

§2503. Articles detained, embargoed and condemned

Whenever a duly designated officer or employee of the department finds or has reason to believe that an establishment licensed under this chapter prepares or sells any food that is adulterated pursuant to section 2156 or misbranded pursuant to section 2157, an order detaining or embargoing that food may be issued to any person or persons with possession or control thereof and the officer or employee may affix or require the person to whom the order is directed to affix to such article a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such officer or employee or the court. It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. Orders relating to detention and embargo issued pursuant to this chapter may not be considered licensing or an adjudicatory proceeding, as those terms are defined under Title 5, chapter 375. [PL 2021, c. 125, §16 (NEW).]

When any such officer or employee finds an article detained or embargoed under this section to be adulterated or misbranded, the officer or employee may petition the District Court or Superior Court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article if the licensee is unwilling to dispose of the article. When such officer or employee has found that an article so detained or embargoed is not adulterated or misbranded, the officer or employee shall remove the tag or other marking. [PL 2021, c. 125, §16 (NEW).]

If the court finds that a detained or embargoed article is adulterated or misbranded, such article must, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such officer or employee, and all court costs and fees and storage and other proper expenses must be taxed against the claimant of such article or the claimant's agent. When the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond, conditioned that such article will be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an officer or employee of the department. The expense of such supervision must be paid by the claimant. Such bond must be returned to the claimant of the article on representation to the court by the commissioner that the article is no longer in violation of this chapter and that the expenses of such supervision have been paid. For purposes of this paragraph, proper labeling may include displaying required information by law, on a menu board, on a sign or in an open manner at the location where the article is for sale and served. [PL 2021, c. 125, §16 (NEW).]

Whenever the commissioner or an officer or employee of the department finds in any room, building, vehicle of transportation or other structure of an establishment licensed under this chapter any meat, seafood, poultry, vegetable, fruit or other perishable articles that are unsound or contain any filthy, decomposed or putrid substance or that may be poisonous or deleterious to health or otherwise unsafe, the same being declared to be a nuisance, the commissioner or the officer or employee shall forthwith destroy the same or in any other manner render the same unsalable as human food. [PL 2021, c. 125, §16 (NEW).]

The department is authorized to enact rules pursuant to this chapter to ensure compliance with this chapter and to protect public health. [PL 2021, c. 125, §16 (NEW).]

SECTION HISTORY

PL 2021, c. 125, §16 (NEW).

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