34A.02 ADULTERATION.

Food is adulterated if:

(1) it bears or contains any poisonous or deleterious substance which may render it injurious to 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 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 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 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 from the food; if any substance has been substituted wholly or in part for the food; or if damage or inferiority has been concealed in any manner;

(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 in the food 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.

History: *2012 c 244 art 2 s 25*