

26107393D

HOUSE BILL NO. 122**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws
on February 10, 2026)

(Patrons Prior to Substitute—Delegates Keys-Gamarra and Cousins [HB 864])

A BILL to amend and reenact §§ 59.1-200, 59.1-571, 59.1-573, and 59.1-574 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 52 of Title 59.1 an article numbered 2, consisting of sections numbered 59.1-574.1 through 59.1-574.4, relating to manufacture or sale of cosmetic products containing certain ingredients prohibited.

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-200, 59.1-571, 59.1-573, and 59.1-574 of the Code of Virginia are amended and reenacted the Code of Virginia is amended by adding in Chapter 52 of Title 59.1 an article numbered 2, consisting of sections numbered 59.1-574.1 through 59.1-574.4, as follows:

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfections, or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;
16. Failing to disclose all conditions, charges, or fees relating to:
- a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;
- b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;
- 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;
17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);
22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);
24. Violating any provision of § 54.1-1505;
25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);
26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);
31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
37. Violating any provision of § 8.01-40.2;
38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in § 59.1-526;
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;

- 122 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 123 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 124 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 125 47. Violating any provision of § 18.2-239;
- 126 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 127 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 128 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 129 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 130 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 131 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 132 products that are used, secondhand or "seconds";
- 133 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 134 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 135 52. Violating any provision of § 8.2-317.1;
- 136 53. Violating subsection A of § 9.1-149.1;
- 137 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 138 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 139 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 140 drywall has been permanently installed or affixed;
- 141 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 142 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 143 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 144 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 145 seq.) of Title 54.1;
- 146 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 147 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 148 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 149 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 150 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 151 59. Violating any provision of subsection E of § 32.1-126;
- 152 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 153 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 154 61. Violating any provision of § 2.2-2001.5;
- 155 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 156 63. Violating any provision of § 6.2-312;
- 157 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 158 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 159 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 160 67. Knowingly violating any provision of § 8.01-27.5;
- 161 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 162 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 163 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 164 obligation to pay for the goods or services;
- 165 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 166 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 167 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 168 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 169 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 170 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 171 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 172 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 173 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 174 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 175 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 176 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 177 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 178 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
- 179 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
- 180 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
- 181 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
- 182 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
- 183 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)

accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

75. Violating any provision of § 59.1-466.8;

76. Violating subsection F of § 36-96.3:1;

77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any kratom product that does not include a label listing all ingredients and with the following guidance: "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the plant *Mitragyna speciosa* or any extract thereof;

78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted advertising of any ignition interlock system to a person before determination of guilt; and any advertising, whether before or after determination of guilt, without a conspicuous statement that such advertisement is not affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved location;

79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any such good or provision of any such continuous service;

80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

81. Selling or offering for sale services as a professional mold remediator to be performed upon any residential dwelling without holding a mold remediation certification from a nationally or internationally recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii) the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the Commonwealth;

82. Willfully violating any provision of § 59.1-444.4;

83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

84. Selling any food that is required by the FDA to have a nutrition label that does not meet the requirements of 21 C.F.R. Part 101;

85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual health information without the consent of the consumer;

86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

87. Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et seq.); and

88. Violating any provision of Article 2 (§ 59.1-574.1 et seq.) of Chapter 52.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation

of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

CHAPTER 52.

HUMANE AND TOXIN-FREE COSMETICS ACT.

Article 1.

Humane Cosmetics.

§ 59.1-571. Definitions.

As used in this ~~chapter~~ *article*, unless the context requires a different meaning:

"Cosmetic" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, without limitation, personal hygiene products such as deodorant, shampoo, or conditioner.

"Cosmetic animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate. Merely reviewing, assessing, or retaining evidence from a cosmetic animal test shall not constitute developing or manufacturing using cosmetic animal testing for purposes of this ~~chapter~~ *article*.

"Cosmetics manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of 21 C.F.R. § 701.12.

"Ingredient" has the meaning ascribed to it in 21 C.F.R. § 700.3(e).

§ 59.1-573. Civil penalties.

Any person who violates any provision of this ~~chapter~~ *article* is subject to a civil penalty of \$5,000 and an additional \$1,000 for each day the violation continues. Such penalty shall be collected by the Attorney General and the proceeds shall be deposited into the Literary Fund.

§ 59.1-574. Local regulation prohibited unless identical.

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~~ *article*.

Article 2.

Toxin-Free Cosmetics.

§ 59.1-574.1. Definitions.

As used in this *article*, unless the context requires a different meaning:

"Cosmetic" has the same meaning as provided in § 59.1-571.

"Cosmetics manufacturer" has the same meaning as provided in § 59.1-571.

"Ingredient" has the same meaning as provided in 21 C.F.R. § 700.3(e) except that "ingredient" does not include an incidental ingredient described in 21 C.F.R. § 701.3(l).

§ 59.1-574.2. Prohibited conduct.

A. No person shall manufacture, sell, deliver, offer for sale, or use in connection with a consumer transaction any cosmetic product that contains any of the following intentionally added ingredients:

1. Dibutyl phthalate (CAS NO. 84-74-2);
2. Diethylhexyl phthalate (CAS NO. 117-81-7);
3. Formaldehyde (CAS NO. 50-00-0);
4. Paraformaldehyde (CAS NO. 30525-89-4);
5. Methylene glycol (CAS NO. 463-57-0);
6. Quaternium-15 (CAS NO. 51229-78-8);
7. Mercury (CAS NO. 7439-97-6);
8. Isobutylparaben (CAS NO. 4247-02-3);
9. Isopropylparaben (CAS NO. 4191-73-5);
10. M-phenylenediamine and its salts (CAS NO. 108-45-2);
11. O-phenylenediamine and its salts (CAS NO. 95-54-5); or
12. The following perfluoroalkyl and polyfluoroalkyl substances (PFAS) and their salts:
 - a. Perfluorooctane sulfonate (PFOS) or heptadecafluorooctane-1-sulfonic acid (CAS NO. 1763-23-1);
 - b. Potassium perfluorooctanesulfonate or potassium heptadecafluorooctane-1-sulfonate (CAS NO. 2795-39-3);
 - c. Diethanolamine perfluorooctane sulfonate (CAS NO. 70225-14-8);
 - d. Ammonium perfluorooctane sulfonate or ammonium heptadecafluorooctanesulfonate (CAS NO. 29081-56-9)
 - e. Lithium perfluorooctane sulfonate or lithium heptadecafluorooctanesulfonate (CAS NO. 29457-72-5);
 - f. Perfluorooctanoic acid (PFOA) (CAS NO. 335-67-1);
 - g. Ammonium pentadecafluorooctanoate (CAS NO. 3825-26-1);
 - h. Nonadecafluorodecanoic acid (CAS NO. 335-76-2);
 - i. Ammonium nonadecafluorodecanoate (CAS NO. 3108-42-7);
 - j. Sodium nonadecafluorodecanoate (CAS NO. 3830-45-3);
 - k. Perfluorononanoic acid (PFNA) (CAS NO. 375-95-1);
 - l. Sodium heptadecafluorononanoate (CAS NO. 21049-39-8); or

308 *m. Ammonium perfluorononanoate (CAS NO. 4149–60–4).*

309 *B. No person shall be in violation of this section for manufacturing, selling, delivering, offering for sale,*
310 *or using in connection with a consumer transaction a cosmetic product that:*

311 *1. Was manufactured through a process intended to comply with the provisions of this section; and*

312 *2. Contains a technically unavoidable trace quantity of an ingredient listed in subsection A due to (i) an*
313 *impurity of a natural or synthetic ingredient, (ii) the manufacturing process, (iii) storage, or (iv) migrations*
314 *from packaging.*

315 **§ 59.1-574.3. Enforcement; penalties.**

316 *Any violation of this article shall constitute a prohibited practice under the provisions of § 59.1-200 and*
317 *shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act*
318 *(§ 59.1-196 et seq.).*