

HB 3213 A STAFF MEASURE SUMMARY

Carrier: Rep. Neron

House Committee On Judiciary**Action Date:** 04/04/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 7-3-0-0**Yeas:** 7 - Andersen, Bynum, Chaichi, Conrad, Kropf, Reynolds, Tran**Nays:** 3 - Lewis, Morgan, Wallan**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Amie Fender-Sosa, LPRO Analyst**Meeting Dates:** 3/23, 4/4**WHAT THE MEASURE DOES:**

Defines "animal" and "cosmetic." Prohibits the sale of a cosmetic that was, on or after January 1, 2024, developed or manufactured using cosmetic animal tests. Provides exemption if cosmetic is for a specific human health problem that is substantiated; the need to conduct an animal test is justified and supported by detailed research protocol; there is no nonanimal alternative method recognized by any federal agency, state agency or the Organization for Economic Cooperation and Development; and the ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function. The measure does not prohibit retaining, reviewing or assessing evidence from an animal-based cosmetic test. Allows for the donation of cosmetics that do not meet the requirements of the measure. Allows the Attorney General (AG) to bring a civil action to impose a civil penalty or obtain an injunction for violation of the measure. Allows for a penalty up to \$5,000 for the first day and up to \$1,000 for each subsequent day the violation persists. Directs any amounts recovered by the AG to be deposited in the Department of Justice Protection and Education Revolving Account.

ISSUES DISCUSSED:

- Alternative ways to test the safety of products
- Testing makeup on animals
- Workgroup discussions
- House Bill 3213 mirrors a federal bill that died
- Modern testing methods can use human-based cells and computer programs instead of animals
- Other states and countries that have similar laws
- AG office will be enforcing; discussions with AG
- People use cosmetics not just to enhance beauty, but to cover scars, skin conditions, etc.
- Opponents assert that this should be addressed at the federal level, not the state level
- Cosmetic companies that already refuse to test on animals

EFFECT OF AMENDMENT:

For a cosmetic or incidental ingredient for a product that is not a cosmetic and the animal test was conducted pursuant to a regulatory authority, and the evidence from the animal test is not relied on to prove the safety or efficacy of the ingredient, removes requirement that to qualify for an exception to the animal testing prohibition there be no nonanimal alternative method or strategy recognized by any related governing body for the relevant safety endpoints from the cosmetic or incidental ingredient.

BACKGROUND:

The United States Food and Drug Administration (FDA) is responsible for assuring cosmetics are safe and properly labeled (through enforcement of the Federal Food, Drug, and Cosmetic Act (FD&C Act)). Whether a product is legally a cosmetic or a drug is determined by a product's intended use. FD&C Act defines cosmetics as "articles

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intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body...for cleansing, beautifying, promoting attractiveness, or altering the appearance." Among the products included in this definition are skin moisturizers, perfumes, lipsticks, fingernail polishes, eye and facial makeup preparations, cleansing shampoos, permanent waves, hair colors, and deodorants, as well as any substance intended for use as a component of a cosmetic product. Soap is excluded from this definition.

The FD&C Act allows but does not require the use of animal testing in cosmetics for safety. The FDA advises manufacturers to use whatever testing is appropriate and effective for confirming the safety of their products. There are policies that govern animal testing, including the Animal Welfare Act and the Public Health Service Policy of Humane Care and Use of Laboratory animals. The FDA also encourages manufacturers to consider using validated alternative methods to whole-animal testing.

House Bill 3213 A prohibits the sale of a cosmetic that was, on or after January 1, 2024, developed or manufactured using cosmetic animal tests, with some exceptions; allows for the donation of noncompliant cosmetics, and permits the Attorney General to bring a civil action to impose a civil penalty or obtain an injunction for violation of the measure.