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SENATE BILL NO. 1379

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 26, 2021)

(Patron Prior to Substitute—Senator Boysko)

A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, relating to Humane Cosmetics Act; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571 through 59.1-574, as follows:

CHAPTER 52.

HUMANE COSMETICS ACT.

§ 59.1-571. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cosmetic" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, without limitation, personal hygiene products such as deodorant, shampoo, or conditioner.

"Cosmetic animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate. Merely reviewing, assessing, or retaining evidence from a cosmetic animal test shall not constitute developing or manufacturing using cosmetic animal testing for purposes of this chapter.

"Cosmetics manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of 21 C.F.R. § 701.12.

"Ingredient" has the meaning ascribed to it in 21 C.F.R. § 700.3(e).

§ 59.1-572. Prohibited conduct.

A. Except as provided in subsection B, no cosmetics manufacturer shall:

1. Conduct or contract for cosmetic animal testing that occurs in the Commonwealth on or after January 1, 2022;

2. Manufacture or import for profit into the Commonwealth any cosmetic or ingredient thereof, if the cosmetics manufacturer knew or reasonably should have known that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022; or

3. Beginning July 1, 2022, sell or offer for sale within the Commonwealth any cosmetic, if the cosmetics manufacturer knows or reasonably should know that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was conducted on or after January 1, 2022.

B. The prohibitions in subsection A shall not apply to cosmetic animal testing or a cosmetic for which cosmetic animal testing was conducted, if the cosmetic animal testing was conducted:

1. To comply with a requirement of a federal or state regulatory agency and (i) the tested ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function; (ii) a specific human health problem related to the cosmetic or ingredient is substantiated that justifies the need to conduct the cosmetic animal testing, and such testing is supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetic or ingredient; and (iii) there does not exist a method of testing other than cosmetic animal testing that is accepted for the relevant purpose by the federal or state regulatory agency;

2. To comply with a requirement of a regulatory agency of a foreign jurisdiction, so long as no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within Virginia by the cosmetics manufacturer;

3. On any cosmetic or cosmetic ingredient subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.); or

4. Pursuant to a requirement of a federal, state, or foreign regulatory agency for a purpose unrelated to cosmetics, provided that either no evidence derived from such testing was relied upon to substantiate the safety of the cosmetic or there is (i) documented evidence of a noncosmetic intent of the test and (ii) a history of use of the ingredient outside of cosmetics for at least 12 months prior to such reliance.

§ 59.1-573. Civil penalties.

Any person who violates any provision of this chapter is subject to a civil penalty of \$5,000 and an additional \$1,000 for each day the violation continues. Such penalty shall be collected by the Attorney

60 *General and the proceeds shall be deposited into the Literary Fund.*

61 ***§ 59.1-574. Local regulation prohibited unless identical.***

62 *No locality may establish or continue any regulation relating to cosmetic animal testing that is not*
63 *identical to the provisions set forth in this chapter.*