

effective on June 25, 1938, see section 1002(a) of act June 25, 1938, set out as a note under section 301 of this title.

### § 362. Misbranded cosmetics

A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter 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.

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

(e) 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, as may be contained in regulations issued under section 379e of this title. This paragraph 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 the last sentence of section 361(a) of this title).

(f) If its packaging or labeling is in violation of an applicable regulation issued pursuant to section 1472 or 1473 of title 15.

(June 25, 1938, ch. 675, § 602, 52 Stat. 1054; Pub. L. 86-618, title I, § 102(c)(2), July 12, 1960, 74 Stat. 398; Pub. L. 91-601, § 6(f), formerly § 7(f), Dec. 30, 1970, 84 Stat. 1673, renumbered Pub. L. 97-35, title XII, § 1205(c), Aug. 13, 1981, 95 Stat. 716; Pub. L. 102-571, title I, § 107(12), Oct. 29, 1992, 106 Stat. 4499.)

#### AMENDMENTS

1992—Par. (e). Pub. L. 102-571 substituted “379e” for “376”.

1970—Par. (f). Pub. L. 91-601 added par. (f).

1960—Par. (e). Pub. L. 86-618 added par. (e).

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-601 effective Dec. 30, 1970, and regulations establishing special packaging standards effective no sooner than 180 days or later than one year from date regulations are final, or an earlier date published in Federal Register, see section 8 of Pub. L. 91-601, set out as an Effective Date note under section 1471 of Title 15, Commerce and Trade.

#### EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-618 effective July 12, 1960, subject to the provisions of section 203 of Pub. L. 86-618, see section 202 of Pub. L. 86-618, set out as a note under section 379e of this title.

#### EFFECTIVE DATE; POSTPONEMENT

Par. (b) effective Jan. 1, 1940, and such subsection effective July 1, 1940, as provided by regulations for cer-

tain lithographed labeling and containers bearing certain labeling, see act June 23, 1939, ch. 242, 53 Stat. 853, set out as an Effective Date; Postponement in Certain Cases note under section 301 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.

### § 363. Regulations making exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(June 25, 1938, ch. 675, § 603, 52 Stat. 1054.)

#### TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.

### § 364. Repealed. Pub. L. 86-618, title I, § 103(a)(3), July 12, 1960, 74 Stat. 398

Section, act June 25, 1938, ch. 675, § 604, 52 Stat. 1055, directed Secretary to promulgate regulations for listing of coal-tar colors for cosmetics. See section 379e of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective July 12, 1960, subject to the provisions of section 203 of Pub. L. 86-618, see section 202 of Pub. L. 86-618, set out as an Effective Date of 1960 Amendment note under section 379e of this title.

## SUBCHAPTER VII—GENERAL AUTHORITY

### PART A—GENERAL ADMINISTRATIVE PROVISIONS

#### § 371. Regulations and hearings

##### (a) Authority to promulgate regulations

The authority to promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section, is vested in the Secretary.

##### (b) Regulations for imports and exports

The Secretary of the Treasury and the Secretary of Health and Human Services shall jointly prescribe regulations for the efficient enforcement of the provisions of section 381 of this title, except as otherwise provided therein. Such regulations shall be promulgated in such manner and take effect at such time, after due notice, as the Secretary of Health and Human Services shall determine.

##### (c) Conduct of hearings

Hearings authorized or required by this chapter shall be conducted by the Secretary or such