

HOUSE BILL NO. 5968

September 26, 2024, Introduced by Reps. Steckloff, Conlin, Arbit and Price and referred to the Committee on Health Policy.

A bill to regulate hazardous products; to require that certain manufacturers of cosmetic products give notice to consumers regarding chemicals contained in the cosmetic products; to prohibit certain manufacturers from selling, offering for sale or use, or distributing for sale or use cosmetic products that contain certain chemicals; to provide for the powers and duties of certain state and local officers and entities; to require the promulgation of rules; and to prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "hazardous products act".

2 Sec. 3. For purposes of this act, the words and phrases
3 defined in sections 4 and 5 have the meanings ascribed to them in
4 those sections. These definitions apply to use of the defined terms
5 in this act.

6 Sec. 4. (1) "Asbestos-containing compound" includes talc.

7 (2) "Benzophenone" includes all of the following:

8 (a) 2, 4-dihydroxybenzophenone.

9 (b) Benzophenone-1.

10 (c) Benzophenone-2.

11 (d) Benzophenone-3.

12 (e) Oxybenzone.

13 (f) Resbenzophenone.

14 (3) "Butylated compound" includes all of the following:

15 (a) Butylated hydroxyanisole.

16 (b) Butylated hydroxytoluene.

17 (4) "Chemical" means either of the following:

18 (a) A substance with a distinct molecular composition and the
19 breakdown of products of the substance that form through
20 decomposition, degradation, or metabolism.

21 (b) A group of structurally related substances and the
22 breakdown of products of the substances that form through
23 decomposition, degradation, or metabolism.

24 (5) "Class of chemicals" means a group of chemicals that are
25 related or similar based on structure, use, physical property, or
26 radiological property.

27 (6) "Contaminant" means a trace amount of a chemical that is
28 incidental to manufacturing and that does not serve an intended
29 function in the product component, including, but not limited to,

1 any of the following:

2 (a) An unintended by-product of a chemical reaction during the
3 manufacture of the product component.

4 (b) A trace impurity in feedstock.

5 (c) An incompletely reacted chemical mixture.

6 (d) A degradation product.

7 (7) "Cosmetic product" means a consumer good intended to be
8 rubbed, poured, sprinkled on, sprayed on, introduced into, or
9 otherwise applied to the human body, or any part of the human body,
10 for cleansing, beautifying, promoting attractiveness, or altering
11 appearance, and any part of a component of the consumer good.

12 Cosmetic product does not include any of the following:

13 (a) A soap.

14 (b) A dietary supplement.

15 (c) Except as otherwise provided in section 11, a food or drug
16 that is regulated by the United States Food and Drug
17 Administration.

18 (8) "De minimis level" means either of the following:

19 (a) For a chemical that is an intentionally added chemical,
20 the practical quantification limit.

21 (b) For a chemical that is a contaminant, a concentration of
22 100 parts per million.

23 (9) "Department" means the department of health and human
24 services.

25 (10) "Ethanolamine" includes both of the following:

26 (a) Diethanolamine.

27 (b) Triethanolamine.

28 (11) "Formaldehyde-releasing agent" means a chemical that
29 releases formaldehyde.

1 Sec. 5. (1) "Heavy metal" includes all of the following:

2 (a) Arsenic.

3 (b) Cadmium.

4 (c) Chromium.

5 (d) Nickel.

6 (e) Selenium.

7 (2) "Intentionally added chemical" means a chemical to which
8 either of the following applies:

9 (a) The chemical has been intentionally added by a
10 manufacturer, packer, or supplier to an ingredient, a raw material,
11 a product, or a packaging and that has a functional or technical
12 effect on the product or packaging.

13 (b) The chemical is an intentional breakdown product of an
14 added chemical described in subdivision (a).

15 (3) "Known carcinogen" includes all of the following:

16 (a) Benzene.

17 (b) Carbon black.

18 (c) Coal tar.

19 (d) Ethylene oxide.

20 (e) Toluene.

21 (f) Naphthalene.

22 (g) Nickel (Metallic).

23 (h) Styrene.

24 (i) Xylene.

25 (4) "Manufacturer" means a person that produces a cosmetic
26 product, the owner of the cosmetic product, or a domestic
27 distributor of a cosmetic product. Manufacturer does not include
28 any of the following:

29 (a) A retailer that sells to consumers a cosmetic product

1 produced by a third party.

2 (b) A grocery wholesaler or grocery retailer that contracts
3 with a third party to produce a cosmetic product on behalf of and
4 under the brand of the grocery wholesaler or grocery retailer.

5 (5) "Ortho-phthalate" includes all of the following:

6 (a) Benzyl butyl phthalate, BBP.

7 (b) Dibutyl phthalate, DBP.

8 (c) Dicyclohexyl phthalate, DCHP.

9 (d) Diethyl phthalate, DEP.

10 (e) Diisobutyl phthalate, DIBP.

11 (f) Diisodecyl phthalate, DIDP.

12 (g) Diisononyl phthalate, DINP.

13 (h) Dioctyl phthalate, DNOP.

14 (i) Di(2-ethylhexyl) phthalate, DEHP.

15 (j) Dihexyl phthalate, DnHP.

16 (k) Dipentyl phthalate, DNPP.

17 (l) Diisoheptyl phthalate, DIHP.

18 (6) "Paraben" includes all of the following:

19 (a) Butylparaben.

20 (b) Ethylparaben.

21 (c) Isobutylparaben.

22 (d) Isopropylparaben.

23 (e) Methylparaben.

24 (f) Propylparaben.

25 (7) "Perfluoroalkyl and polyfluoroalkyl substance" means a
26 substance in the class of fluorinated organic chemicals that is
27 manmade and has at least 1 fully fluorinated carbon atom.

28 (8) "Person" means an individual or a partnership,
29 corporation, limited liability company, association, governmental

1 entity, or other legal entity.

2 (9) "Phenylenediamine" includes all of the following:

3 (a) M-phenylenediamine.

4 (b) O-phenylenediamine.

5 (c) P-phenylenediamine.

6 (10) "Practical quantification limit" means the lowest
7 concentration of a chemical that can be readily measured within
8 specific limits of precision, accuracy, representativeness,
9 completeness, and comparability during routine laboratory operating
10 conditions.

11 (11) "Siloxane" includes all of the following:

12 (a) Cyclopentasiloxane.

13 (b) Cyclosiloxane.

14 (c) Cyclotetrasiloxane.

15 (d) Octamethylcyclotetrasiloxane.

16 Sec. 7. (1) Beginning January 1, 2027, the department shall
17 promulgate rules under the administrative procedures act of 1969,
18 1969 PA 306, MCL 24.201 to 24.328, to establish a list of high-
19 priority chemicals of concern used in cosmetic products that are
20 sold, offered, or distributed in this state and the practical
21 quantification limits for each high-priority chemical of concern.

22 (2) The department may include any class of chemicals on the
23 list under subsection (1). However, the department may exclude from
24 the list specific members of the class of chemicals that do not
25 share the same hazards as the other members of the class of
26 chemicals.

27 (3) In determining the practical quantification limits under
28 subsection (1) or the classes of chemicals under subsection (2),
29 the department shall consider guidance developed by a state agency,

1 an equivalent agency in another state or the federal government, or
2 an international or nongovernmental organization with applicable
3 expertise.

4 (4) The department shall review and revise the list under
5 subsection (1) every 3 years.

6 (5) Both of the following apply to a review conducted under
7 subsection (4):

8 (a) The department shall consider adding or removing a high-
9 priority chemical or a class of chemicals if the chemical or class
10 of chemicals is added to or removed from a list maintained by a
11 state agency or an equivalent agency in another state or the
12 federal government that has authority to identify high-priority
13 chemicals.

14 (b) The department may remove a high-priority chemical or a
15 class of chemicals from the list if the department determines that
16 the chemical or class of chemicals is not used in any cosmetic
17 product sold, offered, or distributed in this state.

18 (6) Not later than 1 year after the production of the list
19 under subsection (1) or a revision of the list under subsection
20 (1), the department shall post the list on the department's website
21 and a description of the known health impacts associated with
22 exposure for each high-priority chemical or class of chemicals on
23 the list or revised list.

24 Sec. 9. (1) Beginning January 1, 2027, a manufacturer of a
25 cosmetic product that is sold or offered for sale in this state
26 that contains a chemical included on the list described in section
27 7 in an amount at or above a de minimis level shall include a
28 notice that complies with this section on the manufacturer's
29 website.

1 (2) The notice described in subsection (1) must contain both
2 of the following:

3 (a) Information that satisfies all of the labeling
4 requirements under the federal food, drug, and cosmetic act, 21 USC
5 301 to 399i and the fair packaging and labeling act, 15 USC 1451 to
6 1461.

7 (b) The name of chemicals or classes of chemicals in the
8 cosmetic product that are intentionally added chemicals, if the
9 chemicals or classes of chemicals are identified by the department
10 as either of the following:

11 (i) A chemical or class of chemicals on the list described in
12 section 7.

13 (ii) A chemical or class of chemicals identified by a state
14 agency, an equivalent agency in another state or the federal
15 government, an accredited research university, or by other
16 information deemed authoritative by the department on the basis of
17 credible scientific evidence as a chemical or class of chemicals to
18 which any of the following apply:

19 (A) It is known to harm the normal development of a fetus or
20 child or cause other developmental toxicity.

21 (B) It is known to cause cancer, genetic damage, or
22 reproductive harm.

23 (C) It is known to disrupt the endocrine system.

24 (D) It is known to damage the nervous system, immune system,
25 or organs or cause other systemic toxicity.

26 (E) It is known to be persistent, bioaccumulative, and toxic.

27 (F) It is known to be very persistent and very
28 bioaccumulative, as determined by the department by rule under the
29 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328.

2 Sec. 11. (1) Beginning January 1, 2027, a manufacturer shall
3 not knowingly manufacturer, sell, offer for sale or use, or
4 distribute for sale or use in this state any cosmetic product that
5 contains any of the following intentionally added chemicals or
6 classes of chemicals above the practical quantification limit:

- 7 (a) Asbestos and asbestos-containing compounds.
8 (b) Benzophenones.
9 (c) Butylated compounds.
10 (d) Ethanolamines.
11 (e) Formaldehyde and formaldehyde-releasing agents.
12 (f) Heavy metals or heavy metal-containing compounds.
13 (g) Known carcinogens.
14 (h) Nonylphenol.
15 (i) Ortho-phthalates and their esters.
16 (j) Parabens.
17 (k) Perfluoroalkyl and polyfluoroalkyl substances.
18 (l) Phenylenediamines.
19 (m) Siloxanes.
20 (n) Triclocarban.
21 (o) Triclosan.

22 (2) Beginning January 1, 2027, a manufacturer shall not
23 knowingly manufacturer, sell, offer for sale or use, or distribute
24 for sale or use in this state any cosmetic product that contains
25 lead or lead compounds at 10 parts per million or above, or as
26 otherwise determined by the department by rule under the
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
28 24.328.

29 (3) This section applies to cosmetic products even if the

1 product contains a drug ingredient that is regulated by the United
2 States Food and Drug Administration.

3 Sec. 13. If the department believes that a manufacturer has
4 violated section 9 or 11, the department may request that the
5 manufacturer, not later than 10 days after receiving the request,
6 provide a statement of compliance with section 9 or 11, as
7 applicable, on a form prescribed by the department.

8 Sec. 15. (1) Subject to subsection (2), a manufacturer that
9 violates section 11 may be ordered to pay a civil fine of not more
10 than either of the following:

11 (a) For a first violation, \$5,000.00.

12 (b) For a second or subsequent violation, \$10,000.00.

13 (2) A violation of section 11 consists of a single course of
14 conduct for an entire cosmetic product line.

15 (3) A violation of section 11 may be prosecuted by the
16 prosecutor of the county in which the violation occurred or by the
17 attorney general.