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DEPUTY WHIP

Small Business and Entrepreneurship
Chairman

Environment and Public Works

Transportation and Infrastructure
Subcommittee Chairman

Judiciary

Immigration, Refugees and
Border Security Subcommittee
Deputy Chairman

Banking, Housing, and Urban Affairs

United States Senate

WASHINGTON, DC 20510

November 04, 2016

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The Honorable Lamar Alexander
Chairman
Senate Committee on Health,
Education, Labor & Pensions
SD-428
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Senate Committee on Health,
Education, Labor & Pensions
SD-428
Washington, DC 20510

The Honorable Dianne Feinstein
United States Senate
SH-331
Washington, DC 20510

The Honorable Susan Collins
United States Senate
SD-413
Washington, DC 20510

Dear Chairman Alexander, Ranking Member Murray, Sen. Feinstein, and Sen. Collins:

While I applaud efforts to update The Food, Drug & Cosmetic Act of 1938 to protect consumers and streamline industry compliance, I am concerned that the Personal Care Products Safety Act (S. 1014) does not contain adequate small business protections and would redefine the definition of small businesses unfavorably. This would negatively affect a handmade cosmetic industry comprised largely of women-owned microbusinesses with 1-3 employees. As chairman of the Committee on Small Business and Entrepreneurship, I have the responsibility to ensure that we do not saddle small businesses with unnecessary regulations and requirements that could make an already-challenging regulatory environment even more burdensome.

My primary concern is that the legislation would require every business with more than \$100,000 in gross annual sales to register their facility and report their ingredients to the Food and Drug Administration (FDA). The "facilities" specified in the bill are often in the owner's personal residence. In addition, businesses with more than \$500,000 in gross annual sales would be required to pay the FDA an annual user fee. Both of these requirements are overly burdensome to the approximately 250,000 small business enterprises that operate in this market space and employ more than 700,000 people, including 4,081 businesses in Louisiana and 24,593 businesses in California, for example. These small businesses rely on the ability to change and make custom formulations to stay competitive. Given the great number of small handcrafted cosmetic manufacturers in the United States, this legislation would cause disproportionate harm to the class with less than one percent of the cosmetic market share.

Finally, under Section 3 of the Small Business Act, the Small Business Administration (SBA) is tasked with using its expertise and the best available data to establish business size

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standards that reflect the differing characteristics of various industries and to consider other factors deemed relevant by the Administrator. Under the most recent SBA size standard guidelines, manufacturers of soap and other detergents are defined as those businesses containing 1,000 or fewer employees. This bill would create ill advised, arbitrary definitions that would cause confusion and harm to small business owners.

For the above-referenced reasons, I oppose this legislation in its current form, and would need to see substantial modifications and improvements to the relevant provisions before agreeing to support it. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "David Vitter". The signature is stylized with a large, sweeping initial "D" and a prominent "V".

David Vitter
United States Senator