

**TITLE 21 - FOOD AND DRUGS**  
**CHAPTER 9 - FEDERAL FOOD, DRUG, AND COSMETIC ACT**  
**SUBCHAPTER VI - COSMETICS**

**§ 361. Adulterated cosmetics**

A cosmetic shall be deemed to be adulterated—

- (a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual, except that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: “Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.”, and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term “hair dye” shall not include eyelash dyes or eyebrow dyes.
- (b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.
- (c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.
- (d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
- (e) If it is not a hair dye and it is, or it bears or contains, a color additive which is unsafe within the meaning of section 379e (a) of this title.

(June 25, 1938, ch. 675, § 601, 52 Stat. 1054; Pub. L. 86–618, title I, § 102(c)(1), July 12, 1960, 74 Stat. 398; Pub. L. 102–571, title I, § 107(11), Oct. 29, 1992, 106 Stat. 4499; Pub. L. 103–80, § 3(x), Aug. 13, 1993, 107 Stat. 778.)

**Amendments**

1993—Subsec. (a). Pub. L. 103–80 substituted “usual, except that this” for “usual: Provided, That this”.

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

1960—Par. (e). Pub. L. 86–618 substituted “and it is, or it bears or contains, a color additive which is unsafe within the meaning of section 376 (a) of this title” for “and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 364 of this title”.

**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. (e) effective Jan. 1, 1940, 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.

**Effective Date**

Section effective twelve months after June 25, 1938, except par. (a), which, with certain exceptions, became effective on June 25, 1938, see section 902(a) of act June 25, 1938, set out as a note under section 301 of this title.