

# HAYNES BOONE

## State Survey of Laws Regulating Cosmetic Ingredients<sup>1</sup>

This survey provides an overview of state laws prohibiting and/or restricting certain ingredients in cosmetic products that have been enacted to-date.

### **I. Introduction**

As of October 2024, nine states have enacted at least one law prohibiting and/or restricting certain ingredients in cosmetic products. Six such laws have already taken effect, and the remainder have compliance deadlines ranging from January 1, 2025, to January 1, 2027. Cosmetic ingredient bans are unlikely to be preempted by MoCRA, which means that this growing patchwork of state legislation will continue to evolve as more states join the “toxic-free cosmetics” movement. This presents challenges across the cosmetic supply chain, as the potential for enforcement and/or associated litigation risk may extend beyond the manufacturer.

### **Scope of Survey**

This survey is intended to provide a high-level overview of key features of state legislation that has been signed into law as of October 2024. Analogous state legislation that has been proposed, but not yet enacted, is not included, as such bills may undergo material revision before they are enacted, if ever.

Many states also have enacted or proposed laws that specifically and exclusively target Perfluoroalkyl and polyfluoroalkyl substances (“PFAS”) across various product categories, which, in some cases, extend to cosmetics and personal care products.<sup>2</sup> This survey does not include laws that *exclusively* prohibit or restrict PFAS, as we view PFAS legislation as a distinct area of focus, given the breadth of product categories to which existing PFAS laws apply. However, laws prohibiting or restricting PFAS in cosmetic products *are* included in this survey to the extent PFAS is listed among one or more other prohibited or restricted cosmetic ingredients.

### **Mitigating Liability**

Manufacturers, distributors, importers, and retailers of cosmetics should become familiar with the laws of each state in which their cosmetic products are sold to ensure compliance with the most restrictive applicable state law for each ingredient. Thoroughly review each ingredient and sub-ingredient in your cosmetic products, as the laws may not list all known names of each ingredient or all chemicals that fall within a restricted class of chemicals.

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<sup>1</sup> Prepared by attorneys of Haynes and Boone, LLP as of October 2024.

<sup>2</sup> States that have enacted or proposed PFAS-only restrictions that may apply to cosmetic products include Colorado, Minnesota, Maine, Hawaii, Nevada, New York, and Rhode Island.

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## II. SURVEY OF ENACTED LEGISLATION

State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
California <sup>3</sup>	Jan. 1, 2025 (List 1)	<p style="text-align: center;"><u>Prohibited:</u></p> <p><b>List 1 –</b></p> <ul style="list-style-type: none"> <li>• Dibutyl phthalate</li> <li>• Diethylhexyl phthalate</li> <li>• Formaldehyde</li> <li>• Paraformaldehyde</li> <li>• Methylene glycol</li> <li>• Quaternium-15</li> <li>• Mercury</li> <li>• Isobutylparaben</li> <li>• Isopropylparaben</li> <li>• m-Phenylenediamine and its salts</li> <li>• o-Phenylenediamine and its salts</li> <li>• PFAS and their salts</li> </ul>	Applies to any person or entity manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product containing any <b>intentionally added</b> Prohibited Ingredient beyond technically unavoidable trace amounts due to ingredient impurities, manufacturing process, storage, or migration from packaging <i>if</i> the product was manufactured through processes intended to comply with this law.	“Ingredient” is defined by reference to 21 CFR 700.3 (“any single chemical entity or mixture used as a component in the manufacture of a cosmetic product”) and excludes any incidental ingredients as defined under 21 CFR 701.3(l).*
	Jan. 1, 2027 (List 2)	<p><b>List 2 –</b></p> <ul style="list-style-type: none"> <li>• lily aldehyde</li> <li>• acetaldehyde</li> <li>• cyclohexylamine</li> <li>• cyclotetrasiloxane</li> <li>• phytonadione</li> <li>• sodium perborate</li> <li>• styrene</li> <li>• trichloroacetic acid</li> <li>• tricresyl phosphate</li> <li>• vinyl acetate</li> <li>• 2-chloroacetamide</li> <li>• allyl isothiocyanate</li> <li>• anthraquinone</li> <li>• malachite green oil from the seeds of <i>laurus nobilis</i> l.</li> <li>• pyrogallol</li> <li>• C.I. disperse blue 1 &amp; 3</li> <li>• Basic green 1;</li> <li>• Basic violet 4;</li> <li>• Basic blue 3, 7, &amp; 9</li> <li>• Trisodium nitrilotriacetate</li> <li>• 3(or5)-((4-(benzylmethyl-amino)phenyl)azo)-1,2 - (or1,4)-dimethyl-1h-1,2,4-triazolium and its salts</li> <li>• specified boron substances<sup>4</sup></li> </ul>		

<sup>3</sup> [CA Health and Safety Code § 108980\(a\), \(c\)-\(d\).](#)

<sup>4</sup> Specified boron substances include: Perboric acids (including sodium salt, sodium perborate monohydrate); Boric acid; and Borates, tetraborates, octaborates, and boric acid salts and esters (including disodium octaborate anhydrous, disodium octaborate tetrahydrate, 2-aminoethanol, monoester with boric acid, 2-hydroxypropyl ammonium dihydrogen orthoborate, potassium borate, boric acid potassium salt, trioctyldecyl borate, zinc borate, sodium borate, disodium tetraborate anhydrous; boric acid, sodium salt tetraboron disodium heptaoxide, hydrate, orthoboric acid, sodium salt, disodium tetraborate decahydrate, borax decahydrate, disodium tetraborate pentahydrate, borax pentahydrate).

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State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
Maine <sup>5</sup>	Jan. 1, 2027	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• lead</li> <li>• mercury</li> <li>• dibutyl phthalate</li> <li>• diethylhexyl phthalate</li> <li>• formaldehyde</li> <li>• paraformaldehyde</li> <li>• quaternium-15</li> <li>• methylene glycol</li> <li>• m-phenylenediamine</li> <li>• o-phenylenediamine</li> <li>• triclosan</li> <li>• triclocarban</li> <li>• nonylphenol</li> </ul>	<p>Applies to any person distributing, selling, or offering for sale cosmetic products in Maine containing any Prohibited Ingredient that was <b>intentionally added</b> during manufacturing:</p> <ul style="list-style-type: none"> <li>• to provide a specific characteristic, appearance, or quality, or to perform a specific function; <i>and</i></li> <li>• that is beyond technically unavoidable trace quantities due to ingredient impurities, manufacturing process, storage, or due to migration from product packaging.</li> </ul>	Retailers are entitled to a refund for any prohibited products delivered by a manufacturer.
Maryland <sup>6</sup>	Jan. 1, 2025	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• Dibutyl phthalate</li> <li>• Diethylhexyl phthalate</li> <li>• Formaldehyde</li> <li>• Paraformaldehyde</li> <li>• Methylene glycol</li> <li>• Quaternium–15</li> <li>• Mercury</li> <li>• Isobutylparaben</li> <li>• Isopropylparaben</li> <li>• m–Phenylenediamine and its salts</li> <li>• o–Phenylenediamine and its salts</li> <li>• PFAS and their salts</li> </ul>	<p>Applies to any person <b>knowingly</b> manufacturing, selling, delivering, holding, or offering a cosmetic product for sale in Maryland containing any <b>intentionally added</b> Prohibited Ingredient beyond a technically unavoidable trace quantity due to ingredient impurity, manufacturing process, storage, or packaging <i>if</i> the product was also manufactured through a process intended to comply with this prohibition.</p>	This prohibition does not apply if the Prohibited Ingredient(s) is included in a cosmetic product as an “incidental ingredient,” as described under 21 CFR 701.3(l).*

<sup>5</sup> [Sec. 1. 38 MRSA c. 37](#)

<sup>6</sup> [Maryland Health Code Ann. § 21–259.2 \(2021\)](#).

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State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
Minnesota <sup>7</sup>	Aug. 1, 2023	<p><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• Lead</li> <li>• Cadmium</li> </ul>	<p>Applies to any person importing, manufacturing, selling, holding for sale, or distributing or offering for use in Minnesota any covered product containing:</p> <ul style="list-style-type: none"> <li>• Lead at <b>90 ppm</b> or more; or</li> <li>• Cadmium at <b>75 ppm</b> or more</li> </ul>	<p>“Covered products” include cosmetics and personal care products, among other categories of consumer goods.</p>
New York <sup>8</sup>	Dec. 31, 2022	<p><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• 1,4 Dioxane</li> </ul>	<p>Applies to any person selling or offering for sale any:</p> <ul style="list-style-type: none"> <li>• <b>Cosmetic product</b> containing the Restricted Ingredient in excess of <b>10 ppm</b>; or</li> <li>• <b>Personal care product</b> containing the Restricted Ingredient in excess of <b>1 ppm</b>.<sup>9</sup></li> </ul>	<p>“Cosmetic product” means “any article (a) intended to be rubbed, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for beautifying, promoting attractiveness, or altering the appearance, and (b) intended for use as a component of any such article.”</p>
	Mar. 3, 2023	<p><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• Mercury (including elemental mercury Hg, mercuric iodide, mercury oxide, mercurous chloride, ethyl mercury, phenyl mercuric salts, ammoniated mercury, amide chloride of mercury, mercury sulfide or cinnabaris, or mercury iodide)</li> </ul>	<p>Applies to any person selling or offering for sale <b>cosmetics or personal care products</b> containing any amount of the Restricted Ingredient(s) beyond trace amounts allowed by FDA as either unavoidable under GMPs or as necessary for use as a preservative in the absence of an effective and safe nonmercurial preservative substitute.</p>	<p>“Personal care product” means “any product intended for cleaning or cleansing any part of the body, such as the skin and hair, and including but not limited to, hair shampoo, hair conditioner, soap, bath gels and other bath products.”</p>

<sup>7</sup> [\(MN\) 325E.3892 LEAD AND CADMIUM IN CONSUMER PRODUCTS; PROHIBITION.](#)

<sup>8</sup> [NY ENV § 37-0117 \(1\), \(3\), \(5\)-\(7\).](#)

<sup>9</sup> The 1ppm limit on 1,4 Dioxane in personal care products became effective as of December 31, 2023. The prior limit under the New York ban was 2ppm, which took effect on December 31, 2022.

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State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
Oregon <sup>10</sup>	Jan. 1, 2027	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• Ortho-phthalates</li> <li>• PFAS</li> <li>• Formaldehyde and releasing agents</li> <li>• Methylene glycol</li> <li>• Mercury and its compounds</li> <li>• Triclosan</li> <li>• m-Phenylenediamine and its salts</li> <li>• o-Phenylenediamine and its salts</li> <li>• Others known to have toxic developmental effects; cause cancer, genetic damage, or reproductive harm; disrupt endocrine system; damage nervous system, immune system, or other organs with systemic toxicity; or to be bio accumulative and toxic</li> <li>• Others identified as high priority by the Oregon Health Authority<sup>11</sup></li> </ul> <p style="text-align: center;"><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• Lead or lead compounds</li> </ul>	<p>Applies to any <b>manufacturer</b><sup>12</sup> that <b>knowingly</b> manufactures, sells, offers for sale, or distributes for sale or use in Oregon a cosmetic product containing any <b>intentionally added</b> Prohibited Ingredient above the “practical quantification limit” or a Restricted Ingredient at or above <b>10ppm</b>.<sup>13</sup></p>	<p>The Oregon Health Authority shall review and revise the list of high-priority chemicals, tolerance levels, and other rules every three years and post information on <a href="#">its website</a>.</p>

<sup>10</sup> [Oregon Senate Bill \(Enrolled\) SB 546](#) (Apr. 5, 2023).

<sup>11</sup> These substances may also require a notice on manufacturer’s website.

<sup>12</sup> “Manufacturer” means any person that produces a cosmetic product or an importer or domestic distributor of a cosmetic product and excludes (1) A retailer that sells to consumers cosmetic products produced by a third party; and (2) A grocery wholesaler or grocery retailer that contracts with a third party to produce cosmetic products on behalf of and under the brand of the grocery wholesaler or grocery retailer.

<sup>13</sup> “Practical quantification limit” is defined as “the lowest concentration of a chemical that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness and comparability during routine laboratory operating conditions.”

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State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
Vermont <sup>14</sup>	Jan. 1, 2026	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• ortho-phthalates;</li> <li>• PFAS;</li> <li>• formaldehyde<sup>15</sup></li> <li>• methylene glycol</li> <li>• mercury and mercury compounds</li> <li>• 1, 4-dioxane</li> <li>• isopropylparaben</li> <li>• isobutylparaben</li> <li>• lead and lead compounds</li> <li>• asbestos</li> <li>• triclosan</li> <li>• m-phenylenediamine and its salts</li> <li>• o-phenylenediamine and its salts</li> <li>• quaternium-15</li> <li>• styrene</li> <li>• octamethylcyclotetrasiloxane</li> <li>• toluene</li> </ul> <p style="text-align: center;"><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• 1,4, dioxane</li> </ul>	<p>Applies to any manufacturer<sup>16</sup> that is manufacturing, selling, offering for sale, or distributing for sale or use in Vermont any cosmetic product containing any <b>intentionally added</b> Prohibited Ingredient (except for technically unavoidable trace quantities to the extent caused by impurities of natural or synthetic ingredients, the manufacturing process, storage, or migration from packaging <i>if</i> the product was manufactured through processes intended to comply with this law).</p> <p>Also applies to any manufacturer <b>knowingly</b> selling, offering to sell, or distributing for sale or use in Vermont any cosmetic product containing the Restricted Ingredient at <b>10 ppm</b> or more.</p>	<p>This law also expressly applies to menstrual products.</p>

<sup>14</sup> [Sec. 1. 9 V.S.A. chapter 63, subchapter 12.](#)

<sup>15</sup> Formaldehyde-releasing agents may also be prohibited if identified in a rule to that effect issued by the Vermont Dept. of Health.

<sup>16</sup> “Manufacturer” means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers and excludes a distributor or retailer, except when a consumer product is made or assembled outside of the U.S., in which case, the importer or first domestic distributor is also deemed a “manufacturer.”

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State	Effective Date	Prohibited or Restricted Ingredients	Scope of Prohibition	Other Notes
Washington <sup>17</sup>	Jan. 1, 2025	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• Ortho-phthalates</li> <li>• PFAS</li> <li>• Formaldehyde and chemicals determined by the department to release formaldehyde</li> <li>• Methylene glycol</li> <li>• Mercury and mercury compounds</li> <li>• Triclosan</li> <li>• m-phenylenediamine and its salts</li> <li>• o-phenylenediamine and its salt</li> <li>• Lead or lead compounds</li> </ul> <p style="text-align: center;"><u>Restricted:</u></p> <ul style="list-style-type: none"> <li>• Lead or lead compounds</li> </ul>	Applies to any person manufacturing or <b>knowingly</b> selling, offering for sale, or distributing for sale or use in Washington cosmetic products containing any amount of any <b>intentionally added</b> Prohibited Ingredients or any Restricted Ingredients at or above 1ppm.	An in-state retailer in possession of cosmetic products on the date that restrictions on the sale of the products takes effect under this section may exhaust its existing stock through sales to the public until January 1, 2026.
Wisconsin <sup>18</sup>	Effective since 2009	<p style="text-align: center;"><u>Prohibited:</u></p> <ul style="list-style-type: none"> <li>• Mercury</li> </ul>	Applies to any person selling or distributing cosmetic, toiletry, or fragrance products containing the Prohibited Ingredient in any amount.	This law also applies to other household items, such as toys or games; jewelry; clothing or shoes; and OTC drugs. <sup>19</sup>

<sup>17</sup> [Revised Code of Washington § 70A.560.020](#) (Jul. 23, 2023).

<sup>18</sup> [2009 Wisconsin Act 44 § 299.49\(2\)\(f\)](#).

<sup>19</sup> This prohibition does not apply if the only mercury-added component in the applicable household item is a button cell battery.

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\* Under 21 CFR 701.3(l), “incidental ingredients” means

- (1) Substances that have no technical or functional effect in the cosmetic but are present by reason of having been incorporated into the cosmetic as an ingredient of another cosmetic ingredient; and
- (2) Processing aids, which are as follows:
  - (i) Substances that are added to a cosmetic during the processing of such cosmetic but are removed from the cosmetic in accordance with good manufacturing practices before it is packaged in its finished form.
  - (ii) Substances that are added to a cosmetic during processing for their technical or functional effect in the processing, are converted to substances the same as constituents of declared ingredients, and do not significantly increase the concentration of those constituents.
  - (iii) Substances that are added to a cosmetic during the processing of such cosmetic for their technical and functional effect in the processing but are present in the finished cosmetic at insignificant levels and do not have any technical or functional effect in that cosmetic. (1) Substances that have no technical or functional effect in the cosmetic but are present due to their incorporation as an ingredient of another cosmetic ingredient; (2) Processing aids, which are (i) substances added to a cosmetic during processing but removed in accordance with GMPs before packaged in finished form; (ii) substances that are added during processing for technical or functional effect in processing and converted to substances the same as constituents of declared ingredients, and do not significantly increase such constituents’ concentration; and (iii) substances added during processing for technical and functional effect in processing but are only present in at insignificant levels and without any technical or functional effect in the finished product.