GENERATED.

23 (G) (1) A LOCAL LAW ENFORCEMENT AGENCY MAY ENFORCE THE  
24 PROVISIONS OF THIS SECTION.

25 (2) (I) THE STATE'S ATTORNEY FOR EACH COUNTY MAY SEEK  
26 APPROPRIATE RELIEF FOR VIOLATIONS OF THIS SECTION.

27 (II) A STATE'S ATTORNEY, IN DETERMINING WHETHER A  
28 VIOLATION OF THIS SECTION OCCURRED, MAY REVIEW ANY TESTING DATA ON  
29 WHICH A MANUFACTURER HAS RELIED IN DETERMINING THE SAFETY OF A  
30 COSMETIC OR AN INGREDIENT IN A COSMETIC SOLD IN THE STATE.

31 (III) ANY TESTING DATA REVIEWED UNDER SUBPARAGRAPH (II)

1 **OF THIS PARAGRAPH IS ENTITLED TO PROTECTION AS A TRADE SECRET.**

2 21-1215.

3 (a) This section does not apply to a violation of § 21-220(b)(4) **OR § 21-259.2** of  
4 this title.

5 (b) A person who violates any provision of Subtitle 2 of this title or any regulation  
6 adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject  
7 to:

8 (1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or  
9 both; or

10 (2) If the person has been convicted once of violating Subtitle 2 of this title,  
11 a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

12 (c) In addition to any criminal penalties imposed under this section, a person who  
13 violates any provision of Subtitle 2 of this title, any rule or regulation adopted under  
14 Subtitle 2 of this title, or any term, condition, or limitation of any license or registration  
15 issued under Subtitle 2 of this title:

16 (1) Is subject to a civil penalty not exceeding \$5,000, in an action in any  
17 District Court; and

18 (2) May be enjoined from continuing the violation.

19 (d) Each day on which a violation occurs is a separate violation under this section.

20 SECTION 2. AND BE IT FURTHER ENACTED, That a manufacturer with  
21 inventory that would violate § 21-259.2 of the Health – General Article, as enacted by  
22 Section 1 of this Act, shall sell or otherwise dispose of the inventory on or before June 30,  
23 2021.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 January 1, 2021.