

# House Bill 4129

Sponsored by Representative HUDSON, Senator GORSEK, Representatives GOMBERG, CAMPOS, NOSSE; Representatives DEXTER, GRAYBER, HELM, NATHANSON, NERON, PHAM, PRUSAK, RUIZ, SANCHEZ, SCHOUTEN, WILDE, Senators DEMBROW, PATTERSON, THATCHER, WAGNER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits manufacturer or supplier from manufacturing, selling, offering to sell or distributing cosmetic or ingredient developed through use of animal test. Provides certain exemptions.

Provides temporary exemption for cosmetic developed through use of animal test, or containing ingredient used in animal test, before effective date of Act.

Allows donation of noncomplying cosmetic to homeless shelter, hospital, animal shelter, corrections facility or emergency shelter. Allows receiving entity to distribute cosmetic to individual receiving services from entity.

Establishes private right of action for violation of prohibition. Establishes conditions under which aggrieved person may bring action.

## A BILL FOR AN ACT

1  
2 Relating to testing cosmetics on animals.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 6 of this 2022 Act:**

5 (1) **“Animal” means a live, nonhuman vertebrate.**

6 (2) **“Animal test” means the internal or external application of a cosmetic or an ingre-**  
7 **dient of a cosmetic to a body part of an animal.**

8 (3) **“Cosmetic” means an item, or any component of the item, that is intended to be ap-**  
9 **plied to or introduced into a human body or any part of a human body for cleansing,**  
10 **beautifying, promoting attractiveness or altering appearance.**

11 (4) **“Ingredient” means any single chemical entity or mixture used as a component in the**  
12 **manufacture of a cosmetic.**

13 (5) **“Manufacturer” means a person whose name appears on the label of a cosmetic pur-**  
14 **suant to the requirements of 21 C.F.R. 701.12.**

15 (6) **“Supplier” means a person that supplies, directly or through a third party, any in-**  
16 **gredient used by a manufacturer in the formulation of a cosmetic.**

17 **SECTION 2. (1) In this state:**

18 (a) **A manufacturer may not manufacture, sell, offer to sell or distribute a cosmetic that**  
19 **has been developed through use of an animal test that was conducted or contracted for by**  
20 **the manufacturer or any supplier of the manufacturer.**

21 (b) **A supplier may not manufacture, sell, offer to sell or distribute an ingredient that**  
22 **has been developed through use of an animal test.**

23 (2) **This section does not apply to a cosmetic or ingredient that has been developed**  
24 **through use of an animal test if the animal test was conducted:**

25 (a) **Pursuant to a requirement of a federal or state agency and all of the following apply:**

26 (A) **A specific human health problem in relation to the cosmetic or ingredient is sub-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **stantiated;**

2 **(B) The need to conduct an animal test is:**

3 **(i) Justified; and**

4 **(ii) Supported by a detailed research protocol, proposed as the basis for evaluation of the**  
5 **cosmetic or ingredient, that will be supervised by an institutional animal care and use com-**  
6 **mittee, if supervision by an institutional animal care and use committee is required;**

7 **(C) The federal or state agency does not accept an alternative method of testing that**  
8 **does not involve animals; and**

9 **(D) The ingredient is in wide use and cannot be replaced by another ingredient capable**  
10 **of performing a similar function.**

11 **(b) Outside of the United States, pursuant to a legal requirement of a foreign regulatory**  
12 **authority, if the foreign regulatory authority does not accept an alternative method of test-**  
13 **ing that does not involve animals.**

14 **(c) Pursuant to a requirement established by 21 U.S.C. 351 to 360fff-8.**

15 **(d) For medical or pharmacological purposes to comply with a requirement of a federal**  
16 **or state agency or a foreign regulatory authority, and no evidence from the animal test is**  
17 **used to comply with a federal or Oregon requirement concerning the safety or efficacy of the**  
18 **cosmetic or ingredient.**

19 **(3) This section does not prohibit a manufacturer or supplier from retaining, reviewing**  
20 **or assessing evidence from an animal test described in subsection (2) of this section if:**

21 **(a) The animal test was required because the federal or state agency or foreign regula-**  
22 **tory authority does not accept an alternative method of testing that does not involve ani-**  
23 **mals;**

24 **(b) The medical or pharmacological purpose of the animal test has been documented;**

25 **(c) The ingredient that was the subject of the animal test has been used for a purpose**  
26 **other than development of a cosmetic for at least one year before the manufacturer or sup-**  
27 **plier retains, reviews or assesses the evidence; and**

28 **(d) The manufacturer or supplier does not use the evidence to develop a cosmetic or in-**  
29 **redient.**

30 **SECTION 3. Section 2 of this 2022 Act does not apply to a cosmetic that:**

31 **(1) Has not been developed through use of an animal test in violation of section 2 of this**  
32 **2022 Act but was developed through use of an animal test before the effective date of this**  
33 **2022 Act, even if the cosmetic was manufactured after the effective date of this 2022 Act.**

34 **(2) Does not contain an ingredient that has been used in an animal test in violation of**  
35 **section 2 of this 2022 Act but contains an ingredient that was used in an animal test before**  
36 **the effective date of this 2022 Act, even if the ingredient was manufactured after the effec-**  
37 **tive date of this 2022 Act.**

38 **SECTION 4. Section 3 of this 2022 Act is repealed on January 2, 2032.**

39 **SECTION 5. Notwithstanding section 2 of this 2022 Act:**

40 **(1) A cosmetic that does not meet the requirements of section 2 of this 2022 Act may be**  
41 **donated to a homeless shelter, hospital, animal shelter, corrections facility or emergency**  
42 **shelter.**

43 **(2) An entity described in subsection (1) of this section that receives a cosmetic donated**  
44 **pursuant to subsection (1) of this section may distribute the cosmetic to an individual who**  
45 **is receiving services from the entity.**

1        **SECTION 6. (1) A person that has purchased or consumed a cosmetic that has been**  
2 **manufactured in violation of section 2 of this 2022 Act or that is otherwise harmed due to**  
3 **an unlawful act or omission that violates section 2 of this 2022 Act may bring an individual**  
4 **action in an appropriate court to recover actual damages or statutory damages of \$10,000,**  
5 **whichever is greater. The court or the jury may award punitive damages and the court may**  
6 **provide equitable relief that the court considers necessary and proper.**

7        **(2) A person must bring an action under this section within two years after discovering**  
8 **the unlawful act or omission.**

9        **(3) A person may maintain an action under this section as a class action. In a class**  
10 **action under this section:**

11        **(a) Plaintiffs in the action may recover statutory damages on behalf of class members**  
12 **only if the plaintiffs establish that the class members have suffered an ascertainable loss of**  
13 **money or property, real or personal, as a result of an act or omission of the defendants that**  
14 **violated section 2 of this 2022 Act;**

15        **(b) The trier of fact may award punitive damages; and**

16        **(c) The court may award equitable relief.**

17        **(4) The court may award reasonable attorney fees and costs at trial and on appeal to a**  
18 **prevailing plaintiff in an action under this section. The court may award reasonable attorney**  
19 **fees and costs at trial and on appeal to a prevailing defendant only if the court finds that**  
20 **an objectively reasonable basis for bringing the action or asserting the ground for appeal did**  
21 **not exist. The court may not award attorney fees to a prevailing defendant under the pro-**  
22 **visions of this subsection if the plaintiff maintains the action under this section as a class**  
23 **action in accordance with ORCP 32.**

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