

Date of Hearing: June 26, 2018

ASSEMBLY COMMITTEE ON JUDICIARY  
Mark Stone, Chair  
SB 1249 (Galgiani) – As Amended April 30, 2018

As Proposed to be Amended

**SENATE VOTE:** 21-9

**SUBJECT:** ANIMAL TESTING: COSMETICS

**KEY ISSUE:** SHOULD CALIFORNIA ADOPT AN EXTREMELY STRONG STANCE AGAINST ANIMAL TESTING OF COSMETIC PRODUCTS, AND ENACT A SET OF RULES THAT, BY 2023, WILL LARGELY PROHIBIT THE SALE OR MARKETING IN CALIFORNIA OF COSMETIC PRODUCTS THAT HAVE BEEN TESTED ANYWHERE IN THE WORLD ON ANIMALS, EXCEPT AS SPECIFIED?

**SYNOPSIS**

*In 2000, California became the first state in the country to make it unlawful for manufacturers and contract testing facilities to test cosmetic products on animals when appropriate alternative methods of testing exist. (SB 2082 (O'Connell) Chap. 476, Stats. 2000.) A national and international movement to further eliminate animal testing of cosmetic products has been building in recent years, with the European Union recently adopting regulations to prohibit the importation and sale of cosmetics that have been tested on animals, with certain exemptions. It is still legal for cosmetic manufacturers to import, sell, and market products in this state that have been tested on animals, however, as long as the testing was carried out elsewhere and the product subsequently brought into California for sale. The author's office and the sponsor of this bill, Social Compassion in Legislation, perceive this as a problem that needs to be addressed, and believe that the time is right to enact even stronger measures in California to prohibit this.*

*Accordingly, this bill would make it unlawful for a manufacturer to knowingly import for profit, sell at retail, or offer for sale or promotional purposes at retail in this state, any cosmetic if the final product or any component thereof was tested on animals for any purpose after January 1, 2020. As proposed to be amended, the bill specifies three possible statutory exemptions that would relieve manufacturers from complying with the bill, but generally speaking, a manufacturer could be exempted if the animal testing was conducted to comply with a requirement from a federal, state, or foreign regulatory authority, and certain other conditions were met to justify a specific exemption. Consistent with the author's intent to maintain a strong policy against animal testing of cosmetics in California, the exemptions are narrow and intended to allow the sale of products that have been animal tested only in very limited circumstances. In fact, one of the three statutory exemptions -- for animal testing required to comply with a foreign regulator -- is granted only for three years after the effective date of this bill, and then is repealed of its own accord. The purpose of the bill, proponents note, is to gradually phase in a ban of cosmetic products tested on animals by foreign governments, like China, by the year 2023, but to allow manufacturers to continue to sell and market animal-tested products in the U.S. as long as the animal testing occurred in the foreign country before 2023.*

*The bill has received an intense groundswell of support from concerned citizens, animal welfare groups, and many companies in the cosmetic industry that are strongly committed to a vision of a truly "cruelty-free standard" for cosmetic products sold in California. The bill is also supported by a coalition of approximately 80 cosmetic companies who attest that they are proof that a company can be profitable but also committed to manufacturing products without any reliance on animal testing whatsoever. The bill is opposed by the Personal Care Products Council (PCPC), the California Manufacturers & Technology Association, and the California Retailers Association, among many others. These industry and product associations object to the broad prohibitive rule on selling animal-tested products in this bill, which they contend would force them to withdraw their products from the California marketplace and subject them to civil penalties under circumstances outside of their control. Opponents remain concerned that the bill, even as proposed to be amended, continues to make manufacturers liable for animal testing on products and components conducted by others, including academic researchers, members of other industries, and even competitors within the cosmetic industry. Finally, opponents believe broader exemptions are needed in the bill—for example, to exempt all animal testing for a non-cosmetic purpose, regardless of who the testing agency is. The opponents state they are open to further discussions with the author's office, but remain committed to aligning this bill with the standards set by the European Union regulation, which they believe is stronger than current California law but also helps address many of their business concerns with this legislation.*

**SUMMARY:** Prohibits cosmetic manufacturers from knowingly selling or offering at retail any cosmetic product in this state that, in whole or in part, was tested on animals after January 1, 2020, unless a specific exemption applies to the circumstances under which the animal testing was conducted. Specifically, **this bill:**

- 1) Provides that, notwithstanding any other law, it is unlawful for a manufacturer to knowingly import for profit, sell at retail, or offer for sale or promotional purposes at retail in this state, any cosmetic if the final product or any component thereof was tested on animals for any purpose after January 1, 2020.
- 2) Defines key terms as follows:
  - a) "Animal testing" means the internal or external application of a cosmetic to the skin, eyes, or other body part of a live, nonhuman vertebrate.
  - b) "Cosmetic" means both: (i) 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, but not limited to, personal hygiene products such as deodorant, shampoo, or conditioner; or: (ii) any article intended for use as a component of an article described in (i).
  - c) "Manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.
- 3) Provides that the prohibition in 1), above, does not apply to a cosmetic or cosmetic component under any of the following circumstances:

- a) Animal testing of the cosmetic or component of the cosmetic is required by the federal Food and Drug Administration (FDA) or the Department of Toxic Substances Control (DTSC) and there is no alternative method to evaluate a substantiated and serious specific human health problem associated with the cosmetic or component of the cosmetic that is in wide use and cannot be replaced with another cosmetic or component capable of performing a similar function.
- b) Animal testing of a cosmetic or component of the cosmetic is conducted to comply with a formal requirement of a foreign regulatory authority if the requirement was in place prior to January 1, 2020, except this condition only applies until January 1, 2023.
- c) Animal testing of a component of a cosmetic product is conducted for noncosmetic purposes in response to a formal requirement of a federal, state, or foreign regulatory authority for a noncosmetic use, the cosmetic product containing that component was for sale in California for at least one year prior to the date the noncosmetic animal testing began, and the noncosmetic animal testing was not conducted by either of the following:
  - i) A manufacturer that imports for profit, sells at retail, or offers for sale or promotional purposes at retail, a cosmetic that includes the component in this state.
  - ii) An entity including, but not limited to, a partnership, corporation, or association, for the benefit of, at the direction of, contracted by, or in association with, a manufacturer described in i), above.
- 4) Establishes that these provisions do not apply to a cosmetic if the cosmetic, or any component of the cosmetic, was tested on animals prior to January 1, 2020, even if the cosmetic is manufactured after that date.
- 5) Authorizes violations of these provisions to be enforced by the district attorney of the county in which the violation occurred, or by the city attorney of the city in which the violation occurred.
- 6) Makes a violation of these provisions punishable by a fine of \$5,000 and an additional \$1,000 for each day the violation continues, with the fine paid to the entity authorized to bring the action.
- 7) Authorizes, but does not require, the district attorney or city attorney to review the testing data upon which a cosmetic manufacturer has relied in the development or manufacturing of any cosmetic products sold in the state.
- 8) Provides for a delayed operative date of January 1, 2020 for this act.

**EXISTING LAW:**

- 1) Prohibits manufacturers and contract testing facilities from using traditional animal testing methods within this state when an appropriate alternative test method has been scientifically validated and recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods (ICCVAM), or other specified agencies. (Civil Code Section 1834.9 (a). All references are to this code unless otherwise stated.)

- 2) Defines “manufacturer” to mean any partnership, corporation, association, or other legal relationship that produces chemicals, ingredients, product formulations, or products in this state. (Section 1834.9 (f)(2).)
- 3) Clarifies that nothing in 1) shall prohibit any of the following:
  - a) The use of any alternative nonanimal test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by ICCVAM.
  - b) The use of animal tests to comply with requirements of state agencies.
  - c) The use of animal tests to comply with requirements of federal agencies when the federal agency has approved an alternative nonanimal test pursuant to 1) and the federal agency staff concludes that the alternative nonanimal test does not assure the health or safety of consumers. (Section 1834.9 (b) and (c).)
- 4) Clarifies that the above provisions do not apply to any animal test performed for the purpose of medical research, defined as research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined in Section 321(g)(1) of Title 21 of the United States Code. (Section 1834.9 (e) and (f)(5).)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** In 2000, California became the first state in the country to make it unlawful for manufacturers and contract testing facilities to test cosmetic products on animals when appropriate alternative methods of testing exist. (SB 2082 (O'Connell) Chap. 476, Stats. 2000.) A national and international movement to further eliminate animal testing of cosmetic products has been growing in recent years, with the European Union (EU) recently adopting regulations to prohibit the importation and sale of cosmetics that have been tested on animals, with certain exemptions. It is still legal for cosmetic manufacturers to import, sell and market products in this state that have been tested on animals, however, as long as the testing was carried out elsewhere and the product subsequently imported into California for sale. The author's office and the sponsor of this bill, Social Compassion in Legislation, perceive this as a problem that needs to be addressed, and believe that the time is right to enact even stronger measures in California to prohibit this. According to the author:

For more than 50 years animals have been used in painful tests to assess the safety of chemicals used in cosmetics products. . . . More and more countries around the world are moving away from cruel animal testing. The European Union ended importation and sale of any new cosmetics that have been tested on animals in 2013. India and Israel have since followed suit, and more are on the way. Americans also want cosmetic products that are cruelty free. Multiple polls show that US consumers support ending animal testing for cosmetics, and a 2015 Nielsen poll found that “not tested on animals” was the most important consumer packaging claim for respondents across all age groups. Unfortunately, inaction at the federal level now compels California to lead the way in ensuring a cruelty-free cosmetics market for its citizens.

By prohibiting the sale or promotion of any cosmetic if the final product or any components thereof have been tested on animals after the date of enactment, SB 1249 will bring California humane standards in line with the world's highest. . . . In fact, California has long been a leader in promoting modern alternatives to animal tests. In 2000, California became the first state to make it unlawful to use animals for testing cosmetics when an appropriate alternative method is available. In 2014, the California Legislature passed the Cruelty Free Cosmetics Resolution urging Congress to prohibit animal testing for cosmetics and to phase out marketing animal-tested cosmetics. SB 1249 is simply the next step in California's path of leadership on animal testing issues.

***Strong prohibition of products tested on animals.*** Consistent with the vigorous approach against animal tested-products embraced by the author and sponsor, this bill seeks to enact a strong rule against the sale or marketing in California of cosmetics tested on animals for any purpose, cosmetic or noncosmetic. The sponsor of the bill, Social Compassion in Legislation (SCIL), states that this bill "will set a new cruelty-free standard for cosmetics sold and marketed in California that is on par with the world's strongest standards."

Accordingly, this bill would make it unlawful for a manufacturer to knowingly import for profit, sell at retail, or offer for sale or promotional purposes at retail in this state, any cosmetic if the final product or any component thereof was tested on animals for any purpose after January 1, 2020. The bill specifies three sets of conditions that would exempt a manufacturer from this prohibition (discussed later in more detail), but by its own design, the rule is intentionally very broad in application. For example, the prohibition covers both cosmetic final products and individual components of final products that may be the subject of animal testing, presumably while in development. The rule covers testing for "any purpose," making no distinction between testing for cosmetic purposes and noncosmetic purposes, and similarly it makes no distinction based on who the testing entity is, or where the testing is performed. As long as the product or component is tested on animals—even if not by the manufacturer—the prohibition potentially bars the product from the California market unless one of the specified exemptions applies.

Even though lawmakers have already banned animal testing on cosmetics conducted in California and within the European Union, proponents of this bill contend stronger measures are still necessary to ensure a truly "cruelty-free" marketplace for cosmetics in California. They explain:

While we applaud states and countries limiting animal testing within their borders, companies can get around these bans by simply going to another jurisdiction, testing on animals, and then returning to the state where testing is banned and sell the animal tested products. This law will prevent companies from shopping for jurisdictions that allow animals testing by banning the sale of those products (and) ingredients that have been tested on animals, no matter where the testing took place.

The bill is opposed by the Personal Care Products Council (PCPC), the California Manufacturers & Technology Association, and the California Retailers Association, among many others. These industry and products associations object to the broad prohibitive rule in this bill, which they contend would force them to withdraw their products from the California marketplace and subject them to civil penalties under circumstances outside of their control. Opponents state that

the cosmetic industry has spent "hundreds of millions of dollars to develop scientifically valid alternative safety test methods" so they can eliminate the need to use animals in safety testing. Opponents object that they nevertheless stand to be punished by this bill for animal testing conducted by other entities outside the industry, or required by government regulatory agencies in other states or countries as a condition of selling in a certain market. They write:

Companies now only consider animal testing when mandated by government bodies or, in rare cases, for safety evaluations of new ingredients when no viable alternative is available. Despite this progress, we are continually challenged by state and federal mandates requiring specific animal tests— such as those required by California’s Department of Toxic Substances Control – which are a condition for placing products on the market. As currently drafted . . . the amendments pose unnecessary economic burden on California companies seeking to market products globally, and would negatively impact California’s economy.

***Summary of specified conditions under which manufacturers may be exempt from this bill.***

As currently in print, the bill specifies two sets of conditions which exempt manufacturers from the prohibition on the sale of cosmetic products that have undergone animal testing. Proposed author's amendments to the bill outline a third set of conditions that create an exemption.

*Exemption 1: As required by the FDA or DTSC.* The first exemption is allowed where animal testing is required by the federal Food and Drug Administration or the California Department of Toxic Substances Control, and there is no alternative method "to evaluate a substantiated and serious specific human health problem associated with the cosmetic or component of the cosmetic that is in wide use and cannot be replaced with another cosmetic or component capable of performing a similar function." This language recognizes the appropriateness of an exemption for testing required by a federal or state regulatory agency under current law, but also recognizes that modern alternative testing methods should be employed where possible; thus the exemption only applies if there are no viable alternative tests available.

*Exemption 2: Conducted to comply with a foreign regulatory agency.* The second exemption allows animal testing of the cosmetic or component that is conducted to comply with a formal requirement of a foreign regulatory authority, and where such foreign regulatory authority requirements were in place prior to January 1, 2020 (which is the delayed operative date of this bill, should it become law.) Importantly, the bill provides that this exemption operates only for three years, and then is repealed as of January 1, 2023. Opponents of the bill object to this exemption because after January 1, 2023, they contend, this bill will effectively prohibit them from selling any cosmetic product in California that has undergone animal testing required by a foreign regulatory agency.

When this bill was heard in the Senate Judiciary Committee (April 24, 2018), discussion of Exemption 2 centered around the role of China in necessitating such an exemption, and there appeared to be some factual uncertainty about whether mandatory animal testing is required by the Chinese government for entry into its markets. Subsequently, opponents of the bill have provided evidence to the satisfaction of Committee staff that Chinese regulations do call for animal testing of imported cosmetic products. This evidence includes translated citations to the regulations, as well as Western media articles citing the existence of such a policy in China. (*See, e.g., "Here’s How China Is Moving Away From Animal Testing."* Bloomberg News (Jan. 16, 2018), accessed at: <https://www.bloomberg.com/news/articles/2018-01-16/ending-china->

animal-tests-is-salve-for-big-beauty-quicktake-q-a.) Although it appears Chinese regulations do require animal testing for entry into their markets, there is still some contention as to how strongly the government actually enforces them. Proponents of the bill report that some companies have apparently gained access for their products into the Chinese market without making the compromise of allowing their product to be tested on animals by the Chinese. For example, they cite a letter by the co-founder of John Paul Mitchell Systems, addressed to the Senate Judiciary Committee, that states: "Our company is committed to manufacturing products without harming any animals and we do not purchase ingredients from suppliers that test their products on animals. We have also been able to gain approval for a small, select group of products for sale in China without the use of animal testing."

The question of whether China's policy strictly requires animal testing is not dispositive of Exemption 2, because the exemption does not apply only to China. Opponents contend there are other countries besides China that still require testing of cosmetics, including Venezuela, Russia, Egypt, and Algeria, and this exemption will, after January 1, 2023, potentially force them to leave the California market because of testing requirement imposed by foreign governments. Proponents counter with several arguments. First, companies can choose not to sell their products in China, where animal testing may be required. Those who do so are apparently more motivated by the financial windfall of selling to Chinese consumers. Proponents cite a list of over 3,000 companies, compiled through PETA's Beauty Without Bunnies program, which are both cruelty-free and sufficiently profitable. Second, they contend there are other ways of getting one's products to Chinese consumers without submitting to government testing on animals; for example, selling direct to consumers over Chinese websites like Alibaba.com or through the Hong Kong market. Third, they promote the use of alternative tests that more accurately test for the safety of products, and contend that companies like Paul Mitchell Systems have been able to negotiate contracts with China to allow these tests rather than animal testing. Finally, proponents argue that California has been and should continue to be at the forefront of animal welfare legislation, and setting a strong policy for a cruelty-free marketplace in California should not require deferring to Chinese regulatory policy on animal testing. They contend that if a permanent exemption must be made to allow the sale in California of any cosmetic product that was tested on animals by Chinese regulators, then that exemption would create a giant loophole in the California law. It would essentially mean that no policy could be adopted in California that was stricter than whatever Chinese regulators decided upon in fashioning their own rule, thus forcing California to take a backseat to China in setting a consumer standard.

*Three-year phase-in ("grandfathering" provisions) for products tested by foreign regulators.* As described above, Exemption 2 operates for three years after the date this bill would become effective, and then is repealed of its own accord beginning January 1, 2023. According to the author, this means that any products tested in another country (including China) at any time until 2023 will be "grandfathered in" even after Exemption 2 ceases to be operative, providing sufficient time for cosmetic companies to prepare for compliance with the bill. Products that have been developed and on the market before that date will not suddenly have to be pulled off the shelves come January 1, 2023. Proponents contend that this phase-in provision will grandfather in thousands of current cosmetic ingredients, and will likely impact only a small universe of new ingredients and products after that date. They also suggest that, in light of the EU recently passing a resolution calling on their member states to get rid of the China exemption, and because of increased international pressure, China is beginning to move away from animal testing requirements, and may in fact not require animal testing by 2023. Even if that does not happen, there is enough flexibility for California law to be revised before 2023 to

reflect international developments in this area. Opponents, however, note that there are still other countries besides China who show no signs of reversing their animal testing policies, and that the imminent repeal of Exemption 2 would still cause economic harm to companies seeking to be in both markets.

Finally, the bill also contains a separate provision to "grandfather" in cosmetic products and components that were tested on animals prior to January 1, 2020, the effective date of this bill should it become law. This is intended to assure manufacturers that current products and components tested before 2020 would not be subject to the bill and would not need to be pulled off shelves if the bill were to go into effect on January 1, 2020. As such, the strict new regulatory scheme advanced by this bill would not apply to products and components tested on animals before the effective date of the bill, even if the cosmetic is manufactured after that date.

*Exemption 3: Proposed amendment to create limited exemption for animal testing for noncosmetic purposes.* As currently in print, the bill prohibits the sale of cosmetic products that have been tested on animals "for any purpose" unless a specified exemption applies. Neither Exemption 1 or 2 make any allowance for a chemical or product component that was tested on animals for a noncosmetic purpose, i.e., some other purpose unrelated to product safety or inclusion as a component of a cosmetic product. To address these concerns, the author proposes to amend the bill to create a third, limited exemption for animal testing conducted for a noncosmetic purpose.

As proposed to be amended, the exemption applies to animal testing of a component of a cosmetic product conducted for noncosmetic purposes if the following conditions are met: (1) the testing is in response to a formal requirement of a federal, state, or foreign regulatory authority; (2) the cosmetic product containing that component was for sale in California for at least one year prior to the date the testing began; and (3) the noncosmetic animal testing was not conducted by either of the following: (A) a manufacturer that imports for profit, sells at retail, or offers for sale or promotional purposes at retail, a cosmetic that includes the component in this state, or (B) an entity including, but not limited to, a partnership, corporation, or association, for the benefit of, at the direction of, contracted by, or in association with, a manufacturer described in subparagraph (A). This exemption would remain operative after 2023, unlike Exemption 2 for foreign regulatory testing for any purpose, which would become inoperative after three years. As such, after 2023, only this narrow exemption would apply to animal testing by a foreign regulatory authority.

According to the author, these conditions are needed to ensure that all components that qualify for this exemption are truly being tested for noncosmetic purposes, and to avoid creating a loophole that would allow the exemption under facts that might suggest the testing is for a cosmetic purpose. For that reason, the testing may not be done by a manufacturer subject to the underlying prohibition for which this exemption is available, nor by any business entity contracting with or under the direction of a manufacturer who might be seeking to circumvent the rule. The requirement that the cosmetic product containing the component have been for sale at least one year prior to the noncosmetic testing is intended to ensure that the testing must not be for a cosmetic purpose, as evidenced by the fact that the component has presumably already been tested for a cosmetic purpose if it is part of a product that has been for sale for the past year.

Opponents of the bill contend that the exemption proposed by these amendments is too limiting, and that the requirement to have a product with a tested ingredient on the market for one year is



unacceptable. They contend that because the proposed noncosmetic exemption is too narrow, the overall effect of the bill, even as proposed to be amended, would impact new cosmetic products coming to market and might amount to a ban on any new cosmetic products in the future (after 2020) if there is testing for any non-cosmetic purposes in 2020. Opponents further contend that "Such an approach would unfairly discriminate against and disadvantage broad-based, multi-product sector companies who may have pharmaceutical drugs, over the counter (OTC) drugs, cleaning products, and more, in addition to their cosmetics business, that are required to test for purposes in those sectors that have nothing to do with the cosmetic application."

***Concerns about manufacturer liability arising from animal testing by others.*** Opponents remain concerned that the bill, even as proposed to be amended, continues to make manufacturers liable for animal testing on products and components conducted by others, including academic researchers, members of other industries, and even competitors within the cosmetic industry. They point out that the proposed Exemption 3 only applies when the testing is in response to a requirement of a regulatory authority, thereby not reaching common types of testing for noncosmetic purposes. Opponents believe broader exemptions are needed in the bill—for example, to exempt all animal testing for a non-cosmetic purpose, regardless of who the testing agency is. About the bill's current exemptions, they write:

These exemptions would not cover testing by an accredited lab or university testing an ingredient for potential reproductive toxicity or carcinogenicity. It is common for independent studies to be conducted on individual chemicals, without any involvement of the manufacturer. For example, the state's qualified experts under the Office of Environmental Health Hazard Assessment (OEHHA) rely on carcinogenicity, developmental and reproductive toxicity studies conducted on rodents when determining whether or not a substance should be added to the Proposition 65 list.

To place the liability on a manufacturer to pull products from sale in California, the moment an ingredient is tested on an animal, regardless of the conclusion of the test or the manufacturers' knowledge of the testing, would be unworkable.

Proponents of the bill counter this interpretation by noting that the bill does not place liability on a manufacturer "regardless of the manufacturers' knowledge of the testing," but in fact employs a "knowingly" standard in the very first sentence of the bill, prohibiting the sale or import of products tested on animals. Proponents also contend that the bill does not require the instantaneous removal of cosmetic products from the marketplace upon a triggering event or discovery. Rather, as described above, the bill grandfathers in the sale of existing products and components that were tested on animals prior to specified dates in the bill (January 1, 2023 for products tested on animals by a foreign regulator, and January 1, 2020 otherwise.) This leaves enough time for companies to develop a business plan for complying with requirements of the bill, should it become law and go into effect on January 1, 2020 (the delayed operative date specified by the author.)

***Civil enforcement provisions.*** Enforcement of these provisions is delegated to the district attorney or city attorney of the county or city in which the violation occurred. A violation of this bill is punishable by a fine of \$5,000 and an additional \$1,000 for each day the violation continues. Recent amendments to the bill clarify that the fine shall be paid to the entity that is authorized to bring the action. Finally, the bill specifies that the district attorney or city attorney

may, but is not required to, review the testing data upon which a cosmetic manufacturer has relied in the development or manufacturing of any cosmetic products sold in the state.

Opponents note that although the bill proposes a statewide prohibition of animal-tested products, it delegates enforcement to local authorities at the county and city levels. They contend delegating this authority to the Attorney General will better ensure consistent statewide enforcement.

**ARGUMENTS IN SUPPORT:** This bill has generated an intense groundswell of support from concerned citizens, animal welfare groups, and many companies in the cosmetic industry that are strongly committed to a vision of a truly "cruelty-free standard" for cosmetic products sold in California—one where virtually every cosmetic product sold or marketed in the state can be said to have never been tested on animals, in any location, and to include components that likewise have never been tested on animals, for any purpose.

The Committee has received over 6,500 letters in support of the bill from individuals providing a California address, and has taken note of an online petition signed by more than 150,000 persons from around the world, voicing support for this bill. (See <https://www.thepetitionsite.com/takeaction/212/115/428/>)

The bill is also supported by a coalition of approximately 80 cosmetic companies who attest that they are committed to manufacturing products without harming any animals and avoiding the purchase of ingredients from suppliers who engage in animal testing. These supporters stress that alternative testing methods are more humane, but equally as viable and effective as animal testing methods. They write:

Today modern tests for product safety that better predict human reactions are widely available and more than 30 countries around the world now require their use. These non-animal approaches include engineered three-dimensional human skin tissues or other types of cells and sophisticated computer models. These methods are often cheaper and faster than animal tests as well. These tests ensure the safety of cosmetics and their ingredients without animals, and many have been approved by the Organization for Economic Co-operation and Development as official Test Guidelines. In addition, companies can utilize the hundreds of thousands of ingredients for which safety data is already available.

We know that it is possible to invent, manufacture, and bring to market an entire range of products without any involvement in animal testing. . . . Modern non-animal tests for cosmetics safety are accurate, efficient, and affordable. We proudly support the California Cruelty-Free Cosmetics Act, SB 1249, prohibiting the sale of animal-tested cosmetics in the state.

**ARGUMENTS IN OPPOSITION:** In addition to their other arguments against the bill, opponents raise a number of economic and trade-based concerns, stating:

We are open to an ongoing dialogue with the Senator's office and remain firmly committed to aligning this legislation with the provisions found in the European Union (EU) regulation. For example, the EU regulation accommodates the use of data from testing if mandated by other, noncosmetic-related regulations. SB 1249 does not. The EU regulation does not ban products that have been tested as a

result of requirements for market entry into a non-EU country. SB 1249 would. Moreover, as currently drafted, the amendments could have wider trade implications as they would appear to prohibit imports into California from other countries where animal testing may have occurred. If so, the amendments potentially could be in violation of the U.S. obligations under the World Trade Organization (WTO), including the Agreement on Technical Barriers to Trade. More practically, these amendments would pose unnecessary economic burden on California companies seeking to market products globally, and would negatively impact California's economy.

[Furthermore] the inclusion of products that are used "for promotional purposes" would capture samples and promotional products, which are treated differently under the Federal Food, Drug and Cosmetic Act and the Federal Fair Packaging and Labeling Act. The amendments would encompass over-the-counter (OTC) drugs that are regulated as drugs by the U.S. FDA and adhere to different testing requirements than cosmetic products.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Social Compassion in Legislation

Physicians Committee for Responsible Medicine

New England Anti-Vivisection Society

American Anti-Vivisection Society

Humane Society of the United States (HSUS)

San Diego Humane Society

Born Free USA

Animal Legal Defense Fund (ALDF)

Educate.Advocate.

Empower Family California

Katy Tang, District 4 Supervisor of the City and County of San Francisco

Cruelty-Free International

Over 6,500 individuals

Over 80 cosmetic companies, including: Lush Cosmetics; Illumiere Prime LLC; Jack Black LLC; Legendary Apothecary; Madaen Natural Products; Mogi Mousse; Pixlady Cosmetics; Karemi Cosmetics; Lady Burd Exclusive Cosmetics; Logic Product Group; Lotus Light Enterprises; Maui Soap Company LLC; Maxux Nails; Men's Natural Care Products; Mocha Whip; My.Haircare; Nomad Cosmetics; Oribel Organics; Osea Malibu; PNK Digger Cosmetics LLC; Aloette Cosmetics; Artonit Cosmetics; Ayr Skin Care; Bakel Beauty and Key Elements; Base Beauty Shop; Beauty without Cruelty; Bella Organics; Black Tie Cosmetics; C&Co. Handcrafted Skincare; Cannabliss Organic; Clarisea, Inc.; Coastal Classic Creations; Coloured Raine Cosmetics; Cosmedix, LLC; Da Lish Cosmetics Inc.; Dr. Sharp Natural Oral Care; 3rd Rock Sunblock, Inc.; Adesse Global Cosmetics LLC; Irie Star LLC; Caldera+Lab LLC; Hanalei; KVD Brand; SkinOms; TepOrganics LLC; Alchemy Holistics; Axiology Corp.; Evio Beauty Group; Invogue Limited; Lauren Brooke Cosmetics; Schmidt's Naturals; Suntegrity Skincare; Zuli Organic; Artic Fox Hair Color; Azlo Lashes LLC; Bua Organics LLC; Coexistence Soaps, LLC; Ellis Faas Cosmetics; Hurraw! Balm; Yaya Maria's LLC; Total Beauty Network; Verdant California; Visage Pro USA LLC; Skin&Co Roma; Skinveda; Sky Organics; Puracy LLC; 100%

Pure; Raen; Rue Sante; Shello; Sirrah Corp; Pristine Beauty; Pur Mineral LLC; e.l.f. Cosmetics Inc.; Elessential Botanicals; Frey Brothers Inc.; Gaffer & Child; Girly Goop LLC; Han Skin Care Cosmetics; Happy Spritz; Institut' DERMEd Body Clinical Skin Care; J Bloom Cosmetics LLC; The 7 Virtues Beauty, Inc.; Mechaly; Gabriel Cosmetics Inc.

**Opposition**

Personal Care Products Council  
California Manufacturers & Technology Association  
Fragrance Creators Association  
California Chamber of Commerce  
Chemistry Industry Council of California  
California Life Sciences Association  
California Retailers Association  
Household Cleaning Products Association  
Biocom  
California Biomedical Research Association  
Consumer Healthcare Products Association  
American Chemistry Council

**Analysis Prepared by:** Anthony Lew / JUD. / (916) 319-2334