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, equipment, facility, or consumer commodity a tag, withdrawal from distribution order, or other appropriate marking giving notice that the food, animal, equipment, facility, 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, equipment, facility, 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, equipment, food stored in a facility, 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, article, equipment, 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, article, equipment, or animal is detained or embargoed for an order and decree for the condemnation of the food, article, equipment, or animal. The commissioner shall release the food, article, equipment, or animal when this chapter and rules adopted under this chapter have been complied with or the food, article, equipment, or animal is found to be not adulterated or misbranded.

Subd. 4. **Remedies.** If the court finds that a detained or embargoed food, article, equipment, 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, article, equipment, 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, article, equipment, or animal or the claimant's agent; and

(2) if adulteration or misbranding can be corrected by proper labeling or processing of the food, animal, or repair of the equipment, 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 or equipment properly repaired, has been executed, may by order direct that the food or animal be delivered to the claimant for proper labeling or processing or repairing of equipment under the supervision of the commissioner. The expense of the supervision must be paid by the claimant. The food, animal, or equipment

must be returned to the claimant and the bond must be discharged on the representation to the court by the commissioner that the food, animal, or equipment 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, piece of equipment, 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.

Subd. 7. **Emergency powers.** After an emergency declaration issued under chapter 12, chapter 35, or the federal Stafford Act, the commissioner may restrict the movement of food if the commissioner has probable cause to believe that the movement of food may: threaten the agricultural economy; transport a dangerous, infectious, or communicable disease; or threaten the health of animals. The commissioner may provide for the issuance of permits to allow for the continued movement of food upon meeting the control measures established by the commissioner.

History: *2012 c 244 art 2 s 34; 2015 c 44 s 20; 2019 c 38 s 20*