

§ 106-65.105A. Detention or embargo of product or item suspected of being adulterated or misbranded.

(a) If an authorized agent of the Department of Agriculture and Consumer Services finds or has probable cause to believe that any bedding, secondhand bedding, material, or other item regulated under this Article is unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or is otherwise in violation of the requirements of this Article, the agent may affix to the item a tag or other appropriate marking giving notice that the item has been detained or embargoed with information identifying the violation(s). It shall be a violation of this Article for any person to remove or alter a tag authorized by this subsection, or to remove or dispose of a detained or embargoed item by sale or otherwise, without such permission, and the tag or marking shall include a warning to that effect.

(b) When an item is detained or embargoed under subsection (a) of this section, an authorized agent of the Department of Agriculture and Consumer Services may petition a judge of the district or superior court in whose jurisdiction the item is detained or embargoed for an order for condemnation of the item. When an authorized agent has found that an item detained or embargoed is not unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or otherwise in violation of the requirements of this Article, the agent shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed item is unsanitary, mislabeled, or contains toxic materials, the item shall, after entry of the decree, be destroyed at the expense of the item's claimant, under the supervision of an authorized agent of the Department of Agriculture and Consumer Services; and all court costs and fees, storage, and other proper expenses shall be levied against the claimant of the item or the claimant's agent; provided, that when the unsanitary condition, mislabeling, safety concerns, or other violation can be corrected by proper labeling or processing of the item, 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 item shall be properly labeled or processed, has been executed, may by order direct that the item be delivered to the item's claimant for proper labeling or processing under the supervision of an agent of the Department of Agriculture and Consumer Services. The expense of the Department's supervision shall be paid by the claimant. The amount of any bond paid shall be returned to the claimant of the item on representation to the court by the Department of Agriculture and Consumer Services that the item is no longer in violation of this Article and that the expenses of the Department's supervision have been paid. (2016-113, s. 1(a).)