

**41-6a-1622 Purchase and testing of equipment by department -- Prohibition against sale of substandard devices -- Injunction -- Review -- Appeal.**

- (1) The department may purchase and test equipment described in Section 41-6a-1619 to determine whether it complies with the standards under this part.
- (2) Upon identification of unapproved or substandard devices being sold or offered for sale, the department shall give notice to the person selling them that the person is in violation of Section 41-6a-1619 and that selling or offering them for sale is prohibited.
- (3)
  - (a) In order to enforce the prohibition against the sale or offer for sale of unapproved or substandard devices, the department may file a petition in the district court of the county in which the person maintains a place of business to enjoin any further sale or offer of sale of the unapproved or substandard part.
  - (b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showing that:
    - (i) the part is of a type required to be approved by the department under this part;
    - (ii) the part has not been approved; and
    - (iii) the part is being sold or offered for sale.
- (4)
  - (a) Any person enjoined under Subsection (3) may file a petition for a review of the court's order in the county in which the injunction was issued.
  - (b) A copy of the petition shall be served on the department and the department shall have 30 days after the service to file an answer, but the petition shall not act as a stay of the injunction.
  - (c) At the hearing on the petition, the judge shall sit without intervention of a jury and shall only receive evidence as to whether the parts in question:
    - (i) are of a type for which approval by the department is required;
    - (ii) have not been approved; and
    - (iii) are being sold or offered for sale in violation of Section 41-6a-1619.
  - (d) Following a hearing under Subsection (4)(c), the injunction shall be continued if the court finds that each condition under Subsection (4)(c) has been met.
- (5) Either party may appeal the decision of the court in the same manner as in other civil appeals from the district court.

Renumbered and Amended by Chapter 2, 2005 General Session