

1 H.308

2 Introduced by Representatives Krowinski of Burlington, Burke of Brattleboro,
3 Clarkson of Woodstock, Cupoli of Rutland City, Fagan of
4 Rutland City, Gallivan of Chittenden, Lanpher of Vergennes,
5 Ram of Burlington, and Yantachka of Charlotte

6 Referred to Committee on

7 Date:

8 Subject: Health; public health; consumer safety; cosmetics

9 Statement of purpose of bill as introduced: This bill proposes to authorize the
10 State Board of Health to investigate cosmetic products containing chemical
11 ingredients identified as causing cancer or reproductive toxicity.

12 An act relating to investigating cosmetics

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 18 V.S.A. chapter 82, subchapter 3 is added to read:

15 Subchapter 3. Safe Cosmetics Act

16 § 4091. REPORTING

17 (a) The manufacturer of any cosmetic product sold in this State that is
18 subject to regulation by the federal Food and Drug Administration shall
19 provide the Board with a complete and accurate list of its cosmetic products
20 that, as of the date of submission, are sold in the State and that contain any

1 ingredient that is a chemical identified as causing cancer or reproductive
2 toxicity, including any chemical that is:

3 (1) a chemical contained in the product for purposes of fragrance or
4 flavoring;

5 (2) a chemical identified by the phrase “and other ingredients” and
6 determined to be a trade secret under the procedure established in 21 C.F.R.
7 part 20 (public information) and 21 C.F.R. § 720.8 (confidentiality of
8 statements). Any ingredient identified pursuant to this subdivision shall be
9 considered to be a trade secret and shall be treated by the Board in a manner
10 consistent with the requirements of 21 C.F.R. parts 20 and 720. Any
11 ingredient considered to be a trade secret is confidential and is exempt from
12 public inspection and copying under the Public Records Act.

13 (b) Any information submitted under subsection (a) of this section shall
14 identify each chemical both by its name and by its Chemical Abstracts Service
15 registry number and shall specify each product in which the chemical is
16 contained.

17 (c)(1) If an ingredient identified under this section subsequently is removed
18 from the product in which it was contained or no longer meets the definition of
19 a chemical identified as causing cancer or reproductive toxicity, the
20 manufacturer of the product containing the ingredient shall submit the new
21 information to the Board.

1 (2) If an ingredient that meets the definition of a chemical identified as
2 causing cancer or reproductive toxicity subsequently is added to a product or
3 an ingredient in the product that previously did not meet that definition of a
4 chemical identified as causing cancer or reproductive toxicity subsequently
5 does meet that definition, the manufacturer shall submit the new information to
6 the Board.

7 (3) Upon receipt of new information pursuant to this subsection, the
8 Board, after verifying the accuracy of that information, shall revise the
9 manufacturer's information on record with the Board to reflect the new
10 information.

11 (d) This section shall not apply to any manufacturer of cosmetic products
12 with annual aggregate sales of cosmetic products, both within and outside
13 Vermont, of less than \$1,000,000.00, based on the manufacturer's most recent
14 federal tax year filing.

15 § 4092. INVESTIGATION

16 (a) In order to determine potential health effects of exposure to ingredients
17 in cosmetics sold in the State, the Board may conduct an investigation of one
18 or more cosmetic products that contain chemicals identified as causing cancer
19 or reproductive toxicity or other ingredients of concern to the Board.

20 (b) An investigation conducted under subsection (a) of this section may
21 include a review of available health effects data and studies, worksite health

1 hazard evaluations, epidemiological studies to determine the health effects of
2 exposure to chemicals in various subpopulations, and exposure assessments to
3 determine total exposures to individuals in various settings.

4 (c) If an investigation is conducted under subsection (a) of this section, the
5 manufacturer of any product subject to the investigation may submit relevant
6 health effects data and studies to the Board.

7 (d) In order to further the purposes of an investigation, the Board may
8 require manufacturers of products subject to the investigation to submit to the
9 Board relevant health effects data and studies available to the manufacturer and
10 other available information as requested by the Board, including the
11 concentration of the chemical in the product, the amount by volume or weight
12 of the product that comprises the average daily application or use, and sales
13 and use data necessary to determine where the product is used in an
14 occupational setting.

15 (e) The Board shall establish reasonable deadlines for the submission of
16 information required under subsection (d) of this section. Failure by a
17 manufacturer to submit the information in compliance with the requirements of
18 the Board shall constitute a violation under section 4054 of this title.

19 § 4093. ENFORCEMENT

20 If the Board determines, after an investigation conducted under section
21 4092 of this title, that an ingredient in a cosmetic product is toxic at the

1 concentrations present in the product or under the conditions used, the Board
2 shall, in a written finding within 90 days of its initial determination, determine
3 if the product presents a health risk to an employee who has regular exposure
4 to the hazard for the period of his or her working life. The written finding shall
5 identify the reasons and factual bases for the Board's determination, and based
6 on those reasons and factual bases, the Board may deem the product to be an
7 adulterated cosmetic.

8 Sec. 2. 18 V.S.A. § 4051 is amended to read:

9 § 4051. DEFINITIONS

10 ~~For the purposes of~~ As used in this chapter:

11 * * *

12 (9) The term "toxic" shall apply to any substance which has the inherent
13 capacity to produce bodily injury to ~~man~~ a person through ingestion,
14 inhalation, or absorption through the skin.

15 * * *

16 (25) The term "chemical identified as causing cancer or reproductive
17 toxicity" means a chemical identified by the Board as any of the following:

18 (A) a substance listed as known or reasonably anticipated to be a
19 human carcinogen in a National Toxicology Program report on carcinogens;

1 (B) a substance given an overall carcinogenicity evaluation of
2 Group 1, Group 2A, or Group 2B by the International Agency for Research on
3 Cancer;

4 (C) a substance identified as a Group A, Group B1, or Group B2
5 carcinogen, or as a known or likely carcinogen by the U.S. Environmental
6 Protection Agency; or

7 (D) a substance identified as having some or clear evidence of
8 adverse developmental, male reproductive, or female reproductive toxicity
9 effects in a report by an expert panel of the National Toxicology Program's
10 Office of Health Assessment and Translation or its predecessor, the Center for
11 the Evaluation of Risks to Human Reproduction.

12 (26) The term "manufacturer" means any person whose name appears
13 on the label of a cosmetic product pursuant to the requirements of 21 C.F.R.
14 § 701.12.

15 Sec. 3. 18 V.S.A. § 4054(a) is amended to read:

16 (a) A person who violates any of the provisions of section 4052 or 4092 of
17 this title shall be imprisoned for not more than one year or fined not more than
18 \$1,000.00, or both; but if the violation is committed after a conviction of the
19 person under this section has become final, the person shall be imprisoned for
20 not more than one year, or fined not more than \$2,500.00, or both.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2013.