

House Bill 390

By: Representatives Schofield of the 63rd, Willis of the 55th, Scott of the 76th, Carter of the 93rd, Davis of the 87th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 26 of the Official Code of Georgia Annotated, relating to
2 standards, labeling, and adulteration of drugs and cosmetics, so as to require a manufacturer
3 to disclose ingredients, chemicals of concern, and restricted substances found in a cosmetic
4 distributed, sold, or offered for sale in this state; to provide for the Board of Pharmacy to
5 publish such information, with an exception for proprietary ingredients; to provide for an
6 exemption for small, local manufacturers; to prohibit any person from distributing, selling,
7 or offering for sale a cosmetic containing a restricted substance in this state; to provide for
8 definitions; to provide for rules, regulations, enforcement, and penalties; to provide for a
9 short title; to provide for related matters; to provide for an effective date; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Safe Cosmetics Act."

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SECTION 2.

14

15 Chapter 3 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
16 labeling, and adulteration of drugs and cosmetics, is amended by adding a new Code section
17 to read as follows:

18 "26-3-11.1.

19 (a) As used in this Code section, the term:

20 (1) 'Chemical of concern' means a chemical or class of chemicals that, alone or in
21 combination with other ingredients, is known or classified as an allergen, asthmagen,
22 carcinogen, mutagen, endocrine disruptor, reproductive or developmental toxicant,
23 persistent bioaccumulative toxicant, or neurotoxicant as provided by regulation by the
24 board.

25 (2) 'Ingredient' means:

26 (A) An intentionally added ingredient present in any quantity in a cosmetic; or

27 (B) A nonfunctional byproduct or nonfunctional contaminant that is a chemical of
28 concern and present in any quantity in a cosmetic.

29 (3) 'Intentionally added ingredient' means any element or compound, or intentional
30 breakdown product thereof, that a manufacturer has intentionally added to a cosmetic and
31 which has a functional or technical effect on the finished product. Such term includes,
32 but is not limited to, the components of an intentionally added fragrance, flavoring, or
33 color.

34 (4) 'Manufacturer' means any person, firm, association, partnership, limited liability
35 company, or corporation which produces, prepares, formulates, or compounds a cosmetic,
36 or whose brand name is affixed to a cosmetic, and such cosmetic is distributed, sold, or
37 offered for sale in this state, whether retail or wholesale, for personal, professional, or
38 commercial use, or distributed for promotional purposes in this state. Such term includes
39 the importer or first domestic distributor of such cosmetic if the entity that manufactures

40 such cosmetic or whose brand name is affixed to such cosmetic does not have a presence
41 in the United States.

42 (5) 'Nonfunctional byproduct' means any element or compound which has no functional
43 or technical effect on the finished product and which was intentionally added or
44 unintentionally created or formed at any time during the manufacturing process at any
45 point in the supply chain of such cosmetic, its raw material, or its ingredient. Such term
46 includes, but is not limited to, an unreacted raw material, a breakdown of an intentionally
47 added ingredient, or a byproduct of the manufacturing process.

48 (6) 'Nonfunctional contaminant' means any element or compound present in a cosmetic
49 as an unintentional consequence of the manufacturing process which has no functional
50 or technical effect on the finished product. Such term includes, but is not limited to,
51 elements or compounds present in the environment as contaminants which were
52 introduced into a cosmetic, its raw material, or its ingredient as a result of the use of an
53 environmental medium, such as a naturally occurring mineral, air, soil, or water, in the
54 manufacturing process at any point in the supply chain of such cosmetic, its raw material,
55 or its ingredient.

56 (7) 'Restricted substance' means lead and lead compounds; mercury and mercury
57 compounds; formaldehyde and paraformaldehyde; triclosan; toluene; perfluoroalkyl and
58 polyfluoroalkyl substances; dibutyl phthalate (DBP), di-2-ethylhexyl phthalate (DEHP),
59 diethyl phthalate (DEP), and butyl benzyl phthalate and related phthalates;
60 isobutylparaben, isopropylparaben, butylparaben, methylparaben, propylparaben, and
61 related parabens; methylene glycol, methanediol, and formaldehyde monohydrate;
62 oxybenzone; Quaternium-15; m-Phenylenediamine and its salts; and o-Phenylenediamine
63 and its salts.

64 (b) Beginning January 1, 2025, and annually thereafter, each manufacturer shall submit
65 to the board in a manner prescribed by the board information for each cosmetic distributed,
66 sold, or offered for sale in this state, including but not limited to:

67 (1) A list of each ingredient of such cosmetic in descending order of predominance by
68 weight in the cosmetic; provided, however, that ingredients present at a weight below
69 1 percent of the cosmetic's total weight may be listed following other ingredients without
70 respect to the order of predominance by weight;

71 (2) Each ingredient in such cosmetic that is a chemical of concern; and

72 (3) Each ingredient in such cosmetic that is a restricted substance.

73 (c) The board shall make available to the public the information provided for in
74 subsection (b) of this Code section; provided, however, that an ingredient that is not a
75 chemical of concern or restricted substance may be withheld from public disclosure if the
76 board determines, based on application by the manufacturer, that public disclosure would
77 reveal proprietary information. If the board makes such a determination, the manufacturer
78 shall provide a generic name for the ingredient consistent with the confidential chemical
79 substances identity reporting requirements of the federal Toxic Substances Control Act,
80 15 U.S.C. Section 2601, et seq.

81 (d) The board shall be authorized to require a manufacturer to submit the information
82 provided for in subsection (b) of this Code section to the Interstate Chemicals
83 Clearinghouse for further review, data collection, and publication; provided, however, that
84 proprietary information may be protected as provided for in subsection (c) of this Code
85 section.

86 (e) The submission requirements provided for in subsections (b) and (d) of this Code
87 section shall not apply to a manufacturer that employs ten persons or fewer and is
88 independently owned and operated in this state.

89 (f) Beginning January 1, 2026, no person shall distribute, sell, or offer for sale in this state
90 a cosmetic containing a restricted substance.

91 (g)(1) A manufacturer in violation of this Code section shall be subject to a civil penalty
92 not to exceed \$5,000.00 in the case of first offense.

