

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #12

June 8, 2021

S. 4839-A
A. 5623-A

By: Senator Biaggi
By: M. of A. L. Rosenthal
Senate Committee: Consumer Protection
Assembly Committee: Economic Development
Effective Date: January 1, 2022

AN ACT to amend the general business law, in relation to prohibiting the sale of cosmetics tested on animals.

LAW AND SECTION REFERRED TO: Amends the General Business Law through the addition of a new § 399-aaaaa.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill amends the General Business Law by adding a new section 399-aaaaa, entitled “Selling of Animal Tested Cosmetics.” Section 1 defines cosmetic very broadly, to include articles applied to the human body for cleansing or beautifying, and it also contains a specific definition of “cosmetic animal testing.” Section 2 of the bill prohibits the manufacture, knowing import, sale or offer for sale of the product or any component of it which was developed or manufactured using cosmetic animal testing, gives the Attorney General enforcement powers and sets forth the civil penalties; from \$500 to \$5,000 for a first violation, and \$1,000 for each additional day of continued violation.

The legislative sponsor’s Memorandum recognizes that, in addition to subjecting animals to needless pain and suffering, animal testing doesn’t ensure *human* safety. Thus, testing of these products, in addition to being painful to the animals, can actually be misleading to consumers. Current *non*-animal based methods of cosmetic testing utilizing bacteria, human tissue and cells, and computer modeling all provide alternatives that are more accurate and relevant to human application.

For decades, consumers have protested the use of animals in the testing of cosmetic products. Today many cosmetic manufacturers worldwide have voluntarily stopped the practice and more than 40 countries have joined the international campaign in prohibiting the sale of animal tested products, including every nation in the European Union (since

2013) and the United Kingdom.¹ While Congress has yet to pass a National ban on cosmetic animal testing,² a number of states have already enacted legislation that significantly restricts or otherwise forbids animal testing in the manufacture or developing of cosmetic products including California,³ Illinois,⁴ Nevada⁵ and, most recently, the Commonwealth of Virginia.⁶ Similar legislation is presently pending in Maryland, New Jersey, Rhode Island, Hawaii and Oregon.

Small differences may exist in each state's ban or proposed ban on the manufacture and sale of cosmetic products derived through animal testing⁷ but the goals, respectively, are uniform. The Committee on Animals and the Law welcomes New York's joining the ranks of those states that have recently outlawed the practice of cosmetic animal testing.

The Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.

¹ In addition to the member countries of the EU and the UK, Australia, Canada, India, Israel, New Zealand, Norway and Taiwan now all have laws that significantly restrict or otherwise forbid cosmetic animal testing.

² H.R. 1744, "*The Humane Research and Testing Act of 2021*," introduced in the House on March 10, 2021, would amend section 401 of the Public Health Service Act (*42 USC 281*) to include a section on developing a new center titled "*National Center for Alternatives to Animals in Research and Testing* within the National Institutes of Health (NIH). The bill has been referred to the House Committee on Energy and Commerce and is supported by the Citizens for Alternatives to Animal Research and Experimentation (CAARE).

³ *Cal. Civ. Code 1834.9.5 (a), et seq.*, eff. 1/1/2020.

⁴ *NRS 598.993 (1), et seq.*, eff. 1/1/2020.

⁵ *410 ILCS 620/17.2(a), et seq.*, eff. 1/1/2020.

⁶ *VA Code Ann. 59.1-571, et seq.*, eff. 1/1/2022.

⁷ The amended bill in New York conforms to the civil penalties found in the California, Illinois and Virginia statutes; a violation of Nevada's law constitutes a "deceptive trade practice" punishable by a civil penalty not to exceed \$5,000 for each violation and empowers the state's attorney general to obtain an injunction, the violation of which is punishable by a civil penalty of not more than \$10,000. Additionally, a first offense in Nevada constitutes a misdemeanor, a second offense becomes a "gross" misdemeanor and a third and all subsequent offenses are deemed a Class D felony.