

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5279
OFFERED BY _____**

Page 100, strike lines 11 through 25 and insert the following:

1 **SEC. 114. NATIONAL UNIFORMITY.**

2 Chapter VI of the Federal Food, Drug, and Cosmetic
3 Act (21 U.S.C. 361 et seq.), as amended by section 113,
4 is further amended by adding at the end the following:

5 **“SEC. 617. NATIONAL UNIFORMITY.**

6 “(a) IN GENERAL.—No State or political subdivision
7 of a State may establish or continue in effect any law,
8 regulation, order, or any other legally binding requirement
9 for cosmetics that is different from, or in addition to, or
10 otherwise not identical to, any requirement applicable
11 under this chapter related to—

12 “(1) registration, notification, ingredient listing,
13 disclosure, good manufacturing practices, labeling
14 and packaging, recordkeeping, inspections, animal
15 testing, or adverse event or other reporting; or

16 “(2) the safety of a cosmetic product, cosmetic
17 ingredient, or non-functional constituent (or cat-
18 egories of ingredients or non-functional constituents)

1 that is the subject of a final order on a determina-
2 tion of safety under this chapter, including any ap-
3 propriate compliance period that the Secretary es-
4 tablishes in such final order.

5 “(b) SAFETY OF COSMETIC INGREDIENTS AND NON-
6 FUNCTIONAL CONSTITUENTS.—Once the Secretary makes
7 an initial or subsequent identification of a cosmetic ingre-
8 dient or non-functional constituent (or categories of ingre-
9 dents or non-functional constituents) under section 608,
10 no State or political subdivision of a State may establish
11 or continue in effect any law, regulation, order, or other
12 requirement related to the safety of such cosmetic ingre-
13 dient or non-functional constituent (or categories of ingre-
14 dents or non-functional constituents) until such time as—

15 “(1) the Secretary issues a final order on a de-
16 termination of safety (and subsection (a)(2) applies);
17 or

18 “(2) the Secretary removes such ingredient or
19 non-functional constituent (or categories of ingredi-
20 ents or non-functional constituents) from the final
21 list under section 608 without issuing a final order
22 on a determination of safety.

23 “(c) STATE REQUIREMENT THAT IS IN FULL EF-
24 FECT AND IMPLEMENTED.—

1 “(1) EXISTING STATE REQUIREMENTS.—Not-
2 withstanding subsection (a)(1), a State may con-
3 tinue in effect a State law, regulation, order, or
4 other legally binding requirement for a cosmetic in-
5 gredient or non-functional constituent related to reg-
6 istration, notification, ingredient listing, disclosure,
7 good manufacturing practices, labeling and pack-
8 aging, recordkeeping, inspections, or adverse event
9 or other reporting, only if such requirement is in full
10 effect and implemented.

11 “(2) FULL EFFECT AND IMPLEMENTED.—The
12 term ‘full effect and implemented’ means, with re-
13 spect to a requirement under State law, that the re-
14 quirement is fully implemented by the State with re-
15 spect to a cosmetic ingredient or non-functional con-
16 stituent as of the date of enactment of the Cosmetic
17 Safety Enhancement Act of 2020, through legally
18 binding regulations or other legally binding adminis-
19 trative actions. A requirement is not in ‘full effect
20 and implemented’ if, after the of enactment of the
21 Cosmetic Safety Enhancement Act of 2020, such re-
22 quirement provides, whether by administrative or
23 any other action, for more than the effective admin-
24 istration of such requirement as in effect on such
25 date.

1 “(d) LIMITATION.—Nothing in the amendments to
2 this Act made by Cosmetic Safety Enhancement Act of
3 2020 shall be construed to preempt any State law, except
4 as expressly provided in this section.

5 “(e) STATE INITIATIVES.—With the exception of sub-
6 section (a)(2), this section shall not apply to a State re-
7 quirement adopted by a State public initiative or ref-
8 erendum enacted prior to September 1, 1997.”.

