

AMENDED IN SENATE APRIL 15, 2008

SENATE BILL

No. 1712

Introduced by Senators Migden and Romero
(Coauthor: Assembly Member Evans)

February 22, 2008

An act to add Sections 111671 and 111671.1 to the Health and Safety Code, relating to adulterated cosmetics.

LEGISLATIVE COUNSEL'S DIGEST

SB 1712, as amended, Migden. Adulterated cosmetics.

The Sherman Food, Drug, and Cosmetic Act contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. The act makes it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any cosmetic that is adulterated. The act deems a cosmetic to be adulterated if, among other things, it bears or contains any poisonous or deleterious substance that may render it injurious to users under customary or usual conditions. Violation of these provisions is a misdemeanor.

This bill would include lipstick that bears or contains lead or lead compounds as an adulterated cosmetic for purposes of the act. The bill would also require, on and after January 1, 2009, ~~any person who manufactures, packages, or sells lipstick in the manufacturer of any lipstick subject to regulation by the federal Food and Drug Administration that is sold in this state~~ to report this fact to the State Department of Public Health and provide evidence to the department; that the lipstick was tested and found not to contain lead. By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
2 (a) Independent testing in the United States and the European
3 Union has determined that some cosmetic products contain
4 substances known or suspected to cause cancer and reproductive
5 toxicity that can harm the mother, fetus, and nursing children.
6 (b) The Campaign for Safe Cosmetics released product test
7 results in October 2007 that found that more than half of 33
8 brand-name lipsticks manufactured in the United States contained
9 detectable levels of lead. The lead levels in one-third of the lipstick
10 samples exceeded the federal Food and Drug Administration's
11 limit for lead in candy, which is a standard established to protect
12 children from directly ingesting lead.
13 (c) The federal Centers for Disease Control and Prevention
14 states there is no safe level of lead exposure, particularly since
15 lead does not break down in the body, but accumulates over time,
16 from various sources.
17 (d) According to the federal Environmental Protection Agency,
18 lead poisoning is the most common environmental illness in
19 California children.
20 (e) Lead is a known neurotoxin that can cause learning,
21 language, and behavioral problems such as lowered IQ, attention
22 deficit disorder, and juvenile delinquency. In women of
23 reproductive age, elevated lead levels are linked to infertility and
24 miscarriage. Pregnant women and young children are particularly
25 vulnerable to exposure because lead easily crosses the placenta
26 and enters the fetal brain, where it interferes with normal
27 development. High levels of lead poisoning can cause seizures,
28 coma, severe brain and kidney damage, and death.
29 (f) The federal Food and Drug Administration has not set a limit
30 for lead in lipstick, nor does the agency test finished cosmetic

1 products for lead, and the European Union has banned lead in
2 cosmetics since 1976 and lead compounds since 2004.

3 (g) Given the presence of lead in many lipstick products, the
4 heavy use of these products by women of childbearing age, the
5 adverse impacts of lead on human health, and the availability of
6 alternatives to the use of lead, it is in the interest of the people of
7 the State of California to take steps to ensure that lipsticks sold
8 and used in the state are safe.

9 SEC. 2. Section 111671 is added to the Health and Safety Code,
10 to read:

11 111671. An “adulterated cosmetic,” for purposes of Section
12 111670, includes lipstick that bears or contains lead or lead
13 compounds.

14 SEC. 3. Section 111671.1 is added to the Health and Safety
15 Code, to read:

16 111671.1. On and after January 1, 2009, ~~any person who~~
17 ~~manufactures, packages, or sells lipstick~~ *the manufacturer of any*
18 *lipstick subject to regulation by the federal Food and Drug*
19 *Administration that is sold* in this state shall report this fact to the
20 department and provide evidence to the department that the lipstick
21 was tested and found ~~not to contain~~ *to contain no detectable* lead.

22 SEC. 4. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.