

**§2159. Articles detained, embargoed and condemned**

Whenever a duly authorized agent of the Commissioner of Agriculture, Conservation and Forestry finds or has reason to believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this subchapter, the duly authorized agent of the commissioner may issue an order detaining or embargoing that food to any person in possession or control thereof, and may affix or require the person to whom the order is directed to affix to the article a tag or other appropriate marking, giving notice that the 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 the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. A person may not remove or dispose of the detained or embargoed article by sale or otherwise without permission of the agent or the court. 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 by Title 5, chapter 375. [RR 2021, c. 2, Pt. B, §122 (COR).]

When an article detained or embargoed under the preceding paragraph has been found by an authorized agent of the commissioner to be adulterated or misbranded, the agent shall petition the proper officer of the District Court or Superior Court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of the article. When the authorized agent has found that an article that was detained or embargoed is not adulterated or misbranded, the agent shall remove the tag or other marking. [RR 2021, c. 2, Pt. B, §123 (COR).]

If the court finds that a detained or embargoed article is adulterated or misbranded, the article must, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the authorized agent, and all court costs and fees, and storage and other proper expenses, must be taxed against the claimant of the 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 the article is labeled or processed, has been executed, may by order direct that the article be delivered to the claimant thereof for labeling or processing under the supervision of an authorized agent of the commissioner. The expense of such supervision must be paid by the claimant. The 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 subchapter and that the expenses of such supervision have been paid. [RR 2021, c. 2, Pt. B, §124 (COR).]

Whenever the commissioner or any of the commissioner's authorized agents finds in any room, building, vehicle of transportation or other structure 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 commissioner's authorized agent shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food. In the event that any food found on any vehicle of transportation is detained, embargoed, condemned or destroyed under any of the provisions of this section by the commissioner or the commissioner's authorized agents, the commissioner shall forthwith notify the consignor, consignee and the carrier of the action taken and the amount and kind of goods detained, embargoed, condemned or destroyed. [RR 2009, c. 2, §52 (COR).]

**SECTION HISTORY**

PL 1977, c. 694, §348 (AMD). PL 1979, c. 731, §19 (AMD). PL 1985, c. 49, §1 (AMD). RR 2009, c. 2, §52 (COR). PL 2011, c. 657, Pt. W, §6 (REV). RR 2021, c. 2, Pt. B, §§122-124 (COR).

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