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115TH CONGRESS
2D SESSION

H. R. 4964

To amend the Federal Food, Drug, and Cosmetic Act to require that children's cosmetics containing talc include an appropriate warning unless the cosmetics are demonstrated to be asbestos-free, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2018

Mrs. DINGELL introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Federal Food, Drug, and Cosmetic Act to require that children's cosmetics containing talc include an appropriate warning unless the cosmetics are demonstrated to be asbestos-free, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Product Warning Label Act of 2018''.

SEC. 2. LABELING OF TALC IN CHILDREN'S COSMETICS.

(a) MISBRANDING.—Section 602 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 362) is amended by adding at the end the following:

''(g) If it is marketed for use in children (meaning individuals under the age of 18) and contains talc (as defined in section 604) unless—

''(1) its label includes the following statement printed in conspicuous text: 'WARNING: Talc has not been evaluated for asbestos contamination. Asbestos at any level is known to the FDA to cause cancer, including lung cancer and mesothelioma and may be present in this product. This product is not suitable for use by children.'; or

''(2) a waiver is in effect with respect to the cosmetic pursuant to section 604.''.

(b) PREMARKET SAFETY VERIFICATION OF TALC CONTENT.—Chapter VI of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 361 et seq.) is amended by adding at the end the following:

''SEC. 604. PREMARKET SAFETY VERIFICATION OF TALC CONTENT.

''(a) IN GENERAL.—The Secretary shall waive the applicability of section 602(g)(1) with respect to a cosmetic containing talc if the manufacturer of the cosmetic—

''(1) attests in writing to the Secretary that the source of the talc is an asbestos-free mine; and

''(2) demonstrates to the Secretary that the talc is asbestos-free using the transmission electron microscopy method.

''(b) DEFINITIONS.—In this section:

''(1) The term 'asbestos' means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite.

''(2) The term 'asbestos-free' means containing no traceable asbestos fibers.

''(3) The term 'talc'—

''(A) means a basic silicate of magnesium; and

''(B) includes talcum powder, hydrous magnesium silicate, non-fibrous talc, non-asbestiform talc, steatite talc, and fibrous non-tremolite talc.

''(4) The term 'transmission electron microscopy' refers to the asbestos analysis method used by laboratories that—

''(A) are accredited by the National Bureau of Standards; and

"(B) use the protocol described in appendix A to subpart E of part 763 of title 40, Code of Federal Regulations (or any successor regulations).".

(c) APPLICABILITY.—Sections 602(g) and 604 of the Federal Food, Drug, and Cosmetic Act, as added by subsections (a) and (b), apply beginning on the date that is 180 days after the date of enactment of this Act.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall promulgate final regulations to implement such sections 602(g) and 604.

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