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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3154

February 18, 2008

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The bill was read for the first time and referred to the Committee on Health and Human Services

March 4, 2008

By motion, recalled and re-referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to health; establishing the "Safe Cosmetics Act"; requiring manufacturers
1.3 of cosmetics to disclose cancer causing ingredients; proposing coding for new
1.4 law in Minnesota Statutes, chapter 325F.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[325F.172] SAFE COSMETICS.**

1.7 Subdivision 1. Title. This section may be referred to as the "Safe Cosmetics Act."

1.8 Subd. 2. Definitions. As used in this section, the following terms have the meanings
1.9 given them unless the specific content indicates otherwise.

1.10 (a) "Authoritative body" means any agency or formally organized program or
1.11 group recognized by the commissioner of health as being authoritative for the purpose of
1.12 identifying chemicals that cause cancer or reproductive toxicity.

1.13 (b) "Chemical identified as causing cancer or reproductive toxicity" means a
1.14 chemical identified by an authoritative body as any of the following:

1.15 (1) a substance listed as known or reasonably anticipated to be a human carcinogen
1.16 in a National Toxicology Report on carcinogens;

1.17 (2) a substance given an overall carcinogenicity evaluation of Group 1, Group 2A,
1.18 or Group 2B, by the International Agency for Research on Cancer;

1.19 (3) a substance identified as a Group A, Group B1, or Group B2 carcinogen, or as a
1.20 known or likely carcinogen by the United States Environmental Protection Agency; or

1.21 (4) a substance identified as having some or clear evidence of adverse developmental,
1.22 male reproductive, or female reproductive toxicity effects in a report by an expert panel
1.23 of the National Toxicology Program's Center for the Evaluation of Risks to Human
1.24 Reproduction.

2.1 (c) "Commissioner" means the commissioner of health.

2.2 (d) "Cosmetics" has the same meaning as that term is defined in United States Code,
2.3 title 21, chapter 9, subchapter II, section 321, and includes:

2.4 (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into,
2.5 or otherwise applied to the human body or any part thereof for cleansing, beautifying,
2.6 promoting attractiveness, or altering the appearance; and

2.7 (2) articles intended for use as a component of any such articles, excluding soap.

2.8 (e) "Ingredient" has the same meaning as that term is defined in Code of Federal
2.9 Regulations, title 21, chapter 1, part 700, section 700.3, subdivision (e), and does not
2.10 include any incidental ingredient as defined in Code of Federal Regulations, title 21,
2.11 chapter 1, part 701, section 701.3, subdivision (1).

2.12 (f) "Manufacturer" means any person whose name appears on the label of a cosmetic
2.13 product pursuant to the requirements of Code of Federal Regulations, title 21, section
2.14 701.12.

2.15 Subd. 3. **Program established.** (a) Beginning January 1, 2009, the manufacturer of
2.16 any cosmetic product subject to regulation by the federal Food and Drug Administration
2.17 that is sold in this state shall, on a schedule and in electronic or other format, as determined
2.18 by the commissioner, provide the commissioner with a complete and accurate list of its
2.19 cosmetic products that, as of the date of submission, are sold in the state and that contain
2.20 any ingredient that is a chemical identified as causing cancer or reproductive toxicity,
2.21 including any chemical that meets either of the following conditions:

2.22 (1) a chemical contained in the product for purposes of fragrance or flavoring; or

2.23 (2) a chemical identified by the phrase "and other ingredients" and determined to
2.24 be a trade secret pursuant to the procedure established in Code of Federal Regulations,
2.25 title 21, part 702, section 720.8, and part 20. Any ingredient identified pursuant to this
2.26 paragraph shall be considered trade secret information and shall be treated as nonpublic
2.27 information as required under section 13.37 and in accordance with Code of Federal
2.28 Regulations, title 21, part 720, and part 20.

2.29 (b) Any information submitted pursuant to paragraph (a) shall identify each chemical
2.30 both by name and Chemical Abstract Service number and shall specify the product or
2.31 products in which the chemical is contained.

2.32 (c) If an ingredient identified pursuant to this subdivision subsequently is removed
2.33 from the product in which it was contained or is no longer a chemical identified as
2.34 causing cancer or reproductive toxicity by an authoritative body, the manufacturer of the
2.35 product containing the ingredient shall submit the new information to the commissioner.
2.36 Upon receipt of new information, the commissioner, after verifying the accuracy of that

3.1 information, shall revise the manufacturer's information on record with the commissioner
3.2 to reflect the new information. The manufacturer shall not be under obligation to submit
3.3 subsequent information on the presence of the ingredient in the product unless subsequent
3.4 changes require submittal of the information.

3.5 (d) This subdivision shall apply to cosmetic products that may also be regulated as a
3.6 drug by the federal Food and Drug Administration.

3.7 Subd. 4. **Investigations.** (a) In order to determine potential health effects of
3.8 exposure to ingredients in cosmetics sold in the state, the commissioner may conduct an
3.9 investigation of one or more cosmetic products that contain chemicals identified as causing
3.10 cancer or reproductive toxicity or other ingredients of concern to the commissioner.

3.11 (b) An investigation conducted pursuant to paragraph (a) may include, but not
3.12 be limited to, a review of available health effects data and studies, worksite health
3.13 hazard evaluations, epidemiological studies to determine the health effects of exposures
3.14 to chemicals in various subpopulations, and exposure assessments to determine total
3.15 exposures to individuals in various settings.

3.16 (c) If an investigation is conducted pursuant to paragraph (a), the manufacturer
3.17 of any product subject to the investigation may submit relevant health effects data and
3.18 studies to the commissioner.

3.19 (d) In order to further the purposes of an investigation, the commissioner
3.20 may require manufacturers of products subject to the investigation to submit to the
3.21 commissioner relevant health effects data and studies available to the manufacturer and
3.22 other available information as requested by the commissioner, including, but not limited
3.23 to, the concentration of the chemical in the product, the amount by volume or weight of
3.24 the product that comprises the average daily application or use, and sales and use data
3.25 necessary to determine where the product is used in the occupational setting.

3.26 (e) The commissioner shall establish reasonable deadlines for the submittal of
3.27 information required pursuant to paragraph (d). Failure by a manufacturer to submit the
3.28 information in compliance with the requirements of the commissioner shall constitute a
3.29 violation of this section.

3.30 (f) If the commissioner determines pursuant to an investigation that an ingredient
3.31 in a cosmetic product is potentially toxic at the concentrations present in the product or
3.32 under the conditions used, the commissioner shall immediately refer the results of its
3.33 investigation to the commissioner of labor and industry.

3.34 (g) Within 180 days of receiving the results of an investigation pursuant to paragraph
3.35 (b), the commissioner of labor and industry shall, pursuant to section 182.655, develop and
3.36 present one or more proposed occupational health standards to the Occupational Safety

4.1 and Health Advisory Council, unless the commissioner of labor and industry affirmatively
4.2 determines, in a written finding within 90 days, that a standard is not necessary to protect
4.3 the health of an employee who has regular exposure to the hazard for the period of the
4.4 employee's working life. The written finding shall identify the reasons for determining the
4.5 standard is not necessary and the factual basis for the finding.