

SB 546 -6 STAFF MEASURE SUMMARY

Senate Committee On Energy and Environment

Prepared By: Beth Reiley, LPRO Analyst

Meeting Dates: 2/28, 3/23

WHAT THE MEASURE DOES:

Requires Oregon Health Authority (OHA) to adopt and maintain list of designated high priority chemicals of concern (List) used in cosmetic products. Requires OHA to consider guidance developed by State of Washington and other federal, state, and nongovernmental organizations in adopting practical quantification limits for chemicals or classes of chemicals on the List. Requires OHA to post the List on its website along with information regarding known health impacts associated with exposure to chemicals included on the List. Requires OHA to review and revise the List every three years and consider adding or removing chemicals that have been added or removed on list maintained by another state or federal agency. Requires manufacturer of cosmetic product that contains chemical included on the List to include a notice, with certain information, for Oregon consumers on manufacturers website. Prohibits manufacture, sale and distribution of cosmetic products containing certain chemicals and classes of chemicals in state, beginning on January 1, 2025. Authorizes OHA to impose civil penalty on manufacturers for violation of Act. Provides process for OHA to use if it has reason to believe cosmetic product contains either high priority chemical from the List or chemical that has been prohibited.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-6 Modifies definition of cosmetic product to not include any drug approved by the United States Food and Drug Administration (U.S. FDA), rather than just prescription drugs. Clarifies that definition of manufacturer does not mean a retailer that sells cosmetic products to consumers produced by a third party; or grocery wholesaler or retailer that contracts with a third party to produce cosmetic products on behalf of and under their brand. Expands direction to Oregon Health Authority to consider guidance from international organizations with applicable expertise. Clarifies prohibition of certain chemicals or chemical classes included in Act applies to manufacturer. Removes prohibition for sale or distribution of p-Phenylenediamine and its salts. Clarifies that prohibition of certain chemicals or chemical classes included in Act applies to cosmetic products even if contain drug ingredients regulated by the U.S. FDA. Extends effective date of prohibition to manufacture, sale and distribution of cosmetic products containing certain chemicals and classes of chemicals in state, requirement for manufacturer with de minimis level to provide notice, and civil penalty provisions to January 1, 2027, rather than 2025.

BACKGROUND:

The Federal, Food, Drug and Cosmetic Act (FDCA) does not require cosmetic products and ingredients to be approved by U.S. Food and Drug Administration (FDA) before they are sold on the market, with limited exception. FDCA prohibits the distribution of cosmetics which are adulterated or misbranded. Cosmetics must also comply with labeling regulations published by the FDA under the authority of FDCA and Fair Packaging and Labeling Act. Recently California and New York enacted legislation to limit or prohibit certain chemicals in cosmetics and personal care products. In 2019, Washington State enacted Senate Bill 5135 which established the "Safer Products for Washington" program which authorized the Department of Ecology to designate priority chemicals; identify consumer products that contain the identified chemicals; and decide whether to regulate those chemical-product combinations by requiring reporting or chemical restrictions.

SB 546 -6 STAFF MEASURE SUMMARY

Senate Bill 546 would require the Oregon Health Authority to adopt and maintain a list of designated high priority chemicals of concern used in cosmetic products and to periodically review and revise list. The Act would require manufacturers of cosmetic products sold in state to include on the manufacturer's website notice of certain chemicals used in products and prohibit the sale and distribution of cosmetic products containing certain chemicals beginning on January 1, 2025.