

AMENDED IN ASSEMBLY JUNE 26, 2019

AMENDED IN ASSEMBLY JUNE 17, 2019

AMENDED IN SENATE APRIL 29, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 574

Introduced by Senator Leyva

February 22, 2019

An act to add Section 111792.6 to the Health and Safety Code, relating to cosmetics.

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as amended, Leyva. Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2019.

Existing law, the California Safe Cosmetics Act of 2005, requires the manufacturer of a cosmetic product subject to regulation by the federal Food and Drug Administration that is sold in this state to provide the Division of Environmental and Occupational Disease Control within the State Department of Public Health with a complete and accurate list of its cosmetic products that, as of the date of submission, are sold in the state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity. Existing law requires the State Department of Public Health to develop and make operational a consumer-friendly, public internet website that creates a database of cosmetic product information collected pursuant to those provisions, as specified. Under existing law, a violation of the act is a crime.

This bill would, commencing ~~July 1, 2020~~, *January 1, 2021*, require a manufacturer of a cosmetic product sold in the state to disclose to the Division of Environmental and Occupational Disease Control a list of

each fragrance ingredient or flavor ingredient that is included on a designated list, as defined, and a list of each fragrance allergen that is present in the cosmetic product in specified concentrations. The bill would, commencing ~~July 1, 2020~~, *January 1, 2021*, require the division to post on its existing database of cosmetic product information a list of those fragrance ingredients and flavor ingredients in the cosmetic product and its associated health hazards. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would provide that the provisions of the act are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Cosmetic Fragrance and Flavor Ingredient Right to Know Act of
3 2019.

4 SEC. 2. (a) The Legislature finds and declares all of the
5 following:

6 (1) The fragrance or flavoring in a common beauty or personal
7 care product can be composed of tens to hundreds of individual
8 chemicals, but federal law only requires these ingredients be listed
9 on the product label by the generic term “fragrance” or “flavor.”

10 (2) There are almost 4,000 fragrance ingredients declared by
11 the International Fragrance Association and over 3,000 flavor
12 ingredients designated by the International Organization of the
13 Flavor Industry. These lists include ingredients that may be
14 classified as carcinogens, reproductive toxicants, asthmagens,
15 neurotoxicants, allergens, and other chemicals of concern.

16 (3) An analysis by Women’s Voices for the Earth of the
17 International Fragrance Association’s transparency list of fragrance
18 ingredients shows that one-third of those chemicals have been
19 flagged as potentially hazardous by scientists around the world.

20 (4) Studies in the United States indicate that fragrance is
21 included in the vast majority of many types of personal care

1 products. Ninety-six percent of shampoos, 98 percent of
2 conditioners, and 97 percent of hair styling products contain
3 fragrance. Ninety-one percent of antiperspirants, 95 percent of
4 shaving products, 83 percent of moisturizers, and 63 percent of
5 sunscreens contain fragrance. Ninety-one percent of lip
6 moisturizers, 71 percent of lipsticks, 50 percent of foundations,
7 and one-third of all blushes and eyeliners contain fragrance
8 chemicals.

9 (5) Fragrance allergy affects 2 to 11 percent of the general
10 population.

11 (6) In a national survey, over 34 percent of respondents in the
12 United States reported health problems, such as migraine headaches
13 and respiratory difficulties, in response to exposure to fragranced
14 products.

15 (7) Exposure to fragranced products can trigger an episode or
16 exacerbate chronic obstructive pulmonary disease (COPD)
17 symptoms.

18 (8) The California Work-Related Asthma Prevention Program
19 has documented that use of fragranced products in the workplace
20 is associated with work-related asthma.

21 (9) The predominantly female nail and hair salon workforce
22 regularly and frequently handles a multitude of products containing
23 fragrance chemicals. Extended exposure on a daily basis to these
24 ingredients makes it even more imperative that salon workers be
25 provided with information on potential hazards.

26 (10) The American Academy of Dermatology issued a position
27 statement that reads as follows: “The American Academy of
28 Dermatology (AAD) supports identification of the common
29 allergens of fragrances in all formulations of cosmetics,
30 prescription and non-prescription drugs. The Academy believes
31 that consumers should be provided with all of the product
32 information that they need to make the best choices to protect their
33 health.”

34 (b) It is the intent of the Legislature to provide consumers and
35 salon workers with ingredient information about cosmetic products
36 that encourages informed purchasing decisions and reduces public
37 health impacts from exposure to potentially harmful chemicals by
38 requiring product manufacturers to provide a specific list of
39 chemicals used in their fragrance and flavor formulations.

1 SEC. 3. Section 111792.6 is added to the Health and Safety
2 Code, to read:

3 111792.6. (a) For purposes of this section, the following
4 definitions apply:

5 (1) “Cosmetic product” means an article for retail sale or
6 professional use intended to be rubbed, poured, sprinkled, or
7 sprayed on, introduced into, or otherwise applied to the human
8 body for cleansing, beautifying, promoting attractiveness, or
9 altering the appearance.

10 (2) “Designated list” means any of the following, including
11 subsequent revisions when adopted by the authoritative body:

12 (A) Chemicals known to the State of California to cause cancer
13 or reproductive toxicity that are listed pursuant to the Safe Drinking
14 Water and Toxic Enforcement Act of 1986 (Chapter 6.6
15 (commencing with Section 25249.5 of Division 20)).

16 (B) Chemicals classified by the European Union as carcinogens,
17 mutagens, or reproductive toxicants pursuant to Category 1A or
18 1B in Annex VI to Regulation (EC) 1272/2008.

19 (C) Chemicals included in the European Union Candidate List
20 of Substances of Very High Concern in accordance with Article
21 59 of Regulation (EC) 1907/2006 on the basis of Article 57(f) for
22 endocrine disrupting properties.

23 (D) Chemicals for which a reference dose or reference
24 concentration has been developed based on neurotoxicity in the
25 federal Environmental Protection Agency’s Integrated Risk
26 Information System.

27 (E) Chemicals that are identified as carcinogenic to humans,
28 likely to be carcinogenic to humans, or as Group A, B1, or B2
29 carcinogens in the federal Environmental Protection Agency’s
30 Integrated Risk Information System.

31 (F) Chemicals included in the European Chemicals Agency
32 Candidate List of Substances of Very High Concern in accordance
33 with Article 59 of Regulation (EC) 1907/2006 on the basis of
34 Article 57(d), Article 57(e), or Article 57(f) of Regulation (EC)
35 1907/2006 for persistent, bioaccumulative and toxic, or very
36 persistent and very bioaccumulative, properties.

37 (G) Chemicals that are identified as persistent, bioaccumulative,
38 and inherently toxic to the environment by the Canadian
39 Environmental Protection Act Environmental Registry Domestic
40 Substances List.

1 (H) Chemicals classified by the European Union in Annex VI
2 to Regulation (EC) 1272/2008 as respiratory sensitizer category
3 1.

4 (I) Group 1, 2A, or 2B carcinogens identified by the
5 International Agency for Research on Cancer.

6 (J) Neurotoxicants that are identified in the federal Agency for
7 Toxic Substances and Disease Registry’s Toxic Substances Portal,
8 Health Effects of Toxic Substances and Carcinogens, Nervous
9 System.

10 (K) Persistent bioaccumulative and toxic priority chemicals that
11 are identified by the federal Environmental Protection Agency
12 National Waste Minimization Program.

13 (L) Reproductive or developmental toxicants identified in
14 Monographs on the Potential Human Reproductive and
15 Developmental Effects published by the federal National
16 Toxicology Program, Office of Health Assessment and Translation.

17 (M) Chemicals identified by the federal Environmental
18 Protection Agency’s Toxics Release Inventory as Persistent,
19 Bioaccumulative and Toxic Chemicals that are subject to reporting
20 under Section 313 of the Emergency Planning and Community
21 Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001, et seq.).

22 (N) The Washington Department of Ecology’s Persistent,
23 Bioaccumulative, Toxic (PBT) Chemicals identified in Chapter
24 173-333 of Title 173 of the Washington Administrative Code.

25 (O) Chemicals that are identified as known to be, or reasonably
26 anticipated to be, human carcinogens by the 13th Report on
27 Carcinogens prepared by the federal National Toxicology Program.

28 (P) Chemicals for which notification levels, as defined in Section
29 116455, have been established by the State Department of Public
30 Health or the State Water Resources Control Board.

31 (Q) Chemicals for which primary maximum contaminant levels
32 have been established and adopted under Section 64431 or 64444
33 of Title 22 of the California Code of Regulations.

34 (R) Chemicals identified as toxic air contaminants under Section
35 93000 or 93001 of Title 17 of the California Code of Regulations.

36 (S) Chemicals that are identified as priority pollutants in the
37 California water quality control plans pursuant to subdivision (c)
38 of Section 303 of the federal Clean Water Act (33 U.S.C. Sec.
39 1341) and in Section 131.38 of Title 40 of the Code of Federal
40 Regulations, or identified as pollutants by the state or the federal

1 Environmental Protection Agency for one or more water bodies
2 in the state under subdivision (d) of Section 303 of the federal
3 Clean Water Act (33 U.S.C. Sec. 1341) and Section 130.7 of Title
4 40 of the Code of Federal Regulations.

5 (T) Chemicals that are identified with noncancer endpoints and
6 listed with an inhalation or oral reference exposure level by the
7 Office of Environmental Health Hazard Assessment pursuant to
8 paragraph (2) of subdivision (b) of Section 44360.

9 (U) Chemicals identified as priority chemicals by the California
10 Environmental Contaminant Biomonitoring Program pursuant to
11 Section 105449.

12 (V) Chemicals that are identified on Part A of the list of
13 Chemicals for Priority Action prepared by the Oslo and Paris
14 Conventions for the Protection of the Marine Environment of the
15 North-East Atlantic.

16 (3) “Flavor ingredient” means any intentionally added substance
17 or complex mixture of aroma chemicals, flavor chemicals, natural
18 essential oils, and other functional ingredient or ingredients for
19 which the purpose is to impart a flavor or taste, or to counteract a
20 flavor or taste.

21 (4) “Fragrance ingredient” means any intentionally added
22 substance or complex mixture of aroma chemicals, natural essential
23 oils, and other functional ingredient or ingredients for which the
24 purpose is to impart an odor or scent, or to counteract an odor.

25 ~~(5) “Intentionally added ingredient” means a chemical that a
26 manufacturer has intentionally added to a cosmetic product and
27 that has a functional or technical effect in the cosmetic product,
28 including the components of an intentionally added fragrance
29 ingredient or flavor ingredient.~~

30 ~~(6)~~

31 (5) “Manufacturer” means any entity whose name appears on
32 the label of a cosmetic product pursuant to the requirements of
33 Section 701.12 of Title 21 of the Code of Federal Regulations.

34 ~~(7)~~

35 (6) “Professional cosmetic” has the same meaning as provided
36 in paragraph (3) of subdivision (b) of Section 110371.

37 ~~(b) (1) Commencing July 1, 2020, January 1, 2021, a~~
38 manufacturer of a cosmetic product sold in the state shall disclose
39 all of the following information to the Division of Environmental

1 and Occupational Disease Control within the State Department of
2 Public Health:

3 (A) A list of each fragrance ingredient or flavor ingredient that
4 is included on a designated list, as defined in paragraph (2) of
5 subdivision (a), and present in the cosmetic product. This section
6 does not require a manufacturer of a cosmetic product to disclose
7 the presence of any fragrance ingredient or flavor ingredient that
8 is not included on a designated list.

9 (B) A list of each fragrance allergen included in Annex III of
10 the EU Cosmetics Regulation No. 1223/2009, as required to be
11 disclosed pursuant to the EU Detergents Regulation No. 21
12 648/2004, and subsequent updates to those regulations, that is
13 present in a rinse-off cosmetic product at a concentration at or
14 above 0.01 percent (100 parts per million) or in a leave-on cosmetic
15 product at a concentration at or above 0.001 percent (10 parts per
16 million). Those ingredients shall appear on the database in a unique
17 manner that distinguishes those ingredients from other reportable
18 ingredients and indicates that they are hazardous only to individuals
19 who suffer from fragrance allergies.

20 (C) Whether the cosmetic product is intended for professional
21 use or retail cosmetic use.

22 (D) The Chemical Abstracts Service (CAS) number for each
23 ingredient or allergen that requires disclosure pursuant to
24 subparagraph (A) or (B).

25 (E) The corresponding Universal Product Code (UPC) for the
26 cosmetic product described in subparagraph (A).

27 (2) (A) To protect trade secrets, this section does not require a
28 manufacturer to disclose the weight or amount of an ingredient
29 that requires disclosure pursuant to subparagraph (A) or (B) of
30 paragraph (1) or to disclose the manner in which a cosmetic product
31 or intentionally added fragrance ingredient or flavor ingredient is
32 formulated. A manufacturer may protect as a trade secret, and is
33 not required to disclose, any ingredient or combination of
34 ingredients that is not on a designated list or required to be
35 disclosed pursuant to subparagraph (A) or (B) of paragraph (1). A
36 fragrance ingredient or flavor ingredient that is included in a
37 designated list, or a fragrance allergen that requires disclosure
38 pursuant to subparagraph (B) of paragraph (1), does not constitute
39 a trade secret.

1 (B) Pursuant to subdivision (k) of Section 6254 of the
2 Government Code, a fragrance ingredient or flavor ingredient that
3 constitutes a trade secret is not subject to disclosure under the
4 California Public Records Act (Chapter 3.5 (commencing with
5 Section 6250) of Division 7 of Title 1 of the Government Code).

6 (3) (A) A manufacturer that is required to disclose a fragrance
7 ingredient or flavor ingredient pursuant to paragraph (1) due to a
8 change in a designated list shall disclose the ingredient no later
9 than six months after the revised list is adopted by the authoritative
10 body, or six months after the revised list becomes effective,
11 whichever is later.

12 (B) The State Department of Public Health shall create a
13 voluntary electronic mailing list for the department to provide
14 updates on the inclusion of ~~fragrance ingredients~~ or deletion of
15 *fragrance allergens, fragrance ingredients*, and flavor ingredients
16 on the designated lists.

17 (c) (1) Commencing ~~July 1, 2020~~, *January 1, 2021*, the Division
18 of Environmental and Occupational Disease Control shall post on
19 the database created pursuant to Section 111792, in an easily
20 readable format, all of the following information related to a
21 cosmetic product described in, and disclosed pursuant to,
22 subparagraph (A) of paragraph (1) of subdivision (b):

23 (A) A list of all fragrance ingredients and flavor ingredients that
24 are included on a designated list and all fragrance allergens required
25 to be disclosed pursuant to subparagraph (B) of paragraph (1) of
26 subdivision (b).

27 (B) The health hazards associated with each fragrance ingredient
28 or flavor ingredient.

29 (2) The division shall identify whether an ingredient is a
30 fragrance ingredient or a flavor ingredient.

31 SEC. 4. The provisions of this act are severable. If any
32 provision of this act or its application is held invalid, that invalidity
33 shall not affect other provisions or applications that can be given
34 effect without the invalid provision or application.

35 SEC. 5. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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