

Amendment No. 480

Senate Amendment to Senate Bill No. 197	(BDR 52-746)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 197—SENATORS SCHEIBLE; PARKS AND RATTI

FEBRUARY 18, 2019

JOINT SPONSOR: ASSEMBLYMAN FUMO

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to trade practices. (BDR 52-746)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; prohibiting the importation and sale of cosmetics for which testing was performed on an animal; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~prohibits~~ **makes it unlawful for** a manufacturer ~~from importing, selling~~ **to import, sell** or ~~offering~~ **offer** for sale in this State any cosmetic for which testing was performed on certain animals. This bill provides ~~for (1) certain exemptions to the prohibition for certain animal testing that is performed pursuant to federal, state or foreign regulatory requirements; (2) treatment and protection as trade secrets for certain information that is provided to or reviewed by a district attorney or city attorney in investigating potential violations; and (3) for the imposition of civil penalties.~~ **A person who commits this crime is guilty of a misdemeanor, punishable by imprisonment in the county jail for a term of not more than 6 months, or a fine of up to \$1,000, or both. (NRS 193.150)** This bill also prohibits any political subdivision of this State or agency thereof from establishing or continuing prohibitions that are not identical to the provisions of this bill. This bill also allows an inventory of cosmetics which is otherwise in violation of the prohibition on or relating to animal testing to be sold on or before June 30, 2020.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for a manufacturer to import for profit, sell or offer for sale in this State any cosmetic for which animal testing was conducted or contracted by or on behalf of the manufacturer or any supplier of the manufacturer if the animal testing was conducted on or after January 1, 2020.

2. The prohibition in subsection 1 does not apply to animal testing that is conducted:

(a) To comply with a requirement of a federal or state regulatory agency if:

(1) The cosmetic or ingredient in the cosmetic which is tested is in wide use and cannot be replaced by another ingredient which is capable of performing a similar function;

(2) A specific human health problem relating to the cosmetic or ingredient is substantiated and the need to conduct animal testing is justified and supported by a detailed protocol for research that is proposed as the basis for the evaluation of the cosmetic or ingredient; and

(3) There does not exist a method of testing other than animal testing that is accepted for the relevant purpose by the federal or state regulatory agency.

(b) To comply with a requirement of a regulatory agency of a foreign jurisdiction, if no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer.

(c) On any product or ingredient in the cosmetic subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

(d) For purposes unrelated to cosmetics pursuant to a requirement of a federal, state or foreign regulatory agency, if no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer. A manufacturer is not prohibited from reviewing, assessing or retaining evidence from animal testing which is conducted pursuant to this paragraph.

~~3. [A district attorney of a county or a city attorney of a city may, upon a determination that a violation of this section is likely to have occurred in the county or city, as applicable, review the data from testing upon which a manufacturer of cosmetics has relied in the development or manufacture of the relevant cosmetic sold in this State. Information provided or reviewed pursuant to this subsection is entitled to protection as a trade secret. Consistent with the procedures described in NRS 600A.070, the district attorney or city attorney, as applicable, shall enter a protective order with a manufacturer before receipt of the information from the manufacturer pursuant to this subsection and shall take other appropriate measures necessary to preserve the confidentiality of the information.]~~

~~4. A violation of this section shall be punished by a civil penalty of \$5,000 and an additional \$1,000 for each day that the violation continues.~~

~~5. A violation of this section may be prosecuted by the district attorney of the county or the city attorney of the city in which the violation occurred. Any civil penalty collected pursuant to subsection 4 must be deposited in the county or city treasury, as applicable.~~

~~6.] This section does not apply to:~~

(a) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2020, even if the cosmetic is manufactured on or after that date; or

(b) An ingredient in a cosmetic if the ingredient was sold in this State and was tested on animals before January 1, 2020, even if the ingredient is manufactured on or after that date.

~~7.] 4.~~ 4. No county, city, local government or other political subdivision of this State or agency thereof may establish or continue any prohibition on or relating to animal testing that is not identical to the prohibitions set forth in this section and that does not include the exemptions contained in subsection 2.

~~8.] 5.~~ 5. As used in this section:

(a) "Animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes or other body part of a live, nonhuman vertebrate.

1 (b) *“Cosmetic” means any article intended to be rubbed, poured, sprinkled or*
2 *sprayed on, introduced into or otherwise applied to the human body or any part*
3 *thereof for cleansing, beautifying, promoting attractiveness or altering the*
4 *appearance, including, without limitation, personal hygiene products such as*
5 *deodorant, shampoo or conditioner.*

6 (c) *“Ingredient” has the meaning ascribed to it in 21 C.F.R. § 700.3(e).*

7 (d) *“Manufacturer” means any person whose name appears on the label of a*
8 *cosmetic pursuant to the requirements of 21 C.F.R. § 701.12.*

9 (e) *“Supplier” means any entity that supplies, directly or through a third*
10 *party, any ingredient used by a manufacturer in the formulation of a cosmetic.*

11 ~~*“(f) “Trade secret” has the meaning ascribed to it in NRS 600A.020.”*~~

12 **Sec. 2.** An inventory of cosmetics which is otherwise in violation of section 1
13 of this act on January 1, 2020, may be sold on or before June 30, 2020.

14 **Sec. 3.** This act becomes effective on January 1, 2020.