

25 May 2021

Health Committee
Parliament Buildings
Wellington

By email

Submission: Sunscreen (Product Safety Standard) Bill

1. Introduction

Thank you for the opportunity to make a submission on the Sunscreen (Product Safety Standard) Bill. This submission is from Consumer NZ, an independent, non-profit organisation dedicated to advocating on behalf of New Zealand consumers. Consumer NZ has a reputation for being fair, impartial, and providing comprehensive consumer information and advice.

Contact: Belinda Castles
Consumer NZ
PO Box 932
Wellington 6140
Phone: 0274 164 897
Email: belinda@consumer.org.nz

2. Recommendation

Consumer NZ strongly supports making the Sunscreen Standard AS/NZS 2604:2012 mandatory. As an interim measure, we support the aim of this Bill to regulate sunscreens under the product safety provisions of section 29 of the Fair Trading Act (FTA).

We consider regulating sunscreens under the FTA should be an interim measure until the revised therapeutic products regulatory regime comes into force.¹ Under the proposed changes to this regime, sunscreens would be regulated as a therapeutic good, in line with the approach taken in Australia.

Regulating sunscreens as a therapeutic product is also consistent with the New Zealand Cancer Action Plan 2019-2029. This plan notes sunscreens fall within the definition of a "therapeutic product" in the draft Therapeutic Products Bill.² As this legislation has yet to be introduced, we support using the FTA to regulate sunscreens in the meantime.

3. Need for a mandatory standard

New Zealand has one of the highest rates per population of melanoma (39.4 per 100,000 for men and 35.8 per 100,000 for women) and non-melanoma skin cancers, estimated to affect one in two males and one in three females by the age of 80. The

¹ See <https://www.health.govt.nz/our-work/regulation-health-and-disability-system/therapeutic-products-regulatory-regime>

² <https://www.health.govt.nz/system/files/documents/publications/new-zealand-cancer-action-plan-revised-january-2020.pdf>

annual direct healthcare treatment costs of skin cancer have previously been estimated to be more than \$57 million.³

Exposure to excessive ultraviolet (UV) radiation is a major risk factor for skin cancer. Sunscreen is one method of protection to reduce exposure to UV radiation and provides a therapeutic purpose – preventing DNA damage and the development of skin cancer.

Despite their therapeutic purpose, sunscreens are currently regulated under the Cosmetic Products Group Standard. In contrast, primary sunscreens in Australia must comply with AS/NZS 2604:2012, which includes requirements for labelling and testing for UVA (broad-spectrum), SPF and water resistance.

Sunscreens must also be listed on the Australian Register of Therapeutic Goods and be manufactured in accordance with the principles of good manufacturing practice. Once a product is listed, a company must provide evidence its sunscreen has been tested by a registered laboratory and complies with AS/NZS 2604:2012.

4. Additional requirements and monitoring

On its own, we do not believe AS/NZS 2604 is sufficient to protect consumers. The standard does not specify how often a sunscreen should be tested and our investigations have found some companies rely on test reports that are several years old.

The lack of any requirement for manufacturers to regularly test their products is a significant oversight and the standard is failing consumers in this area. We therefore recommend the product safety standard developed under the FTA should specify that sunscreens must be regularly tested.

To ensure effective market monitoring, we also believe the regulator should carry out independent testing of products in accordance with AS/NZS 2604. This would not only check sunscreens are providing the protection claimed on the label, but also check the accuracy of testing by accredited laboratories.

In May 2021, the owner of AMA Laboratories (a US lab that tested sunscreens sold in New Zealand) pleaded guilty to falsifying test results over a period of 30 years. Test reports by AMA Laboratories have been used by manufacturers to justify SPF claims, despite our independent tests finding products failed to provide the claimed protection.⁴

Thank you for the opportunity to make a submission. If you require any further information, please do not hesitate to contact me.

Yours sincerely



Jon Duffy
Chief executive

³ <https://www.sunsmart.org.nz/sites/default/files/documents/FINAL-Strategy-2017-to-2022.PDF>

⁴ <https://www.consumer.org.nz/articles/major-sunscreen-fraud-exposed>