

How safe are the bath and body products you purchase, or sell, at the farmers' market?

Between 2013 and 2017 there were 468 incident reports, 293 non-fatal and one fatal injury from Cosmetic Products in Canada. The death was poisoning associated with a hairspray product.ⁱ While it is not clear where the offending products were purchased, exposure to harm is often higher with local small producers than with mass market commercial manufacturers due to risk exposure, legal liability awareness and sophistication of business knowledge, generally speaking of course.

Even the most well-intentioned small scale bath and body product vendors may not be fully aware of the complex legal and regulatory environment they are manufacturing and selling within, despite how careful they may be with their manufacturing methods and processes. It is never too late for every Vendor to consider where compliance practices can be improved.

In Canada, “*any substance or mixture of substances, manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair or teeth and includes deodorants and perfumes*” is regulated as a cosmetic.ⁱⁱ This includes soap, bath bombs, bath salts, lotions, and balms, to name a few.

The primary Acts governing bath and body products include The Food and Drugs Act and the Consumer Packaging and Labelling Act. Governing regulations include the Cosmetic Regulations, Food and Drug Regulations, and Natural Health Products Regulations. The primary governing authority for cosmetics is Health Canada.

All Vendors and Farmers' Market managers must understand the danger of making product claims. There is current and pending regulated requirements behind the use of “organic” and “cruelty-free”, among others. A risky line to cross is when a product might fall within the cosmetic/drug interface, as all drugs, including natural health products, vitamin and mineral supplements, herbal preparations, homeopathic remedies and traditional medicines, must be licensed and approved by Health Canada. There are legal ramifications for any representation of a product as a natural health product, including any claims to prevent or treat disease, therapeutic or healing effect, active ingredients, or modify a body function. For example, a balm that is made with natural oils or ingredients having natural ‘healing’ effects can not include any claims of such (e.g. psoriasis, eczema, rashes, insect bites, acne, etc.) unless the producer has been licensed by Health Canada and the product has been issued a Drug Identification Number.ⁱⁱⁱ

Cosmetics sold in Canada must be manufactured, prepared, preserved, packed and stored according to Good Manufacturing Practices, and Health Canada must be notified of all product ingredients via a Cosmetics Notification Form.^{iv}

All cosmetics products must adhere to the rules set out in the Consumer Packaging and Labelling Regulations, including identification and contact information of manufacturer, all ingredients in INCI format and in order of proportion, appropriate warnings and net weight, all according to specific font and language specifications.

It is important to understand the Cosmetic Regulations allow a designated Health Canada inspector to inspect cosmetic products, locations where cosmetics are manufactured or stored, and any labelling or advertising material related to a cosmetic product.

The regulatory environment for cosmetic production and sales is complex, and necessary to ensure quality and consistency of production, consumer safety, and lessen the exposure to litigation risk for producers. No one wants to accidentally expose their customers to risk of injury, and no business person I have ever met wants to increase their exposure to the risk of litigation or fines.

It is imperative that every entity, person, business or organization that is selling goods to the public be aware of the legislative environment within which they are doing business, and which exemptions, if any, apply to their products. There are many guidance documents available via Health Canada and Advertising Standards Canada, as well as many industry association and guild resources.

If you are unsure about the regulatory environment that you are conducting business in, do your research with the appropriate authorities, consult a Business Advisor or lawyer, and make yourself familiar with the production, packaging, labelling and reporting requirements for your products. That way, everyone wins.

Pamela Nelson, MBA is a retired Business Advisor and College Professor, now living, working and playing in the Cariboo region.

Pamela has worked with WeBC as a Loans Analyst and Business Advisor, as a Technology Support Manager for a North American internet tech firm, as a Corporate Commercial paralegal for numerous BC and AB law firms, and as a private business consultant with a focus on Management and Marketing. Pamela has helped many small BC businesses launch, expand, and adopt technology, and has conducted many workshops in the non-profit sector with a focus on board and director management, management and marketing strategies, governance, and business compliance.

ⁱ Government of Canada. (2022, January 6). Consumer Product Safety Program Five-Year Surveillance Report: 2013-2017.

ⁱⁱ Government of Canada. (2011, November 11). *What is a cosmetic?*

ⁱⁱⁱ Government of Canada. (2022, 01 06). *Guidance Document: Classification of Products at the Cosmetic-Drug Interface.*

^{iv} Canada. (n.d.). Food and Drugs Act (R.S.C., 1985, c. F-27) and Regulations.