Comparing Maine cosmetics animal testing legislation to federal Humane Cosmetics Act and state laws

	Maine	Federal	California	Nevada	Illinois	Virginia
Text	<u>LD 1551</u>	<u>H.R. 5141</u> / <u>S. 2886</u>	CHAPTER 899	<u>S.B. 197</u>	Public Act 101- 0303	Chapter 113
Testing ban	None	It shall be unlawful for any person, whether private or governmental, to knowingly conduct or contract for cosmetic animal testing that occurs in the United States.	None	None	None	No cosmetics manufacturer shall conduct or contract for cosmetic animal testing that occurs in the Commonwealth on or after January 1, 2022.
Sales ban	A manufacturer may not sell or offer to sell in the State a cosmetic if the cosmetic was developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer or any supplier of the manufacturer on or after	It shall be unlawful to sell, offer for sale, or knowingly transport in interstate commerce in the United States any cosmetic that was developed or manufactured using cosmetic animal testing that was conducted or contracted for by any person in the cosmetic product's supply chain after the date that is 1 year after the date	it is unlawful for a manufacturer to import for profit, sell, or offer for sale in this state, any cosmetic, if the cosmetic was developed or manufactured using an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer,	A manufacturer shall not import for profit, sell or offer for sale in this State any cosmetic for which the manufacturer knew or reasonably should have known that animal testing was conducted or contracted by or on behalf of the manufacturer or any supplier	it is unlawful for a manufacturer to import for profit, sell, or offer for sale in this State any cosmetic, if the cosmetic was developed or manufactured using an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer,	Beginning July 1, 2022, sell or offer for sale within the Commonwealth any cosmetic, if the cosmetics manufacturer knows or reasonably should know that the cosmetic or any component thereof was developed or manufactured using cosmetic animal testing that was

	November 1, 2021.	of enactment of this Act.	on or after January 1, 2020.	of the manufacturer if the animal testing was conducted on or after January 1, 2020.	on or after January 1, 2020.	conducted on or after January 1, 2022.
Exemptions						
Ingredients	Requested,	Requested,	(1) An animal	To comply with a	(1) An animal	To comply with
of concern	required or	required, or	test of any	requirement of a	test of any	a requirement
	conducted by a	conducted by the	cosmetic that is	federal or state	cosmetic that is	of a federal or
Federal	federal or state	Secretary,	required by a	regulatory	required by a	state regulatory
language	regulatory	following—	federal or state	agency if:	federal or State	agency and (i)
goes further	authority and	(A) a written	regulatory	(1) The cosmetic	regulatory	the tested
because it	all of the	finding by the	authority if all of	or ingredient in	authority, if	ingredient is in
has the	following apply:	Secretary that—	the following	the cosmetic	each of the	wide use and
regulatory	(a) There is no	(i) there is no non-	apply:	which is tested is	following apply:	cannot be
ability to	nonanimal	animal alternative	(A) The	in wide use and	(A) an ingredient	replaced by
manage this	alternative	method or strategy	ingredient is in	cannot be	is in wide use	another
process.	method or	recognized by any	wide use and	replaced by	and cannot be	ingredient
	strategy	Federal agency or	cannot be	another	replaced by	capable of
	recognized by	the Organisation	replaced by	ingredient which	another	performing a
	any federal or	for Economic Co-	another	is capable of	ingredient	similar
	state agency or	operation and	ingredient	performing a	capable of	function; (ii) a
	the International	Development for	capable of	similar function;	performing a	specific human
	Organisation for	the relevant safety	performing a	(2) A specific	similar function;	health problem
	Economic	endpoints for the	similar function.	human health	(B) a specific	related to the
	Co-operation	cosmetic ingredient	(B) A specific	problem relating	human health	cosmetic or
	and	or non-functional	human health	to the cosmetic	problem is	ingredient is
	Development or	constituent;	problem is	or ingredient is	substantiated	substantiated
	its successor	(ii) the cosmetic	substantiated	substantiated	and the need to	that justifies
	organization for	ingredient or non-	and the need to	and the need to	conduct animal	the need to
	the relevant	functional	conduct animal	conduct animal	tests is justified	conduct the
	safety endpoints	constituent poses a	tests is justified	testing is	and supported	cosmetic
	for the cosmetic	risk of causing	and is supported	justified and	by a detailed	animal testing,
	ingredient or	serious adverse	by a detailed	supported by a	research	and such
		health	research	detailed	protocol	testing is

				www.to.colfor	www.www.al.a	
	nonfunctional	consequences or	protocol	protocol for	proposed as the	supported by a
	constituent;	death; and	proposed as the	research that is	basis for the	detailed
	(b) The cosmetic	(iii) the cosmetic	basis for the	proposed as the	evaluation; and	research
	ingredient or	ingredient or non-	evaluation.	basis for the	(C) there is not a	protocol
	nonfunctional	functional	(C) There is not a	evaluation of the	nonanimal	proposed as
	constituent	constituent is in	nonanimal	cosmetic or	alternative	the basis for
	poses a risk of	wide use and, in	alternative	ingredient; and	method	the evaluation
	causing a	the case of a	method	(3) There does	accepted for the	of the cosmetic
	specific human	cosmetic	accepted for the	not exist a	relevant	or ingredient;
	health problem	ingredient, cannot	relevant	method of	endpoint by the	and (iii) there
	that is	be replaced by	endpoint by the	testing other	relevant federal	does not exist a
	substantiated	another cosmetic	relevant federal	than animal	or State	method of
	and the need to	ingredient capable	or state	testing that is	regulatory	testing other
	conduct	of performing a	regulatory	accepted for the	authority.	than cosmetic
	cosmetic animal	similar function;	authority.	relevant purpose		animal testing
	testing is	(B) publication by		by the federal or		that is accepted
	justified and is	the Secretary of the		state regulatory		for the relevant
	supported by a	written finding		agency.		purpose by the
	detailed	required by				federal or state
	research	subparagraph (A)				regulatory
	protocol	on the internet				agency.
	proposed as the	website of the Food				
	basis for the	and Drug				
	evaluation of	Administration				
	the cosmetic	together with a				
	ingredient or	notice that the				
	nonfunctional	Secretary intends				
	constituent; and	to request, require,				
	(c) The cosmetic	or conduct new				
	ingredient or	animal testing, and				
	nonfunctional	provides a period				
	constituent is in	of not less than 60				
	wide use and, in	calendar days for				
	the case of a	public comment;				
	cosmetic	and				
	ingredient,	(C) a written				
	cannot be	determination by				
	replaced by	the Secretary, after				

	another cosmetic ingredient capable of performing a similar function	review of all public comments received pursuant to subparagraph (B), that no previously generated data that could be substituted for, or otherwise determined sufficient to replace, the data expected to be produced through new animal testing is available for review by the Secretary.				
Foreign testing	Conducted outside of the	Conducted outside the United States in	An animal test that was	To comply with a requirement of a	An animal test that was	To comply with a requirement
lesting	United States	order to comply	conducted to	regulatory	conducted to	of a regulatory
	and in order to	with a requirement	comply with a	agency of a	comply with a	agency of a
	comply with a	from a foreign	requirement of a	foreign	requirement of	foreign
	requirement of	regulatory	foreign	jurisdiction, if no	a foreign	jurisdiction, so
	a foreign	authority. No	regulatory	evidence derived	regulatory	long as no
	regulatory	evidence derived	authority, if no	from such	authority, if no	evidence
	authority as long	from animal testing	evidence derived	testing was	evidence	derived from
	as no evidence derived from	conducted after the	from the test	relied upon to substantiate the	derived from the test was relied	such testing
	the testing was	effective date may be relied upon to	was relied upon to substantiate	substantiate the safety of a	test was relied upon to	was relied upon to substantiate
	relied upon to	establish the safety	the safety of the	cosmetic sold	substantiate the	the safety of a
	substantiate the	of a cosmetic,	cosmetic sold in	within this State	safety of the	cosmetic sold
	safety of the	cosmetic	California by the	by the	cosmetic being	within Virginia
	cosmetic	ingredient, or non-	, manufacturer.	, manufacturer	sold in Illinois by	by the
	ingredient or	functional			the	cosmetics
	cosmetic	constituent under			manufacturer.	manufacturer.
	product being	the Federal Food,				

	sold by the manufacturer in the State.	Drug, and Cosmetic Act (<u>21 U.S.C. 301</u> et seq.).				
Drugs (chapter V)	Conducted for any cosmetic or cosmetic ingredient subject to regulation under Chapter V of the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 351.	Conducted for any product or ingredient that is subject to regulation under chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.)	An animal test that was conducted on any product or ingredient subject to the requirements of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.)	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.	An animal test that was conducted on any product or ingredient subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act	On any cosmetic or cosmetic ingredient subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.)
Non- cosmetic testing	Conducted for a cosmetic ingredient intended to be used in a product that is not a cosmetic product and conducted pursuant to a requirement of a federal, state or foreign regulatory authority as long as no evidence derived from the testing was relied upon to	Conducted for non- cosmetic purposes pursuant to a requirement of a Federal, State, or foreign regulatory authority. No evidence derived from animal testing conducted after the effective date specified in subsection (a) may be relied upon to establish the safety of a cosmetic under the Federal Food, Drug, and Cosmetic	(4) An animal test that was conducted for noncosmetic purposes in response to a requirement of a federal, state, or foreign regulatory authority, if no evidence derived from the test was relied upon to substantiate the safety of the cosmetic sold in California by the manufacturer. A	For purposes unrelated to cosmetics pursuant to a requirement of a federal, state or foreign regulatory agency provided that no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer.	(4) An animal test that was conducted for noncosmetic purposes in response to a requirement of a federal, State, or foreign regulatory authority, if no evidence derived from the test was relied upon to substantiate the safety of the cosmetic sold in Illinois by the	Pursuant to a requirement of a federal, state, or foreign regulatory agency for a purpose unrelated to cosmetics, provided that either no evidence derived from such testing was relied upon to substantiate the safety of the cosmetic or there is (i)

safety of a cosmetic sold in this State by a manufacturer, unless all of the following apply: (a) There is no nonanimal alternative method or strategy	Act (21 U.S.C. 301 et seq.), unless— (A) there is no non- animal alternative method or strategy recognized by any Federal agency or the Organisation for Economic Co- operation and Development for	not prohibited from reviewing, assessing, or retaining evidence from an animal test conducted pursuant to this paragraph.	If evidence from such testing was relied upon for that purpose, the prohibition in subsection 1 does not apply if: (1)Documentary evidence exists of the intent of	manufacturer is not prohibited from reviewing, assessing, or retaining evidence from an animal test conducted under this paragraph.	evidence of a noncosmetic intent of the test and (ii) a history of use of the ingredient outside of cosmetics for at least 12 months prior to
Organisation for Economic Co-operation and Development or its successor organization for the relevant safety endpoints for the cosmetic ingredient or nonfunctional constituent; (b) There is	 (II) there is documented evidence of the non-cosmetic intent of the test; and (III) there is a history of use of the ingredient outside of cosmetics at least 1 year prior to the reliance on such data. 		ingredient that was the subject of the testing has been used for purposes unrelated to cosmetics for not less than 12 months before the earliest date of the testing.		
documented evidence of the noncosmetic intent of the test; and (c) There is a history of use of the ingredient outside of					

	cosmetics at least 12 months prior to the reliance;					
Effective date	Nov 1, 2021	1 year after enactment	Jan 1, 2020	Jan 1, 2020	Jan 1, 2020	Testing ban: Jan 1, 2022. Sales ban: July 1, 2022
Preemption language	A county or any other political subdivision of the State may not establish or continue any prohibition on or relating to cosmetic animal testing that is not identical to the prohibitions in this section.	State Authority.— No State or political subdivision of a State may establish or continue in effect any prohibition relating to cosmetic animal testing, or to the regulation of data use, labeling, and packaging related to animal testing, that is not identical to the prohibitions set forth in subsections (a), (b), (c), and (k) and that does not include the exemptions contained in subsections (c), (d), and (k). No State or political subdivision of a State may require any entity to perform cosmetic animal testing that	No county or political subdivision of the state may establish or continue any prohibition on or relating to animal tests, as defined in this section, that is not identical to the prohibitions set forth in this section and that does not include the exemptions contained in subdivision (c).	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 this section	A home rule unit may not regulate the testing of cosmetics on animals in a manner inconsistent with the regulation by the State of the testing of cosmetics on animals under this Section. This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.	No locality may establish or continue any regulation relating to cosmetic animal testing that is not identical to the provisions set forth in this chapter.

	is not permitted by
	subsection (a).
Notes	Federal bill
	(because of greater
	authority to
	regulate the
	industry) has added
	additional items
	not addressed in
	state laws
	including:
	Labeling, strategic
	plan, public
	meetings, and
	Reports to
	Congress.

Other states with bills under consideration:

Hawaii: <u>https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=345&year=2021</u> <u>Status</u>: Passed House and Senate on April 27. Heading to the governor.

Maryland: <u>http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0282?ys=2021RS</u> <u>Status</u>: Passed House and Senate on March 29. Awaiting governor action.

New Jersey: <u>https://www.njleg.state.nj.us/2020/Bills/S2000/1726_R1.HTM</u> <u>Status</u>: Unanimously passed Senate. Awaiting hearing from Assembly Committee.

New York: <u>https://nyassembly.gov/leg/?bn=A05653&term=2021</u> Status: Referred to committee.

Rhode Island: <u>http://webserver.rilin.state.ri.us/BillText/BillText21/SenateText21/S0531.pdf</u> <u>Status</u>: House bill heard in the House Judiciary Committee on Mar 16. Senate bill not heard yet.