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 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 preemption 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 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 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  AR
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
CoPIRG  CO
Credo  CA
CRUNCHI  FL
Declarity  CA
DEMES  ON
Dr. Bronner's  CA
Drexel University  
Eighty2degrees LLC  
Embracing Imperfect  
Environment New Jersey  
EO Products, LLC  
Families Advocating for Chemical and Toxics Safety  
Fountain Valley Clean Water Coalition  
Friends of the Earth  
GMO/Toxin Free USA  
Great Neck Breast Cancer Coalition  
Green Science Policy Institute  
Grove Collaborative  
Hadassah  
Healthy Babies Bright Futures  
Illinois PIRG  
In the Limelight Media  
Innersense Organic Beauty  
Intelligent I-N  
Iowa Breast Cancer Edu-action  
Juice Beauty, Inc.  
just the goods  
Justice For Families  
Leadership Institute for Just and Resilient Communities  
Learning Disabilities of Delaware  
Learning Disabilities Association of Georgia  
Learning Disabilities Association of Maine  
Learning Disabilities Association of New Jersey  
Los Jardines Institute  
MADE SAFE  
Mamavation  
Maryland PIRG  
MASSPIRG  
Moms for a Nontoxic New York  
NAIWBE Natural As I Wanna Be  
North Carolina PIRG  
New York Sustainable Business Council  
Oregon Environmental Council  
OSEA  
OSPIRG  
PFOA Project NY  
Recycle2riches  
SAFER States  
Seventh Generation
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 NC NC
Turning Green CA
U.S. PIRG DC
Until Justice Data Partners KY
VENTURE CA
Vermont Conservation Voters VT
Wobbly Arrow Wellness PA
Women's Voices for the Earth MT
Worksafe CA
Zero Waste Washington WA