

January 4, 2024

Joint Committee on Environment and Natural Resources
Maine State Legislature
100 State House Station
Augusta, ME 0433

RE: Opposition to LD 1908 (Warren)

Dear Chair Brenner, Chair Gramlich and Members of the Committee,

On behalf of the members of the Personal Care Products Council (PCPC),¹ I am writing to express our opposition to LD 1908, which bans the sale of cosmetics with certain ingredients.

In the United States, cosmetics and personal care products companies work with leading scientific and medical experts and invest millions of dollars in sophisticated laboratory facilities to ensure the safety of their products. In addition to this strong commitment to safety, federal law requires that every cosmetics product be substantiated for safety before it goes to market. U.S. Food & Drug Administration (FDA) statistics confirm that cosmetics are one of the safest product categories used by Americans today.

PCPC opposes LD 1908 for the following reasons:

New federal safety requirements govern cosmetics and personal care products sold in the U.S.

The Modernization of Cosmetics Regulation Act (MoCRA) of 2022 was signed into law by President Biden on Dec. 29, 2022 and several provisions went into effect on Dec. 29, 2023. This long-awaited, historic legislation gives the FDA additional tools to ensure the safety of cosmetics, protects consumers and reinforces consumer confidence in the products they trust and enjoy every day. MoCRA represents significant reform of FDA's cosmetics authorities and brings the FDA's oversight of the beauty and personal care industry more in line with other categories the Agency regulates and contributes to global regulatory alignment. PCPC supported the bill and remains appreciative of Congress, including Senator Susan Collins, for their work on cosmetics modernization.

We ask that you pause on further state action given this new and historic law.

LD 1908 does not harmonize with other recently enacted state laws.

If the Legislature moves forward with LD 1908, PCPC respectfully requests amendments to harmonize with other recently enacted state laws. For example, California AB 2771 was signed into law by Governor Newsom in September 2022 and phases out PFAS in cosmetics. CA AB 2771 builds on CA AB 2762, which was signed into law by Governor Newsom in 2021, and supported by PCPC and a diverse group of stakeholders, banning certain cosmetic and personal

¹ Founded in 1894, the Personal Care Products Council (PCPC) is the voice and advocate for 600 member companies representing the \$529.3 billion global cosmetics and personal care products industry. PCPC's members represent approximately 90% of the U.S. beauty industry and are some of the most beloved and trusted brands in beauty and personal care today. As the manufacturers, distributors and suppliers of a diverse range of products millions of consumers rely on every day – from sunscreens, toothpaste and shampoo to moisturizer, makeup and fragrance – PCPC's member companies are global leaders committed to product safety, quality and innovation.

care ingredients and harmonizing with ingredient restrictions in the European Union. PCPC would appreciate the opportunity for stakeholder dialogue if the bill progresses.

Specific concerns with LD 1908 include-

- PCPC opposes the inclusion of certain ingredients including;
 - **P-phenylenediamine** – a critical coloring ingredient in hair dye products, which is not banned anywhere in the world.
 - **Preservatives** – a well-studied, safe group of preservatives known as formaldehyde releasing agents (FRAs) Preservatives are ingredients designed to help ensure the safety of products by protecting the products against contamination by microorganisms during storage and use by consumers. FRAs are allowed for use in all U.S. state and in the European Union (EU) with a proven safety record. They have been thoroughly studied by independent experts and are widely recognized for their safety to help protect consumers from health problems such as eye infections. Without these preservatives, there are few alternatives for cosmetics formulations as widely studied as FRAs.

- Lack of uniform definitions;
 - PCPC requests the removal of “**nonfunctional contaminant language**” and “**Practical Qualification Limit**” definitions as these set an unreasonable barrier for compliance. For instance, traces of a “contaminant” may be found in a product due to its introduction from natural sources such as water or minerals. Manufacturers should not be held accountable for unavoidable traces of elements found naturally in soil or water sources.

 - California and the European Union acknowledge “technically unavoidable traces”.
 - The bills still lack necessary definitions on critical terms such as “technically unavoidable traces,” and “ingredient.” **These terms are used not only in other state laws but also in federal and international laws.** Definitions are critical in state legislation, and uniformity throughout the U.S. is vital to manufacturers’ interpretation of and compliance with the law. PCPC requests Chemical Abstract Service (CAS) numbers be assigned to all ingredients to help with compliance.

- Lack of a reasonable timeline for compliance with the law.
 - Product reformulation requires significant investment and an extensive period of time. The process to source, reformulate and find consistency in a product and ensure quality takes five years for most mid-sized manufacturers. While it is important for a state to act in protection of its residents whenever necessary, such state’s action must be supported by evidence and facts.

For all of the reasons I outlined today, PCPC respectfully asks that you oppose LD 1908. We welcome the opportunity to dialogue with you on the legislation and thank you for your consideration and the opportunity to comment. Please reach out to me or PCPC’s in state counsel, Andy Hackman from Serlin Haley, if you have any questions.

Sincerely,



Kelsey Johnson
Vice President, State Government Affairs