

Vermont Senate Committee on Health and Welfare – March 15, 2023

Formal Testimony of Janet Nudelman, MA in Support of S.25 Director of Program and Policy, Breast Cancer Prevention Partners Director of Campaign for Safe Cosmetics

Good morning and thank you for this opportunity to testify in support of S.25.

My name is Janet Nudelman and I am the Director of Program and Policy for Breast Cancer Prevention Partners – the only national organization focused solely on preventing breast cancer by eliminating the environmental links to the disease.

I am also the Director of BCPP’s Campaign for Safe Cosmetics, where I have been working for the past 20 years to strengthen the safety and transparency of the over 10,000 chemicals used to formulate the beauty and personal care products that we use every day.

Although S.25 would ban harmful chemicals in artificial turf, period products and cosmetic products, I will only be discussing cosmetic safety today, which is my area of expertise.

Why S.25 is so important

S.25 is a commonsense bill that would ban 3 classes of extremely hazardous ingredients – PFAS, formaldehyde releasing agents, and ortho-phthalates – as well as more than a dozen and a half of the worst-of-the worst similarly toxic chemicals from both retail cosmetic and professional salon products sold in Vermont.

The body of scientific evidence is undisputed and growing as to the harm to human health caused by the chemicals that would be banned by S.25, including breast and other cancers, birth defects, damage to the reproductive system, organ system toxicity and endocrine disruption.

In the U.S., breast cancer and a host of other chronic diseases and conditions have been steadily increasing over the past 50 years and are being linked to the chemicals we are exposed to in beauty, personal care and other consumer products, our workplaces, and our communities.

The trade association for the conventional cosmetics industry argues that a little bit of a toxic chemical in a consumer product isn’t cause for concern. This is simply not true.

Science tells us that for the hormonally active chemicals banned by this bill, including the parabens; the ortho-phthalates; the heavy metals like lead, arsenic, and cadmium; as well as for triclosan and styrene -- even small exposures, at parts per million or even parts per billion, can be biologically active and cause harm to human health, especially to the health of developing fetuses, infants, and children.

Similar to the endocrine disrupting compounds, many scientists believe that there is no safe level of exposure to a carcinogen. And S.25 would ban a host of chemicals linked to cancer including the PFAS chemicals, the formaldehyde-releasing agents, 1,4 dioxane, and toluene. And finally, the science is well-established that exposure to even small amounts of mercury – also banned by S.25 – can cause serious health problems and is a threat to the development of the child in utero and early in life.

Importantly, when we talk about chemical exposures, we are never talking about single, isolated incidents.

From the minute we wake up in the morning, until the moment we go to bed at night, every one of us is exposed to a cocktail of toxic chemicals – usually without our knowledge or consent -- and the science is telling us that the timing, the mixtures, and our cumulative exposures to these chemicals are adding up to harm.

And who is affected most? Children, women of childbearing age and women of color. Children are far more vulnerable to hormonally active chemicals and carcinogens than adults. And early life exposures to endocrine disrupting chemicals can put them on the road to early puberty or an increased risk of breast cancer and other diseases later in life.

Other vulnerable populations who are regularly exposed – and often – over-exposed to many of the chemicals that would be banned by S.25, include Black women and other women of color.

In fact, a 2019 study conducted by the National Institute for Environmental Sciences (NIEHS) showed that black women who frequently dye their hair face a 60% increased risk of breast cancer, especially appalling because black women already face the highest mortality rate from breast cancer of any U.S. racial or ethnic group. And a 2022 follow-up study also conducted by NIEHS reported that Black women who frequently used hair straighteners were about 2½ times more likely to develop uterine cancer.

The chemicals in S.25 that can be found in products marketed to Black women and other women of color including formaldehyde – used in hair straighteners; parabens and the formaldehyde releasing agents - used to preserve products marketed to Black women; cyclosiloxanes - which are used to reduce frizz and add shine to hair care products; the phenylenediamines - which are commonly found in dark hair dyes; and the class of ortho-phthalates - commonly found in feminine hygiene sprays, fragranced personal care products and nail products.

The importance of S.25's class-based bans

Similarly important is S.25's class-based approach to prohibiting chemicals linked to harm to human health in cosmetic products sold in Vermont. Because the chemicals in the classes addressed by S.25 are so structurally similar, by enacting a ban on the entire class of PFAS, ortho-phthalates and formaldehyde-releasing agents, this bill helps ensure that companies will not replace one banned, toxic chemical with an equally or more toxic alternative – a commonplace occurrence called 'regrettable substitutions.'

I would like to take a moment to speak to the importance of S.25's ban on the class of formaldehyde-releasing agents.

Opponents to this ban argue that FRAs “are not equivalent to formaldehyde,” which is simply not true. The primary role of this class of chemicals is, quite literally, to release small amounts of formaldehyde over time, in order to preserve the product.

Formaldehyde and formaldehyde-releasing agents are used in many personal care products, including shampoos and liquid baby soaps, moisturizer, body lotion, nail products, color cosmetics, hair grooming products, body soap and body wash, etc.

Formaldehyde is considered a known human carcinogen by many expert and government bodies, including the United States National Toxicology Program and the International Agency for Research on Cancer.

A January 2023 report released by the [WA State Department of Ecology](#) found formaldehyde levels ranging from an estimated 39.2 parts per million (ppm) to 1660 ppm in 30 cosmetic products it tested that listed a formaldehyde releasing agent on the product label.

Levels of formaldehyde as low as 200 ppm are known to cause serious allergic reactions in individuals who are sensitive to formaldehyde and the WA Department of Ecology's product testing detected 200 ppm of formaldehyde in 80% of the products the agency tested. Note: these are *serious* allergic reactions that include: nausea, difficulty breathing, wheezing, asthma attacks and other respiratory symptoms.

What was most troubling about the Washington State report is that consumers have no way of knowing how much formaldehyde they are being exposed to given the broad range of formaldehyde detected in the 30 cosmetic products the state agency tested.

Federal Inaction demands State Leadership

Federal inaction regarding the well-documented harmful impacts of cosmetic chemicals on human health is alarming and illustrates the need for Vermont leadership. Over its 80-year history of regulating cosmetic safety, the FDA has only banned or restricted the use of 11 chemicals from cosmetics, in stark contrast to the EU which has banned over 1800 chemicals linked to cancer, mutagenicity or reproductive harm.

The federal Modernization of Cosmetics Regulation Act of 2022 (MoCRA) – signed into law by President Biden this past December - was the first federal law to significantly update the FDA oversight of the \$100B cosmetics industry in over 80 years.

However, although the law does many good things, it did not create a system for FDA pre-market review of chemicals for safety, and instead left the responsibility for banning or restricting cosmetic chemicals of concern to the states. Furthermore, MoCRA left in place, gaps in cosmetic safety that impact everyone, particularly women of color, another reason why passing S.25 is so important.

The importance of S.25 going further than the high bar established by California's Toxic Free Cosmetics Act

There is one key thought I hope to leave you with today, and it is the importance of S.25 going further than the high bar for ingredient safety established by the 2020 enactment of the California Toxic Free Cosmetics Act (AB2762). BCPP was one of the non-profit organizational co-sponsors of the Toxic Free Cosmetics Act – which banned 24 toxic from beauty and personal care products sold in California. The State of Maryland enacted an identical ban in 2021.

The California legislation was a good start, but more is needed. Vermont has the opportunity to build on what we were able to do in California and become the state with the most health protective cosmetic safety framework in the country.

With S.25, Vermont can raise an even higher bar for – and lead the nation in terms of cosmetic ingredient safety. This is needed now more than ever given the snail's pace by which the FDA has regulated cosmetic ingredient safety, and given no additional statutory authority was provided to the FDA through the 2022 Modernization of Cosmetic Regulations Act..

The science, major retailers, world governments and Vermont have spoken on the importance of regulating these toxic chemicals

Finally, it is clear that the science, major retailers, major world governments and – most importantly - the state of Vermont itself have already spoken on the importance of regulating these toxic chemicals.

Most of the chemicals that would be banned by S.25 are already banned in the European Union or Canada, already banned or restricted by major retailers like Walmart, CVS and Target and, most importantly,

The vast majority of these chemicals are on Vermont's list of Chemicals of High Concern to Children. Furthermore, existing law gives Vermont information on where these toxic chemicals are being used and the hazards they present to children's health.

I hope this committee sees the wisdom in using S.25 as the legislative vehicle to implement the Toxic Free Families Act's vision of ensuring that Vermont's kids have access to the safest, healthiest products possible.

Conclusion

In conclusion, I am here today to say, the stakes couldn't be higher, especially for the one in eight women who will experience breast cancer in her lifetime. This important bill takes us one step closer to preventing breast cancer before it starts by removing a major source of women's ongoing exposure to some of the most toxic substances on the planet.

I urge you to support S.25.

Thank you!