Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 357
Author: Maienschein (D)
Amended: 9/1/23 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/27/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-1, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones
NO VOTE RECORDED: Seyarto

ASSEMBLY FLOOR: 68-2, 5/31/23 - See last page for vote

SUBJECT: Animal test methods: alternatives

SOURCE: Humane Society of the United States

DIGEST: This bill makes changes to the existing statute that prohibits testing of consumer products on animals to address obsolete provisions. The bill also requires a manufacturer or contract testing facility in this state using traditional animal test methods, except as specified, to report specified information to the State Department of Public Health (DPH), and requires DPH to post that information on its website, as provided.

ANALYSIS:

Existing law:

1) Requires a depositary of living animals to provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and to treat them kindly, and

provides that a failure to do so may result in civil penalties, as specified. (Civ. Code § 1834.)

2) Prohibits manufacturers and contract testing facilities from utilizing animal tests when an appropriate alternative test method has been scientifically validated and recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods, and the alternative test has been approved by the relevant federal agency or agencies or program within an agency responsible for regulating the specific product or activity for which the test is being conducted. (Civ. Code § 1834.9 (a).)

3) Specifies that nothing in 2), above, prohibits the use of any alternative nonanimal test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods. (Civ. Code § 1834.9(b).)

4) Provides that nothing in 2), above, prohibits the use of animal tests to comply with requirements of federal agencies when the federal agency has approved an alternative nonanimal test, and federal agency staff concludes that the alternative nonanimal test does not assure the health or safety of consumers, or when an animal test is required by a state agency. (Civ. Code § 1834.9(c).)

5) Provides that this prohibition does not apply to medical research, as defined. (Civ. Code § 1834.9(e).)

6) Provides that a violation of this prohibition is exclusively enforced by a civil action for injunctive relief brought by the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or a city and county having a population in excess of 750,000 and in which the violation is alleged to have occurred. (Civ. Code § 1834.9(d).)

7) Prohibits a testing facility from conducting a canine or feline toxicological experiment in this state to achieve discovery, approval, maintenance of approval, notification, registration, or maintenance of a pesticide or chemical substance, except as specified. (Civ. Code § 1834.9.3(b).)

8) Prohibits a manufacturer from importing for profit, selling, or offering for sale in this state, any cosmetic, if the cosmetic was developed or manufactured using

an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer, as specified. (Civ. Code § 1834.9.5.)

9) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)

This bill:

1) Prohibits manufacturers and contract facilities from using traditional animal test methods within this state for which an appropriate alternative test method or strategy exists, or a waiver has been granted by the agency responsible for regulating the specific product or activity for which the test is being conducted.

2) Specifies that, when there is no appropriate alternative test method or strategy available, manufacturers and contract testing facilities must use a traditional animal test method using the fewest number of animals possible and reduce the level of pain, suffering, and stress of an animal used for testing.

3) Specifies that these provisions do not prohibit the use of traditional animal test methods to comply with requirements of state or federal agencies.

4) Requires, on and after January 1, 2027, a manufacturer or contract testing facility in this state using traditional animal test methods, except for those performed for the purpose of medical research, to report to DPH the number and species of animals used, the type and number of alternative test methods or strategies used, the number of waivers used, and the purpose of the use of the traditional animal tests, alternative test methods or strategies, and waivers.

    a) Requires the department to develop and maintain a portal on its website to receive the above information and make the information collected publicly available on its internet website. The department must ensure that information made available to the public does not include personally identifiable information or proprietary information.

5) Defines “alternative test method or strategy” to mean a test method, including a new or revised method, that fulfills all of the following criteria:

    a) does not use animals;
    b) provides information of equivalent or better scientific quality and relevance compared to traditional animal test methods, and includes, but is not limited

to, computational toxicology and bioinformatics, high-throughput screening methods, testing of categories of chemical substances, tiered testing methods, in vitro studies, and systems biology; and

c) has been identified and accepted for use by a federal agency or program within an agency responsible for regulating the specific product or activity for which the test is being conducted.

6) Deletes language making the exclusive remedy for the section a civil action by the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or a city and county having a population in excess of 750,000 and in which the violation is alleged to have occurred and instead specifies that the section is to be enforced in a civil action brought by those entities.

7) Defines "department" to mean the State Department of Public Health.

8) Makes various conforming changes.

Comments

California has a long history of passing legislation to address the issue of testing on animals unnecessarily. As noted above, California became the first state in the nation to enact a widespread prohibition on unnecessary testing of consumer products on animals when the Legislature enacted SB 2082 in 2000. In 2014, the California Legislature passed the Cruelty Free Cosmetics Resolution, SJR 22 (Block, Res. Ch. 73, Stats. 2014), urging Congress to prohibit animal testing for cosmetics and to phase out marketing animal-tested cosmetics.

As detailed in SJR 22, animals have been used in tests to assess the safety of chemicals used in cosmetic products for over 50 years. However, modern alternatives to animal testing exist. In fact, in 2013 the European Union prohibited the importation and sale of cosmetics that have been tested on animals. India, Israel, Norway, Iceland, Switzerland and Mexico followed suit enacting similar laws. California continued building on this legacy in 2018 by prohibiting the use of animal testing in the development of cosmetic products starting in 2020 (SB 1249 (Galgiani, Ch. 899, Stats. 2018.)), and last year prohibited unnecessary toxicological testing on dogs and cats. (SB 879 (Wiener, Ch. 551, Stats. 2022.))

This bill is intended to update the statute that prohibits testing of consumer products on animals to address obsolete provisions and address new technologies.

Proponents of this bill point to various studies showing the lack of evidence that animal testing is warranted and effective.

This bill modernizes the existing statute in several ways. First, it removes reference to approval of alternatives by the Interagency Coordinating Committee on the Validation of Alternative Methods and instead provides that if an appropriate alternative test method or strategy exists then manufacturers and contracting testing facilities are prohibited from using traditional animal test methods in the state. This is defined as a method that does not use animals, provides information of equivalent or better scientific quality and relevance compared to traditional animal test methods, and has been identified and accepted for use by a federal agency or program within an agency responsible for regulating the specific product or activity for which the test is being conducted. The bill specifically does not prohibit the use of traditional animal test methods to comply with requirements of state or federal agencies. Recent amendments to the bill maintain the existing exemption for tests performed for the purpose of medical research. The bill also deletes language that specifies that the exclusive remedy under this statute is an action brought by the Attorney General and instead states that the section is to be enforced in a civil action brought by the Attorney General.

This bill also implements a new reporting requirement beginning January 1, 2027 where a manufacturer of a consumer product or contract testing facility in this state that uses traditional animal test methods must report to the DPH the number and species of animals used, the type and number of alternative tests, methods or strategies used, the number of waivers issued, and the purpose served by the traditional animal tests, alternative test methods or strategies, and waivers beginning January 1, 2025. The bill requires the Department to develop and maintain a portal on its website to receive that information and make it publicly available on the website.

In recognition of the fact that information required to be reported to DPH could be proprietary or include information that may be personally identifiable, the bill provides that DPH must ensure that the information it posts publically on its website does not include personally identifiable information or proprietary information. California generally recognizes that public access to information concerning the conduct of the people’s business is a fundamental and necessary right. At the same time, the state recognizes that this right must be balanced against the right to privacy. The general right of access to public records may, therefore, be limited where records include personal information. In light of the nature of

information that may be submitted to the DPH, the potential limiting of access to public records in this bill seems warranted.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committeet:

- CDPH reports costs of approximately $1.2 million from FY 2023-24 through FY 2027-28, with ongoing costs of $95,000 annually thereafter (General Fund). These costs would cover the Planning: Project Approval Lifecycle process, though the California Department of Technology, which allows for the proper vetting of IT projects; the one-time costs of designing, developing, and implementing the online portal; and annual, ongoing costs for maintenance and operations support.

- The University of California (UC) reports annual, ongoing costs ranging between $1.5 and $3 million in for salary and benefits for 1.0 – 2.0 PY at each of the UC's 10 campuses, and one-time IT costs of $500,000 (General Fund). Actual costs will depend on amount of animal research being done at a particular institution and whether the research qualifies under the medical research exception to AB 357. Research projects are likely to fluctuate year to year and depending on how much animal research is conducted at a particular campus it may not be necessary to have one or more dedicated full time equivalent positions at each campus for research review.

SUPPORT: (Verified 9/1/23)

Humane Society of the United States (source)
American Society for the Prevention of Cruelty to Animals
Animal Legal Defense Fund
Cruelty Free International
GATC Health Corp.
Humane Society Veterinary Medical Association
Marin Humane
National Anti-Vivisection Society
Physicians Committee for Responsible Medicine
Rise for Animals
San Diego Humane Society
Social Compassion in Legislation

OPPOSITION: (Verified 9/1/23)

None received

ARGUMENTS IN SUPPORT: The author writes:

> California is a scientific and technological leader in non-animal alternatives. Science is rapidly moving away from outdated animal tests as many faster, less expensive, and more human-relevant alternative methods become available. This legislation would ensure that companies in California are taking advantage of these new testing strategies as soon as they are available and appropriate for use.
>
> AB 357 would require companies and their contract testing facilities to use test methods that replace animal testing when they are available and provide information of equivalent or better scientific quality and relevance for the intended purpose. The bill would also require a manufacturer or contract testing facility using traditional animal testing methods to report annually to the Attorney General information regarding their use of animal testing.

A coalition of organizations, including the sponsor of the bill The Humane Society of the United States, writes in support stating:

> Animal testing is costly, time-consuming, and often poorly predictive of toxicity in humans. Nonanimal alternatives can provide more efficient as well as more effective chemical safety assessments. Human cell-based tests and advanced computer models, for example, deliver human-relevant results in hours or days, unlike some animal tests that can take months or years.
>
> By minimizing animal testing and focusing on the use of faster, cost effective, and more reliable testing methods, companies can save lives, time, and money. This legislation would ensure companies take advantage of those new testing strategies as soon as they are approved for use.

ASSEMBLY FLOOR: 68-2, 5/31/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Garcia, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-

Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon
NOES: Chen, Mathis
NO VOTE RECORDED: Megan Dahle, Davies, Vince Fong, Gallagher, Gipson, Hoover, Lackey, Jim Patterson, Ta, Wilson

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
9/2/23 14:07:50

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