

**A-Engrossed**  
**House Bill 3213**

Ordered by the House April 11  
Including House Amendments dated April 11

Sponsored by Representative NERON, Senators THATCHER, GORSEK; Representatives CHAICHI, GOMBERG, GRAYBER, HUDSON, NOSSE, Senators CAMPOS, PATTERSON

**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.

Prohibits manufacturer from selling or offering to sell cosmetic developed through use of cosmetic animal test. Provides certain exemptions.

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

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

Authorizes Attorney General to bring civil action to impose civil penalties or obtain injunction for violations of Act.

**A BILL FOR AN ACT**

1  
2 Relating to testing cosmetics on animals; creating new provisions; and amending ORS 180.095.

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

4 **SECTION 1. As used in sections 1 to 6 of this 2023 Act:**

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

6 (2)(a) **“Cosmetic” means a product intended to be rubbed, poured, sprinkled, sprayed on,**  
7 **introduced into or otherwise applied to the human body, or any part thereof, for cleansing,**  
8 **beautifying, promoting attractiveness or altering an individual's appearance.**

9 (b) **“Cosmetic” does not include soap.**

10 (3) **“Cosmetic animal test” means the internal or external application or exposure of any**  
11 **cosmetic, cosmetic ingredient or nonfunctional constituent to the skin, eyes, or any other**  
12 **body part, organ or extremity, of an animal.**

13 (4) **“Cosmetic ingredient” means an ingredient, as that term is defined in 21 C.F.R.**  
14 **700.3(e).**

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

17 (6) **“Nonfunctional constituent” means an incidental ingredient described in 21 C.F.R.**  
18 **701.3(l).**

19 (7) **“Supplier” means a person that supplies, directly or through a third party, any cos-**  
20 **metic ingredient used by a manufacturer in the formulation of a cosmetic.**

21 **SECTION 2. (1) A manufacturer may not sell or offer to sell in this state a cosmetic that**  
22 **was, on or after January 1, 2024, developed or manufactured using cosmetic animal tests**  
23 **conducted or contracted for by the manufacturer or any supplier of the manufacturer.**

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

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

4       **(A) A specific human health problem in relation to the cosmetic ingredient or nonfunc-**  
5 **tional constituent is substantiated;**

6       **(B) The need to conduct a cosmetic animal test is:**

7       **(i) Justified; and**

8       **(ii) Supported by a detailed research protocol, proposed as the basis for evaluation of the**  
9 **cosmetic ingredient or nonfunctional constituent;**

10       **(C) There is no nonanimal alternative method or strategy recognized by any federal or**  
11 **state agency or the Organization for Economic Cooperation and Development for the rele-**  
12 **vant safety endpoints for the cosmetic ingredient or nonfunctional constituent; and**

13       **(D) The cosmetic ingredient or nonfunctional constituent is in wide use and, in the case**  
14 **of a cosmetic ingredient, cannot be replaced by another ingredient capable of performing a**  
15 **similar function.**

16       **(b) Outside of the United States, pursuant to a legal requirement of a foreign regulatory**  
17 **authority, provided that evidence derived from the testing was not relied upon to substanti-**  
18 **ate the safety of the cosmetic or cosmetic ingredient.**

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

20       **(d) For a cosmetic ingredient or nonfunctional constituent intended to be used in a**  
21 **product that is not a cosmetic and conducted pursuant to a requirement of a federal, state**  
22 **or foreign regulatory authority, provided that evidence from the cosmetic animal test is not**  
23 **relied upon to substantiate the safety or efficacy of the cosmetic or cosmetic ingredient un-**  
24 **less all of the following apply:**

25       **(A) There is documented evidence of the noncosmetic intent of the test; and**

26       **(B) There is a history of use of the ingredient outside of cosmetics at least one year prior**  
27 **to any reliance on the cosmetic animal test to substantiate the safety or efficacy of the**  
28 **cosmetic or cosmetic ingredient.**

29       **(3) Nothing in this section prohibits a manufacturer or supplier from retaining, reviewing**  
30 **or assessing evidence from a cosmetic animal test.**

31       **(4) A city or county may not adopt or enforce any ordinance, rule or regulation estab-**  
32 **lishing a prohibition on the sale of cosmetics that have been developed or manufactured us-**  
33 **ing cosmetic animal tests unless the prohibition is identical to the provisions of this section.**

34       **SECTION 3. Section 2 of this 2023 Act does not apply to a cosmetic that:**

35       **(1) Has not been developed through use of a cosmetic animal test in violation of section**  
36 **2 of this 2023 Act but was developed through use of a cosmetic animal test before the effec-**  
37 **tive date of this 2023 Act, even if the cosmetic was manufactured after the effective date of**  
38 **this 2023 Act.**

39       **(2) Does not contain an ingredient that has been used in a cosmetic animal test in vio-**  
40 **lation of section 2 of this 2023 Act but contains an ingredient that was used in a cosmetic**  
41 **animal test before the effective date of this 2023 Act, even if the ingredient was manufac-**  
42 **tured after the effective date of this 2023 Act.**

43       **SECTION 4. Notwithstanding section 2 of this 2023 Act:**

44       **(1) A cosmetic that does not meet the requirements of section 2 of this 2023 Act may be**  
45 **donated to a food bank, homeless shelter, hospital, animal shelter, corrections facility or**

1 emergency shelter.

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

5 **SECTION 5.** (1) If it appears to the Attorney General that a manufacturer has pos-  
6 session, custody or control of any information, document or other material that is relevant  
7 to an investigation of a violation of section 2 of this 2023 Act, or that could lead to the dis-  
8 covery of relevant information in an investigation of a violation of section 2 of this 2023 Act,  
9 the Attorney General may execute an investigative demand and may cause an investigative  
10 demand to be served upon the manufacturer. The investigative demand may require the  
11 person:

12 (a) To appear and testify under oath at the time and place stated in the investigative  
13 demand;

14 (b) To answer written interrogatories; or

15 (c) To produce relevant documentary material or physical evidence for examination at  
16 the time and place stated in the investigative demand.

17 (2) An investigative demand under this section shall be served in the manner provided  
18 by ORS 646.622 and may be enforced in the manner provided by ORS 646.626.

19 (3) At any time before the return date specified in an investigative demand, or within 20  
20 days after the demand has been served, whichever period is shorter, a petition to extend the  
21 return date, or to modify or set aside the demand, stating good cause including privileged  
22 material, may be filed in the appropriate court.

23 (4) Information submitted to the Attorney General under this section that is a trade se-  
24 cret, as defined in ORS 192.345, is confidential and is not subject to public disclosure under  
25 ORS 192.311 to 192.478.

26 **SECTION 6.** (1) The Attorney General may bring a civil action in the name of the state  
27 in any court of appropriate jurisdiction to:

28 (a) Impose a civil penalty under section 7 of this 2023 Act for violations of section 2 of  
29 this 2023 Act; or

30 (b) Obtain an injunction to restrain violations of section 2 of this 2023 Act.

31 (2) Civil penalties recovered under this section shall be deposited in the Department of  
32 Justice Protection and Education Revolving Account created under ORS 180.095.

33 **SECTION 7.** In addition to any other penalty provided by law, a manufacturer that sells  
34 or offers for sale a cosmetic in violation of section 2 of this 2023 Act incurs a civil penalty  
35 of not more than \$5,000 for the first day of the violation and not more than \$1,000 for each  
36 day that the violation continues.

37 **SECTION 8.** ORS 180.095 is amended to read:

38 180.095. (1) The Department of Justice Protection and Education Revolving Account is created  
39 in the General Fund. All moneys in the account are continuously appropriated to the Department  
40 of Justice and may be used to pay for only the following activities:

41 (a) Restitution and refunds in proceedings described in paragraph (c) of this subsection;

42 (b) Consumer and business education relating to the laws governing antitrust and unlawful trade  
43 practices; and

44 (c) Personal services, travel, meals, lodging and all other costs and expenses incurred by the  
45 department in investigating, preparing, commencing and prosecuting the following actions and suits,

1 and enforcing judgments, settlements, compromises and assurances of voluntary compliance arising  
2 out of the following actions and suits:

3 (A) Actions and suits under the state and federal antitrust laws;

4 (B) Actions and suits under ORS 336.184 and 646.605 to 646.656;

5 (C) Actions commenced under ORS 59.331; *[and]*

6 (D) Actions and suits under ORS 180.750 to 180.785[.]; **and**

7 **(E) Actions and suits under section 6 of this 2023 Act.**

8 (2) Moneys in the Department of Justice Protection and Education Revolving Account are not  
9 subject to allotment. Upon request of the Attorney General, the State Treasurer shall create sub-  
10 accounts within the account for the purposes of managing moneys in the account and allocating  
11 those moneys to the activities described in subsection (1) of this section.

12 (3) Except as otherwise provided by law, all sums of money received by the Department of Jus-  
13 tice under a judgment, settlement, compromise or assurance of voluntary compliance, including  
14 damages, restitution, refunds, attorney fees, costs, disbursements and other recoveries, but excluding  
15 civil penalties under ORS 646.642, in proceedings described in subsection (1)(c) of this section shall,  
16 upon receipt, be deposited with the State Treasurer to the credit of the Department of Justice Pro-  
17 tection and Education Revolving Account. However, if the action or suit was based on an expendi-  
18 ture or loss from a public body or a dedicated fund, the amount of such expenditure or loss, after  
19 deduction of attorney fees and expenses awarded to the department by the court or agreed to by the  
20 parties, if any, shall be credited to the public body or dedicated fund and the remainder thereof  
21 credited to the Department of Justice Protection and Education Revolving Account.

22 (4) If the Department of Justice recovers restitution or refunds in a proceeding described in  
23 subsection (1)(c) of this section, and the department cannot determine the persons to whom the  
24 restitution or refunds should be paid or the amount of the restitution or refund payable to individual  
25 claimants is de minimis, the restitution or refunds may not be deposited in the Department of Justice  
26 Protection and Education Revolving Account and shall be deposited in the General Fund.

27 (5) Before April 1 of each odd-numbered year, the Department of Justice shall report to the Joint  
28 Committee on Ways and Means:

29 (a) The department's projection of the balance in the Department of Justice Protection and Ed-  
30 ucation Revolving Account at the end of the biennium in which the report is made and at the end  
31 of the following biennium;

32 (b) The amount of the balance held for restitution and refunds;

33 (c) An estimate of the department's anticipated costs and expenses under subsection (1)(b) and  
34 (c) of this section for the biennium in which the report is made and for the following biennium; and

35 (d) Any judgment, settlement, compromise or other recovery, the proceeds of which are used for  
36 purposes other than:

37 (A) For deposit into the Department of Justice Protection and Education Revolving Account; or

38 (B) For payment of legal costs related to the judgment, settlement, compromise or other recov-  
39 ery.

40 (6) The Joint Committee on Ways and Means, after consideration of recommendations made by  
41 the Department of Justice, shall use the information reported under subsection (5) of this section to  
42 determine an appropriate balance for the revolving account.

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