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Not a Pretty Picture

**More than 500 cosmetics sold in the United States contain chemicals banned from beauty products in Europe, Canada, and Japan.
A proposed law aims to change that.**

By *Noelle Robbins*

With her head of unruly, thick red hair, Susanne Harvey was easily enticed by the promise of a sleek, smooth new look. The innovative beauty treatment, which Harvey had seen touted at local salons and in women's magazines, guaranteed a "natural way to fight frizzies." So when she settled into the chair at her favorite beauty spot for the 90-minute makeover, she was excited. Little did the 39-year-old real estate professional from Calgary know that her makeover dream – the Brazilian Blowout – would soon become a nightmare.

Within three weeks Harvey was losing hair, lots of hair. It fell in her shoes. It covered her clothes. It pissed her off. Then it pushed her into action. What happened next demonstrates some of the crucial differences between the regulation of cosmetic and beauty products in Canada and other industrialized countries and the lack of oversight in the United States.



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Harvey started researching Brazilian Blowout and quickly discovered many women on Oprah.com blogs sharing similar hair-loss stories following treatment. Within 15 days of her hair thinning, she filed a consumer product incident report with the product safety office of Health Canada, the country's federal health department. While she waited the required ten days for product testing results, she launched a local media blitz to warn others about the product. Harvey also contacted the North Hollywood, CA, manufacturer of Brazilian Blowout to request an ingredient list. The company refused, citing a pending patent.

Then came the testing results from Health Canada: Brazilian Blowout contained 12 percent formaldehyde.

"They embalm dead people at the same level," Harvey says. "My head had been embalmed. I wondered if paying \$400 for a 90-minute procedure was worth my health. And what about the dangers to stylists, inhaling the steamy off-gases from the formaldehyde formula?"

On October 7, 2010, one week after reporting its product findings, Health Canada issued a recall of Brazilian Blowout and prohibited future distribution to salons in Canada.

"Brazilian Blowout is now illegal in Canada," Harvey says. "You have to go across the border to have it done."

Meanwhile, in the United States, the Oregon Occupational Safety and Health Division (OSHA) launched its own investigation into Brazilian Blowout in response to a stylist's complaint of chest pain, sore throat, and nosebleed. Last October OSHA released a warning to Oregon's 21,000 licensed hairstylists stating that although the product is labeled "formaldehyde-free," the actual level of formaldehyde averaged from between 7 and 12 percent in the samples tested. In early November the state of California entered the fray when the attorney general filed a lawsuit against the product's Southern California manufacturer, citing a lack of warning to salon stylists and consumers that BB contains levels of formaldehyde possibly harmful to health.

Why all the concern over formaldehyde? Well, besides the immediate side effects of respiratory problems, skin irritation, and hair loss, the [World Health Organization](http://WorldHealthOrganization) classifies formaldehyde as a carcinogen – linked to cancer of the lungs, nasal passages, and blood.

Despite all the news coverage, the Oregon lab's test results, and the recall in Canada, here in the United States, as of early February, the Food and Drug Administration has not restricted or banned sales of the product.

Because, under current law, it can't.

Most consumers who buy shampoos, deodorants, baby lotions, toothpaste, hair products, makeup, and sunscreens in the US probably assume that if the product is for sale, it must be safe. That's not necessarily the case. The Food and Drug Administration (FDA) cannot regulate personal care products and cosmetics until after the products reach store shelves. And even then, the agency lacks the teeth to do much protecting.

The 1938 Federal Food, Drug, and Cosmetics Act required new products be proven safe before marketing. But the rules never applied to cosmetics. Manufacturers of cosmetics are not required to disclose all of the ingredients in their formulations, thanks to a "confidential business information" provision in the 1938 law. And almost any ingredient can be included in a product without undergoing a safety assessment prior to marketing. Consumers may report adverse effects to the FDA following use of a product – such as allergic reactions – and the FDA may test some ingredients, recommending their use be discontinued; but the system is based upon voluntary compliance by manufacturers. Unlike Health Canada, the FDA has no authority to issue a mandatory recall of any personal care or cosmetic product.

When it comes to what we put on our body – the products we slather in our hair or cover our face with – there's an oversight vacuum. Today there are at least 500 cosmetic products on store shelves in the United States containing ingredients banned in Canada, Japan, and Europe.

"What we put on our skin should be as safe as what we eat," says Ronnie Cummins, national director of the [Organic Consumers Association](#). "If you can't prove it is safe, take it off the market."

That's exactly what a group of national lawmakers, joined by the [Campaign for Safe Cosmetics](#) and the [Environmental Working Group](#), are trying to do.

Last July, before the blow-up over the Blowout, some members of Congress introduced the Safe Cosmetics Act to address the shortcoming in vital consumer protection. The Republican takeover of Congress may have set back the bill's chances – the \$300 billion cosmetics market, after all, is big business. But the act's backers feel that the issue has enough popular appeal to gain bipartisan support.

Of course, nothing is a given in Washington's polarized climate. Backers of the act face a maze of competing interests – from big manufacturers that want to stop it, to small producers who fear government intrusion into their cottage industry, to organic advocates who feel the proposed legislation is insufficient.

"The industry has recognized the need for increased science-based oversight and that is what the Safe Cosmetics Act provides," says Representative Jan Schakowsky, an Illinois Democrat who is co-sponsor of the legislation. "Our bill closes major loopholes in the federal law, and implements strong safety standards – such as banning cancer-causing chemicals, reproductive and developmental toxins, and ingredients that cause birth defects.

"Our legislation also introduces post-market testing, gives the FDA full authority to make an independent determination about ingredient safety, and gives the FDA recall authority to get dangerous products off store shelves," Schakowsky adds.

Industry representatives, however, differ on what constitutes "safe," and how much power the FDA should have over pre-marketing industry testing, ingredient lists, and recall authority. On July 21, 2010, the day the Safe Cosmetics Act was introduced in Congress, the Personal Care Products Council (PCPC) – a national trade

organization representing more than 600 global cosmetic and personal care products companies – issued a press release that questioned key elements of the proposed legislation.

“We are concerned that the Safe Cosmetics Act of 2010 as written is not based upon credible and established principles, would put an enormous if not impossible burden on the FDA, and would create a mammoth new regulatory structure, parts of which would far exceed that of any other FDA-regulated product including food or drugs,” the release said.

“The notion that cosmetics are laced with toxins and that consumers are put at risk is not really consistent with what really happens in the marketplace,” PCPC chief scientist John Bailey said during a debate aired on Democracy Now! the same month. “The products are safe.”

The PCPC has instead touted its own legislative initiative that would require that manufacturers register manufacturing locations, file ingredient lists with the FDA, and report “any serious, unexpected adverse event with a personal care product experienced by consumers.” Primary review of ingredient safety would rest with findings issued by PCPC’s own Cosmetic Ingredient Review expert panel.

Stacy Malkan, co-founder of the Campaign for Safe Cosmetics, scoffs at PCPC’s proposed voluntary regulation system. In the past 30 years the review panel has checked the safety of only 11 percent of ingredients used in personal care products, according to her organization. Besides, the panel doesn’t look at the cumulative effect of exposures over a lifetime or worker exposures in beauty salons and manufacturing plants.

Of course, the likelihood of anyone becoming severely ill, or dying, immediately following the use of a cosmetic or personal care product – as is possible with tainted food – is very slim. But over the long run, chronic and life threatening diseases may result from cumulative exposure to the toxic chemicals in shampoo, deodorant, body lotion, or perfume. Malkan says the Safe Cosmetics Act would phase out chemicals linked to cancer, birth defects, and other harmful health impacts, and would establish a non-industry system to review chemical safety.

While manufacturers think the Safe Cosmetics Act goes too far, others complain it doesn’t go far enough.

Organic Consumers Association’s Cummins, for instance, doubts the FDA, even if given stronger regulatory powers, can address standards more appropriately handled by the USDA – especially when it comes to the labeling of products as “organic.” His organization wants tighter control over cosmetics claiming to be organic, and is pushing for certification of personal products based on USDA organic food standards.

To further complicate the issue, artisanal producers have their own worries about government intrusion into their cottage industry. The [Handcrafted Soapmakers Guild](#) represents 35,000 to 50,000 small manufacturers, mostly home-scale producers who sell at farmers’ markets and health food stores. The guild fears the act would devastate the small cosmetics industry. “Our members try to make their products in the most natural way – although ‘natural’ is a loaded word,” guild president Leigh O’Donnell says. “Products [are] made from scratch, like baking at home. We do have to use some chemicals, though, as preservatives to avoid bacterial growth.” The guild believes “additional and unnecessary regulation” of the handcrafted soap industry burdens small companies and gives an unfair competitive edge to large cosmetic manufacturers. “We’re all for safe cosmetics, and we believe cosmetics is a safe industry,” O’Donnell says.

While the debate over federal cosmetics regulation drags on, one state has forged ahead with its own legislation. In 2006, California passed the California Safe Cosmetics Act requiring manufacturers of cosmetics sold in the state to report all chemical ingredients in their products that are known, or thought, to cause cancer and/or reproductive or developmental toxicity. Although there have been hurdles to implementing the legislation – including trade secret laws, insufficient funding, and enforcement issues – the California public health department says that more than 450 companies have made more than 25,000 submissions of information about

products containing known or suspected carcinogenic ingredients. The state plans to set up a public database of these submissions later this year.

In Europe, the cosmetics industry is overseen by the European Union Cosmetics Directive, which mandates that all manufacturers list product ingredients. The EU has banned 1,100 chemicals from cosmetic and personal care products that are known or suspected to cause cancer, birth defects, or reproductive toxicity. The FDA bans or restricts only 11 such chemicals.

This means that some companies produce safer products for the European market and sell cosmetics in the US containing banned EU chemicals.

It is this very double standard the Safe Cosmetics Act aims to address. Rep. Jan Schakowsky plans to reintroduce the legislation this spring. The act's supporters harbor no naïve notions about getting the bill passed in a highly combative congressional atmosphere. But they say that given the December passage of a tough food safety measure enhancing the FDA's regulatory powers, the mood might be just right.

“This legislation stemmed from consumers who were demanding to know what is in their personal care products and what the potential dangers are of the chemical ingredients,” says Edward Markey, a Massachusetts Democrat who co-sponsored the legislation in the last Congress. “I really don't see protecting the public from exposure to chemicals that can cause harm to their health to be a partisan issue.”

Legislation to mandate safer cosmetic products is “a big picture political problem,” Malkan says. “It is going to happen because it is good for public health.”

Meanwhile, regardless of the outcome of the proposed legislation, market forces are already driving change for safer cosmetics, Malkan says. The global market for natural and organic personal products is growing fast, and given the stricter ingredient regulations in other markets, US companies will have to respond to maintain sales.

As Canadian Susanne Harvey ponders the damage to her once thick tresses, she notes that changes in industry regulations in the US cannot come soon enough. Thanks to Health Canada's recall, Brazilian Blowout is not currently available her country. “But the California company can bring their product right back with a new name, and a new label,” she says. And then it's back to square one.

What's on your hair, in your mouth, and on your skin today?

Every day the average American woman uses personal care and makeup products containing 168 problematic chemicals – chemicals not properly assessed for safety. The average man uses products containing 85 such chemicals. Babies and young children, too, are exposed to potentially harmful chemicals with every bath and diaper change. There is currently no federal regulation on these ingredients.

Here are five common chemicals, all banned in Europe, that research indicates can lead to short- and long-term negative health impacts:

PHTHALATE A component of synthetic fragrances, hair straighteners and nail polish. Also found in men's cologne, shaving cream and aftershave. These estrogen mimicking hormone disrupters and carcinogens have been linked to early puberty in girls, lowered sperm counts, testicular malformation, liver and kidney cancers. Manufacturers are not required to list fragrance ingredients on labels.

PETROCHEMICALS Petrolatum, used in lip balms and lotions, may be contaminated with polyaromatic hydrocarbons, known hormone disrupters and carcinogens. A petroleum byproduct found in baby shampoo, bubble bath, and body wash —1,4-dioxane – is a known animal carcinogen and skin irritant in some children.

PARABENS Germicides/preservatives in deodorants, shampoos, and lotions. Some parabens are classified as endocrine disrupters, which mimic estrogen in the body. May be linked to increased breast cancer risk.

FORMALDEHYDES Germicides/preservatives in hair straightening products, shampoos, liquid hand soaps, skin lotions, nail polishes, and mouthwash. Can result in allergic skin reactions, nasal and eye irritation, hair loss, headaches, and dizziness.

LEAD and **LEAD ACETATE** A known human reproductive toxin, lead acetate is used in men's hair and beard coloring products. Lead is often found in lipsticks. Repeated exposure can result in accumulation in body. No safe level.

For more comprehensive lists of problem chemicals and personal care product ingredients, visit the Campaign for Safe Cosmetics: safecosmetics.org or Environmental Working Group's Skin Deep database: cosmeticsdatabase.com.

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