

4-5-7 Adulterated food specified.

A food is adulterated:

- (1)
 - (a) if it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance the food may not be considered adulterated under this Subsection (1)(a) if the quantity of the substance in such food does not ordinarily render it injurious to health;
 - (b)
 - (i) if it bears or contains any added poisonous or added deleterious substance other than one that is:
 - (A) a pesticide chemical in or on a raw agricultural commodity;
 - (B) a food additive; or
 - (C) a color additive that is unsafe within the meaning of Subsection 4-5-11(1); or
 - (ii) if it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a; or
 - (iii) if it is or it bears or contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. 346a and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of Section 4-5-11 and this Subsection (1)(b)(iii), not be considered unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity;
 - (c) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
 - (d) if it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health;
 - (e) if it is, in whole or in part, the product of a diseased animal or an animal that has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse;
 - (f) if its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
 - (g) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-11, or 21 U.S.C. Sec. 348; or
 - (h) in meat or meat products are adulterated:
 - (i) if such products are in casings, packages, or wrappers through which any part of their contents can be seen and which, or the markings of which, are colored red or any other color so as to be misleading or deceptive with respect to the color, quality, or kind of such products to which they are applied; or
 - (ii) if such products contain or bear any color additive;
- (2)
 - (a) if any valuable constituent has been in whole or in part omitted or abstracted therefrom;
 - (b) if any substance has been substituted wholly or in part therefor;
 - (c) if damage or inferiority has been concealed in any manner; or

- (d) if any substance has been added or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or
- (3) if it is confectionery, and:
 - (a) has partially or completely imbedded therein any nonnutritive object; provided that this Subsection (3)(a) does not apply in the case of any nonnutritive objective if, in the judgment of the department such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;
 - (b) bears or contains any alcohol other than alcohol not in excess of .05% by volume derived solely from the use of flavoring extracts; or
 - (c) bears or contains any nonnutritive substance; provided, that this Subsection (3)(c) does not apply to a safe nonnutritive substance that is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter.
- (4) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (3)(c), issue rules allowing or prohibiting the use of particular nonnutritive substances.

Amended by Chapter 378, 2010 General Session