

4-5-5 Adulterated or misbranded articles -- Tagging -- Detention or embargo -- Court proceedings for condemnation -- Perishable food.

- (1)
 - (a) When an authorized agent of the department finds or has probable cause to believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this chapter, he shall affix to the food a tag or other appropriate marking, giving notice that:
 - (i) the food is, or is suspected of being, adulterated or misbranded;
 - (ii) the food has been detained or embargoed; and
 - (iii) removal of the food is prohibited as provided in Subsection (1)(b).
 - (b) No person may remove or dispose of detained or embargoed food by sale or otherwise until permission for removal or disposal is given by an agent of the department or the court.
- (2) When food detained or embargoed under Subsection (1) has been found by an agent to be adulterated or misbranded, the department shall petition the district court in whose jurisdiction the food is detained or embargoed for an order of condemnation of the food. When the agent has found that food so detained or embargoed is not adulterated or misbranded, the department shall remove the tag or other marking.
- (3)
 - (a) If the court finds that detained or embargoed food is adulterated or misbranded, the food shall, after entry of the decree, be destroyed under the supervision of the agent.
 - (b) If the adulteration or misbranding can be corrected by proper labeling or processing of the food, the court may by order direct that the food be delivered to the claimant for labeling or processing after:
 - (i) entry of the decree;
 - (ii) all costs, fees, and expenses have been paid; and
 - (iii) a sufficient bond, conditioned that the food shall be properly labeled and processed, has been executed.
 - (c) An agent of the department shall supervise, at the claimant's expense, the labeling or processing of the food.
 - (d) The bond shall be returned to the claimant of the food upon:
 - (i) representation to the court by the department that the food is no longer in violation of this chapter; and
 - (ii) the expenses of supervision have been paid.
- (4) If an authorized agent of the department finds in any building or vehicle any perishable food which is unsound, contains any filthy, decomposed, or putrid substance, or may be poisonous, deleterious to health, or otherwise unsafe, the commissioner or his authorized agent shall condemn or destroy the food or render it unsalable as human food.

Amended by Chapter 378, 2010 General Session