

SENATE THIRD READING
SB 312 (Leyva)
As Amended July 27, 2020
Majority vote

SUMMARY:

Establishes the Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2020 (Act) to require disclosure of specified flavor and fragrance ingredients in cosmetic products.

Major Provisions

- 1) Requires, commencing January 1, 2022, a manufacturer of a cosmetic product sold in the state to disclose information to the Division of Environmental and Occupational Disease Control (Division) within the California Department of Public Health (CDPH) on fragrance and flavor ingredients present on a designated list; a list of allergens present at specified amounts; and, other information identifying the specific product for which the information is being reported.
- 2) Provides specified trade secret protections, but exempts any fragrance ingredient or flavor ingredient that is included on a designated list, or a fragrance allergen that requires disclosure, from constituting a trade secret.
- 3) Requires a manufacturer that is required to disclose a fragrance ingredient or flavor ingredient due to a change in a designated list to disclose the ingredient no later than six months after the revised list is adopted by the authoritative body, or six months after the revised list becomes effective, whichever is later.
- 4) Requires CDPH to create a voluntary electronic mailing list, for which manufacturers can opt-in to, to provide updates on the inclusion or deletion of fragrance allergens, fragrance ingredients, and flavor ingredients on the designated lists.
- 5) Requires, commencing January 1, 2022, the Division to post on the database created pursuant to the California Safe Cosmetics Act of 2005 (Safe Cosmetics Act), in an easily readable format, the fragrance and flavor ingredient information related to a cosmetic product, as well as any known hazard traits of those ingredients.

COMMENTS:

Federal laws on fragrance disclosure: The 1966 Federal Fair Packaging and Labeling Act (FPLA) requires manufacturers to list all of the ingredients on a cosmetic product label; however, fragrance and flavoring ingredients are specifically exempt from the FPLA's labeling requirements. The current practice for ingredient disclosure has been to identify fragrances as a separate category of product content, as a parenthetical "fragrance," without identifying the specific chemical composition used in the fragrances.

Why chemical disclosure in cosmetic products matters: Consumers may want or need to avoid certain chemical exposures for various, personal reasons.

While a direct link between endocrine disrupting chemicals and cancer is not yet definitive, certain cancers are hormonally-driven, such as breast cancer, prostate cancer, ovarian cancer, and

endometrial cancer. According to Dr. Lorenzo Cohen, Ph.D., MD, director of the Integrative Medicine Program at the University of Texas, even a low dose of endocrine disrupting chemicals could cause concern, especially if a product is used every day. He also notes some personal care products may contain endocrine disrupting chemicals and allergens under the guise of "fragrance." Because those fragrance ingredients are not disclosed, though, it is unknown which fragrances do and how many.

This bill: SB 312 would require cosmetic manufactures, beginning July 1, 2022, to disclose to the Division information related to cosmetic products that contain a fragrance or flavor ingredient that is included on one of the designated lists and a list of fragrance allergens that are present in specified concentrations. It would also require the Division to post in the Safe Cosmetics Act database a list of those intentionally added fragrance and flavor ingredients and fragrance allergens in the cosmetic product.

Disclosure provided under this bill would provide consumers greater information to make more informed choices, and it could potentially lead to safer products designed without hazardous chemicals.

According to the Author:

"In California, we actually know more about the fragrance ingredients in products that we use to clean our homes than those that we put on our faces or bodies. Consumers have a right to know what ingredients are in the beauty and personal care products they bring home to their families and use daily on their bodies. The bottom line is that no toxic ingredients should be kept secret. SB 312 will empower consumers so that they can make educated decisions about which products to use with their kids and families.

No federal law requires the disclosure of fragrance or flavor ingredients in personal care and beauty products to consumers, workers, manufacturers or even regulatory agencies. This loophole allows dozens – sometimes even hundreds – of chemicals to hide under the word "fragrance" on the labels of cosmetic products with no regulatory oversight of the safety of those ingredients. Fragrance chemicals can be found in more than 95% of shampoos, conditioners, hair styling products, antiperspirants and shaving products as well as fine fragrances, body spray and lotions and 1/3 of the fragrance chemicals currently in use have been linked to negative health impacts ranging from allergic reactions to reproductive harm and increased risk of breast cancer. The same loophole exists for chemicals used to flavor a product, which are appearing more and more frequently in lip gloss and chap sticks marketed to kids.

SB 312 would remove trade secret protection from any fragrance or flavor ingredient, for purposes of disclosure via the Safe Cosmetics Program, deemed harmful to human health or the environment, defined as whether that ingredient appears on any of the 22 designated lists referenced in the bill."

Arguments in Support:

Proctor & Gamble (P&G) writes in support, "P&G supports providing consumers with important ingredient communication while also maintaining the flexibility to continue providing unique and innovative products in the State of California."

Arguments in Opposition:

According to the Natural Products Association, "The proposal under consideration today [SB 312] would place onerous restrictions, most notably on small businesses by requiring additional

labeling requirements for cosmetic and personal care products. We support efforts to ensure consumer safety, as noted by the over 800 ingredients the NPA has certified as "natural" because they have met our certification's high standards for excellence. In times of economic strain, additional regulatory hurdles that increase the cost of doing business in California like SB 312 do not benefit consumers or industry."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, enactment of this bill would result in minor annual ongoing costs of approximately \$50,000 for CDPH to modify and update the Divisions' Safe Cosmetics Program database to accommodate the information required by this bill (General Fund).

VOTES:**SENATE FLOOR: 38-0-0**

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dodd, Durazo, Galgiani, Glazer, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Jones, Leyva, McGuire, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Stone, Umberg, Wieckowski, Wiener, Wilk

ASM RULES: 9-0-3

YES: Cunningham, Carrillo, Flora, Grayson, Kamlager, Quirk-Silva, Ramos, Robert Rivas, Wicks

ABS, ABST OR NV: Cooley, Maienschein, Mathis

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

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

ABS, ABST OR NV: Flora, Obernolte

ASM APPROPRIATIONS: 15-0-2

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

ABS, ABST OR NV: Bigelow, Fong

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