HOUSE BILL No. 6623

November 14, 2006, Introduced by Rep. Kolb and referred to the Committee on Health Policy.

A bill to provide for the regulation of certain persons engaged in the manufacturing of cosmetics; to prescribe powers and duties of certain state departments and agencies; to prevent fraud and harm by prohibiting the sale of cosmetics in violation of this act; to provide standards for cosmetics and cosmetic manufacturers; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; and to provide for promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "safe cosmetics act of 2006".

Sec. 3. As used in this act:

(a) "Chemical identified as causing cancer or reproductive

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toxicity" means a chemical identified by a cosmetic ingredient review panel as any of the following:

(*i*) A substance listed as known or reasonably anticipated to be a human carcinogen in a national toxicology report on carcinogens.

(*ii*) A substance given overall carcinogenicity evaluation of group 1, group 2A, or group 2B by the international agency for research on cancer.

(*iii*) A substance identified as a group A, group B1, or group B2 carcinogen or as a known or likely carcinogen by the United States environmental protection agency.

(*iv*) A substance identified as having some or clear evidence of adverse developmental, male reproductive, or female reproductive toxicity effects in a report by an expert panel of the national toxicology program's center for the evaluation of risks to human reproduction.

(b) "Cosmetic" means any article, or its components, intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body, or any part of the human body, for cleansing, beautifying, promoting attractiveness, or altering the appearance. Cosmetic does not include soap.

(c) "Cosmetic ingredient review panel" means a group of experts designated by the department to serve as the authoritative body for the purpose of identifying chemicals that cause cancer or reproductive toxicity.

(d) "Department" means the department of community health.

(e) "Director" means the director of the department or his or her designee.

(f) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 399.

(g) "Ingredient" means any single chemical entity or mixture used as a component in the manufacture of a cosmetic product. Ingredient does not include incidental ingredients which are processing aids and other substances that are present in a cosmetic at insignificant levels and have no technical or functional effect in the cosmetic but are present by reason of having been incorporated into the cosmetic as an ingredient of another cosmetic ingredient.

(h) "Label" means a display of written, printed, or graphic matter upon a cosmetic or upon its immediate container.

(i) "Manufacture" means the preparation, compounding, propagation, processing, or fabrication of any cosmetic. Manufacture includes repackaging or otherwise changing the container, wrapper, or labeling of any cosmetic in furtherance of the distribution of the cosmetic. Manufacture does not include repackaging from a bulk container by a retailer at the time of sale to its ultimate consumer.

(j) "Manufacturer" means a person whose name appears on the label of a cosmetic product pursuant to 21 CFR 701.12.

(k) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

Sec. 5. The director shall provide for the administration and enforcement of this act. The director may delegate the enforcement and administration of this act. The director may promulgate rules for the enforcement and implementation of this act.

Sec. 7. A person who manufactures a cosmetic in this state shall clearly identify on the label of each cosmetic any ingredient that is identified and determined by the cosmetic ingredient review panel to be unsafe for the specific use for which the cosmetic is to be used or sold.

Sec. 9. (1) A manufacturer of a cosmetic product that is subject to regulation under the federal act and sold in this state shall, on a form as provided by the department, provide the department with a complete and accurate list of its cosmetic products that, as of the date of submission, are sold in this state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity by a cosmetic ingredient review panel, including any chemical that meets either of the following conditions:

(a) A chemical contained in the product for purposes of fragrance or flavoring.

(b) A chemical identified by the phrase "and other ingredients" and determined to be a trade secret. Any ingredient identified pursuant to this subdivision as a trade secret is confidential, is not a public record, and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The information provided pursuant to subsection (1) shall specifically identify each chemical both by name and by chemical abstract service number and shall specify the product or products in which the chemical is contained.

(3) If an ingredient identified pursuant to this section is subsequently removed from the product in which it was contained, is

removed from the list of chemicals known to cause cancer or reproductive toxicity, or is no longer a chemical identified as causing cancer or reproductive toxicity by a cosmetic ingredient review panel, the manufacturer of the product containing the ingredient shall submit the new information to the department. Upon receipt of the information, the department, after verifying the accuracy of that information, shall revise the manufacturer's information on record with the department to reflect the new information. The manufacturer shall not be under obligation to submit subsequent information on the presence of the ingredient in the product unless subsequent changes require submittal of the information.

(4) This section does not apply to a manufacturer with annual aggregate sales of cosmetic products, both inside and outside this state, of less than $1,000,000.00, based on the manufacturer's most recent tax year filing.

Sec. 11. Upon finding that a person violated a provision of this act or a rule promulgated under this act, the department may impose an administrative fine of not more than the costs incurred by the department as a result of the violation for the first offense and not more than 3 times the amount of the costs incurred by the department as a result of the violation for a second or subsequent offense and the actual costs of the investigation of the violation. Each day of any continuing violation is considered a separate violation of this act or a rule promulgated under this act.