

**HOUSE . . . . . No. 1990**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Bradley H. Jones, Jr. and George N. Peterson, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to safe cosmetics in the Commonwealth of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/17/2013</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>	<i>1/29/2013</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/30/2013</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/18/2013</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>1/25/2013</i>
<i>Donald Humason</i>		
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	
<i>Paul K. Frost</i>	<i>7th Worcester</i>	
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	
<i>Todd M. Smola</i>	<i>1st Hampden</i>	
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>	

**HOUSE . . . . . No. 1990**

By Messrs. Jones of North Reading and Peterson of Grafton, a petition (accompanied by bill, House, No. 1990) of Bradley H. Jones, Jr., George N. Peterson, Jr. and others relative to health issues concerning cosmetics. Public Health.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act relative to safe cosmetics in the Commonwealth of Massachusetts.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 94 of the General Laws, as appearing in the 2010 official edition, is  
2 hereby amended by inserting after section 329 the following new section:-

3 Section 330. As used in this section, section 330A, section 330B, and section 330C, the  
4 following terms, shall, unless the context clearly indicates otherwise, have the following  
5 meanings:-

6 “Authoritative body”, any federal, state, or private agency or formally organized program  
7 or group recognized pursuant to the General Laws as being authoritative for the purpose of  
8 identifying chemicals that cause cancer, or reproductive, or developmental toxicity, provided that  
9 said group uses universally accepted means of modern science, research, and technology.

10 “Bureau”, the bureau of environmental health.

11 “Commissioner”, the commissioner of public health.

12 “Chemical identified as causing cancer or reproductive or developmental toxicity”, a  
13 chemical identified pursuant to section 330B of chapter 94 or by an authoritative body,  
14 including, but not limited to: (a) a substance listed as known or reasonable anticipated to be a  
15 human carcinogen in a National Toxicology Report; (b) a substance given an overall  
16 carcinogenicity evaluation of Group 1, Group 2A or Group 2B by the International Agency for  
17 Research on Cancer; (c) a substance identified as a Group A, Group B1, or Group B2  
18 carcinogen, or as a known or likely carcinogen by the United States Environmental Protection  
19 Agency; (d) a substance identified as having some clear evidence of adverse developmental,

20 male reproductive, or female reproductive toxicity effects in a report by an expert panel of the  
21 National Toxicology Program’s Center for the Evaluation of Risks to Human Reproduction.

22 “Contaminant”, an impurity, of an extraneous nature, associated with a cosmetic product,  
23 provided that it is not universally accepted as benign or innocuous.

24 “Department”, the department of public health.

25 “Director”, the director of the bureau of environmental health.

26 “Ingredient”, a chemical in a cosmetic, including, but not limited to: (a) chemicals that  
27 provide a technical or functional effect; (b) chemicals that have no technical or functional effect  
28 in the cosmetic but are present by reason of having been incorporated into the cosmetic as an  
29 ingredient of another cosmetic ingredient; (c) processing aids that are present by reason of  
30 having been added to a cosmetic during the processing of such cosmetic; (d) substances that are  
31 present by reason of having been added to a cosmetic during processing for their technical or  
32 functional effect; (e) contaminants present at levels above technically feasible detection limits;  
33 (f) contaminants that may leach from container materials or form via reactions over the shelf life  
34 of a cosmetic and that may be present at levels above technically feasible detection limits; (g)  
35 components of a fragrance, flavor, or preservative declared individually by their appropriate  
36 label names; (h) any chemical identified by the phrase “and other ingredients” and determined to  
37 be a trade secret pursuant to the procedure established in Part 20 of Section 720.8 of Part 720 of  
38 Title 21 of the Code of Federal Regulations; or (i) any individual component of a petroleum-  
39 derived or other ingredient that the Commissioner or the Director determines to be considered an  
40 ingredient.

41 “Ingredient of concern”, any ingredient reported to the bureau by a manufacturer for  
42 being a chemical identified as causing cancer, or reproductive, or developmental toxicity.

43 “Manufacturer”, any entity, including a distributor, whose name appears on the label of a  
44 cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of  
45 Federal Regulations.

46 Section 330A. (a) Any manufacturer of any cosmetic product subject to regulation by the  
47 federal Food and Drug Administration that is sold in the commonwealth shall, on a schedule and  
48 in electronic or other format as determined by the bureau, provide the bureau with a complete  
49 and accurate list of its cosmetic products that, as of the date of submission, are sold in the state  
50 and that contain any ingredient that is a chemical identified as causing cancer, or reproductive, or  
51 developmental toxicity, as defined in section 330. When the ingredient is a cosmetic ingredient  
52 intended to be used in the compounding of a subsequent cosmetic ingredient or a finished  
53 product, the manufacturer shall provide the necessary safety and testing data to purchasers or  
54 users of the cosmetic ingredient to enable the purchaser or user to accurately comply with the  
55 requirements of this section. Any ingredient determined to be a trade secret shall be treated by

56 the bureau in a manner consistent with the requirements of Part 20 and Part 720 of the Title of  
57 the Code of Federal Regulations. Any information submitted by a manufacturer pursuant to this  
58 section shall identify each chemical both by name and Chemical Abstract Service number and  
59 shall specify the product or products in which the chemical is contained.

60 (b) Each such manufacturer shall submit said list one year after this act takes effect and  
61 shall update said list according to a schedule determined by the bureau.

62 (c) The commissioner shall compile and maintain a master list of all manufacturers  
63 selling cosmetics, in the commonwealth, that sell or distribute products that contain ingredients  
64 that are chemicals identified as causing cancer, or reproductive, or developmental toxicity, as  
65 well as, a master list of all ingredients of concern.

66 (d) Up-to-date master lists shall be reported to the attorney general, the executive office  
67 of energy and environmental affairs, the department, as well as, the General Court and made  
68 available to the public on an annual basis as determined by the commissioner.

69 (e) This section shall not apply to any manufacturer of cosmetic products with annual  
70 aggregate sales of cosmetic products, both within and outside of Massachusetts, of less than  
71 \$8,000,000 during the previous year.

72 Section 330B. (a) In order to determine the potential health effects of exposure to  
73 ingredients of concern in cosmetics sold in the commonwealth, the bureau may conduct an  
74 investigation of one or more cosmetic products that contain said ingredients of concern or of  
75 other ingredients that are of concern to the bureau for potentially causing cancer or biologically  
76 adverse effects on the reproductive systems of female or male humans or animals, including  
77 alterations to the female or male reproductive system development, the related endocrine system,  
78 fertility, pregnancy, pregnancy outcomes, or modifications in other functions that are dependent  
79 on the integrity of the reproductive system.

80 (b) An investigation conducted pursuant to subsection (a) may include, but not be limited  
81 to, a review of available health effects data and studies, worksite health hazard evaluations,  
82 epidemiological studies to determine the health effects of exposure to chemicals in various  
83 subpopulations, and exposure assessments to determine total exposures to individuals in various  
84 settings.

85 (c) If an investigation is conducted the director may require the manufacturer of any  
86 product subject to the investigation to submit relevant health data and studies to the bureau.

87 (d) The bureau may require a manufacturer of products subject to investigation to submit  
88 to the bureau relevant health data and studies reasonably available to the manufacturer and other  
89 available information as requested by the bureau, including, but not limited to:

- 90 (1) all reasonably available information regarding the physical, chemical, and  
91 toxicological properties of chemicals in products under investigation;
- 92 (2) the concentration of ingredients of concern in the product under investigation;
- 93 (3) the amount by volume or weight of the product that comprises the average daily  
94 application or use;
- 95 (4) sales and use data necessary to determine where the product is used in the  
96 occupational setting;
- 97 (5) exposure and fate information;
- 98 (6) tests of the finished cosmetics; and
- 99 (7) any other information used to substantiate the safety of such cosmetics or ingredients.

100 (e) The bureau shall establish reasonable deadlines for the submittal of information  
101 required pursuant to section 330B.

102 (f) This section shall not apply to any manufacturer of cosmetic products with annual  
103 aggregate sales of cosmetic products, both within and outside of Massachusetts, of less than  
104 \$8,000,000 during the previous fiscal year.

105 Section 330C. (a) The commissioner and the director shall require manufacturers to label  
106 cosmetic products sold and distributed in the commonwealth with a consumer warning if the  
107 product contains a known carcinogen or chemical identified as causing reproductive or  
108 developmental toxicity. The label shall include the signal word "WARNING or CAUTION" and  
109 the commissioner and the director shall promulgate such rules and regulations as it shall deem  
110 necessary to implement the provisions of this section.

111 (b) All cosmetics that are available for retail sale shall be labeled in a manner that  
112 complies with the requirements under subsection (a) and manufacturers shall comply with  
113 subsection (a) no later than 2 years after the passage of this act.

114 (c) If a manufacturer, who sells cosmetic products containing chemical identified as  
115 causing cancer or reproductive or developmental toxicity, fails to comply with this section, the  
116 manufacturer's relevant products shall be deemed adulterated and misbranded pursuant to  
117 section 186 and section 187 of chapter 94.

118 (d) The bureau shall report to the attorney general, the executive office of energy and  
119 environmental affairs, the department, as well as, the General Court investigations made  
120 pursuant to subsection (a) of section 330B, enforcement action, and recommendations, if any,  
121 together with drafts of legislation necessary to carry out its recommendations, by filing the same

122 with the clerk of the House of Representatives on an annual basis as determined by the  
123 commissioner.

124 (e) This section shall not apply to any manufacturer of cosmetic products with annual  
125 aggregate sales of cosmetic products, both within and outside of Massachusetts, of less than  
126 \$8,000,000 during the previous fiscal year.

127 SECTION 2. Section 186 of said chapter 94, is hereby amended by inserting after the  
128 word, “use.” in line 107, the following new paragraph:- Sixth, if a product containing a chemical  
129 identified as causing cancer or reproductive or developmental toxicity is not labeled pursuant to  
130 section 330C of chapter 94.

131 SECTION 3. Section 187 of said chapter 94, is hereby amended by inserting after the  
132 word, “misleading.” in line 175, the following new paragraph:- Fourth, if a product containing a  
133 chemical identified as causing cancer or reproductive or developmental toxicity is not labeled  
134 pursuant to section 330C of chapter 94.

135 SECTION 4. Notwithstanding any general or special law to the contrary, there shall be a  
136 special commission, referred to as the Commission on Safe Cosmetics, to study and report on the  
137 implementation of the Massachusetts Safe Cosmetics Act, as well as the need for additional  
138 legislation to regulate cosmetics sold and distributed in the commonwealth.

139 The commission shall consist of the attorney general or his designee; the commissioner  
140 of the department of environmental protection or his designee; the secretary of energy and  
141 environmental affairs or his designee; the commissioner of public health or his designee; the  
142 director of environmental health or his designee; 3 members of the house of representatives, 2 of  
143 whom shall be appointed by the speaker of the house, and 1 of whom shall be appointed by the  
144 minority leader of the house; 3 members of the senate, 2 of whom shall be appointed by the  
145 senate president, and 1 of whom shall be appointed by the senate minority leader; 5 members  
146 appointed by the attorney general, 1 of whom shall be a distributor of cosmetics, 2 of whom shall  
147 be experts in the area of toxicity: one from the UMass Lowell Center for Sustainable Production  
148 and one from The Warner Institute of Green Chemistry, and 2 of whom shall be the owners of  
149 businesses in the commonwealth that sells cosmetics: 1 of whom has signed the Compact for Safe  
150 Cosmetics and 1 of whom has not signed said compact ; and 1 member shall be appointed by the  
151 governor.

152 The scope of the commission shall include, but not be limited to: researching, evaluating,  
153 and developing recommendations regarding the economic, environmental, and public health  
154 benefits and costs of regulating cosmetics sold and distributed in the commonwealth, specifically  
155 of phasing out ingredients containing chemicals identified as causing cancer or reproductive or  
156 developmental toxicity, pursuant to section 330 of chapter 94, and when possible substituting  
157 them with safer alternatives. The commission shall research, assess, and develop

158 recommendations regarding the commonwealth's current green chemistry capacity and the  
159 commonwealth's economic development potential for safe cosmetics ingredients.

160           The commission shall consult with environmental advocacy organizations, such as the  
161 Massachusetts Breast Cancer Coalition, Clean Water Action, and the Massachusetts Coalition for  
162 Occupational Safety and Health, as well as, manufacturers, retailers, local units of government,  
163 and other interested parties, including providing at least one opportunity for public comment as  
164 well as the public review of the commission's draft report. The commission shall prepare a final  
165 report of the findings and recommendations together with recommendations for legislation to  
166 implement those recommendations by filing the same with the clerks of the senate and house not  
167 later than 8 months following the passage of this act. The commission shall not receive  
168 compensation.