

SB 202-FN - AS INTRODUCED

2022 SESSION

22-2883

08/04

SENATE BILL **202-FN**

AN ACT prohibiting the sale of cosmetic products tested on animals.

SPONSORS: Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Birdsell, Dist 19; Sen. Bradley, Dist 3; Sen. Reagan, Dist 17; Sen. Ricciardi, Dist 9; Sen. Avar, Dist 12; Sen. Cavanaugh, Dist 16; Sen. Prentiss, Dist 5; Rep. Read, Rock. 17; Rep. Harvey, Ches. 1

COMMITTEE: Commerce

ANALYSIS

This bill prohibits the sale of cosmetic products tested on animals.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT prohibiting the sale of cosmetic products tested on animals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Prohibition on Animal Testing. Amend RSA by inserting after chapter 359-S
2 the following new chapter:

3 CHAPTER 359-T

4 PROHIBITION ON ANIMAL TESTING

5 359-T:1 Definitions. In this chapter:

6 I. "Cosmetic animal testing" means the internal or external application or exposure of any
7 cosmetic product, or any cosmetic ingredient or nonfunctional constituent, to the skin, eyes, or any
8 other body part, organ, or extremity of a live, nonhuman vertebrate.

9 II. "Cosmetic" means articles intended to be rubbed, poured, sprinkled, or sprayed on,
10 introduced into, or otherwise applied to the human body or any part thereof for cleansing,
11 beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a
12 component of any such articles, except that such term shall not include soap.

13 III. "Cosmetic ingredient" means any single chemical entity or mixture used as a component
14 in the manufacture of a cosmetic product, as defined as of the date of enactment of this chapter, in
15 21 C.F.R. section 700.3.

16 IV. "Cosmetic product" means a finished cosmetic the manufacture of which has been
17 completed.

18 V. "Manufacturer" means any entity required to specify conspicuously its name and place of
19 business on the label of a cosmetic in package form pursuant to 21 C.F.R. section 701.12.

20 VI. "Non-functional constituent" means any incidental substances that have no technical or
21 functional effect but are present in a food by reason of having been incorporated into the food as an
22 ingredient of another food, in which the substance did have a functional or technical effect.

23 VII. "Supplier" means any entity that provides, whether directly or through a third party,
24 any cosmetic ingredient used by a manufacturer in the formulation of a cosmetic product.

25 359-T:2 Prohibition on the Sale or Offer for Sale of Cosmetics.

26 I. No manufacturer shall sell or offer for sale in this state any cosmetic if such cosmetic was
27 developed or manufactured using cosmetic animal testing that was conducted or contracted for by
28 the manufacturer, or any supplier of the manufacturer.

29 II. Paragraph I shall not apply to the following forms of animal testing:

30 (a) Testing conducted outside of the United States and in order to comply with a
31 requirement of a foreign regulatory authority; provided that no evidence derived from the testing

1 was relied upon to substantiate the safety of the cosmetic ingredient or cosmetic product being sold
2 by the manufacturer in New Hampshire.

3 (b) Testing conducted for any cosmetic or cosmetic ingredient subject to regulation under
4 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. section 351 et seq.

5 (c) Testing conducted for a cosmetic ingredient intended to be used in a product that is
6 not a cosmetic product and conducted pursuant to a requirement of a federal, state, or foreign
7 regulatory authority; provided that no evidence derived from such testing was relied upon to
8 substantiate the safety of a cosmetic sold in New Hampshire by a cosmetics manufacturer, unless all
9 of the following apply:

10 (1) There is no non-animal alternative method or strategy recognized by any federal
11 or state agency, or the Organisation for Economic Co-operation and Development, to test the safety
12 of the cosmetic ingredient or non-functional constituent; and

13 (2) There is documented evidence of the non-cosmetic intent of the test; and

14 (3) There is a history of use of the ingredient outside of cosmetics at least 12 months
15 prior to the reliance; or

16 (d) Testing is requested, required, or conducted by a federal or state regulatory authority
17 and each of the following apply:

18 (1) There is no non-animal alternative method or strategy recognized by any federal
19 or state agency or the Organisation for Economic Co-operation and Development to test the safety of
20 the cosmetic ingredient or non-functional constituent; and

21 (2) The cosmetic ingredient or non-functional constituent poses a risk of causing a
22 specific human health problem that is substantiated and the need to conduct cosmetics animal
23 testing is justified and supported by a detailed research protocol proposed as the basis for the
24 evaluation of the cosmetics ingredient on nonfunctional constituent; and

25 (3) The cosmetic ingredient or non-functional constituent is in wide use and, in the
26 case of a cosmetic ingredient, cannot be replaced by another cosmetic ingredient capable of
27 performing a similar function.

28 III. This section shall not apply to:

29 (a) A cosmetic, if the cosmetic in its final form was tested on animals before the effective
30 date of this chapter, even if the cosmetic is manufactured on or after that date, provided that no new
31 animal testing in violation of this chapter occurs after its effective date;

32 (b) An ingredient in a cosmetic if the ingredient was tested on animals before the
33 effective date of this chapter, even if the ingredient is manufactured on or after that date provided
34 that no new animal testing in violation of this chapter occurs after its effective date; or

35 (c) A cosmetic manufacturer reviewing, assessing, or retaining evidence from a cosmetic
36 animal test.

1 IV. No political subdivision of the state shall establish or continue any prohibition on or
2 relating to cosmetic animal testing, as defined in this section, that is not identical to the prohibitions
3 set forth in this section.

4 359-T:3 Penalties. Notwithstanding RSA 651:2, a manufacturer that sells or offers for sale a
5 cosmetic in violation of this chapter shall be guilty of a violation punishable by a fine of not more
6 than \$5,000 for the first day of such violation, and an additional fine of \$1,000 for each day that the
7 violation continues.

8 359-T:4 Severability. If any provision of this chapter is held invalid, or if its application to any
9 person or circumstance is held invalid, such invalidity does not affect other provisions or applications
10 of this chapter which can be given effect without the invalid provision or application.

11 2 Effective Date. This act shall take effect January 1, 2023.

**SB 202-FN- FISCAL NOTE
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AN ACT prohibiting the sale of cosmetic products tested on animals.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill contains a violation penalty that will have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing routine cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

AGENCIES CONTACTED:

Judicial Branch