217.095 When cosmetic deemed misbranded.

A cosmetic shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular or if its labeling or packaging fails to conform with the requirements of KRS 217.037;

(2) If in package form unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer, or distributor; and

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided that reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the secretary;

(3) If any word, statement, or other information required by or under authority of KRS 217.005 to 217.215 to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) If its container is so made, formed or filled as to be misleading;

(5) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act. This subsection shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes as defined in KRS 217.085;

(6) A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of KRS 217.037 while it is in transit in commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all applicable provisions of KRS 217.005 to 217.215.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 292, sec. 6, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(22). -- Created 1960 Ky. Acts ch. 247, sec. 10, effective June 16, 1960.