

SB 546 A STAFF MEASURE SUMMARY
Senate Committee On Energy and Environment

Carrier: Sen. Sollman

Action Date: 03/28/23
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 5-0-0-0
Yeas: 5 - Findley, Golden, Hayden, Lieber, Sollman
Fiscal: Fiscal impact issued
Revenue: No revenue impact
Prepared By: Beth Reiley, LPRO Analyst
Meeting Dates: 2/28, 3/28

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, international, 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 manufacturer's website. Prohibits manufacture, sale, and distribution of cosmetic products containing certain chemicals and classes of chemicals in state. 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 a chemical that has been prohibited. Establishes that substantive portions of Act become operative January 1, 2027.

ISSUES DISCUSSED:

- Examples of product ingredients
- Other state and federal policies
- Disproportionate impact on low-income women and women of color

EFFECT OF AMENDMENT:

Modifies definition of cosmetic product and manufacturer. Expands direction to Oregon Health Authority (OHA) 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 they contain drug ingredients regulated by the U.S. Federal Drug Administration. Extends operative date of Act to January 1, 2027, rather than 2025.

BACKGROUND:

In 1938, the Federal Food, Drug, and Cosmetic Act (FDCA) was enacted to oversee and regulate the production, sale, and distribution of food, drugs, medical devices, and cosmetics. The FDCA does not require cosmetic products and ingredients to be approved by the U.S. Food and Drug Administration (FDA) before they are sold on the market, with some exceptions. In December 2022, the Consolidated Appropriations Act, 2023, which included the Modernization of Cosmetics Regulation Act of 2022 (MoCRA) was signed into law. MoCRA changes the current regulatory framework for cosmetics. Among other changes, under MoCRA, cosmetic companies will be subject to facility registration and product listing requirements.

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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.

Senate Bill 546 A 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 the List. The Act would require manufacturers of cosmetic products sold in Oregon to include on the manufacturer's website a notice of certain chemicals used in products and prohibit the sale and distribution of cosmetic products containing certain chemicals beginning on January 1, 2027.