

Testimony on S.25

To: Members of the Senate Committee on Health and Welfare

From: Personal Care Products Council

Date: March 15, 2023

RE: Oppose S.25 unless amended

Good morning, Chair Lyons and Members of the Committee. My name is Kelsey Johnson, and I am Vice President of State Government Affairs for the Personal Care Products Council. I am pleased to be here today to comment on Senate Bill 25. On behalf of the members of the Personal Care Products Council or PCPC for short, I want to thank you for your interest in cosmetics and for the opportunity to comment today. Our members work every day to ensure the safety of their products and the trust and satisfaction of their consumers. While we understand and appreciate your intent, PCPC has specific concerns with the bill and would ask for amendments to harmonize with other recent law.

In my testimony I will provide an overview of our organization, talk about the industry's commitment to safe consumer products, summarize a recent, new federal regulatory law, and then explain why a Vermont law mimicking the recent CA law makes sense.

The Personal Care Products Council is the leading national trade association representing cosmetics and personal care products companies and serving as the voice on scientific, legal, regulatory, legislative and international issues for the global cosmetics and personal care products industry. Our industry holds sacred the trust families put in the safety of their products and the ingredients used in them. Our member companies invest substantial resources in scientific research and safety processes to ensure we are precisely following all laws and regulations and providing safe products to our consumers. PCPC and its member companies have a long history of going above and beyond what is required by law as well as a long history of working with various stakeholders at all levels of government on public policy.

Thank you for your time today. First, I'd like to update you on an important recent development.

President Biden recently signed the Modernization of Cosmetic Regulation Act (MoCRA) of 2022.

The Modernization of Cosmetics Regulation Act (MoCRA) of 2022 was included in the Consolidated Appropriations Act of 2023 that was signed into law by President Biden on Dec. 29, 2022. PCPC applauds Congress for spearheading the effort on cosmetics modernization and thanks bipartisan Members of Congress and the Administration for working together to modernize Federal regulatory oversight of cosmetics and personal care products marketed in the U.S.

For more than a decade, the Personal Care Products Council (PCPC) and its 600 member companies – representing some of the most beloved and trusted brands in beauty and personal care – have worked diligently with a bipartisan group of congressional leaders and a diverse group of stakeholders to enhance the effectiveness of the Food and Drug Administration's (FDA) regulatory authority and to

provide the safety reassurances that consumers expect and deserve. PCPC remains firmly committed to supporting FDA in its public health mission as the Agency works to implement this new law.

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, which was signed into law by President Franklin D. Roosevelt in the 1938 Food, Drug & Cosmetic Act. MoCRA also 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.

In addition, the FDA is undergoing a reorganization and recently announced that the Office of Cosmetics and Colors (OCAC) will be relocated under the Office of the Chief Scientist within the Office of the FDA Commissioner. PCPC looks forward to working with FDA Chief Scientist Namandjé Bumpus, Ph.D., who will be leading the effort on MoCRA's implementation.

Due to these historic actions, we ask that you pause further state action as implementation begins on this historic law.

S.25 does not harmonize with other recently enacted state laws.

Cosmetics and personal care products companies remain committed to advancing innovative product technologies that address a wide variety of consumer needs. If the Legislature moves forward with S.25, PCPC respectfully requests amendments to harmonize with other recently enacted state laws. For example, California AB 2771 was signed by Governor Newsom in September 2022 and phases out PFAS in cosmetics. CA AB 2771 builds upon CA AB 2762, signed into law by Governor Newsom in 2021, which bans certain cosmetic and personal care ingredients, harmonizes with ingredient restrictions in the European Union and was supported by a wide group of stakeholders, including PCPC. Again, PCPC is seeking amendments to provide regulatory certainty and international harmonization.

Specific concerns with S.25 as currently drafted.

PCPC respectfully requests amendments to harmonize the law.

- We ask that formaldehyde releasing agents (FRA's) be struck from the bill. FRA's are an important preservative that is not equivalent to formaldehyde. These preservatives are not formaldehyde and do not present the concerns associated with breathing in formaldehyde. These preservatives safely and effectively protect consumer beauty and personal care products against microbial contamination - contamination which can harm consumers by causing infection. Formaldehyde releasing agents, as a class, have not been banned anywhere in the world.
- PCPC requests the legislation include definition of "ingredient" consistent with California and Federal law. PCPC requests the addition of language around technically unavoidable traces consistent with California law. Failure to include this could result in manufacturers being held liable for trace contaminants found ubiquitously in the environment such as soil and water.
- PCPC opposes the inclusion of ortho-phthalates.
- PCPC opposes the inclusion of p-phenylenediamine.

For all of the reasons I outlined today, PCPC respectfully asks that you amend S.25 to align with California's cosmetic consumer protection law. We welcome the opportunity to dialogue with you on the legislation and thank you for your consideration and the opportunity to comment.

As for the specific questions raised by Committee members, PCPC opposes the inclusion of Formaldehyde Releasing Agents (FRAs) as they are used to preserve and protect the safety and integrity of products. These time-release preservatives are not banned elsewhere. Labeling is required within the EU where a specified level is exceeded only for incidents of allergic reaction. These time-release preservatives are widely considered safe and effective at protecting products against the growth of bacteria, fungi and yeast. If products are not preserved, they could become moldy, discolored, develop an unpleasant smell or even cause serious health problems like infection or irritation. These time-release preservatives have been safely used for more than 70 years and have consistently been found safe by independent scientific experts through hundreds of studies worldwide. Our industry has required labeling of ingredients for decades as required by law, and labeling helps consumers make informed choices about cosmetics.

Thank you for your time. In summary, PCPC would like to be a resource to the Committee and we look forward to the continued dialogue.

Sincerely,

A handwritten signature in black ink, appearing to be 'KJ', with a long horizontal stroke extending to the right.

Kelsey Johnson
Vice President, State Government Affairs
Personal Care Products Council