

SENATE BILL NO. 197—SENATORS SCHEIBLE; PARKS AND RATTI

FEBRUARY 18, 2019

JOINT SPONSOR: ASSEMBLYMAN FUMO

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to trade practices. (BDR 52-746)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to trade practices; prohibiting the importation and sale of cosmetics for which testing was performed on an animal; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill prohibits a manufacturer from importing, selling or offering for sale in
2 this State any cosmetic for which testing was performed on certain animals. This
3 bill provides: (1) certain exemptions to the prohibition for certain animal testing
4 that is performed pursuant to federal, state or foreign regulatory requirements; (2)
5 treatment and protection as trade secrets for certain information that is provided to
6 or reviewed by a district attorney or city attorney in investigating potential
7 violations; and (3) for the imposition of civil penalties. This bill also prohibits any
8 political subdivision of this State or agency thereof from establishing or continuing
9 prohibitions that are not identical to the provisions of this bill. This bill also allows
10 an inventory of cosmetics which is otherwise in violation of the prohibition on or
11 relating to animal testing to be sold on or before June 30, 2020.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 597 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. It is unlawful for a manufacturer to import for profit, sell
4 or offer for sale in this State any cosmetic for which animal testing



1 *was conducted or contracted by or on behalf of the manufacturer*
2 *or any supplier of the manufacturer if the animal testing was*
3 *conducted on or after January 1, 2020.*

4 *2. The prohibition in subsection 1 does not apply to animal*
5 *testing that is conducted:*

6 *(a) To comply with a requirement of a federal or state*
7 *regulatory agency if:*

8 *(1) The cosmetic or ingredient in the cosmetic which is*
9 *tested is in wide use and cannot be replaced by another ingredient*
10 *which is capable of performing a similar function;*

11 *(2) A specific human health problem relating to the*
12 *cosmetic or ingredient is substantiated and the need to conduct*
13 *animal testing is justified and supported by a detailed protocol for*
14 *research that is proposed as the basis for the evaluation of the*
15 *cosmetic or ingredient; and*

16 *(3) There does not exist a method of testing other than*
17 *animal testing that is accepted for the relevant purpose by the*
18 *federal or state regulatory agency.*

19 *(b) To comply with a requirement of a regulatory agency of a*
20 *foreign jurisdiction, if no evidence derived from such testing was*
21 *relied upon to substantiate the safety of a cosmetic sold within this*
22 *State by the manufacturer.*

23 *(c) On any product or ingredient in the cosmetic subject to the*
24 *requirements of Subchapter V of the Federal Food, Drug, and*
25 *Cosmetic Act, 21 U.S.C. §§ 351 et seq.*

26 *(d) For purposes unrelated to cosmetics pursuant to a*
27 *requirement of a federal, state or foreign regulatory agency, if no*
28 *evidence derived from such testing was relied upon to substantiate*
29 *the safety of a cosmetic sold within this State by the manufacturer.*
30 *A manufacturer is not prohibited from reviewing, assessing or*
31 *retaining evidence from animal testing which is conducted*
32 *pursuant to this paragraph.*

33 *3. A district attorney of a county or a city attorney of a city*
34 *may, upon a determination that a violation of this section is likely*
35 *to have occurred in the county or city, as applicable, review the*
36 *data from testing upon which a manufacturer of cosmetics has*
37 *relied in the development or manufacture of the relevant cosmetic*
38 *sold in this State. Information provided or reviewed pursuant to*
39 *this subsection is entitled to protection as a trade secret. Consistent*
40 *with the procedures described in NRS 600A.070, the district*
41 *attorney or city attorney, as applicable, shall enter a protective*
42 *order with a manufacturer before receipt of the information from*
43 *the manufacturer pursuant to this subsection and shall take other*
44 *appropriate measures necessary to preserve the confidentiality of*
45 *the information.*



1 4. A violation of this section shall be punished by a civil
2 penalty of \$5,000 and an additional \$1,000 for each day that the
3 violation continues.

4 5. A violation of this section may be prosecuted by the district
5 attorney of the county or the city attorney of the city in which the
6 violation occurred. Any civil penalty collected pursuant to
7 subsection 4 must be deposited in the county or city treasury, as
8 applicable.

9 6. This section does not apply to:

10 (a) A cosmetic if the cosmetic in its final form was tested on
11 animals before January 1, 2020, even if the cosmetic is
12 manufactured on or after that date; or

13 (b) An ingredient in a cosmetic if the ingredient was sold in
14 this State and was tested on animals before January 1, 2020, even
15 if the ingredient is manufactured on or after that date.

16 7. No county, city, local government or other political
17 subdivision of this State or agency thereof may establish or
18 continue any prohibition on or relating to animal testing that is
19 not identical to the prohibitions set forth in this section and that
20 does not include the exemptions contained in subsection 2.

21 8. As used in this section:

22 (a) "Animal testing" means the internal or external
23 application of a cosmetic, either in its final form or any ingredient
24 thereof, to the skin, eyes or other body part of a live, nonhuman
25 vertebrate.

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

32 (c) "Ingredient" has the meaning ascribed to it in 21 C.F.R.
33 § 700.3(e).

34 (d) "Manufacturer" means any person whose name appears
35 on the label of a cosmetic pursuant to the requirements of 21
36 C.F.R. § 701.12.

37 (e) "Supplier" means any entity that supplies, directly or
38 through a third party, any ingredient used by a manufacturer in
39 the formulation of a cosmetic.

40 (f) "Trade secret" has the meaning ascribed to it in
41 NRS 600A.030.

42 **Sec. 2.** An inventory of cosmetics which is otherwise in
43 violation of section 1 of this act on January 1, 2020, may be sold on
44 or before June 30, 2020.



1 **Sec. 3.** This act becomes effective on January 1, 2020.

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