

G-Regs™

LFGB – German Food and Feed Code



Full title: Lebensmittel-, Bedarfsgegenstände- und Futtermittelgesetzbuch (Lebensmittel- und Futtermittelgesetzbuch - LFGB)
Food, Consumer Products and Animal Feed Code (Food and Feed Code)

Part 1 – General Provisions; Section 1: Purpose of the Act

Section 1, general provisions; § 1 Purpose of the law

(1) The purpose of the law is,

1. subject to Paragraph 2, for food, feed, cosmetic and consumer products, to ensure the protection of consumers by preventing or averting any risk to human health,
2. to protect against deception in the trading of food, feed, cosmetic and consumer products,
3. to inform economic operators and
 - a) consumers in relation to the trading of food, feed, cosmetic and consumer products,

Part 1; Section 2: definitions

§ 2(5): Cosmetic products are substances or mixtures of substances intended exclusively or predominantly to be applied externally to the human body or oral cavity for the purpose or cleansing, protection, keeping in good condition (i.e. preservation), perfuming, changing/ altering appearance or influencing body odour. Not deemed to be cosmetic products are substances or mixtures of substances intended to influence body shape.

§ 2(6): Commodities are:

4. objects that are intended for personal care/ hygiene

G-Regs note. The German Law governing the promotion of medicines (Heilmittelwerbegesetz – HWG¹) states that the rules in HWG shall be applicable to the advertising of Cosmetic Products as defined in s.2(5) LFGB “in so far as the advertising claim refers to the detection/ diagnosis, curing or alleviation of disease, suffering, bodily injuries or symptoms of illness in humans or animals, as well as plastic surgery procedures, in so far as the advertising claim refers to the modification of the human body in the absence of a medical necessity”. Section 12(2) HWG then also states that: “The advertising of other products (including cosmetic products), procedures, treatments or objects to the non-professional public may not refer to the diagnosis, elimination (prevention) or alleviation (relief) of these diseases or ailments. This shall not apply to the advertising of procedures or treatments in health spas, health resorts and sanatoria”.²

Part 4; Free Movement/ Trading of Cosmetic Products

§ 26 Prohibitions for protection of health

The following is prohibited,

1. manufacturing or treating cosmetic products for others in such a way that they are likely to damage health as a result of their intended or foreseeable use,

¹ English translation: http://www.bmg.bund.de/fileadmin/dateien/Englische_Dateien/Medicinal_Products_Act_-_December_2014.pdf

² So a promotional message that claims to prevent disease/ illness or painful symptoms is not covered in the HWG

URL of source: <http://www.gesetze-im-internet.de/lfgb/> or <https://www.gesetze-im-internet.de/bundesrecht/lfgb/gesamt.pdf>

2. the introduction of substances or mixtures of substances onto the market as cosmetic products that are likely to damage health as a result of their intended or foreseeable use.

The intended or foreseeable use is assessed, in particular, by considering the presentation of the agents, substances and substance mixtures referred to in clause 1 above, their labelling, where required, the comments concerning their use and instructions for their removal as well as all other details and information accompanying the agents, substances or substance preparations given by the manufacturer or the party responsible for placing the cosmetic products on the market.

§ 27 Regulations on protection against deception

(1) The introduction of cosmetic products onto the market with a misleading name/description, information/ specification or presentation, or advertising cosmetic products generally or in specific cases with misleading representations or other statements is prohibited. Deception is deemed to exist, in particular, if

1. effects are attributed to a cosmetic product which it does not possess or which have not been adequately verified in scientific terms,
2. the impression is made incorrectly through the name, description, presentation or any other statement/ claim that success is a guaranteed certainty,
3. names, descriptions, presentations, details or any statements likely to mislead or deceive are used with regard to
 - a) the person, educational background, qualification or successes of the manufacturer, inventor or people working for them,
 - b) properties, particularly regarding the nature, quality, composition, quantity, durability, origin or type of production,
4. a cosmetic product is not suitable for the intended use

(2) The provisions of the law on advertising in the healthcare sector remain unaffected.

§ 28 Powers for the protection of health

(1) The Federal Ministry (of Food and Agriculture³) is empowered, in agreement with the Federal Ministry of Economic Affairs and Energy, by regulation with the approval of the Bundesrat (the upper house of the German Parliament), insofar as this is required to fulfil the purposes referred to in Article 1, Paragraph 1, Clause 1, also in conjunction with Article 1, Paragraph 3,

1. to lay down requirements for the microbiological quality of certain cosmetic products,
2. to issue rules and regulations for cosmetic products corresponding to the provisions contained in Article 32, Paragraph 1, Clauses 1 - 5 and 8 for consumer goods.

(2) Cosmetic products that do not comply with a statutory instrument enacted under Paragraph 1, Clause 1 or Paragraph 1, Clause 2 in conjunction with Article 32, Clauses 1 – 4 a or Clause 5 may not be placed on the market.

(3) The Federal Ministry (of Food and Agriculture) is empowered, in agreement with the Federal Ministry of Economic Affairs and Energy, by regulation with the approval of the Bundesrat (the upper house of the German Parliament), insofar as this is required for medical treatment for health problems that can be attributed to the effects of cosmetic products,

1. to require the manufacturer or the party bringing the cosmetic products onto the market to provide the Federal Office for Consumer Protection and Food Safety with
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³ Das Bundesministerium für Ernährung und Landwirtschaft (BMEL) http://www.bmel.de/EN/Homepage/homepage_node.html
URL of source: <http://www.gesetze-im-internet.de/lfgb/> or <https://www.gesetze-im-internet.de/bundesrecht/lfgb/gesamt.pdf>

particular information concerning the cosmetic product, especially details regarding its identification, its intended use, the substances contained in the cosmetic product and their quantity as well as any changes in this information, and to determine the details relating to the form, content, design and timing of such notifications,

2. to stipulate that the Federal Office for Consumer Protection and Food Safety can forward the information under para. 1 above to the medical facilities designated by the Federal States which gather and evaluate the findings relating to the health effects of cosmetic products and provide assistance for substance-related health problems with counselling and treatment (poisoning information and treatment centres),

3. to stipulate that the information and treatment centres for poisoning (Poison Centres) report to the Federal Office for Consumer Protection and Food Safety on findings based on their work which are of general significance for the counselling and treatment of substance-related health problems.

The information under clause 1, no. 1 and 2 must be treated confidentially and may only be used for the purpose of replying to inquiries concerning the treatment of health problems. More detailed provisions concerning the confidential treatment and appropriation under clause 2 can be adopted in statutory instruments pursuant to clause 1, no. 1 and 2.

§ 29 Further powers

(1) The Federal Ministry (of Food and Agriculture) is empowered, in agreement with the Federal Ministry of Economic Affairs and Energy, by regulation with the approval of the Bundesrat (the upper house of the German Parliament), insofar as this is required to fulfil the purposes referred to in Article 1, Paragraph 1, Clause 1 or 2 in conjunction with Article 1, Paragraph 3,

1. to require the manufacturer or importer to keep and provide certain information, especially on the manufacture, marketing and composition of cosmetic products, on the substances used in this regard, on the effects of cosmetic products as well as on the evaluations resulting in the health assessment of cosmetic products, and on the party responsible for the evaluation submitted to the authorities responsible for monitoring the trading of cosmetic products, as well as to determine the location and details of the manner in which such information is to be stored and provided,

2. to require the manufacturer or importer to notify the authorities responsible for monitoring the trading of cosmetic products with certain information under clause 1,

3. to lay down certain requirements and investigation procedures according to which the safety of cosmetic products for human health is to be determined and assessed and to make the handling and marketing of cosmetic products dependent on the same,

4. to require the manufacturer or importer to provide certain information concerning

a) the composition of cosmetic products in terms of quantity or content or

b) make the side effects of cosmetic products on human health accessible to the general public in an appropriate manner insofar as such information does not concern company or business secrets.

(2) The Federal Ministry (of Food and Agriculture) is furthermore empowered, in agreement with the Federal Ministry of Economic Affairs and Energy, by regulation with the approval of the Bundesrat (the upper house of the German Parliament), insofar as

1. this is required to fulfil the purposes referred to in Article 1, Paragraph 1, Clause 2, also in conjunction with Article 1, Paragraph 3, to require cosmetic products not to be brought onto the market with certain names, descriptions, statements or presentations

that are likely to mislead or deceive and not to be advertised with certain representations, descriptions or other statements that are likely to mislead or deceive,

2. this is required to fulfil the purposes referred to Article 1, Paragraph 1, Clause 1, 2 or 3 a, also in conjunction with Article 1, Paragraph 3, to prohibit or restrict the introduction of cosmetic products onto the market.
