

Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 2762 (Muratsuchi) – As Amended May 18, 2020

Policy Committee: Environmental Safety and Toxic Materials Vote: 7 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill provides no person or entity shall manufacture, sell, deliver, hold or offer for sale in commerce any cosmetic product that contains intentionally added ingredients listed as a banned substances, as specified, beginning January 1, 2025. Specifically, this bill:

- 1) States it is the intent of the Legislature to enact a prohibition on the presence of chemicals in cosmetics that is consistent with the prohibition on the presence of chemicals in cosmetics enacted by the European Union (EU).
- 2) Provides a technically unavoidable trace quantity, as specified, shall not cause the cosmetic product to be adulterated.
- 3) Requires the Division of Environmental and Occupational Disease Control, within the Department of Public Health (CDPH) to report all violations of the Sherman Act to the Department of Justice.

FISCAL EFFECT:

- 1) CDPH costs of approximately \$750,000 in the first year and \$710,000 ongoing, along with 3.0 personnel to investigate complaints, enforce and impose penalties and perform the necessary lab work (GF), offset to some extent by penalty revenue.
- 2) Potential Department of Justice costs if, upon notification, the department decides to prosecute (GF).

COMMENTS:

- 1) **Background and Purpose.** California has two laws governing the safety of cosmetics. The first is the Sherman Act, which is administered by CDPH to regulate cosmetics. Pursuant to the Sherman Act, any cosmetic is considered to be adulterated "if it bears or contains any poisonous or deleterious substance that may render it injurious to users." However, adulteration, in many instances, refers to tampering with a product after the manufacturer has completed its manufacturing. Selling adulterated cosmetics can lead to civil and administrative penalties, embargoes, and even bans on products.

The other law is the California Cosmetics Act, established by SB 484 (Migden), Chapter 729, Statutes of 2005. For all cosmetic products sold in California, the act requires the

manufacturer, packer and distributor named on the product label to provide CDPH with a list of all cosmetic products that contain any ingredients known or suspected to cause cancer, birth defects or other reproductive harm. CDPH maintains an active, searchable database with all of the data collected from manufacturers under the Cosmetics Act. It is required to make that data user-friendly and available to the public. To date, 613 companies have reported 75,279 products. CDPH does not have any enforcement authority under the act.

Neither of these laws fully protect the public from cosmetics containing harmful substances. According to the author:

No one knowingly wants to use face powder contaminated with asbestos, lipstick that contains lead, or baby shampoo with formaldehyde. AB 2762 would clarify in statute that cosmetics containing some of the most well-known carcinogens, reproductive toxicants, and endocrine disruptors are adulterated cosmetics, and cannot be sold in the state, protecting Californians against harmful chemicals in cosmetic products they use every day.

- 2) **Prior Legislation.** Last year, AB 495 (Muratsuchi), would have defined a cosmetic as adulterated if it contains specific ingredients, including any amount of asbestos, lead above a de minimis amount, formaldehyde, isobutyl or isopropylparaben, dibutyl phthalate, diethylhexyl phthalate, and specified polyfluoroalkyl substances (PFAS). The bill failed passed in the Assembly Health Committee.

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