

117TH CONGRESS
1ST SESSION

H. R. 5540

To amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety, with an emphasis on communities of color and professional salon workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2021

Ms. SCHAKOWSKY (for herself and Ms. BLUNT ROCHESTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety, with an emphasis on communities of color and professional salon workers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cosmetic Safety for
5 Communities of Color and Professional Salon Workers Act
6 of 2021”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Research on health disparities impacting communities of color.
- Sec. 4. Research on health concerns impacting professional nail, hair, and beauty salon workers.
- Sec. 5. Support for creating safer alternatives.
- Sec. 6. Professional salon product ingredient disclosure in labeling and on websites.
- Sec. 7. Translation of and access to safety data sheets.
- Sec. 8. Interagency Council on Cosmetic Safety.
- Sec. 9. Inclusion of communities of color in ingredient review.

3 **SEC. 3. RESEARCH ON HEALTH DISPARITIES IMPACTING**
 4 **COMMUNITIES OF COLOR.**

5 Part P of title III of the Public Health Service Act
 6 (42 U.S.C. 280 et seq.) is amended by adding at the end
 7 the following:

8 **“SEC. 399V-7. RESEARCH ON HEALTH DISPARITIES RE-**
 9 **LATED TO COSMETICS IMPACTING COMMU-**
 10 **NITIES OF COLOR.**

11 “(a) IN GENERAL.—The Secretary shall—

12 “(1) conduct, or award grants for, research re-
 13 lating to basic, epidemiological, and social scientific
 14 investigations into—

15 “(A) the chemicals that are linked to ad-
 16 verse health effects and most commonly found
 17 in cosmetics marketed to women and girls of
 18 color, including beauty, personal hygiene, and
 19 intimate care products;

1 “(B) the use of cosmetics containing such
2 chemicals by women and girls of color across
3 their lifespans; or

4 “(C) the specific adverse health effects ex-
5 perienceed by women and girls of color from ex-
6 posure to unsafe chemicals present in cosmetics
7 used by them; and

8 “(2) disseminate the results of the investiga-
9 tions conducted or supported under paragraph (1) to
10 help communities identify and address potentially
11 unsafe chemical exposures in the use of cosmetics.

12 “(b) REPORT.—Not later than 5 years after awarding
13 the first grant under subsection (a), the Secretary shall
14 make publicly available and submit to the Committee on
15 Energy and Commerce of the House of Representatives
16 and the Committee on Health, Education, Labor, and
17 Pensions of the Senate a report on the results of the inves-
18 tigation conducted or supported under subsection (a), in-
19 cluding—

20 “(1) summary findings on—

21 “(A) marketing strategies, product cat-
22 egories, and specific cosmetics containing
23 chemicals linked to adverse health effects; and

24 “(B) the demographics of the populations
25 marketed to and using these cosmetics; and

1 “(2) recommended public health information
2 strategies to reduce potentially unsafe exposures
3 from cosmetics.

4 “(c) AUTHORIZATION OF APPROPRIATIONS.—To
5 carry out this section, there is authorized to be appro-
6 priated \$7,500,000, for the period of fiscal years begin-
7 ning with the fiscal year including the date of enactment
8 of this section and running through the fifth fiscal year
9 commencing after such date of enactment.”.

10 **SEC. 4. RESEARCH ON HEALTH CONCERNS IMPACTING**
11 **PROFESSIONAL NAIL, HAIR, AND BEAUTY**
12 **SALON WORKERS.**

13 Part P of title III of the Public Health Service Act
14 (42 U.S.C. 280 et seq.), as amended by section 4, is fur-
15 ther amended by adding at the end the following:

16 **“SEC. 399V-8. RESEARCH ON HEALTH CONCERNS IMPACT-**
17 **ING PROFESSIONAL NAIL, HAIR, AND BEAUTY**
18 **SALON WORKERS.**

19 “(a) IN GENERAL.—The Secretary shall—

20 “(1) conduct, or award grants for, research re-
21 lating to basic, epidemiological, and social scientific
22 investigations into—

23 “(A) the chemicals that are linked to ad-
24 verse health effects and most commonly found

1 in cosmetics used by professional nail, hair, and
2 beauty salon workers;

3 “(B) the types and categories of profes-
4 sional salon products containing such chemicals
5 and the availability of safer alternatives; or

6 “(C) the specific adverse health effects ex-
7 perience by professional nail, hair, and beauty
8 salon workers from exposure to unsafe chemi-
9 cals present in cosmetics used in nail, hair, and
10 beauty salons; and

11 “(2) disseminate the results of the investiga-
12 tions conducted or supported under paragraph (1) to
13 help professional nail, hair, and beauty salon work-
14 ers identify and eliminate potentially unsafe chemi-
15 cal exposures in their workplace.

16 “(b) REPORT.—Not later than 5 years after awarding
17 the first grant under this section, the Secretary shall make
18 publicly available and submit to the Committee on Energy
19 and Commerce of the House of Representatives and the
20 Committee on Health, Education, Labor, and Pensions of
21 the Senate a report on the results of the investigations
22 conducted or supported under subsection (a), including—

23 “(1) summary findings, with respect to profes-
24 sional nail, hair, and beauty salon workers, on—

1 “(A) chemicals of concern and products
2 and product categories containing ingredients
3 linked to adverse health effects; and

4 “(B) the demographics of the populations
5 using these products and product categories;
6 and

7 “(2) recommended occupational health informa-
8 tion strategies for professional nail, hair, and beauty
9 salon workers to reduce potentially unsafe exposures
10 to cosmetics.

11 “(c) DEFINITIONS.—In this section:

12 “(1) The term ‘ingredient’ means an inten-
13 tionally added chemical in a cosmetic that has a
14 technical or functional effect, including—

15 “(A) the breakdown products of an inten-
16 tionally added chemical that also have a func-
17 tional or technical effect in the cosmetic;

18 “(B) a fragrance, flavor, preservative, or
19 colorant (and the components thereof); and

20 “(C) any individual component that the
21 Secretary deems an ingredient for purposes of
22 this section.

23 “(1) The term ‘salon worker’ means a cos-
24 metologist, nail technician, barber, or esthetician

1 who applies or administers a cosmetic within the
2 scope of their business practices.

3 “(d) AUTHORIZATION OF APPROPRIATIONS.—To
4 carry out this section, there is authorized to be appro-
5 priated \$7,500,000, for the period of fiscal years begin-
6 ning with the fiscal year including the date of enactment
7 of this section and running through the fifth fiscal year
8 commencing after such date of enactment.”.

9 **SEC. 5. SUPPORT FOR CREATING SAFER ALTERNATIVES.**

10 (a) IN GENERAL.—The Secretary of Health and
11 Human Services (in this section referred to as the “Sec-
12 retary”), acting through the Commissioner of Food and
13 Drugs, in consultation with the Administrator of the Envi-
14 ronmental Protection Agency, shall award grants to sup-
15 port research focused on the design of cosmetic chemicals
16 that have no inherent toxicity or association with adverse
17 health effects.

18 (b) PRIORITY.—In awarding grants under subsection
19 (a), the Secretary shall give priority to applicants pro-
20 posing to focus on—

21 (1) replacing chemicals in professional cosmetic
22 products used by professional nail, hair, and beauty
23 salon workers with chemicals that are not associated
24 with adverse health events;

1 (2) replacing chemicals in cosmetic products
2 marketed to women and girls of color, including any
3 such beauty, personal hygiene, and intimate care
4 products, with chemicals that are not associated with
5 adverse health events; or

6 (3) providing assistance in creating safer prod-
7 uct formulations to minority-owned cosmetic compa-
8 nies that are manufacturing and marketing cosmetic
9 products to women or girls of color or professional
10 nail, hair, and beauty salon workers.

11 (c) DEFINITION.—In this section, the term “salon
12 worker” means a cosmetologist, nail technician, barber, or
13 esthetician who applies or administers a cosmetic within
14 the scope of their business practices.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—To carry
16 out this section, there is authorized to be appropriated
17 \$10,000,000 for the period of fiscal years beginning with
18 the fiscal year including the date of enactment of this sec-
19 tion and running through the fifth fiscal year commencing
20 after such date of enactment.

21 **SEC. 6. PROFESSIONAL SALON PRODUCT INGREDIENT DIS-**
22 **CLOSURE IN LABELING AND ON WEBSITES.**

23 (a) IN GENERAL.—Chapter VI of the Federal Food,
24 Drug, and Cosmetic Act (21 U.S.C. 361 et seq.) is amend-
25 ed by adding at the end the following:

1 **“SEC. 604. PROFESSIONAL SALON PRODUCT INGREDIENT**
2 **DISCLOSURE IN LABELING AND ON**
3 **WEBSITES.**

4 “(a) IN GENERAL.—The Secretary shall require
5 that—

6 “(1) the label on each package of cosmetics for
7 professional use bears a declaration of the name of
8 each ingredient in such cosmetic in descending order
9 of predominance; and

10 “(2) the internet website of any company man-
11 ufacturing, distributing, or selling cosmetics for pro-
12 fessional use bears a declaration of the name of each
13 ingredient in each such cosmetic in descending order
14 of predominance.

15 “(b) ADJUSTMENTS FOR LABEL SIZE.—

16 “(1) RULES FOR SMALL PRODUCTS.—Not later
17 than 6 months after the date of the enactment of
18 this section, the Secretary shall issue regulations
19 that apply to any cosmetic for which the packaging
20 is not of sufficient size to bear a label that meets the
21 requirements of subsection (a).

22 “(2) REQUIREMENTS FOR DISCLOSING TO CUS-
23 TOMERS AND CLIENTS.—The regulations under
24 paragraph (1) shall establish requirements for listing
25 ingredients on the label of such cosmetics and addi-
26 tional requirements, as appropriate.

1 “(c) DEFINITION.—In this section:

2 “(1) INGREDIENT.—The term ‘ingredient’
3 means an intentionally added chemical in a cosmetic
4 that has a technical or functional effect, including—

5 “(A) the breakdown products of an inten-
6 tionally added chemical that also have a func-
7 tional or technical effect in the cosmetic;

8 “(B) a fragrance, flavor, preservative, or
9 colorant (and the components thereof); and

10 “(C) any individual component that the
11 Secretary deems an ingredient for purposes of
12 this section.

13 “(2) PROFESSIONAL USE.—The term ‘profes-
14 sional use’ means—

15 “(A) the application of a cosmetic to a
16 human customer or client that is intended only
17 for use by an employee or contractor, in set-
18 tings such as cosmetology, nail care, barbering,
19 esthetics, spa, and other professions as deter-
20 mined by the Secretary through regulation; or

21 “(B) the use by, or application to a human
22 of a cosmetic purchased from a hair salon, nail
23 salon, beauty salon, spa, or other establishment
24 that provides cosmetic treatment services for
25 humans.”.

1 (b) MISBRANDING.—Section 602 of the Federal
2 Food, Drug, and Cosmetic Act (21 U.S.C. 362) is amend-
3 ed by adding at the end the following:

4 “(g) If it is not labeled as required under section
5 604(a)(1).”.

6 (c) PROHIBITED ACT.—Section 301 of the Federal
7 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-
8 ed by adding at the end the following:

9 “(fff) The failure to post a declaration on the internet
10 website of any company manufacturing, distributing, or
11 selling cosmetics for professional use as required under
12 section 604(a)(2).”.

13 (d) APPLICABILITY.—Sections 604, 602(g), and
14 301(fff) of the Federal Food, Drug, and Cosmetic Act,
15 as added by this section, shall apply beginning on a date
16 that is determined by the Commissioner of Food and
17 Drugs, but is not later than 18 months after the date of
18 enactment of this Act.

19 **SEC. 7. TRANSLATION OF AND ACCESS TO SAFETY DATA**
20 **SHEETS.**

21 (a) IN GENERAL.—Not later than 18 months after
22 the date of enactment of this Act, the Secretary of Labor
23 shall issue a standard under section 6 of the Occupational
24 Safety and Health Act of 1970 (29 U.S.C. 655) that re-
25 quires the following:

1 (1) Each manufacturer or importer selling any
2 cosmetic for professional use shall—

3 (A) obtain or develop a safety data sheet
4 described in subsection (b) for each such cos-
5 metic or personal care product that—

6 (i) the manufacturer or importer pro-
7 duces or imports; and

8 (ii) includes a hazardous chemical, or
9 a product ingredient associated with any
10 chemical hazard, that is classified as a
11 health hazard in accordance with the cri-
12 teria found in section 1910.1200(d) of title
13 29 of the Code of Federal Regulations, and
14 any successor regulations; and

15 (B) make the safety data sheet available
16 on the manufacturer or importer's website (in
17 addition to any other required manner of mak-
18 ing such sheet available) to distributors and
19 employers, including owners of hair, nail, and
20 beauty salons or spas or other establishments
21 that provide cosmetic services for humans, in
22 English, Spanish, Vietnamese, Chinese, Korean,
23 and upon request other languages.

24 (2) Each distributor of a cosmetic or personal
25 care product for professional use shall distribute and

1 provide safety data sheets described in subsection
2 (b) in the same manner as a distributor of a chem-
3 ical hazard is required to distribute and provide
4 safety data sheets under section 1910.1200(g) of
5 title 29, Code of Federal Regulations, or any suc-
6 cessor regulations.

7 (3) Each employer, including any operator of a
8 salon or other establishment described in paragraph
9 (1)(B), shall—

10 (A) have a safety data sheet in the work-
11 place for each cosmetic or personal care product
12 for professional use that is used in the course
13 of the employer's business;

14 (B) make such safety data sheet available
15 to all employees of the employer who are ex-
16 posed or use the product to the same extent
17 and in the same manner as safety data sheets
18 are required to be made available under section
19 1910.1200(g) of title 29, Code of Federal Reg-
20 ulations, or any successor regulations; and

21 (C) upon request, provide employees with
22 translations of such safety data sheet in other
23 languages, including Spanish, Vietnamese, Chi-
24 nese, Korean, and upon request other lan-
25 guages.

1 (b) CONTENTS OF SAFETY DATA SHEET.—A safety
2 data sheet for a cosmetic or personal care product for pro-
3 fessional use described in this section shall—

4 (1) contain the information required in a safety
5 data sheet under section 1910.1200(g) of title 29,
6 Code of Federal Regulations, or any successor regu-
7 lations, for each hazardous chemical, or product in-
8 gredient associated with any chemical hazard, de-
9 scribed in subsection (a)(1)(A)(ii); and

10 (2) include the following statement: “This safe-
11 ty data sheet is also available in multiple languages
12 by contacting the manufacturer, using the contact
13 information provided on this sheet.”.

14 (c) DEFINITIONS.—In this section:

15 (1) INGREDIENT.—The term “ingredient”
16 means an intentionally added chemical in a cosmetic
17 that has a technical or functional effect, including—

18 (A) the breakdown products of an inten-
19 tionally added chemical that also have a func-
20 tional or technical effect in the cosmetic;

21 (B) a fragrance, flavor, preservative, or
22 colorant (and the components thereof); and

23 (C) any individual component that the Sec-
24 retary deems an ingredient for purposes of this
25 section.

1 (2) MANUFACTURER.—The term “manufac-
2 turer” means the entity that produces ingredients or
3 combines one or more ingredients to produce a cos-
4 metic product.

5 (3) PROFESSIONAL USE DEFINED.—The term
6 “professional use” has the meaning given to such
7 term in section 604 of the Federal Food, Drug, and
8 Cosmetic Act, as added by section 6.

9 **SEC. 8. INTERAGENCY COUNCIL ON COSMETIC SAFETY.**

10 (a) IN GENERAL.—The Secretary of Health and
11 Human Services shall establish and maintain an Inter-
12 agency Council on Cosmetic Safety for the purpose of
13 sharing data and promoting collaboration on cosmetic
14 safety and generating solutions to address the adverse
15 health effects experienced by women and girls of color and
16 professional nail, hair, and beauty salon workers because
17 of using or working with unsafe chemicals in cosmetics
18 and personal care products.

19 (b) COMPOSITION.—The members of the Interagency
20 Council shall consist of the following:

21 (1) The Commissioner of Food and Drugs (or
22 the Commissioner’s designee).

23 (2) The Director of the National Institute of
24 Environmental Health Sciences (or the Director’s
25 designee).

1 (3) The Director of the Centers for Disease
2 Control and Prevention (or the Director’s designee).

3 (4) The Assistant Secretary of Labor for Occu-
4 pational Safety and Health (or the Assistant Sec-
5 retary’s designee).

6 (5) The Administrator of the Environmental
7 Protection Agency (or the Administrator’s designee).

8 (6) The Administrator of the Small Business
9 Administration (or the Administrator’s designee).

10 (7) The Secretary of Labor (or the Secretary’s
11 designee).

12 (c) USE OF DATA FROM FEDERAL SOURCES.—For
13 purposes of this section, the Secretary, as appropriate,
14 shall request and utilize ingredient and cosmetic toxicity,
15 use, and exposure data from other Federal agencies.

16 (d) REPORT.—Not later than 1 year after the date
17 of enactment of this Act, the Secretary shall make publicly
18 available and submit to the Committee on Energy and
19 Commerce of the House of Representatives and the Com-
20 mittee on Health, Education, Labor, and Pensions of the
21 Senate a report including—

22 (1) a summary of data shared with the Inter-
23 agency Council by other Federal agencies;

24 (2) a listing and description of the Secretary’s
25 use of ingredient, toxicity, and exposure data from

1 other Federal agencies that was found to be relevant
2 to cosmetic use; and

3 (3) recommended research, occupational health,
4 small business assistance, public information, and
5 other strategies to reduce potentially unsafe expo-
6 sures to cosmetic chemicals.

7 (e) DEFINITIONS.—In this section:

8 (1) The term “ingredient” means an inten-
9 tionally added chemical in a cosmetic that has a
10 technical or functional effect, including—

11 (A) the breakdown products of an inten-
12 tionally added chemical that also have a func-
13 tional or technical effect in the cosmetic;

14 (B) a fragrance, flavor, preservative, or
15 colorant (and the components thereof); and

16 (C) any individual component that the Sec-
17 retary deems an ingredient for purposes of sec-
18 tion.

19 (2) The term “Interagency Council” means the
20 Interagency Council on Cosmetic Safety.

21 (3) The term “salon worker” means a cos-
22 metologist, nail technician, barber, or esthetician
23 who applies or administers a cosmetic within the
24 scope of their business practices.

1 (4) The term “Secretary” means the Secretary
2 of Health and Human Services.

3 **SEC. 9. INCLUSION OF COMMUNITIES OF COLOR IN INGRE-**
4 **DIENT REVIEW.**

5 Chapter VI of the Federal Food, Drug, and Cosmetic
6 Act (21 U.S.C. 361 et seq.), as amended by section 6,
7 is further amended by adding at the end the following:

8 **“SEC. 605. INCLUSION OF COMMUNITIES OF COLOR IN IN-**
9 **GREDIENT REVIEW.**

10 “(a) IN GENERAL.—The Secretary shall establish
11 and implement a process to evaluate cosmetics (including
12 nonfunctional constituents and ingredients) marketed to
13 and used by women and girls of color to ensure that such
14 cosmetics are in full compliance with the requirements of
15 this chapter.

16 “(b) PROCESS REQUIREMENTS.—This process estab-
17 lished under subsection (a) shall include—

18 “(1) issuing guidance on the process;

19 “(2) selecting cosmetics, nonfunctional constitu-
20 ents, and ingredients for evaluation under such proc-
21 ess, including those linked to adverse health effects
22 in women and girls of color;

23 “(3) review of the relevant scientific evidence,
24 clinical studies, data, or other information; and

1 “(4) convening a public meeting with respect to
2 each cosmetic, nonfunctional constituent, and ingre-
3 dient that is selected for evaluation.

4 “(c) ADVISORY COMMITTEE.—

5 “(1) IN GENERAL.—The Secretary shall main-
6 tain a permanent advisory committee to advise the
7 Secretary in connection with the process under this
8 section.

9 “(2) MEMBERSHIP.—The members of such ad-
10 visory committee shall include—

11 “(A) the Deputy Assistant Secretary for
12 Minority Health (or the Deputy Assistant Sec-
13 retary’s designee); and

14 “(B) individuals from nonprofit organiza-
15 tions representing women of color and profes-
16 sional nail, hair, and beauty salon workers.

17 “(d) DEFINITIONS.—In this section:

18 “(1) The term ‘ingredient’ has the meaning
19 given to such term in section 604.

20 “(2) The term ‘nonfunctional constituent’
21 means a chemical that has no functional or technical
22 effect on the product or ingredient and is present—

23 “(A) as an incidental component of an in-
24 tentiously added ingredient;

1 “(B) as a breakdown product of an inten-
2 tionally added ingredient;

3 “(C) as a byproduct of the manufacturing
4 process;

5 “(D) due to the storage of primary sub-
6 stances; or

7 “(E) due to the instability of the pack-
8 aging.

9 “(3) The term ‘salon worker’ means a cos-
10 metologist, nail technician, barber, or esthetician
11 who applies or administers a cosmetic within the
12 scope of their business practices.”.

○