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Testimony of Representative Sophie Warren Presenting
LD 1908, An Act to Enact the Safe Cosmetics Act
Before the Joint Standing Committee on Environment and Natural Resources

Good afternoon Senator Brenner, Representative Gramlich and respected colleagues of the Joint Standing Committee on Environmental and Natural Resources. My name is Sophie Warren, and I represent House district 124 which includes part of Scarborough. Thank you for the opportunity to present LD 1908, **An Act to Enact the Safe Cosmetics Act**.

I will begin my testimony with my request for your consideration to carry-over this bill to be heard in the second regular session in 2024. The reason for this request is due to action by the federal government after this bill title was put into the Revisor's Office.

The Consolidated Appropriations Act of 2023 was signed into law by President Biden at the beginning of the year, and positively, it included a piece of legislation titled the Modernization of Cosmetics Regulation Act of 2022 (MOCRA), which included an update to the nation's cosmetic laws by amending Chapter VI of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

This act made parts of our bill redundant, and also preempted action by states on certain other regulatory labeling legislation.

As such, I have worked with stakeholders and advocates to find a path forward with this Act that works with this important federal step forward.

Carrying this bill over to the short session affords time to allow the public, advocates, the administration, and Committee members to consider and provide important input, amendment and critique to the bill as it is now before you, to ensure this larger bill can be fully considered and hopefully passed through your Committee and so that it can help Maine people as it intends to do.

The Safe Cosmetics Act of Maine aims to protect consumers from the potential harmful effects of certain chemicals commonly used in cosmetic products.

First, the Safe Cosmetics Act of Maine prohibits the distribution, sale, or offering for sale of cosmetic products that contain restricted substances as intentionally added chemicals. The restricted substances include heavy metals, parabens, phthalates, formaldehyde, benzophenones, known carcinogens, asbestos, butylated compounds, siloxanes, phenylenediamines, and nitrosamines, among others. This regulation ensures that cosmetic products available in Maine do not contain these harmful substances that could pose risks to consumers' health.

[District 124: Part of Scarborough](#)

Second, the act requires manufacturers to provide a certificate of compliance if there are reasonable grounds to believe that a cosmetic product contains a restricted substance. This certificate attests that the cosmetic product does not contain any restricted substances as intentionally added chemicals. If a manufacturer fails to provide the certificate, they are required to notify retailers in the state that the sale of the product is prohibited and provide the Department of Health and Human Services with a list of notified retailers.

By prohibiting the intentional use of restricted substances and establishing compliance measures, the act seeks to ensure the safety of cosmetic products available in the state.

Maine can take an important step to regulate toxic chemicals in cosmetic products through the enactment of the Safe Cosmetics Act. Moreover, such consumer protections are nothing new for the state of Maine. We have a strong record of implementing laws which regulate chemicals in consumer products and have been demonstrably shown to protect public health. Just a few notable examples are:

1. **Toxic Chemicals in Children's Products:** Maine has enacted the Kid-Safe Products Act, which requires manufacturers to report the use of certain chemicals in children's products. The law identifies chemicals of high concern and establishes a reporting mechanism to track their presence in products intended for children. It aims to reduce children's exposure to toxic substances and promote safer alternatives in consumer goods.

2. **Safer Chemicals in Packaging:** Maine has passed the Safer Chemicals in Packaging Law, which restricts the use of toxic chemicals in packaging materials. The law prohibits the intentional use of lead, mercury, cadmium, and hexavalent chromium in packaging sold or distributed in the state. It aims to protect public health and the environment by reducing chemical exposures from packaging materials.

3. **Phthalate Restrictions:** Maine has implemented restrictions on the use of phthalates, a group of chemicals often used in plastics, vinyl, and personal care products. The state prohibits the sale of children's products containing more than 0.1% of certain phthalates known as DEHP, DBP, and BBP. The aim is to protect children from potential health risks associated with these chemicals, such as hormonal disruption and developmental issues.

4. **Flame Retardant Restrictions:** Maine has enacted the Flame Retardant Chemicals in Upholstered Furniture and Bedding Law. This law restricts the use of flame retardant chemicals in residential upholstered furniture and bedding products. It prohibits the sale of new furniture and bedding that contains specific flame retardants that have been linked to adverse health effects.

These and many other laws and regulations demonstrate Maine's commitment to safeguarding public health and the environment by reducing the presence of toxic chemicals in consumer products. They aim to encourage the use of safer alternatives, promote transparency in product labeling, and limit exposure to harmful substances for both adults and children.

By enacting the Safe Cosmetics Act, we build on previous important work our state has done to implement specific regulations to safeguard consumers from the potential health impacts of toxic chemicals in cosmetic products. These regulations aim to ensure the safety and well-being of individuals using cosmetic products in the state by reducing their exposure to harmful substances.

For at least the past 50 years, cosmetic products sold in the United States have been subject to greater scrutiny for their association with various health impacts, particularly for women and girls, in the United States. One significant concern has been the use of certain chemicals that have been linked to adverse health effects. For example, some cosmetics contained lead, which was found to cause neurological damage, particularly in children and pregnant women. Additionally, certain hair dyes and hair straightening products were found to contain harmful chemicals such as formaldehyde and coal tar, which have been associated with an increased risk of cancer. Moreover, the presence of hormone-disrupting substances like phthalates and parabens in cosmetics raised concerns about their potential role in reproductive disorders and hormonal imbalances.

To address these health risks, regulations, and restrictions on certain chemicals in cosmetic products have played a crucial role in mitigating the harms faced by consumers. For instance, the US based the use of lead in cosmetic products and set limits on the concentration of other known harmful substances. Similarly, regulations have been introduced to limit the use of formaldehyde-releasing preservatives and coal tar dyes in cosmetics. These regulatory actions have helped protect public health by reducing exposure to harmful chemicals and preventing the associated health impacts. By prioritizing consumer safety and implementing stricter standards, the regulation of certain chemicals in cosmetic products has contributed to improving the overall consumer well-being and public trust in the United States.

To get into the language of the bill itself, I want to review each section briefly: The Safe Cosmetics Act seeks to regulate the use of certain chemicals in cosmetic products.

The act introduces definitions for key terms and establishes restrictions on the intentional use of restricted substances in cosmetic products.

These definitions include "cosmetic product," which refers to an article intended for application on the human body to enhance appearance or alter its appearance. It also defines "intentionally added chemical" as a chemical added during manufacturing to provide specific characteristics or functions to the product.

The act further defines "nonfunctional by-product" as an element or compound intentionally added during the manufacturing process but has no functional effect in the final product. It also covers "nonfunctional contaminants," which are unintentional elements or compounds that have no functional effect and are present in the cosmetic product as a result of the manufacturing process.

The act lists a comprehensive set of restricted substances that are prohibited as intentionally added chemicals in cosmetic products. These substances include heavy metals, parabens, phthalates, formaldehyde, benzophenones, known carcinogens, asbestos, butylated compounds, siloxanes, phenylenediamines, and nitrosamines, among others.

According to the act, it is illegal to distribute, sell, or offer for sale any cosmetic product in Maine that contains a restricted substance as an intentionally added chemical, even if it is present as a nonfunctional by-product or nonfunctional contaminant above the practical quantification limit. The practical quantification limit refers to the lowest concentration of a chemical that can be reliably measured within specified limits of precision during routine laboratory conditions.

The act also establishes a requirement for manufacturers to provide a certificate of compliance if there are reasonable grounds to believe that a cosmetic product contains a restricted substance. The certificate must confirm that the cosmetic product does not contain any restricted substances

as intentionally added chemicals. If a manufacturer fails to provide the certificate, they must notify retailers in the state that the sale of the product is prohibited and provide the Department of Health and Human Services with a list of notified retailers.

The Department of Health and Human Services is authorized to adopt rules to implement the Safe Cosmetics Act, and these rules are considered routine technical rules.

Maine can take these important steps to regulate toxic chemicals in cosmetic products through the enactment of the Safe Cosmetics Act - restrictions on the intentional use of certain chemicals and providing guidelines for manufacturers and distributors of cosmetic products in the state.

The goal here is simple: to protect consumers from the potential harmful effects of certain chemicals commonly used in cosmetic products. By prohibiting the intentional use of restricted substances and establishing compliance measures, the act seeks to ensure the safety of cosmetic products available in the state which is a goal I think we all share.

I appreciate your time and consideration of this legislation as proposed, as well as your consideration of my carry-over request at this time of public hearing.