

AMENDED IN ASSEMBLY AUGUST 31, 2012

AMENDED IN ASSEMBLY AUGUST 29, 2012

AMENDED IN SENATE AUGUST 7, 2012

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.

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, *with certain exceptions*, increase the criminal fine for specified violations by a nail polish manufacturer of the misbranding prohibitions of the Sherman Law to a maximum of \$2,000.

Vote: majority. 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) (1) Notwithstanding subdivision (a) *and except as provided*  
16    *in paragraph (2)*, a manufacturer, as defined in Section 111791.5,  
17    of nail polish that violates Article 3 (commencing with Section  
18    111730) of Chapter 7 or any regulation adopted pursuant to this  
19    article shall, if convicted, be subject to imprisonment for not more  
20    than one year in the county jail or a fine of not more than two  
21    thousand dollars (\$2,000), or both the imprisonment and fine.  
22    (2) *Paragraph (1) shall not apply to a nail salon or to a*  
23    *distributor, retailer, or wholesaler of nail polish.*  
24    (d) If the violation is committed after a previous conviction  
25    under this section that has become final, or if the violation is  
26    committed with intent to defraud or mislead, or if the person  
27    committed a violation of Section 110625 or 111300 that was  
28    intentional or that was intended to cause injury, the person shall  
29    be subject to imprisonment for not more than one year in the county  
30    jail, imprisonment in state prison, or a fine of not more than ten  
31    thousand dollars (\$10,000), or both the imprisonment and fine.

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