

ASSEMBLY THIRD READING  
AB 2762 (Muratsuchi, et al.)  
As Amended May 18, 2020  
Majority vote

**SUMMARY:**

Amends the Sherman, Food, Drug and Cosmetic Act (Sherman Act) to ban specified intentionally added ingredients from cosmetics sold in California.

**Major Provisions**

- 1) Provides that, effective, January 1, 2025, no person or entity shall manufacture, sell, deliver, hold, or offer for sale in commerce, any cosmetic product that contains any of the following intentionally added ingredients:
  - a) Dibutyl phthalate. (CAS no. 84-74-2)
  - b) Diethylhexyl phthalate. (CAS no. 117-81-7)
  - c) Formaldehyde. (CAS no. 50-00-0)
  - d) Paraformaldehyde. (CAS no. 30525-89-4)
  - e) Methylene glycol. (CAS no. 463-57-0)
  - f) Quaternium-15. (CAS no. 51229-78-8)
  - g) Mercury. (CAS no. 7439-97-6)
  - h) Isobutylparaben. (CAS no. 4247-02-3)
  - i) Isopropylparaben. (CAS no. 4191-73-5)
  - j) m-Phenylenediamine and its salts. (CAS no. 108-45-2; 541-70-8; 541-69-5)
  - k) o-Phenylenediamine and its salts. (CAS no. 95-54-5; 615-28-1)
  - l) The following long-chain per- and polyfluoroalkyl substances (PFAS) and their salts:
    - i) Perfluorooctane sulfonate (PFOS); heptadecafluorooctane-1-sulfonic acid. (CAS no. 1763-23-1)
    - ii) Potassium perfluorooctanesulfonate; potassium heptadecafluorooctane-1-sulfonate (CAS no. 2795-39-3)
    - iii) Diethanolamine perfluorooctane sulfonate (CAS 70225-14-8)
    - iv) Ammonium perfluorooctane sulfonate; ammonium heptadecafluorooctanesulfonate (CAS 29081-56-9)

- v) Lithium perfluorooctane sulfonate; lithium heptadecafluorooctanesulfonate (CAS 29457-72-5)
  - vi) Perfluorooctanoic acid (PFOA). (CAS no. 335-67-1)
  - vii) Ammonium pentadecafluorooctanoate (CAS no. 3825-26-1)
  - viii) Nonadecafluorodecanoic acid (CAS no. 355-76-2)
  - ix) Ammonium nonadecafluorodecanoate (CAS no. 3108-42-7)
  - x) Sodium nonadecafluorodecanoate (CAS no. 3830-45-3)
  - xi) Perfluorononanoic acid (PFNA). (CAS no. 375-95-1)
  - xii) Sodium heptadecafluorononanoate (CAS no. 21049-39-8)
  - xiii) Ammonium perfluorononanoate (CAS no. 4149-60-4)
- 2) Provides that if a cosmetic product made through manufacturing processes intended to comply with this prohibition contains a technically unavoidable trace quantity of any of the listed intentionally added ingredients and that trace quantity stems from impurities of natural or synthetic ingredients, the manufacturing process, storage, or migration from packaging, that trace quantity shall not cause the cosmetic product to be adulterated.
- 3) Defines ingredient as that term is defined in Health and Safety Code Section 111791.5.
- 4) States the intent of the Legislature to enact a prohibition on the presence of intentionally added ingredients in cosmetics that is consistent with the prohibition of intentionally added ingredients that was enacted by the European Union (EU).

**COMMENTS:**

*Public health concerns with cosmetics:* Cosmetic products are sold to consumers across California, including to children who are still in the formative years of development. These products are used as part of daily beauty and cleansing routines, often times on the skin's most sensitive areas, like the face, eyelids, and lips. Cosmetic products are most heavily used by women, including those of childbearing age, increasing the likelihood of exposing mothers, fetuses, and nursing children to substances that can cause cancer and reproductive toxicity. That is why it is so important that cosmetic products are safe, properly labeled, and free of contamination.

*Cosmetic regulatory requirements:* Neither the federal Food and Drug Administration (FDA) nor the California Department of Public Health (CDPH) require premarket safety testing, review, or approval of cosmetic products. Under both the federal Food, Drug, and Cosmetic Act and the Sherman Act, cosmetics and their ingredients are not required to be approved before they are sold to the public, and the FDA does not have the authority to require manufacturers to file health and safety data on cosmetic ingredients or to order a recall of a dangerous cosmetic product.

*What we know about the chemicals listed in the bill vis-à-vis the EU:* The EU Cosmetics Directive (Directive) was adopted in 1976 and formed on the basis of commonly agreed to safety standards relative to cosmetics. This Directive was reevaluated in 2009 and an EU-wide Cosmetics Products Regulation was enacted in July 2013. EU regulation No 1223/2009 on cosmetics establishes rules to be complied with by any cosmetic product made available on the market, in order to ensure the functioning of the internal market and a high level of protection of human health. The regulation defines "cosmetic product" as "any substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odors." The scope of products covered under the EU's definition of cosmetics is broader than the scope of products covered under California's definition of cosmetics under the Sherman Act.

Annex II of regulation No 1223/2009 lists the substances prohibited in cosmetic products. The intent of this bill is to be consistent with the approach of the EU's cosmetic regulation. All of the ingredients listed in this bill have been fully banned in the EU under Annex II.

**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."

**Arguments in Support:**

Environmental Working Group and Breast Cancer Prevention Partners, among others, state, "Today, personal care and beauty products (generally termed cosmetics) that are sold in California and the United States are largely unregulated. Manufacturers can use practically any chemical to formulate a cosmetic product, including chemicals with well-established links to cancer, reproductive harm or birth defects. Equally troubling, neither federal nor state laws require premarket testing by cosmetic manufacturers or their regulatory agencies to ensure that these products are safe before they hit store shelves. Out of the more than 10,000 chemicals used to formulate beauty and personal care products, the United States Food and Drug Administration has only ever banned or restricted 11. In contrast, the European Union prohibits or restricts the use of nearly 1,400 chemicals in cosmetics, and many other countries tightly regulate cosmetics sold to their citizens. ... Californians need and deserve the same protections from harmful cosmetics provided to people that shop for the exact same products in the European Union and numerous other countries."

**Arguments in Opposition:**

None on file.

**FISCAL COMMENTS:**

According to the Assembly Appropriations Committee, enactment of this bill would result in CDPH costs of approximately \$750,000 in the first year and \$710,000 ongoing, along with 3.0 personnel to investigate complaints, enforce, impose penalties, and perform the necessary lab work (General Fund (GF)), which would be offset to some extent by penalty revenue. It would

also result in potential Department of Justice (DOJ) costs if, upon notification, the DOJ decides to prosecute (GF).

**VOTES:**

**ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-2**

**YES:** Arambula, Bauer-Kahan, Cristina Garcia, Bloom, Mathis, Muratsuchi, Holden

**ABS, ABST OR NV:** Melendez, Obernolte

**ASM APPROPRIATIONS: 17-0-1**

**YES:** Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

**ABS, ABST OR NV:** Bigelow

**UPDATED:**

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