

AMENDED IN SENATE AUGUST 7, 2012

AMENDED IN SENATE JUNE 4, 2012

AMENDED IN SENATE MAY 7, 2012

SENATE BILL

No. 977

Introduced by Senator Yee

January 23, 2012

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 *subject to, with specified exceptions, imprisonment for not more than one year in the county jail or a fine of not more than \$1,000, or both imprisonment and fine*.

This bill would increase the criminal ~~penalty~~ *fine* for specified violations by a nail polish manufacturer of the misbranding prohibitions of the Sherman Law to a maximum of ~~\$15,000~~ *\$2,000*.

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
17 (commencing with Section 111730) of Chapter 7 or any regulation
18 adopted pursuant to this article shall, if convicted, be subject to
19 ~~imprisonment for not more than one year in the county jail or a~~
20 ~~fine of not more than fifteen thousand dollars (\$15,000)~~
21 (\$2,000), or both the imprisonment and fine.
22 (d) If the violation is committed after a previous conviction
23 under this section that has become final, or if the violation is
24 committed with intent to defraud or mislead, or if the person
25 committed a violation of Section 110625 or 111300 that was
26 intentional or that was intended to cause injury, the person shall
27 be subject to imprisonment for not more than one year in the county
28 jail, imprisonment in state prison, or a fine of not more than ten
29 thousand dollars (\$10,000), or both the imprisonment and fine.
30 SEC. 2. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety within
32 the meaning of Article IV of the Constitution and shall go into
33 immediate effect. The facts constituting the necessity are:
34 In order to protect the health and safety of consumers and nail
35 salon workers from misleading claims and advertisements

- 1 concerning nail polish ingredients and proper use, it is necessary
- 2 that this act take effect immediately as an urgency statute.

O