

AMENDED IN SENATE JUNE 4, 2012

AMENDED IN SENATE MAY 7, 2012

**SENATE BILL**

**No. 977**

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**Introduced by Senator Yee**

January 23, 2012

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An act to amend Section 111825 of the Health and Safety Code, relating to the Sherman Food, Drug, and Cosmetic Law, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 977, as amended, Yee. Sherman Food, Drug, and Cosmetic Law: nail polish.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act. *The Sherman Law prohibits the misbranding of a cosmetic.* A violation of these provisions is a crime. ~~Existing law, the California Safe Cosmetics Act of 2005, which is within the Sherman Law, requires certain manufacturers of cosmetic products subject to regulation by the federal Food and Drug Administration that are sold in the state to provide the department with a complete and accurate list of their cosmetic products that contain any chemical identified as causing cancer or reproductive toxicity, as specified.~~

This bill would increase the criminal penalty for specified violations by a nail polish manufacturer of the ~~California Safe Cosmetics Act of 2005~~ *misbranding prohibitions of the Sherman Law* to a maximum of ~~\$5,000~~ *\$15,000*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 111825 of the Health and Safety Code  
2 is amended to read:

3 111825. (a) Any person who violates any provision of this  
4 part or any regulation adopted pursuant to this part shall, if  
5 convicted, be subject to imprisonment for not more than one year  
6 in the county jail or a fine of not more than one thousand dollars  
7 (\$1,000), or both the imprisonment and fine.

8 (b) Notwithstanding subdivision (a), any person who violates  
9 Section 111865 by removing, selling, or disposing of an embargoed  
10 food, drug, device, or cosmetic without the permission of an  
11 authorized agent of the department or court shall, if convicted, be  
12 subject to imprisonment for not more than one year in the county  
13 jail or a fine of not more than ten thousand dollars (\$10,000), or  
14 both the fine and imprisonment.

15 (c) Notwithstanding subdivision (a), a manufacturer, as defined  
16 in Section 111791.5, of nail polish that violates Article ~~3.5~~  
17 ~~(commencing with Section 111791) 3 (commencing with Section~~  
18 ~~111730) of Chapter 7~~ or any regulation adopted pursuant to this  
19 article shall, if convicted, be subject to a fine of not more than ~~five~~  
20 ~~fifteen~~ thousand dollars ~~(\$5,000) (\$15,000)~~.

21 (d) If the violation is committed after a previous conviction  
22 under this section that has become final, or if the violation is  
23 committed with intent to defraud or mislead, or if the person  
24 committed a violation of Section 110625 or 111300 that was  
25 intentional or that was intended to cause injury, the person shall  
26 be subject to imprisonment for not more than one year in the county  
27 jail, imprisonment in state prison, or a fine of not more than ten  
28 thousand dollars (\$10,000), or both the imprisonment and fine.

29 SEC. 2. This act is an urgency statute necessary for the  
30 immediate preservation of the public peace, health, or safety within  
31 the meaning of Article IV of the Constitution and shall go into  
32 immediate effect. The facts constituting the necessity are:

1 In order to protect the health and safety of *consumers and nail*  
2 ~~salon workers and consumers~~ *of from misleading claims and*  
3 *advertisements concerning nail polish from the harmful effects of*  
4 ~~some of the ingredients of nail polish~~ *and proper use*, it is  
5 necessary that this act take effect immediately as an urgency statute.

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