

Rose Sheet

Pharma intelligence | informa



Your complimentary
Rose Sheet content





House Cosmetics Bill Reintroduced; ICMAD Optimistic In New Political Climate

► By Ryan Nelson

WITH PRESIDENT-ELECT TRUMP HEADED FOR THE Oval Office and the GOP controlling both houses of Congress, the small-business trade group believes Republican Congressman Pete Sessions' Safe Cosmetics Modernization Act could get a more earnest look this year. Reintroduced today, the bill proposes comprehensive federal preemption to ensure national uniformity in cosmetic regulations.

• • •

The Independent Cosmetic Manufacturers and Distributors is inviting larger firms beyond its membership to get behind federal cosmetics legislation that was overshadowed in the last session by the Personal Care Products Safety Act, with renewed optimism for the industry-friendly bill in the new political environment.

The Cosmetic Modernization Amendments of 2015, sponsored by Rep. Pete Sessions, R-Texas, received little attention in the 114th Congress, when most of the discussion around cosmetics regulatory reform focused on the proposed Personal Care Products Safety Act in the Senate.

The NGO community was harshly critical of the CMA, and the Personal Care Products Council and many of its leading members seemed reluctant to associate themselves with the bill, a considerably more industry-friendly proposal than the PCPSA, which did have their public backing.

But that was before the November presidential election.



“With the change in the Administration there’s a new sheriff in town, and I think it positions everything very differently than if the election had turned out differently,” noted ICMAD President and CEO Pam Busiek in a Jan. 11 interview.

Sessions reintroduced the draft legislation, now titled the Safe Cosmetics Modernization Act (SCMA), two days later.

“As our society becomes more technologically advanced it is unacceptable that standards for healthy and safe cosmetics have not been updated since the 1960s,” the congressman asserts Jan. 13 in his statement announcing the SCMA.

“I believe it is critical that we provide consumers with information about what is in the products that they use on a daily basis without overburdening the small businesses and entrepreneurs who craft these products,” he adds.



ICMAD is hopeful that PCPC will come out in support of the bill, which provides an answer to the growing patchwork of state-level regulations – increasingly the bane of cosmetic industry players – by barring states from imposing new requirements on companies or continuing regulatory programs already in place, e.g., cosmetic labeling requirements under California’s Prop 65. (Also see “Cosmetics Legislation Misses 2016 Window, But Is Real Industry Opportunity Now?” - Rose Sheet, Jan 9, 2017.)

In many respects, the SCMA is a revival of the proposed Cosmetics Safety Amendments Act of 2012, which had sweeping industry support, unlike the situation in the last congressional session when PCPC and ICMAD were divided on the topic of regulatory reform and the two bills drafted to achieve it.

The provisions surpass in their scope the federal preemption component included in the PCPSA of 2015, which would not have impacted state labeling requirements or prohibited states from restricting use of cosmetic ingredients that FDA had not already evaluated for safety or slated for review.

The SCMA also would identify ingredients as safe for cosmetics use if they have been cleared in other FDA regulatory contexts or determined safe by authoritative bodies including the industry-funded Cosmetic Ingredient Review or Research Institute for Fragrance Materials. A pathway is laid out for FDA to review ingredients of concern and establish rules for their use based on different safety conclusions, as needed.

Meanwhile, companies would be required to register facilities with FDA and provide the agency with product/ingredient statements, with some exceptions built in for small businesses. Serious adverse event reporting also would be mandatory under the bill.

Seeking A Return To United Industry Front

In many respects, the bill is a revival of the proposed Cosmetics Safety Amendments Act of 2012, sponsored by Rep. Leonard Lance, R-N.J. That bill had sweeping industry support, unlike the situation in the last congressional session when PCPC and ICMAD were divided on the topic of reform and the two bills drafted to achieve it.

Compared with the PCPSA – which Sen. Dianne Feinstein, D-Calif., also intends to reintroduce this year, according to her office – the SCMA is not a “robust” piece of legislation as much as an initial move in the right direction, Busiek suggested.

“When Congressman Lance introduced his legislation, industry came together and unified, and I think this [SCMA] has parts that would do the same without jumping off the deep end with huge fees or dramatic types of changes. So it makes it much more palatable for the industry and the Hill to consider,” she said.

If big business does get on board, the SCMA could be better positioned for advancement than the PCPSA, which stalled out in committee last year. “Legislators don’t have time to consider a bill that has divisiveness right off the bat,” she noted.

This time around, for the SCMA at least, the most conspicuous stakeholder split is likely going to be between industry and NGOs. EWG launched an online consumer petition last year asking Rep. Eddie Bernice Johnson, D-Texas, to withdraw her support for the proposed legislation, claiming it would further weaken FDA’s “woefully inadequate oversight of cosmetics safety.”

However, in the new political climate with pro-business Trump headed for the White House, EWG’s clout may be diminished.

From Busiek’s point of view, the incoming Trump Administration is a game-changer that significantly reduces the PCPSA’s prospects for advancement in the GOP-dominated Congress, assuming that bill also makes a reappearance. “It’s quite robust and not industry-friendly,” she noted.



The exec says she's heard rumblings of support from Democrats in the House who are keen on moving cosmetics reform legislation forward.

Meanwhile, the SCMA's national uniformity provisions could resonate with Republicans under President-Elect Trump's stated goals about removing obstacles to business. Federal preemption in the cosmetics space is "in the interest of best business practices so small businesses can continue to emerge, hire and grow," Busiek noted.

"We would love to have you yoke with us and support the [Safe Cosmetics Modernization Act]. I mean, it's just so reasonable when you really stand back and look at it."

– ICMAD CEO Pam Busiek's invitation to industry stakeholders

She continued: "It reduces the burden of [market] entry, and that's kind of the free enterprise democracy system. The current burden, even for large companies, to try to comply in multiple states is difficult – on SKU count, on labeling, on manufacturing, on ingredients, on tracking."

Sessions touches on this issue in his statement. "I proudly reintroduced this measure to modernize [cosmetics] regulations and establish a consistent, federal

standard for health and safety," he says.

The SCMA also is appealing, Busiek suggested, because it essentially builds on existing infrastructure rather than requiring significant new investments and resources on both the industry and FDA sides.

The ICMAD head acknowledged that she's "the eternal optimist." However, she hears a different hum of excitement in the business world, a "dull roar," as the new Congress gets underway.

At the same time, she anticipates and welcomes negotiations on cosmetics reform legislation, projecting likely contention around the issues of national uniformity, mandatory recall authority at FDA, which the SCMA would not provide, and the federal compliance implications of using CIR-cleared ingredients.

It remains to be seen whether the NGO camp will revise its strategy in the 115th Congress and be any more receptive of the Sessions bill. EWG did not immediately respond to the Rose Sheet's request for comment.

PCPC also remains guarded at the moment. A spokesperson said the group was in the process of reviewing the SCMA to compare it against the previous installment.

For now, Busiek is simply extending an invitation. "I would just say, 'Come on, we would love to have you yoke with us and support the [SCMA]. I mean, it's just so reasonable when you really stand back and look at it.'"