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May 22, 2022

The Honorable Patty Murray
Chair, Senate Committee on Health,
Education, Labor and Pension
154 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Burr
Ranking Member, Senate Committee on Health,
Education, Labor, and Pension
217 Russell Senate Office Building
Washington, DC 20510

Dear Chairwoman Murray and Ranking Member Burr:

The ninety-six undersigned businesses, consumer groups, health associations, and non-profit organizations appreciate the opportunity to provide public comment on the FDA Safety and Landmark Advancements Act (FDASLA) discussion draft. Our comments address Title VIII, *the Modernization of Cosmetics Regulation Act of 2022*, which will amend the Federal Food, Drug, and Cosmetic Act to create new cosmetic safety protections.

Increased consumer awareness about the problem of toxic chemicals in beauty and personal care products has led to an increased demand for safer products in the marketplace. Now many hundreds of cosmetic manufacturers fully disclose ingredients (including fragrance) and avoid the use of chemicals linked to cancer, birth defects, learning disabilities, and other adverse health effects. These business decisions demonstrate that such practices are not only possible, but profitable. Retailers, too, are becoming part of the solution by requiring the national brands and the private label brands they sell to eliminate chemicals of concern and practice a higher level of ingredient transparency.

Toxic cosmetic ingredients are ending up in our bodies, our breast milk and our babies, and go down our drains and pollute our waterways and drinking water. Unsafe chemicals in cosmetics add to our daily dose of hazardous chemicals from the air we breathe, the food we eat, and other consumer products. Scientific data from the past two decades and new advancements in science have exposed the fact that this problem is compounded by the health risks of repeated exposures to small doses of hazardous chemicals – especially small-dose exposures to hormone disrupting chemicals during critical windows of development: in utero, and during childhood and puberty.

We appreciate the Committee and its staff for the effort that went into generating this bi-partisan discussion draft.

We strongly support provisions of the bill that improve transparency and consumer safety, including the following:

- Requiring the registration of cosmetic facilities, products, and ingredients;
- Establishing good manufacturing practices;
- Requiring serious adverse event reporting;
- Requiring companies for the first time ever to disclose their use of specific fragrance and flavor ingredients to the FDA;
- Requiring the disclosure of the ingredients in professional salon products;
- Creating standardized testing for asbestos contamination in talc; and
- Establishing FDA mandatory recall authority for misbranded and adulterated products.

There are, however, a number of areas where the discussion draft needs to be strengthened. We strongly recommend Title VIII, *the Modernization of Cosmetics Regulation Act of 2022*, be revised to incorporate the following changes:

- First and foremost, honor the longstanding right and responsibility of the states to enact laws that protect the health and welfare of their citizens by *not* preempting state cosmetic safety legislation;
- Create a more robust safety standard based on a “reasonable certainty of no harm,” that directs companies to consider the long-term health effects of ingredient use, including links to cancer, reproductive and developmental harm, etc., instead of just considering acute reactions;
- Add a definition of “vulnerable populations” that should be considered when cosmetic companies substantiate the safety of ingredients;
- Require warning labels for ingredients and products that are not safe – or should be restricted – for use by children and pregnant women;
- Ensure coal tar hair dye chemicals are not exempt from safety substantiations conducted by cosmetic companies or by the FDA;
- Require fragrance suppliers to conduct – and share – safety substantiations of the fragrance and flavorings they formulate and sell to cosmetic companies;
- Require ingredient disclosure for web-based sales of cosmetic products;
- Ensure the FDA is not restricted from accessing or inspecting the safety substantiation records of cosmetic companies; and
- Create a sliding scale user fee to help pay for FDA expanded roles and responsibilities created by this bill.

Finally, we feel strongly that this bill should include language that will fill critical gaps in cosmetic safety that affect everyone, but especially communities of color and professional salon workers. Specifically, we encourage your staff to incorporate into Title VIII, *the Modernization of Cosmetics Regulation Act of 2022*, of the Federal Food, Drug, and Cosmetic Act the cosmetic safety protections proposed in the four bills that make up the Safer Beauty bill package including: Banning the entire class of PFAS chemicals plus 11 of the most toxic chemicals on the planet from beauty and personal care products sold in the U.S. (H.R.5537); requiring the disclosure of the secret, unlabeled fragrance and flavor chemicals in personal care products that are toxic to human health and the environment (HR5538); creating cosmetic safety protections for communities of color and professional salon workers (HR5540); requiring upstream suppliers to provide ingredient disclosure and safety data to cosmetic companies so that the companies have the information they need to make safer products (HR5539).

Please find attached our formal public comment which includes a more detailed analysis of the FDASLA cosmetics and personal care products language, as well as specific recommendations for strengthening its cosmetic safety provisions.

On behalf of the many consumers, businesses, breast cancer survivors, workers, and others whom we represent, we look forward to continuing to work with you to improve cosmetic safety. We are grateful for your bipartisan leadership and thank you for your attention to this critically important public health issue.

Signed,

Alaska Community Action on Toxics	AK
Arizona PIRG	AZ
As You Sow	CA
Bayshore Medical Center	NJ
Beauty Heroes	CA
Black Women for Wellness	CA
Breast Cancer Action	CA
Breast Cancer Coalition of Rochester	NY
Breast Cancer Over Time	CA
Breast Cancer Prevention Partners	CA
CA Black Health Network	CA
CA Brain Tumor Association	CA
CA Healthy Nail Salon Collaborative	CA
California Communities Against Toxics	CA
CALPIRG	CA
Center for Environmental Health	CA
Center for Progressive Reform	FL
Clean and Healthy New York	NY
Clean Beauty for Black Girls	MD
Clean Production Action	MA
Clean Water Action	MA
CleanAirNow	MO
Clear Consumption LLC	NY
Clearya	OH
Coalition for a Safe and Healthy CT	CT
Consumer Federation of America	DC
Colorado PIRG	CO
Credo	CA
CRUNCHI	FL
Declarity	CA
DEMES	ON
Dr. Bronner's	CA

Dr. Yolanda Whyte Pediatrics	GA
Eighty2degrees LLC	DC
Embracing Imperfect	PA
Environment New Jersey	NJ
EO Products, LLC	CA
Families Advocating for Chemical and Toxics Safety	CA
Fountain Valley Clean Water Coalition	CO
Friends of the Earth	CA
GMO/Toxin Free USA	CT
Grassroots Environmental Education	NY
Green Inside and Out	NY
Great Neck Breast Cancer Coalition	NY
Green Science Policy Institute	CA
Grove Collaborative	CA
Hadassah	VA
Healthy Babies Bright Futures	VA
Illinois PIRG	IL
In the Limelight Media	AZ
Innersense Organic Beauty	CA
Intelligent I-N	MN
Iowa Breast Cancer Edu-action	IA
Juice Beauty, Inc.	CA
just the goods	MB
Justice For Families	NY
Leadership Institute for Just and Resilient Communities	CA
Learning Disabilities Association of Delaware	DE
Learning Disabilities Association of Georgia	TN
Learning Disabilities Association of Maine	ME
Learning Disabilities Association of New Jersey	ME
Los Jardines Institute	NM
MADE SAFE	NY
Mamavation	CA
Maryland PIRG	MD
MASSPIRG	MA
Moms for a Nontoxic New York	NY
NAIWBE Natural As I Wanna Be	FL
North Carolina PIRG	NC
New York Sustainable Business Council	NY
Oregon Environmental Council	OR
OSEA	TX
Oregon PIRG	OR
Pennsylvania PIRG	PA
PFOA Project NY	NY

Recycle2riches	CA
Safer States	OR
Seventh Generation	VT
Sierra Club Atlantic Chapter	NY
Sprout San Francisco	CA
The Ashkin Group LLC	CA
The Keep A Breast Foundation	CA
The Story of Stuff Project	CA
Toxic-Free Future	WA
Toxic Free NC	NC
Turning Green	CA
U.S. PIRG	DC
Until Justice Data Partners	KY
VENTURE	CA
Vermont Conservation Voters	VT
Washington PIRG	WA
Wobbly Arrow Wellness	PA
Women's Voices for the Earth	MT
Worksafe	CA
Dr. Yolanda White Pediatrics	GA
Zero Waste Washington	WA