



BILL BRIEF

HB 1047 – Cosmetic Product Chemicals

Key provisions

- Restricts the manufacture, sale and distribution of cosmetic products containing nine chemicals or classes of chemicals, beginning January 1, 2025.
- Directs the Department of Ecology (Ecology) to implement an initiative to support small businesses that manufacture cosmetic products to obtain voluntary environmental health certifications.

Background

The State of Washington has enacted restrictions on the adulteration and misbranding of cosmetic products under the state's Intrastate Commerce in Drugs and Cosmetics Code (ICDC), in a manner that conforms with the Federal Food, Drug, and Cosmetic Act (FDCA) and the Fair Packaging and Labeling Act (FPLA).

Under the ICDC, cosmetics are defined as articles intended to be applied to the human body for cleansing, beautifying, promoting attractiveness, or altering appearances, and articles intended for use as a component of articles applied to the human body for such purposes. Soap is excluded from the definition of cosmetics.

Washington enacted legislation in 2019 that gives Ecology the ability to regulate priority chemicals in priority consumer products. The law is known as the Safer Products for Washington Program. However, under the law, Ecology is authorized to designate additional chemicals as priority chemicals every five years, consistent with a schedule in the 2019 law. Therefore, to regulate additional chemicals outside that timeline (like those in cosmetics) requires additional statutory authority.

What this legislation does

- Restricts the manufacture, sale and distribution of cosmetic products containing nine chemicals or classes of chemicals, beginning January 1, 2025.
- Directs Ecology to perform a hazard assessment for other chemicals in cosmetic products that can serve similar functions to the restricted chemicals.
- Directs Ecology to implement an initiative to support small businesses that manufacture cosmetic products to obtain voluntary environmental health certifications.

Key messages

Republicans have supported the regulation of chemicals in children's toys, firefighting equipment and water bottles.

This chemical regulation is on a limited set of products – cosmetics – that people apply to their bodies and which washes into Washington water as we bathe.

There is evidence of disproportionate exposure to certain populations to hazardous chemicals in cosmetics.

On the other hand, the Safer Products Washington law provides a balance for industry between regulation and certainty by having product regulation occur at predictable five-year cycles.

A study funded by the Legislature on this issue is not yet complete.

Reasons to support

- Many cosmetics used by Washington residents contain hazardous chemicals that should be restricted.

Reasons to oppose

- The Safer Products Washington Law could address these chemicals in the next five-year regulatory cycle.
- Phase two of a study funded by the Legislature on cosmetic chemicals will not be complete until June 30, 2023.

Fiscal information

- \$1.5M 2023-25; \$2.3M 2025-27; \$2.5M 2027-29.

Stakeholders

- Pro: League of Women Voters, Toxic-Free Future, Zero Waste Washington, The Lands Council, We ACT for Environmental Justice, Seattle Public Utilities, King County Health, Hazardous Waste Management Program of King County.
- Con: Personal Care Products Council, Consumer Healthcare Products Association, American Chemistry Council, AWB.
- Other: WA Retail, Ecology, Department of Health (DOH).

Additional information

- Section 302 (56) of the 2022 Supplemental Operating Budget, ESSB 5693, provided \$266,000 for a study of chemicals in cosmetics used by Washington residents, specifically to identify cosmetic products marketed to or used by people of color, including adults and children, and test those products for potentially harmful chemicals or chemical classes.
- Publication [23-04-007](#) is the report called for in the proviso.
- Key findings included:
 - Ecology/DOH heard from Black or biracial Washington residents that they most frequently use skin lotion, hair conditioning treatments, and lip and eye makeup. Latinx teens and their parents living in Pierce County reported that they most frequently use deodorant, skin lotion or oil, and hair styling or hair conditioning products.
 - In phase one product testing, Ecology/DOH found:
 - Formaldehyde in 26 out of 30 body lotions and hair products.
 - Formaldehyde levels from an estimated 39.2 parts per million (ppm) to 1660 ppm, with the highest level in a hair styling gel purchased from Walmart. Formaldehyde levels above 200 ppm are known to cause allergic reactions in sensitive individuals (SCCS, 2021).
 - Lead greater than 1 ppm in two dark-tint powder foundations and one lipstick. There is no known safe amount of lead (CDC, 2021; WHO, 2022).
 - Lead concentration of 5.5 ppm and arsenic concentration of 2.1 ppm in one dark-tint powder foundation. Germany has determined that it is feasible for companies to keep lead levels below 5.0 ppm and arsenic levels below 0.5 ppm in makeup powders (BVL, 2017).
 - Findings in the first phase of product testing, the scientific literature, and product databases demonstrate that many products used by Washington residents can contain a number of hazardous chemicals. These include products intended for children, that Washington residents frequently use, and that do not list the hazardous chemicals as ingredients on the label. Several studies have found multiple hazardous chemicals in the same products.

Brief history of Republican votes on bills regulating products in chemicals

- [SB 5703](#) (2022)—**Concerning the use and disclosure of toxic chemicals in cosmetic products.**
 - Restricts the manufacture, sale and distribution of cosmetic products containing nine chemicals or classes of chemicals, beginning January 1, 2025.
 - Requires Ecology, in consultation with DOH, to create and adopt a cosmetics community engagement plan by December 1, 2022.
 - Senate floor: 26-21-2 (party-line); House Environment: Abbarno, Boehnke vote yea. Dies Appropriations.
- [HB 1694](#) (2022)—**Concerning logistical processes for the regulation of priority chemicals in consumer products.**
 - Designates firefighting personal protective equipment as a priority consumer product for Per- and Poly-fluoroalkyl (PFAS) chemicals under the 2019 law that directs Ecology to regulate priority chemicals in priority consumer products (Safer Products for Washington).
 - Designates products identified in the PFAS chemical action plan as priority consumer products for PFAS under Safer Products for Washington.
 - Requires Ecology to designate priority chemicals and priority consumer products, and to determine regulatory actions and adopt rules for those regulatory determinations, at least every five years with deadlines of September 1 of a year in which an agency action is required, rather than precisely every five years with deadlines of June 1 of a year in which an agency action required.
 - Final passage: 83-14-1 (Excused: Chandler) (Voting yea: Abbarno, Barkis, Boehnke, Caldier, Chambers, Corry, Dye, Gilday, Goehner, Griffey, Harris, Jacobsen, Klicker, Klippert, MacEwen, Maycumber, Mosbrucker, Orcutt, Robertson, Rude, Schmick, Steele, Stokesbary, Volz, Wilcox).
- [SB 5135](#) (2019)—**Preventing toxic pollution that affects public health or the environment, a.k.a., “the Safer Products Washington” program.**
 - Directs Ecology to identify priority consumer products for at least five priority chemicals every five years, with the first process beginning in 2020.
 - Authorizes Ecology to take regulatory actions with respect to priority consumer products containing priority chemicals, including restricting or prohibiting the manufacture, sale or use of a priority chemical in a priority consumer product.
 - Final passage: 60-37 (Voting yea: DeBolt, VanWerven, Smith, Rude, Steele).
- [HB 2535](#) (2016)—**Reducing public health threats that particularly impact highly exposed populations, including children and firefighters, by establishing a process for the department of health to restrict the use of toxic flame retardant chemicals in certain types of consumer products.**
 - Prohibits the manufacture, sale or distribution of children’s products or residential upholstered furniture containing specified flame retardants in amounts greater than 1,000 ppm.
 - Final passage: 96-0.
- [HB 1294](#) (2014)—**Concerning flame retardants.**
 - Prohibits the manufacture, sale and distribution of residential upholstered furniture and children’s products that contain more than 100 ppm of tris(1,3-dichloro-2-propyl) phosphate (TDCPP) and tris(2-chloroethyl)phosphate (TCEP) beginning July 1, 2015.
 - Final passage: 72-25-1 (Excused: Kretz) (Voting yea: Christian, Condotta, Harris, Hawkins, Hunt, G., Johnson, Kochmar, Magendanz, Muri, Overstreet, Parker, Rodne, Ross, Scott, Shea, Smith, Taylor, Wilcox, Young, Zeiger).
- [SB 6248](#) (2010)—**Concerning the use of bisphenol A.**
 - Bans the manufacture and sale of containers made with bisphenol A designed to hold food and beverages used by children under the age of 3 years beginning July 1, 2011.
 - Bans the manufacture and sale of sports bottles containing bisphenol A beginning July 1, 2012.
 - Final passage: 96-1.