

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, by adding a subdivision; 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 in Minnesota Statutes, chapter 28A; 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, or 31B, 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

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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.~~ If a contested case hearing is conducted, the associated costs of the Office of Administrative Hearings must be equitably allocated among the parties as determined by the administrative law judge.

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~~

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~~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;~~

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~~(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, is amended by adding a subdivision to read:

Subd. 1a. **Background check crime.** "Background check crime" means:

(a)(1) a felony violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.20 (first-degree manslaughter); 609.221 (first-degree

assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.25
(kidnapping); any sex crime under 609.293 to 609.353; 609.561 (first-degree arson);
609.59 (possession of burglary or theft tools); 609.749 (harassment and stalking); 609.52
(theft); 609.582 (burglary); 609.583 (burglary of dwelling); 609.24 (simple robbery);
or 609.245 (aggravated robbery);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under
clause (1) or an attempt under clause (2) in this state; or

(b)(1) a felony violation of section 609.195 (third-degree murder); 609.205
(second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.2231
(fourth-degree assault); 609.224 (fifth-degree assault); 609.255 (false imprisonment);
609.713 (terroristic threats); or a nonfelony violation of section 609.749 (harassment
and stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under
clause (1) or an attempt under clause (2) in this state.

Sec. 8. 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. 9. 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.~~

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~~(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. 10. 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. 11. **[28A.18] BACKGROUND CHECKS.**

Subdivision 1. **When required.** Before issuing a mobile retail food handler's license to an applicant, the commissioner shall request the superintendent to conduct a background check under this section.

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable the commissioner to request a background check to determine whether an applicant for a mobile retail food handler's license is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes. The superintendent shall notify the commissioner in writing of the results of the background check. If the applicant for a mobile retail food handler's license has resided in Minnesota for less than ten years or upon request of the commissioner, the superintendent shall also either:

(1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or

(2) conduct a search of the criminal justice data communications network records in the state or states where the applicant has resided or operated for the preceding ten years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of

Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the commissioner.

Subd. 3. **Form.** (a) The superintendent shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will request the superintendent to perform a background check under this section;

(2) a notification to the applicant of the applicant's rights under subdivision 4; and

(3) a signed consent by the applicant to conduct the background check.

(b) If the applicant has resided in Minnesota for less than ten years, or if the commissioner is requesting a search of the national criminal records repository, the form must be accompanied by the fingerprints of the applicant on whom the background check is to be performed.

Subd. 4. **Applicant's rights.** (a) The commissioner shall notify the applicant of the applicant's rights under paragraph (b).

(b) An applicant who is the subject of a background check request has the following rights:

(1) the right to be informed that the commissioner will request a background check on the applicant to determine whether the applicant has been convicted of a crime specified in section 28A.03, subdivision 1a;

(2) the right to be informed by the commissioner of the superintendent's response to the background check and to obtain from the commissioner a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of information contained in the report or record under section 13.04, subdivision 4; and

(5) the right to be informed by the commissioner if the application has been denied because of the result of the background check.

Subd. 5. **Response of bureau.** The superintendent shall response in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. The superintendent's response from the search of the Minnesota computerized criminal history system must clearly indicated whether the applicant has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of the conviction, and date of discharge of sentence. If a search is being done of the national criminal records repository, the superintendent shall determine eligibility based upon national records received. The

superintendent shall reply to the commissioner in writing indicating whether the applicant is or is not eligible for employment.

Sec. 12. [28A.181] COMMISSIONER DUTIES IF APPLICANT CONVICTED OF CRIME.

(a) If the superintendent's response indicates that the applicant has been convicted of a background check crime defined in section 28A.03, subdivision 1a, paragraph (a), the commissioner may not issue a mobile retail food handler's license to the applicant.

(b) If the superintendent's response indicates that the applicant has been convicted of a background check crime defined in section 28A.03, subdivision 1a, paragraph (b), the commissioner may not issue a license to the applicant unless more than ten years have elapsed since the date of the discharge of the sentence.

(c) The commissioner shall notify the applicant of any action taken under this subdivision.

Sec. 13. [28A.182] BUREAU IMMUNITY.

The Bureau of Criminal Apprehension is immune from any civil or criminal liability that might otherwise arise under this chapter based on the accuracy or completeness of records it receives from the Federal Bureau of Investigation if the bureau acts in good faith.

Sec. 14. 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. 15. 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. 16. 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~~

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9.1 ~~supplying or applying of any such article in the conduct of any food operation~~ have the
9.2 meanings given in section 34A.01, subdivision 12.

9.3 Sec. 17. Minnesota Statutes 2010, section 31.01, subdivision 21, is amended to read:

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

9.8 Sec. 18. Minnesota Statutes 2010, section 31.01, subdivision 25, is amended to read:

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

9.12 Sec. 19. Minnesota Statutes 2010, section 31.01, subdivision 28, is amended to read:

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

9.19 Sec. 20. Minnesota Statutes 2010, section 31.121, is amended to read:

9.20 **31.121 FOOD ADULTERATION.**

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

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

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

9.30 ~~(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical~~
9.31 ~~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;~~

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~~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. 21. 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. 22. 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;~~

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~~(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. 23. 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;~~

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

~~(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" followed immediately by the name of the food imitated;~~

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

~~(e) if its package or other container does not have a label showing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations permitted and exemptions for small packages established in rules of the commissioner;~~

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~~(f) if a word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently and conspicuously placed on the label or labeling in terms that make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;~~

~~(g) if it is represented as a food for which a definition and standard of identity or composition has been prescribed by rules of the commissioner under section 31A.07, unless (1) it conforms to the definition and standard, and (2) its label bears the name of the food specified in the definition and standard and, if required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in the food;~~

~~(h) if it is represented as a food for which a standard of fill of container has been prescribed by rules of the commissioner under section 31A.07, and it falls below the applicable standard of fill of container, unless its label bears, in the manner and form the rules specify, a statement that it falls below the standard;~~

~~(i) if it is not subject to paragraph (g), unless its label bears (1) the usual name of the food, if there is one, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings may, when authorized by the commissioner, be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with clause (2) is impracticable, or results in deception or unfair competition, the commissioner shall establish exemptions by rule;~~

~~(j) if it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties that the commissioner, after consultation with the Secretary of Agriculture of the United States, 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. 24. 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.

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16.1 Sec. 25. Minnesota Statutes 2010, section 31A.02, subdivision 16, is amended to read:

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

16.5 Sec. 26. Minnesota Statutes 2010, section 31A.23, is amended to read:

16.6 **31A.23 DETENTION OF ANIMALS OR PRODUCTS.**

16.7 This section applies to a carcass, part of a carcass, meat, or meat food product of an
16.8 animal, a product exempted from the definition of a meat food product, or a dead, dying,
16.9 disabled, or diseased animal. If an authorized representative of the commissioner finds
16.10 such an article or animal on premises where it is held for purposes of, during, or after
16.11 distribution in intrastate commerce, and there is reason to believe that it is adulterated or
16.12 misbranded and is usable as human food, or that it has not been inspected, in violation of
16.13 sections 31A.01 to 31A.16, the Federal Meat Inspection Act, or the Federal Food, Drug,
16.14 and Cosmetic Act, or that the article or animal has been or is intended to be distributed in
16.15 violation of a provision of those laws, it may be detained by the representative for up to
16.16 20 days pending action under section ~~31A.24~~ 34A.11, subdivision 2, or notification of
16.17 federal authorities having jurisdiction over the article or animal. It must not be moved
16.18 by a person, firm, or corporation from the place at which it is located when detained,
16.19 until released by the representative. The representative may require all official marks to
16.20 be removed from the article or animal before it is released unless the commissioner is
16.21 satisfied that the article or animal is eligible to retain the official marks.

16.22 Sec. 27. Minnesota Statutes 2010, section 32.01, subdivision 11, is amended to read:

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

16.26 Sec. 28. Minnesota Statutes 2010, section 32.01, subdivision 12, is amended to read:

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

16.30 Sec. 29. **[34A.01] DEFINITIONS.**

16.31 Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A,
16.32 29, 30, 31, 31A, 32, and 34 apply to this chapter.

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

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

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

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

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

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

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

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

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

17.19 (2) accompanying or supporting food; or

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

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

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

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

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

17.35 Subd. 12. **Sell; sale.** "Sell" and "sale" mean keeping, offering, or exposing for sale,
17.36 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. 30. **[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. 31. **[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 item is not adulterated under this clause if the quantity of the substance in the item does not ordinarily render it injurious to human or animal health;

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

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

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

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

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

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

(8) it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to human or animal 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 that is unsafe within the meaning of section 402(a)(1) or (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a slaughterhouse;

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

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

(12) any valuable constituent has been in whole or in part omitted or abstracted therefrom; if any substance has been substituted wholly or in part therefor; or if damage or inferiority has been concealed in any manner. In the case of commercial feed, the 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. 32. [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

21.1 the rules, the common names of optional ingredients, other than spices, flavoring, and
21.2 coloring, present in the food;

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

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

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

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

21.18 (8) it purports to be or is represented for special dietary uses, unless its label
21.19 bears information concerning its vitamin, mineral, and other dietary properties as the
21.20 commissioner determines to be, and by rules prescribed as, necessary in order to fully
21.21 inform purchasers as to its value for those uses;

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

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

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

21.35 (12) it is food subject to section 31.101, subdivision 10, or chapter 31A, that fails to
21.36 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. 33. **[34A.04] ENFORCEMENT.**

Subdivision 1. **Enforcement required.** (a) The commissioner shall enforce this chapter and chapters 28, 28A, 29, 30, 31, 31A, 32, 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, 32, and 34, or rules adopted under chapters 28, 28A, 29, 30, 31, 31A, 32, 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. 34. [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. 35. [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. 36. [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:

24.1 (1) hazards to human life exist; or

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

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

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

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

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

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

24.30 Sec. 37. **[34A.07] ADMINISTRATIVE PENALTIES.**

24.31 Subdivision 1. **Assessment.** (a) In determining the amount of the administrative
24.32 penalty, the commissioner shall consider the economic gain received by the person
24.33 allowing or committing the violation, the gravity of the violation in terms of actual or
24.34 potential damage to human or animal health and the environment, the willfulness of the
24.35 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. 38. [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.** (a) 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.

(b) If a contested case hearing is conducted, the associated costs of the Office of Administrative Hearings must be equitably allocated among the parties as determined by the administrative law judge. Upon final disposition of the case, the department shall notify the other parties of their costs and collect the costs on behalf of the Office of Administrative Hearings.

Sec. 39. **[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. 40. **[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. 41. [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. 42. [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:

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

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

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

(4) leaves the jurisdiction of this state;

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

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

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

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

31.10 Sec. 43. **REPEALER.**

31.11 (a) Minnesota Statutes 2010, sections 17.984; 28.15; 28A.12; 28A.13; 29.28; 31.031;
31.12 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision
31.13 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078;
31.14 32.475, subdivision 7; 32.61; 32.90; and 34.113, are repealed.

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