

Senate Commerce Committee

Aaron Jones 271-4063

SB 202-FN, prohibiting the sale of cosmetic products tested on animals.

Hearing Date: February 1, 2022

Time Opened: 9:03 a.m.

Time Closed: 9:22 a.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : None

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

Sponsors:

Sen. Watters

Sen. Sherman

Sen. Birdsell

Sen. Bradley

Sen. Reagan

Sen. Ricciardi

Sen. Avard

Sen. Cavanaugh

Sen. Prentiss

Rep. Read

Rep. Harvey

Who supports the bill: Senator David Watters, Senator Jeb Bradley, Senator Denise Ricciardi, Senator Regina Birdsell, Senator Kevin Cavanaugh, Senator Bob Giuda, Kurt Ehrenberg (Humane Society of the U.S.), Joan O'Brien, Linda Reynolds, Nancy Pollard, Loreley Godfrey, BJ Wahl, Bob Switzer, Elise Caplan, Jack Hurley, Jean Slepian, Matthew Pyster, Karen Campbell, Michael Fraysse

Who opposes the bill: Nancy Holmes

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator David Watters

- The heart of this bill is on Page 1 where it is stated that, “[n]o manufacturer shall sell or offer for sale in this state any cosmetic if such cosmetic was developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer, or any supplier of the manufacturer.”
- Senator Watters said this bill is justified due to the unnecessary suffering caused by testing on animals.
- On Page 1, definitions are given for testing, cosmetics, cosmetic ingredients, cosmetic products, manufacturers, constituents of substances, and suppliers.

- Federal and international regulatory authority, practices, and laws are recognized on Page 2.
- Senator Watters introduced Amendment 22-0366s, which would hold harmless NH retailers and make certain definitional changes.
 - This amendment is necessary because a retailer might not know whether a manufacturer has told the truth, or that a substance may have been used for testing.
 - Similar language has been used in other consumer protection laws.
- This bill is necessary because it would ensure NH goes where the markets are. In addition, the federal government does not enforce statutes, except in rare instances, within boundaries of a state. This bill would permit possible enforcement at the state level.
- Similar legislation has passed in other 8 states with NJ being the most recent.
- This bill would align with actions taken by the Legislature to outlaw practices that are recognized as cruel and unnecessary.
- **Senator French** asked if most cosmetic products are produced in the U.S. or overseas.
 - **Senator Watters** was unsure of the percentages; however, this is a huge international business. Regardless of where products are from, Senator Watters said this would be why statutory enforcement authority is required in state law.
- **Senator French** asked how the state would know if products that were produced in China had been tested on animals or not.
 - **Senator Watters** said it is the federal government who would largely make this determination; however, it is important that the state has the authority to enact penalties when something does become known.
- **Senator Gannon** wondered what percentage of the industry did animal testing.
 - **Senator Watters** reiterated that he did not know the percentages, but he wondered if a percentage could be placed on the amount of suffering and cruelty inflicted upon dogs, rabbits, or other mammals.
- **Senator Gannon** wondered if the market took care of this issue on its own or if it remained a problem. He wondered why companies would spend money on animal testing if it were no longer necessary or it could lead to bad press.
 - **Senator Watters** said Page 2 laid out provisions to balance circumstances if there were no non-animal alternative methods available or if testing had been requested, required, or conducted by a federal or state regulatory authority. This bill would provide regulatory and statutory language to ensure this is carefully done. Abuse in the industry has been occurring for decades; therefore, there is no reason the cheapest or the tried-and-true method should be used without recognizing the suffering it has caused.

Kurt Ehrenberg, State Director, The Humane Society of the U.S.

- Mr. Ehrenberg urged the Committee to pass this legislation to prohibit the sale of any cosmetic where a known test on an animal was conducted or contracted by or on behalf of a manufacturer, or any supplier of a manufacturer after January 1st, 2023.
- As previously mentioned, this bill would provide limited exemptions to allow for animal testing.
- Mr. Ehrenberg said there has been strong corporate support to end animal testing.
- Currently, there is bi-partisan federal legislation being considered to end the production and sale of animal tested cosmetics. This bill is mirrored after that legislation.
 - The federal legislation has been supported by the Humane Society Legislative Fund, the Personal Care Products Council (PCPC) and its 600 members, and at least 370 individual companies.
- Animal testing is cruel, an unreliable predictor of human responses, and unnecessary.
 - Rabbits, guinea pigs, mice, and rats often have substances forced into their throats, dropped into their eyes, or smeared into their skin before they are killed.
 - Different species respond differently when exposed to the same chemicals; therefore, testing may under or overestimate hazards to human safety.
- Presently, companies are able to create products by using thousands of allowable ingredients that have a history of safe use and do not require new testing.
- In instances where testing is used for new ingredients, non-animal methods have been developed.
 - For example, combining human cell-based tests and sophisticated computer models can deliver human relevant results in less time and cost.
- In 2018, CA became the first state to ban the sale of cosmetics newly tested on animals. Other states – NV, IL, VA, MD, ME, HI, and NJ – have banned these products as well.
- In 2013, the European Union began this trend thereby creating the world's largest cruelty-free cosmetic marketplace. As a result, companies were compelled to end animal testing and invest in the development of non-animal methods.
- Internationally, 41 countries have passed laws to end or limit cosmetic animal testing, including the members of the EU, Australia, Colombia, Guatemala, Iceland, India, Israel, Mexico, New Zealand, Norway, South Korea, Switzerland, Taiwan, Turkey, and the UK.
- **Senator Soucy** asked if Amendment 22-0366s mirrored federal legislation as well.

- **Mr. Ehrenberg** responded that the amendment would hold harmless companies only in NH. If there were any culprits, it would be manufacturers. The EU changed the industry by making it economically impossible for companies to continue testing on animals. This bill would incentive companies to continue the trend of replacing animal tests with more human relevant ones. Further, it would provide regulatory alignment within the industry as well as among states and other countries.
- **Senator Gannon** asked about the percentage of manufacturers who do testing, and why companies would use animal testing methods if there were better and cheaper alternatives.
 - **Mr. Ehrenberg** said the industry sought these regulations, so they could do business similarly around the world.
- **Senator Gannon** wanted to know how many manufacturers were still doing animal testing.
 - **Mr. Ehrenberg** replied that he did not have an answer. If Senator Gannon had a constituent who was concerned about something they found, then a complaint could be made and tracked down to the manufacturer. Mr. Ehrenberg concluded that this bill is about consumer protection.

Summary of testimony presented in opposition: None

Neutral Information Presented: None