

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2258

(SENATE AUTHORS: MAGNUS)

DATE	D-PG	OFFICIAL STATUS
03/05/2012	4109	Introduction and first reading Referred to Agriculture and Rural Economies See SF2061, Art. 2

A bill for an act

relating to agriculture; providing for food law enforcement; making technical and conforming changes; repealing obsolete provisions; imposing penalties; amending Minnesota Statutes 2010, sections 17.982, subdivision 1; 17.983; 25.33, subdivisions 13, 14; 25.36; 25.37; 28A.03, subdivisions 3, 5, 6; 28A.21, subdivision 6; 31.01, subdivisions 2, 3, 4, 21, 25, 28; 31.121; 31.123; 31A.02, subdivisions 13, 14, 15, 16; 31A.23; 32.01, subdivisions 11, 12; proposing coding for new law as Minnesota Statutes, chapter 34A; repealing Minnesota Statutes 2010, sections 17.984; 28.15; 28A.12; 28A.13; 29.28; 31.031; 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078; 32.475, subdivision 7; 32.61; 32.90; 34.113; Minnesota Rules, parts 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6, 7; 1550.1040, subparts 3, 4, 5, 6; 1550.1260, subparts 6, 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 17.982, subdivision 1, is amended to read:

Subdivision 1. **Criminal penalties.** A person who violates a provision of chapter ~~25, 28A, 29, 31, 31A, or 31B, or 34~~ for which a penalty has not been prescribed is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 2010, section 17.983, is amended to read:

17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.

Subdivision 1. **Administrative penalties; citation.** If a person has violated a provision of chapter ~~25, 28A, 29, 31, 31A, 31B, or 32, or 34~~, the commissioner may issue a written citation to the person by personal service or by certified mail. The citation must describe the nature of the violation and the statute or rule alleged to have been violated; state the time for correction, if applicable; and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 30 days if the

person wishes to appeal the citation. If the person fails to appeal the citation, the citation is the final order and not subject to further review.

Subd. 3. **Contested case.** If a person appeals a citation or a penalty assessment within the time limits in subdivision 1, the commissioner shall initiate a contested proceeding under chapter 14. ~~The report of the administrative law judge is the final decision of the commissioner of agriculture.~~

Sec. 3. Minnesota Statutes 2010, section 25.33, subdivision 13, is amended to read:

Subd. 13. **Label.** "Label" ~~means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed~~ has the meaning given in section 34A.01, subdivision 6.

Sec. 4. Minnesota Statutes 2010, section 25.33, subdivision 14, is amended to read:

Subd. 14. **Labeling.** "Labeling" ~~means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying or supporting such commercial feed~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 5. Minnesota Statutes 2010, section 25.36, is amended to read:

25.36 MISBRANDING.

A commercial feed is misbranded if: it is covered by one or more of the clauses in section 34A.03.

- ~~(1) its labeling is false or misleading in any particular;~~
- ~~(2) it is distributed under the name of another commercial feed;~~
- ~~(3) it is not labeled as required in section 25.35;~~
- ~~(4) it purports to be or is represented as a commercial feed or it purports to contain or is represented as containing a commercial feed ingredient unless that commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule by the commissioner;~~
- ~~(5) any word, statement, or other information required by or under authority of sections 25.31 to 25.43 to appear on the label or labeling is not prominently placed on it with such conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or~~
- ~~(6) its labeling would deceive or mislead the purchaser with respect to its composition or suitability.~~

Sec. 6. Minnesota Statutes 2010, section 25.37, is amended to read:

25.37 ADULTERATION.

~~(a) A commercial feed or a material exempted from the definition of commercial feed under section 25.33, subdivision 5, is adulterated if: it is covered by one or more of the clauses in section 34A.02.~~

~~(1) it bears or contains a poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the commercial feed is not considered adulterated if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;~~

~~(2) it bears or contains an added poisonous, deleterious, or nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, other than the one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive;~~

~~(3) it is unsafe or bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(4) it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and that raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed is not unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of the processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act;~~

~~(5) it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;~~

~~(6) it is, or it bears or contains, any new animal drug which is unsafe within the meaning of section 512 of the Federal Food, Drug, and Cosmetic Act;~~

~~(7) it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or is otherwise unfit for feed;~~

~~(8) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health;~~

~~(9) it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act;~~

~~(10) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or~~

~~(11) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act.~~

~~(b) A commercial feed is adulterated if:~~

~~(1) any valuable constituent has been in whole or in part omitted or abstracted from it or any less valuable substance substituted for a constituent;~~

~~(2) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;~~

~~(3) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the commissioner to assure that the drug meets the safety requirements of sections 25.31 to 25.43 and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In adopting rules under this clause, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions which exist in this state; or~~

~~(4) it contains viable weed seeds in amounts exceeding limits established by the commissioner by rule.~~

Sec. 7. Minnesota Statutes 2010, section 28A.03, subdivision 3, is amended to read:

Subd. 3. **Person.** "Person" ~~means any individual, firm, corporation, company, association, cooperative, or partnership and includes any trustee, receiver, assignee, or other similar representative thereof~~ has the meaning given in section 34A.01, subdivision 10.

Sec. 8. Minnesota Statutes 2010, section 28A.03, subdivision 5, is amended to read:

Subd. 5. **Food.** "Food₂" ~~includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans, whether simple, mixed or compound.~~ "nonperishable food,"

"frozen food," "perishable food," and "readily perishable food" have the meanings given in section 34A.01.

~~(a) "Perishable food" is food which includes, but is not limited to fresh fruits, fresh vegetables, and other products which need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.~~

~~(b) "Readily perishable food" is food or a food ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food or food ingredient which is capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.~~

~~(c) "Frozen food" is food which is processed and preserved by freezing in accordance with good commercial practices and which is intended to be sold in the frozen state.~~

~~(d) For the purposes of this definition, packaged food in hermetically sealed containers processed by heat to prevent spoilage; packaged pickles, jellies, jams and condiments in sealed containers; bakery products such as bread, rolls, buns, donuts, fruit-filled pies and pastries; dehydrated packaged food; and dry or packaged food so low in moisture content as to preclude development of microorganisms are not "perishable food," "readily perishable food," or "frozen food" within the meaning of paragraphs (a), (b), and (c), when they are stored and handled in accordance with good commercial practices.~~

~~(e) "Nonperishable food" is food described in paragraph (d) with a shelf life of more than 90 days.~~

Sec. 9. Minnesota Statutes 2010, section 28A.03, subdivision 6, is amended to read:

Subd. 6. **Sell; sale.** "Sell" and "sale" ~~include the keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchange of food, the having in possession with intent to sell, use, transport, negotiate, solicit, or exchange the same and the storing, or carrying thereof in aid of traffic therein whether done or permitted in person or through others~~ have the meanings given in section 34A.01, subdivision 12.

Sec. 10. Minnesota Statutes 2010, section 28A.21, subdivision 6, is amended to read:

Subd. 6. **Expiration.** Notwithstanding section 15.059, subdivision 5, this section expires June 30, ~~2012~~ 2017.

Sec. 11. Minnesota Statutes 2010, section 31.01, subdivision 2, is amended to read:

Subd. 2. **Person.** "Person" ~~means any individual, firm, partnership, copartnership, society, association, company, or corporation and includes any trustee, receiver, assignee~~

~~or other similar representative thereof~~ has the meaning given in section 34A.01, subdivision 10.

Sec. 12. Minnesota Statutes 2010, section 31.01, subdivision 3, is amended to read:

Subd. 3. **Food.** "Food" ~~means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article~~ has the meaning given in section 34A.01, subdivision 4.

Sec. 13. Minnesota Statutes 2010, section 31.01, subdivision 4, is amended to read:

Subd. 4. **Sell and sale.** "Sell" and "sale" ~~shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article in the conduct of any food operation~~ have the meanings given in section 34A.01, subdivision 12.

Sec. 14. Minnesota Statutes 2010, section 31.01, subdivision 21, is amended to read:

Subd. 21. **Label.** "Label" ~~means a display of written, printed, or graphic matter upon the immediate container of any article, and includes a like display, if required by law or rule, on the outside container or wrapper, if any there be, of the retail package of such article~~ has the meaning given in section 34A.01, subdivision 6.

Sec. 15. Minnesota Statutes 2010, section 31.01, subdivision 25, is amended to read:

Subd. 25. **Labeling.** "Labeling" ~~means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying such article~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 16. Minnesota Statutes 2010, section 31.01, subdivision 28, is amended to read:

Subd. 28. **Pesticide chemical.** "Pesticide chemical" ~~means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of chapter 24, or the Federal Insecticide, Fungicide and Rodenticide Act (United States Code, title 7, sections 135-135k), as amended, and which is used in the production, storage, or transportation of raw agricultural commodities~~ has the meaning given in section 18B.01, subdivision 18.

Sec. 17. Minnesota Statutes 2010, section 31.121, is amended to read:

31.121 FOOD ADULTERATION.

A food shall be deemed to be adulterated: if it is covered by one or more of the clauses in section 34A.02.

~~(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or~~

~~(b) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section 31.122; or~~

~~(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 31.122; or~~

~~(d) If it is or it bears or contains any food additive which is unsafe within the meaning of section 31.122; 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 section 31.122, and such 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 31.122 and this clause, not be deemed 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; or~~

~~(e) 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; or~~

~~(f) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or~~

~~(g) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse; or~~

~~(h) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or~~

~~(i) 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 31.122 or section 409 of the federal act; or~~

~~(j) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or~~

~~(k) If any substance has been substituted wholly or in part therefor; or~~

~~(l) If damage or inferiority has been concealed in any manner; or~~

~~(m) If any substance has been added thereto 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~~

~~(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any nonnutritive substance; provided, that this clause shall not apply to (i) a confection containing alcohol as defined in section 31.76, or (ii) a safe nonnutritive substance which 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 any provision of the Minnesota Food Law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or~~

~~(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or~~

~~(p) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.~~

Sec. 18. Minnesota Statutes 2010, section 31.123, is amended to read:

31.123 FOOD MISBRANDING.

A food ~~shall be deemed to be~~ is misbranded: if it is covered by one or more of the clauses in section 34A.03, paragraph (a).

~~(a) If its labeling is false or misleading in any particular, or if its labeling, whether on the commodity itself, its container or its package, fails to conform with the requirements of Laws 1974, chapter 84;~~

~~(b) If it is offered for sale under the name of another food;~~

~~(c) If it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an~~

~~imitation of another food that is not subject to clause (g), unless in either case its label bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;~~

~~(d) If its container is so made, formed, or filled as to be misleading;~~

~~(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the net quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided, that under this subclause reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules prescribed by the commissioner;~~

~~(f) If any word, statement, or other information required by or under authority of the Minnesota Food Law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;~~

~~(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;~~

~~(h) If it purports to be or is represented as (1) a food for which a standard of quality has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard, or (2) a food for which a standard or standards of fill of container have been prescribed by rule as provided by sections 31.10 and 31.102, and it falls below the standard of fill of container applicable thereto unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard;~~

~~(i) If it is not subject to the provisions of clause (g), unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of this subclause is impractical~~

~~or results in deception or unfair competition, exemptions shall be established by rules promulgated by the commissioner;~~

~~(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner determines to be, and by rules prescribes as, necessary in order to fully inform purchasers as to its value for such uses;~~

~~(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this clause is impracticable, exemptions shall be established by rules promulgated by the commissioner. The provisions of this clause and clauses (g) and (i) with respect to artificial coloring do not apply to butter, cheese or ice cream. The provisions with respect to chemical preservatives do not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the product of the soil;~~

~~(l) If it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided, however, that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade;~~

~~(m) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;~~

~~(n) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.~~

Sec. 19. Minnesota Statutes 2010, section 31A.02, subdivision 13, is amended to read:

Subd. 13. **Adulterated.** "Adulterated" means ~~a carcass, part of a carcass, meat, poultry, poultry food product, or meat food product under one or more of the following circumstances:~~ an item is covered by one or more of the clauses in section 34A.02, subdivision 1.

~~(a) if it bears or contains a poisonous or harmful substance which may render it injurious to health, but if the substance is not an added substance, the article is not adulterated if the quantity of the substance in or on the article does not ordinarily make it injurious to health;~~

~~(b) if it bears or contains, by administration of a substance to the live animal or otherwise, an added poisonous or harmful substance, other than (1) a pesticide chemical in or on a raw agricultural commodity; (2) a food additive; or (3) a color additive, which may, in the judgment of the commissioner, make the article unfit for human food;~~

~~(c) if it is, in whole or in part, a raw agricultural commodity that bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;~~

~~(d) if it bears or contains a food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(e) if it bears or contains a color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;~~

~~(f) if it contains a filthy, putrid, or decomposed substance or is for any other reason unfit for human food;~~

~~(g) if it has been prepared, packed, or held under unsanitary conditions so that it may be contaminated with filth or harmful to health;~~

~~(h) if it is wholly or partly the product of an animal which has died otherwise than by slaughter;~~

~~(i) if its container is wholly or partly composed of a poisonous or harmful substance which may make the contents harmful to health;~~

~~(j) if it has been intentionally subjected to radiation, unless the use of the radiation conformed with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(k) if a valuable constituent has been wholly or partly omitted or removed from it; if a substance has been wholly or partly substituted for it; if damage or inferiority has been concealed; or if a substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is; or~~

~~(l) if it is margarine containing animal fat and any of the raw material used in it wholly or partly consisted of a filthy, putrid, or decomposed substance.~~

Sec. 20. Minnesota Statutes 2010, section 31A.02, subdivision 14, is amended to read:

Subd. 14. **Misbranded.** "Misbranded" means ~~a carcass, part of a carcass, meat, poultry, poultry food product, or meat food product under one or more of the following circumstances:~~ an item is covered by one or more of the clauses in section 34A.03, paragraph (a).

~~(a) if its labeling is false or misleading;~~

- 12.1 ~~(b) if it is offered for sale under the name of another food;~~
- 12.2 ~~(c) if it is an imitation of another food, unless its label bears, in type of uniform~~
- 12.3 ~~size and prominence, the word "imitation" followed immediately by the name of the~~
- 12.4 ~~food imitated;~~
- 12.5 ~~(d) if its container is made, formed, or filled so as to be misleading;~~
- 12.6 ~~(e) if its package or other container does not have a label showing (1) the name and~~
- 12.7 ~~place of business of the manufacturer, packer, or distributor; and (2) an accurate statement~~
- 12.8 ~~of the quantity of the contents in terms of weight, measure, or numerical count subject~~
- 12.9 ~~to reasonable variations permitted and exemptions for small packages established in~~
- 12.10 ~~rules of the commissioner;~~
- 12.11 ~~(f) if a word, statement, or other information required by or under authority of this~~
- 12.12 ~~chapter to appear on the label or other labeling is not prominently and conspicuously~~
- 12.13 ~~placed on the label or labeling in terms that make it likely to be read and understood by the~~
- 12.14 ~~ordinary individual under customary conditions of purchase and use;~~
- 12.15 ~~(g) if it is represented as a food for which a definition and standard of identity or~~
- 12.16 ~~composition has been prescribed by rules of the commissioner under section 31A.07,~~
- 12.17 ~~unless (1) it conforms to the definition and standard, and (2) its label bears the name of the~~
- 12.18 ~~food specified in the definition and standard and, if required by the rules, the common~~
- 12.19 ~~names of optional ingredients, other than spices, flavoring, and coloring, present in the~~
- 12.20 ~~food;~~
- 12.21 ~~(h) if it is represented as a food for which a standard of fill of container has been~~
- 12.22 ~~prescribed by rules of the commissioner under section 31A.07, and it falls below the~~
- 12.23 ~~applicable standard of fill of container, unless its label bears, in the manner and form the~~
- 12.24 ~~rules specify, a statement that it falls below the standard;~~
- 12.25 ~~(i) if it is not subject to paragraph (g), unless its label bears (1) the usual name of~~
- 12.26 ~~the food, if there is one, and (2) in case it is fabricated from two or more ingredients,~~
- 12.27 ~~the common or usual name of each ingredient; except that spices, flavorings, and~~
- 12.28 ~~colorings may, when authorized by the commissioner, be designated as spices, flavorings,~~
- 12.29 ~~and colorings without naming each. To the extent that compliance with clause (2) is~~
- 12.30 ~~impracticable, or results in deception or unfair competition, the commissioner shall~~
- 12.31 ~~establish exemptions by rule;~~
- 12.32 ~~(j) if it purports to be or is represented for special dietary uses, unless its label bears~~
- 12.33 ~~the information concerning its vitamin, mineral, and other dietary properties that the~~
- 12.34 ~~commissioner, after consultation with the Secretary of Agriculture of the United States,~~
- 12.35 ~~determines by rule to be necessary to inform purchasers of its value for special dietary uses;~~

~~(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact;~~

~~(l) if it fails to bear, directly or on its container, as the commissioner by rule prescribes, the inspection legend and other information the commissioner may require by rule to assure that it will not have false or misleading labeling and that the public will be told how to keep the article wholesome.~~

Sec. 21. Minnesota Statutes 2010, section 31A.02, subdivision 15, is amended to read:

Subd. 15. **Label.** "Label" ~~means a display of written, printed, or graphic matter on an article's immediate container, not including package liners~~ has the meaning given in section 34A.01, subdivision 6.

Sec. 22. Minnesota Statutes 2010, section 31A.02, subdivision 16, is amended to read:

Subd. 16. **Labeling.** "Labeling" ~~means labels and other written, printed, or graphic matter (1) on an article or its containers or wrappers, or (2) accompanying an article~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 23. Minnesota Statutes 2010, section 31A.23, is amended to read:

31A.23 DETENTION OF ANIMALS OR PRODUCTS.

This section applies to a carcass, part of a carcass, meat, or meat food product of an animal, a product exempted from the definition of a meat food product, or a dead, dying, disabled, or diseased animal. If an authorized representative of the commissioner finds such an article or animal on premises where it is held for purposes of, during, or after distribution in intrastate commerce, and there is reason to believe that it is adulterated or misbranded and is usable as human food, or that it has not been inspected, in violation of sections 31A.01 to 31A.16, the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act, or that the article or animal has been or is intended to be distributed in violation of a provision of those laws, it may be detained by the representative for up to 20 days pending action under section ~~31A.24~~ 34A.11, subdivision 2, or notification of federal authorities having jurisdiction over the article or animal. It must not be moved by a person, firm, or corporation from the place at which it is located when detained, until released by the representative. The representative may require all official marks to be removed from the article or animal before it is released unless the commissioner is satisfied that the article or animal is eligible to retain the official marks.

Sec. 24. Minnesota Statutes 2010, section 32.01, subdivision 11, is amended to read:

14.1 Subd. 11. **Adulterated.** "~~Adulterated~~" ~~has the meaning given it in section 31.01,~~
14.2 ~~subdivision 19, and acts amendatory thereof~~ means an item is covered by one or more of
14.3 the clauses in section 34A.02, subdivision 1.

14.4 Sec. 25. Minnesota Statutes 2010, section 32.01, subdivision 12, is amended to read:

14.5 Subd. 12. **Misbranded.** "~~Misbranded~~" or "~~misbranding~~" ~~has the meaning given in~~
14.6 ~~section 31.01, subdivision 5, and acts amendatory thereof~~ means an item is covered by one
14.7 or more of the clauses in section 34A.03, paragraph (a).

14.8 Sec. 26. **[34A.01] DEFINITIONS.**

14.9 Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A,
14.10 29, 30, 31, 31A, 32, and 34 apply to this chapter.

14.11 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

14.12 Subd. 3. **Federal act.** "Federal act" means the federal Food, Drug, and Cosmetic
14.13 Act, as amended, United States Code, title 21, sections 301 et seq.

14.14 Subd. 4. **Food.** "Food" means every ingredient used for, entering into the
14.15 consumption of, or used or intended for use in the preparation of food, drink, confectionery,
14.16 or condiment for humans or other animals, whether simple, mixed, or compound; and
14.17 articles used as components of these ingredients.

14.18 Subd. 5. **Frozen food.** "Frozen food" is food that is processed and preserved by
14.19 freezing and which is intended to be sold in the frozen state.

14.20 Subd. 6. **Label.** "Label" means a display of written, printed, or graphic matter
14.21 upon or affixed to:

14.22 (1) the container of any food, and includes a like display, if required by law or rule,
14.23 on the outside container or wrapper, if there is one, of the retail package of the food,
14.24 not including package liners; or

14.25 (2) the invoice or delivery slip with which commercial feed is distributed.

14.26 Subd. 7. **Labeling.** "Labeling" means labels and other written, printed, or graphic
14.27 matter:

14.28 (1) on food or its containers or wrappers;

14.29 (2) accompanying or supporting food; or

14.30 (3) a placard in, on, or adjacent to the food.

14.31 Subd. 8. **Nonperishable food.** "Nonperishable food" is food with a shelf life of
14.32 more than 90 days and that is not perishable food, readily perishable food, or frozen food.

Subd. 9. **Perishable food.** "Perishable food" means food including, but not limited to, fresh fruits, fresh vegetables, and other products that need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.

Subd. 10. **Person.** "Person" means any individual, firm, partnership, cooperative, society, joint stock association, association, company, or corporation and includes any officer, employee, agent, trustee, receiver, assignee, or other similar business entity or representative of one of those entities.

Subd. 11. **Readily perishable food.** "Readily perishable food" is food or a food ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or other food or food ingredient that is capable of supporting growth of infectious or toxigenic microorganisms. Readily perishable food requires time and temperature control to limit pathogenic microorganism growth or toxin formation.

Subd. 12. **Sell; sale.** "Sell" and "sale" mean keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchanging food; having in possession with intent to sell, use, transport, negotiate, solicit, or exchange food; storing, manufacturing, producing, processing, packing, and holding of food for sale; dispensing or giving food; or supplying or applying food in the conduct of any food operation or carrying food in aid of traffic in food whether done or permitted in person or through others.

Sec. 27. **[34A.012] EXCLUSIONS.**

The following items are not perishable food, readily perishable food, or frozen food:

(1) packaged pickles;

(2) jellies, jams, and condiments in sealed containers;

(3) bakery products such as bread, rolls, buns, donuts, fruit-filled pies, and pastries;

(4) dehydrated packaged food;

(5) dry or packaged food with a water activity that precludes development of microorganisms; and

(6) food in unopened hermetically sealed containers that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.

Sec. 28. **[34A.02] ADULTERATION.**

Subdivision 1. **Adulterated food.** Food is adulterated if:

(1) it bears or contains any poisonous or deleterious substance which may render it injurious to human or animal health; but if the substance is not an added substance, the

16.1 item is not adulterated under this clause if the quantity of the substance in the item does
16.2 not ordinarily render it injurious to human or animal health;

16.3 (2) it bears or contains any added poisonous, deleterious, or nonnutritive substance,
16.4 other than one which is a pesticide in or on a raw agricultural commodity; a food additive;
16.5 or a color additive, that is unsafe within the meaning of section 31.122 or section 406
16.6 of the federal act;

16.7 (3) it bears or contains, by administration of a substance to the live animal or
16.8 otherwise, an added poisonous or harmful substance, other than a pesticide in or on a raw
16.9 agricultural commodity, a food additive, or a color additive, that may, in the judgment of
16.10 the commissioner, make the article unfit for human food;

16.11 (4) it is unsafe or bears or contains any food additive that is unsafe within the
16.12 meaning of section 31.122 or section 409 of the federal act;

16.13 (5) it is or bears or contains any color additive that is unsafe within the meaning of
16.14 section 31.122 or section 706 of the federal act;

16.15 (6) it is a raw agricultural commodity and it bears or contains a pesticide that is
16.16 unsafe within the meaning of section 31.122 or section 408 of the federal act;

16.17 (7) it consists in whole or in part of a diseased, contaminated, filthy, putrid, or
16.18 decomposed substance, or if it is otherwise unfit for food;

16.19 (8) it has been produced, prepared, packed, or held under unsanitary conditions
16.20 whereby it may have become contaminated with filth, or whereby it may have been
16.21 rendered diseased, unwholesome, or injurious to human or animal health;

16.22 (9) it is in whole or in part the product of a diseased animal or of an animal which
16.23 has died otherwise than by slaughter that is unsafe within the meaning of section 402(a)(1)
16.24 or (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a
16.25 slaughterhouse;

16.26 (10) its container is wholly or partly composed of any poisonous or deleterious
16.27 substance that may render the contents injurious to human or animal health;

16.28 (11) it has been intentionally subjected to radiation, unless the use of the radiation
16.29 was in conformity with a rule, regulation, or exemption in effect pursuant to section
16.30 31.122 or section 409 of the federal act;

16.31 (12) any valuable constituent has been in whole or in part omitted or abstracted
16.32 therefrom; if any substance has been substituted wholly or in part therefor; or if damage
16.33 or inferiority has been concealed in any manner. In the case of commercial feed, the
16.34 substituted constituent must be of lesser value in order to be adulterated;

(13) any substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(14) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; or

(15) it is confectionery and:

(i) has partially or completely imbedded therein any nonnutritive object; provided, that this clause does not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to human or animal health; or

(ii) bears or contains any nonnutritive substance; provided that this item does not apply to a confection containing alcohol as defined in section 31.76, or a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of the 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, and provided further that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances.

Subd. 2. **Commercial feed or material.** For only commercial feed or material exempted from the definition of commercial feed under section 25.33, subdivision 5, an item is adulterated if:

(1) it contains viable weed seeds in amounts exceeding limits established by the commissioner by rule or in sections 21.71 to 21.78;

(2) it is, bears, or contains any new animal drug which is unsafe within the meaning of section 512 of the federal act; or

(3) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to the current good manufacturing practice rules promulgated by the commissioner to ensure that the drug meets the safety requirements of sections 25.31 to 25.43 and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess. In adopting rules under this clause, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the federal act, unless the commissioner determines that they are not appropriate to the conditions that exist in this state.

Sec. 29. [34A.03] MISBRANDING.

(a) Food is misbranded if:

(1) its labeling is false or misleading in any particular, or its labeling, whether on the item itself, its container, or its package, fails to conform with the requirements of this chapter;

(2) it is offered for sale or distributed under the name of another food;

(3) it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an imitation of another food that is not subject to clause (5), unless in either case its label bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;

(4) its container is so made, formed, or filled as to be misleading;

(5) it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10, 31.102, and 31A.07 unless it conforms to that definition and standard, and its label bears the name of the food specified in the definition and standard, and insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in the food;

(6) it purports to be or is represented as:

(i) a food for which a standard of quality has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls below that standard unless its label bears in a manner and form the rules specify, a statement that it falls below the standard; or

(ii) a food for which a standard or standards of fill of container have been prescribed by rule as provided by sections 31.10, 31.102, and 31A.07, and it falls below the standard of fill of container applicable thereto unless its label bears, in a manner and form the rules specify, a statement that it falls below the standard;

(7) it is not subject to clause (5), unless it bears labeling clearly giving the common or usual name of the food, if there is one, and in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of this clause is impractical or results in deception or unfair competition, exemptions must be established by rules promulgated by the commissioner;

(8) it purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the

commissioner determines to be, and by rules prescribed as, necessary in order to fully inform purchasers as to its value for those uses;

(9) it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this clause is impracticable, exemptions must be established by rules promulgated by the commissioner. The provisions of this clause and clauses (5) and (7) with respect to artificial coloring do not apply to butter, cheese, or ice cream. The provisions with respect to chemical preservatives do not apply to a pesticide when used in or on a raw agricultural commodity which is the product of the soil;

(10) it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

(11) it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to the color additive prescribed under the provisions of the federal act;

(12) it is food subject to section 31.101, subdivision 10, or chapter 31A, that fails to bear, directly or on its container, as the commissioner by rule prescribes, the inspection legend and other information the commissioner may require by rule to ensure that it will not have false or misleading labeling, and that the public will be told how to keep the article wholesome; or

(13) its labeling would deceive or mislead the purchaser with respect to its composition or suitability.

(b) Food is also misbranded if it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide applied after harvest, unless the shipping container of that commodity bears labeling which declares the presence of the chemical in or on the commodity and the common or usual name and the function of the chemical. No such declaration is required while the commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of the container in accordance with the custom of the trade.

Sec. 30. [34A.04] ENFORCEMENT.

Subdivision 1. **Enforcement required.** (a) The commissioner shall enforce this chapter and chapters 28, 28A, 29, 30, 31, 31A, and 34. To carry out the enforcement duties under these chapters, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority; require information from

persons with information relevant to an inspection; and inspect and copy relevant papers and records, including business records.

(b) The commissioner may administer oaths, take and cause to be taken depositions of witnesses, and issue subpoenas, and may petition the district court in the county in which the premises is located to compel compliance with subpoenas or to permit an inspection.

(c) Violations of chapters 28, 28A, 29, 30, 31, 31A, and 34, or rules adopted under chapters 28, 28A, 29, 30, 31, 31A, and 34 are a violation of this chapter.

(d) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter or standards, stipulations, and agreements of the commissioner.

Subd. 2. **Commissioner's discretion.** If minor violations of this chapter occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter does not require the commissioner to take any additional action.

Subd. 3. **Civil actions.** Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Subd. 4. **Injunction.** The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of provisions of this chapter.

Subd. 5. **Criminal actions.** Each county attorney or city attorney to whom the commissioner reports any violation of this chapter shall institute appropriate proceedings in the proper courts without delay and prosecute them in the manner required by law. If the county or city attorney refuses to prosecute, the attorney general, on request of the commissioner, may prosecute.

Sec. 31. **[34A.05] FALSE STATEMENT OR RECORD.**

A person must not knowingly make or offer a false statement, record, or other information as part of:

(1) an application for registration, listing, license, certification, or permit subject to this chapter;

(2) records or reports required subject to this chapter; or

(3) an investigation of a violation of this chapter.

Sec. 32. **[34A.051] ILLEGAL SALES.**

It is a violation of law to sell in or into Minnesota food that is from a place of business located outside of Minnesota that has not been licensed, inspected, permitted, or otherwise approved by the local, tribal, state, or national government charged with enforcement of food safety regulations in that jurisdiction or by Minnesota, unless the product itself has been so inspected and approved and bears a stamp or similar indicia of such inspection and approval.

Sec. 33. **[34A.06] ADMINISTRATIVE ACTIONS.**

Subdivision 1. **Administrative enforcement.** (a) The commissioner may enforce this chapter by written warning, administrative meeting, cease and desist, forced sale, detain, embargo, condemnation, citation, corrective action order, seizure, agreement, withdrawal from distribution, or administrative penalty if the commissioner determines that the remedy is in the public interest.

(b) For facilities required to submit a plan review under Minnesota Rules, chapter 4626, the commissioner may withdraw by written order the approval of a facility or equipment if:

(1) hazards to human life exist; or

(2) there is satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade provisions of this chapter.

(c) Any action under this subdivision may be appealed pursuant to section 34A.08.

Subd. 2. **License revocation, suspension, and refusal.** (a) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification if a person violates or has violated this chapter within the last three years.

(b) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification to a person from another state if that person has had a registration, permit, license, or certification denied, revoked, or suspended by another state for an offense reasonably related to the requirements, qualifications, or duties of a registration, permit, license, or certification issued under this chapter.

(c) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification to a person after receiving satisfactory evidence that the registrant, permittee, licensee, or certificate holder has used fraudulent and deceptive practices in the evasion or attempted evasion of this chapter.

(d) A registration, listing, permit, license, or certification may not be revoked or suspended until the registrant, permittee, licensee, or certificate holder has been given opportunity for a hearing by the commissioner. After receiving notice of revocation or suspension, a registrant, permittee, licensee, registrant, or certificate holder has ten days to request a hearing, or another time period mutually agreed to by both parties. If no request is made within ten days or other agreed-upon time, the registration, listing, permit, license, or certification is revoked or suspended. In the case of a refusal to grant a registration, listing, permit, license, or certification, the registrant, permittee, licensee, registrant, or certificate holder has ten days from notice of refusal to request a hearing. Upon receiving a request for hearing, the department shall proceed pursuant to section 34A.08, subdivision 2.

Sec. 34. **[34A.07] ADMINISTRATIVE PENALTIES.**

Subdivision 1. **Assessment.** (a) In determining the amount of the administrative penalty, the commissioner shall consider the economic gain received by the person allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to human or animal health and the environment, the willfulness of the violation, number of violations, history of past violations, and other factors justice may require, if the additional factors are specifically identified in the inspection report. For a violation after an initial violation, the commissioner shall also consider the similarity of the most recent previous violation and the violation to be penalized, the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent previous violation identified.

(b) The commissioner may issue an administrative citation assessing an administrative penalty of up to \$1,500 for each violation of this chapter. Each day a violation continues is a separate violation. The citation must describe the nature of the violation, the statute or rule alleged to have been violated, the time for correction, if applicable, and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 20 days, or another time period mutually agreed to by the commissioner and the person subject to the citation, if the person wishes to appeal the citation and that if the person fails to appeal the citation, the citation is the final order and not subject to further review.

(c) An administrative penalty may be assessed if the person subject to a written order does not comply with the order in the time provided in the order.

Subd. 2. **Collection of penalty.** (a) If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final citation by the commissioner, by 30

days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty plus attorney fees and costs.

(b) An administrative penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.

Sec. 35. **[34A.08] APPEAL OF ADMINISTRATIVE ACTION OR PENALTY.**

Subdivision 1. **Notice of appeal.** (a) After service of a citation under section 34A.07 or order under section 34A.06, subdivision 1, a person has 20 days from receipt of the citation or order, or another time period mutually agreed to by the commissioner and the person subject to the citation or order, to notify the commissioner in writing that the person intends to contest the citation or order through a hearing. The hearing request must specifically identify the order or citation being contested and state the grounds for contesting it.

(b) If the person fails to notify the commissioner that the person intends to contest the citation or order, the citation or order is final and not subject to further judicial or administrative review.

Subd. 2. **Administrative review.** If a person notifies the commissioner that the person intends to contest a citation or order issued under this chapter, the Office of Administrative Hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.

Sec. 36. **[34A.09] CIVIL PENALTIES.**

Subdivision 1. **General penalty.** A person who violates this chapter or an order, standard, stipulation, agreement, citation, or schedule of compliance of the commissioner or impedes, hinders, or otherwise prevents or attempts to prevent performance of a duty by the commissioner in connection with this chapter is subject to a civil penalty of up to \$7,500 per day of violation as determined by the court.

Subd. 2. **Actions to compel performance.** In an action to compel performance of an order of the commissioner to enforce this chapter, the court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 3. **Recovery of penalties by civil action.** The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

Sec. 37. **[34A.10] CRIMINAL PENALTIES.**

Subdivision 1. **General violation.** Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor if the person violates this chapter or an order, standard, citation, stipulation, agreement, or schedule of compliance of the commissioner, or impedes, hinders, or otherwise prevents, or attempts to prevent the commissioner or a duly authorized agent in performance of a duty in connection with this chapter. Unless otherwise specified in this chapter, each separate violation is a separate offense, except that in the case of a violation through continuing failure or neglect to obey this chapter, each day the failure or neglect continues is a separate offense.

Subd. 2. **Violation endangering humans or animals.** A person is guilty of a gross misdemeanor if the person violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner and the violation endangers humans or animals.

Subd. 3. **Violation with knowledge.** A person is guilty of a gross misdemeanor if the person knowingly violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Sec. 38. **[34A.11] EMBARGO, SEIZURE, AND CONDEMNATION.**

Subdivision 1. **Tag, notice, or withdrawal from distribution.** If the commissioner finds probable cause to believe that any food, animal, or consumer commodity is being distributed in violation of this chapter or rules under this chapter, or is adulterated or so misbranded as to be dangerous or fraudulent, the commissioner shall affix to the food, animal, or consumer commodity a tag, withdrawal from distribution order, or other appropriate marking giving notice that the food, animal, or consumer commodity is, or is suspected of being, adulterated, misbranded, or distributed in violation of this chapter, and has been detained or embargoed, and warning all persons not to remove or dispose of the food, animal, or consumer commodity by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. It is unlawful for a person to remove or dispose of a detained or embargoed food, animal, or consumer commodity by sale or otherwise without the commissioner's or a court's permission and each transaction is a separate violation of this subdivision.

Subd. 2. **Seizure.** A carcass; part of a carcass; meat or meat food product of an animal; or dead, dying, disabled, or diseased animal that is being transported in intrastate commerce, or is held for sale in this state after transportation in intrastate commerce, may be proceeded against, seized, and condemned if:

(1) it is or has been prepared, sold, transported, or otherwise distributed, offered, or received for distribution in violation of this chapter.

(2) it is usable as human food and is adulterated or misbranded; or

(3) it is in any other way in violation of this chapter.

The commissioner may act against the article or animal at any time on a complaint in the district court of the judicial district where the article or animal is found.

Subd. 3. **Action for condemnation.** If food or an article or animal, detained or embargoed under subdivision 1 has been found by the commissioner to be adulterated or misbranded or in violation of this chapter, the commissioner shall petition the district court in the county in which the food or animal is detained or embargoed for an order and decree for the condemnation of the food or animal. The commissioner shall release the food or animal when this chapter and rules adopted under this chapter have been complied with or the food or animal is found to be not adulterated or misbranded.

Subd. 4. **Remedies.** If the court finds that a detained or embargoed food or animal is adulterated, misbranded, or in violation of this chapter or rules adopted under this chapter, the following remedies are available:

(1) after entering a decree, the food or animal may be destroyed at the expense of the claimant under the supervision of the commissioner, and all court costs, fees, storage, and other proper expenses, must be assessed against the claimant of the food or animal or the claimant's agent; and

(2) if adulteration or misbranding can be corrected by proper labeling or processing of the food or animal, the court, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the food or animal must be properly labeled or processed, has been executed, may by order direct that the food or animal be delivered to the claimant for proper labeling or processing under the supervision of the commissioner. The expense of the supervision must be paid by the claimant. The food or animal must be returned to the claimant and the bond must be discharged on the representation to the court by the commissioner that the food or animal is no longer in violation and that the expenses for the supervision have been paid.

Subd. 5. **Duties of commissioner.** If the commissioner finds in any room, building, vehicle of transportation, or other structure any meat, seafood, poultry, vegetable, fruit, or other perishable articles of food that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the commissioner shall condemn or destroy the item or in any other manner render the item as unsalable as human food, and no one has any cause of action against the commissioner on account of the commissioner's action.

Subd. 6. **Emergency response.** If the governor declares an emergency order under section 12.31 and if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131, subdivision 1, the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practicable under the emergency circumstances.

Sec. 39. **[34A.12] POWERS OF THE COMMISSIONER.**

Subdivision 1. **Gathering information.** The commissioner may, for the purposes of this chapter:

(1) gather and compile information concerning and investigate the organization, business, conduct, practices, and management of a person in intrastate commerce and the person's relation to other persons; and

(2) require, by general or special orders, a person, persons, or a class of persons engaged in intrastate commerce to file with the commissioner, in the form the commissioner prescribes, annual and special reports or answers in writing to specific questions, giving the commissioner the information the commissioner requires about the organization, business, conduct, practices, management, and relation to other persons, of the person filing the reports or answers. The reports and answers must be made under oath, or otherwise, as the commissioner prescribes, and filed with the commissioner within a reasonable time the commissioner prescribes, unless additional time is granted by the commissioner.

Subd. 2. **Examination of documents for evidence.** (a) For purposes of this chapter, the commissioner must at all reasonable times be allowed to examine and copy documentary evidence of a person being investigated or proceeded against. The commissioner may subpoena witnesses and require the production of documentary evidence of a person relating to any matter under investigation. The commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Attendance of witnesses and the production of documentary evidence may be required at a designated hearing place. In case of disobedience to a subpoena, the commissioner may invoke the aid of the district court to require the attendance and testimony of witnesses and the production of documentary evidence.

(c) The district court, in case of refusal to obey a subpoena issued to a person, may issue an order requiring the person to appear before the commissioner or to produce documentary evidence if ordered, or to give evidence touching the matter in question. Failure to obey the order of the court may be punishable by the court as a contempt.

(d) Upon the application of the attorney general at the request of the commissioner, the district court may order a person to comply with this chapter or an order of the commissioner made under this chapter.

(e) The commissioner may order testimony to be taken by deposition in a proceeding or investigation pending under this chapter at any state of the proceeding or investigation. Depositions may be taken before a person designated by the commissioner and having power to administer oaths. The testimony must be reduced to writing by the person taking the deposition or under the person's direction and must then be signed by the witness. A person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner.

(f) Witnesses summoned before the commissioner may be paid the same fees and mileage that are paid witnesses in the district courts. Witnesses whose depositions are taken and the persons taking them may be entitled to the fees that are paid for those services in the district court.

(g) A person is not excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner whether the subpoena is signed or issued by the commissioner or the commissioner's agent, or in any cause or proceeding, criminal or otherwise, based upon or growing out of an alleged violation of this chapter because the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture on account of a matter concerning which the person is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that a witness is not exempt from prosecution and punishment for perjury committed in testifying.

Subd. 3. Penalties related to testimony and records. (a) A person who neglects or refuses to attend and testify, to answer a lawful inquiry, or to produce documentary evidence, if it is in the person's power to do so in obedience to the subpoena or lawful requirement of the commissioner, is guilty of a misdemeanor.

(b) A person who willfully:

28.1 (1) makes or causes to be made a false entry or statement of fact in a report required
28.2 under this chapter;

28.3 (2) makes or causes to be made a false entry in an account, record, or memorandum
28.4 kept by a person subject to this chapter;

28.5 (3) neglects or fails to make or to cause to be made full and correct entries in the
28.6 accounts, records, or memoranda, of all facts and transactions relating to the person's
28.7 business;

28.8 (4) leaves the jurisdiction of this state;

28.9 (5) mutilates, alters, or by any other means falsifies documentary evidence of a
28.10 person subject to this chapter; or

28.11 (6) refuses to submit to the commissioner, for inspection and copying, any
28.12 documentary evidence of a person subject to this chapter in the person's possession or
28.13 control, is guilty of a misdemeanor.

28.14 (c) A person required by this chapter to file an annual or special report who fails to
28.15 do so within the time fixed by the commissioner for filing the report and continues the
28.16 failure for 30 days after notice of failure to file, is guilty of a misdemeanor.

28.17 (d) An officer or employee of this state who makes public information obtained by
28.18 the commissioner without the commissioner's authority, unless directed by a court, is
28.19 guilty of a misdemeanor.

28.20 Sec. 40. **REPEALER.**

28.21 (a) Minnesota Statutes 2010, sections 17.984; 28.15; 28A.12; 28A.13; 29.28; 31.031;
28.22 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision
28.23 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078;
28.24 32.475, subdivision 7; 32.61; 32.90; and 34.113, are repealed.

28.25 (b) Minnesota Rules, parts 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6,
28.26 and 7; 1550.1040, subparts 3, 4, 5, and 6; and 1550.1260, subparts 6 and 7, are repealed.

17.984 INVESTIGATION.

Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties under chapter 29, 31, 31A, 32, or 34, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

Subd. 2. **Failure to comply.** The commissioner may administer oaths, take and cause to be taken depositions of witnesses, and issue subpoenas, and may petition the district court in the county in which the premises is located to compel compliance with subpoenas or to permit an inspection.

28.15 PENALTIES.

Any person, firm, or corporation violating any provision of this chapter relating to cold storage warehousing is guilty of a misdemeanor for a first offense and for the second or subsequent offense, is guilty of a gross misdemeanor.

28A.12 VIOLATIONS.

Any person who does not comply with the provisions of sections 28A.01 to 28A.16 or rules issued thereunder shall be guilty of a misdemeanor.

28A.13 POWER TO SUSPEND OR REVOKE LICENSES.

Whenever the commissioner has reason to believe that any provision of law relating to the manufacturing, processing, distribution, handling and sale of food, or rule issued by the commissioner thereunder, has been violated, the commissioner may suspend or revoke a license or permit granted under section 28A.04, or may limit the permission of the license or permit to only those aspects of the licensee's or permittee's business which are in conformity with the law and rules. Any person may be restrained by injunction from engaging in any business operation or category thereof for which that person is not validly licensed or for which a permit has not been issued. This suspension or revocation shall be made only after notice to the licensee or permittee and an opportunity to be heard with reference to the grounds for suspension or revocation, and this action by the commissioner shall in no way exempt such licensee or permittee from the penalties otherwise imposed in this chapter. The commissioner shall serve upon the licensee or permittee by registered letter containing a copy thereof, an order to show cause why the license or permit should not be permanently revoked, stating the grounds thereof, and the time and place of hearing, which time shall not be less than ten days after the date of mailing of the order. At the appointed time and place, and at such times as the matter may be adjourned to, the commissioner, or an appointed hearing officer, shall hear all proper evidence relating to the cause of the proposed revocation and, within a reasonable time thereafter, shall make and file a decision of the matter and forthwith mail to the licensee or permittee a copy thereof.

29.28 VIOLATIONS, PENALTIES.

A person violating this chapter is guilty of a misdemeanor. Each day a violation continues is a separate offense.

31.031 INJUNCTION PROCEEDINGS.

In addition to the remedies hereinafter provided and irrespective of whether there exists an adequate remedy at law, the commissioner is hereby authorized to apply to the district courts of this state, and other appropriate courts, for a temporary restraining order or a temporary or permanent injunction restraining any person from violating any provisions of section 31.02, and prohibiting any person from engaging in any actions which the commissioner deems likely to cause or result in violations of section 31.02.

31.041 REPORTING MINOR VIOLATIONS.

APPENDIX

Repealed Minnesota Statutes: 12-4028

Nothing in the Minnesota Food Law shall be construed as requiring the commissioner to report minor violations for the institution of proceedings when the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

31.05 EMBARGOES AND CONDEMNATIONS.

Subdivision 1. **Definitions.** As used in this section, "animals" means cattle; swine; sheep; goats; poultry; farmed cervidae, as defined in section 35.153, subdivision 3; llamas, as defined in section 17.455, subdivision 2; ratitae, as defined in section 17.453, subdivision 3; equines; and other large domesticated animals.

Subd. 1a. **Tag or notice.** A duly authorized agent of the commissioner who finds or has probable cause to believe that any food, animal, or consumer commodity is adulterated or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131 shall affix to such article or animal a tag or other appropriate marking giving notice that such article or animal 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 or animal by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article or animal by sale or otherwise without such permission.

Subd. 2. **Action for condemnation.** When an article or animal detained or embargoed under subdivision 1 has been found by such agent to be adulterated, or misbranded, the agent shall petition the district court in the county in which the article or animal is detained or embargoed for an order and decree for the condemnation of such article or animal. Any such agent who has found that an article or animal so detained or embargoed is not adulterated or misbranded, shall remove the tag or other marking.

Subd. 3. **Remedies.** If the court finds that a detained or embargoed article or animal is adulterated or misbranded, such article or animal shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or animal or the claimant's agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article or animal, 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 or animal shall be so labeled or processed, has been executed, may by order direct that such article or animal be delivered to claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by claimant. The article or animal shall be returned to the claimant and the bond shall be discharged on the representation to the court by the commissioner that the article or animal is no longer in violation and that the expenses of such supervision have been paid.

Subd. 4. **Duties of commissioner.** Whenever the commissioner or any of the commissioner's authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable articles of food which 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 hereby 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, and no one shall have any cause of action against the commissioner or the commissioner's authorized agent on account of such action.

Subd. 5. **Emergency response.** In the event of an emergency declared by the governor's order under section 12.31, if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131, subdivision 1, the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practical under the emergency circumstances.

31.14 DUTY TO PROSECUTE.

It shall be the duty of each county attorney, or city attorney to whom the commissioner reports any violation of the Minnesota Food Law, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of the Minnesota Food Law is reported to any such attorney for the institution

APPENDIX

Repealed Minnesota Statutes: 12-4028

of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present views before the commissioner or the commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

31.393 PENALTIES.

Whoever shall, without permission of the commissioner, use any brand, label, or device authorized by the commissioner, or who shall fail to furnish reports containing information required or within the time specified, or who shall fail to obey any lawful direction of the commissioner given while carrying out the provisions of sections 31.31 to 31.392, or shall use any raw materials, articles, or substances forbidden to be used in canning, packing, or preserving vegetables or fruits, or shall violate, or fail to comply with, any of the provisions of sections 31.31 to 31.392, or the rules made thereunder, shall be guilty of a misdemeanor.

31.58 VIOLATIONS, PENALTIES.

Any person violating any of the provisions of sections 31.51 to 31.56 or any rules made hereunder is guilty of a misdemeanor; and upon conviction, may be punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 30 days for the first offense, and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.

31.592 PENALTY.

Any slaughterer who by act or failure to act violates section 31.591 is guilty of a misdemeanor and shall be punished accordingly.

31.621 SALE OF HORSE MEAT FOR HUMAN CONSUMPTION.

Subd. 5. **Violation a misdemeanor.** Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

31.631 HORSE MEAT INTENDED FOR OTHER THAN HUMAN CONSUMPTION.

Subd. 4. **Violation, penalty.** Any person violating any provisions of this section shall be guilty of a gross misdemeanor.

31.633 MEAT OR POULTRY SUBSTITUTES; INDICATION ON MENU; PENALTIES.

Subd. 2. **Misdemeanor.** Any person who violates the provisions of subdivision 1 is guilty of a misdemeanor.

31.681 VIOLATIONS.

Any person violating the provisions of sections 31.651 to 31.681 or the rules made pursuant thereto shall be guilty of a misdemeanor.

31.74 SALE OF IMITATION HONEY.

Subd. 3. **Enforcement, injunctive relief.** The commissioner of agriculture shall enforce the provisions of this section and may enjoin the sale or offer for sale of any product packaged, labeled or advertised in violation of this section.

31.91 PENALTIES.

Subdivision 1. **Misdemeanor.** Except where otherwise specifically provided, any person violating, or failing to comply with, any of the provisions of this chapter or any act amendatory thereof, or any of the provisions of any of the rules, definitions, standards, or rulings made and filed with the secretary of state thereunder, shall be guilty of a misdemeanor. Each separate violation of this chapter, or any act amendatory thereof, shall be, unless otherwise specifically provided therein, a separate offense, except that in the case of a violation through continuing

APPENDIX

Repealed Minnesota Statutes: 12-4028

failure or neglect to obey the provisions of this chapter, or any act amendatory thereof, each day of continuance of such failure or neglect shall be deemed a separate offense.

Subd. 2. **Injunction.** In addition to the remedies herein provided, the commissioner may commence proceedings in the district court of any county in which any violation of this chapter, or any act amendatory thereof, has occurred or is threatening to occur for a temporary or permanent injunction against any person violating or threatening to violate any provision of this chapter, or any act amendatory thereof.

31A.24 SEIZURE AND CONDEMNATION.

Subdivision 1. **What can be seized.** This section applies to a carcass, part of a carcass, meat or meat food product of animals or to a dead, dying, disabled, or diseased animal that is being transported in intrastate commerce, or is held for sale in this state after transportation in intrastate commerce. These articles or animals may be proceeded against, seized, and condemned, if (1) they are or have been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of sections 31A.01 to 31A.31; (2) they are usable as human food and are adulterated or misbranded; or (3) they are in any other way in violation of sections 31A.01 to 31A.31. The department may act against the article or animal at any time, on a complaint in the district court of the judicial district where the article or animal is found.

Subd. 2. **Sale of condemned items.** If the article or animal is condemned it must, after entry of the decree, be disposed of by destruction or sale as the court directs. If it is sold, the proceeds must be paid to the state, less the court costs and fees and storage and other proper expenses, but the article or animal must not be sold contrary to this chapter, the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act. If a bond is delivered conditioned that the article or animal must not be sold or otherwise disposed of contrary to this chapter or federal law, the court may direct that the article or animal be delivered to its owner subject to supervision by authorized representatives of the commissioner that is necessary to assure compliance with the applicable laws.

Subd. 3. **Types of proceedings; awards of costs.** When a decree of condemnation is entered against the article or animal and it is released under bond or destroyed, court costs and fees and storage and other proper expenses must be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings for condemnation must be in rem. Either party may demand trial by jury of any issue of fact joined in any case, and all proceedings must be at the suit of and in the name of the state.

This section does not change the authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

31A.26 VIOLATIONS AND PENALTIES.

Subdivision 1. **Misdemeanors.** A person who violates a provision of this chapter or a rule adopted under it for which no other criminal penalty is provided is guilty of a misdemeanor.

Subd. 2. **Minor violations.** This chapter does not require the commissioner to report for prosecution or for the institution of injunction proceedings minor violations of sections 31A.01 to 31A.31 if the commissioner believes that the public interest will be adequately served by a suitable written warning.

32.078 SUSPENSION OR CANCELLATION.

The commissioner is empowered to suspend or cancel any license issued pursuant to the provisions of sections 32.071 to 32.076 after a hearing upon written notice containing the grounds therefor, which notice shall be served personally upon the licensee or the licensee's agent at least five days prior to such hearing.

32.475 BUTTER, GRADING AND LABELING.

Subd. 7. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor.

32.61 LICENSES; REVOCATION, SUSPENSION.

APPENDIX

Repealed Minnesota Statutes: 12-4028

The Department of Agriculture shall have the power to suspend or revoke any license or certificate of registration thus granted, for failure to comply with the provisions of sections 32.56 to 32.64, or rules made thereunder.

32.90 PENALTY.

Any person, firm, corporation, association or copartnership violating any of the provisions of this chapter or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor.

34.113 PENALTY.

Any person violating any of the provisions of sections 34.02 to 34.11, or of any rules made thereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25 or by imprisonment in the county jail for not less than 30 days for the first offense; and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.