



Ohio Revised Code

Section 3716.04 Handling of violations not constituting serious danger to public health.

Effective: November 4, 1959

Legislation: Senate Bill 440 - 103rd General Assembly

(A) Whenever the director of health finds or has probable cause to believe that any hazardous substance is misbranded as defined in division (N) of section 3716.01 of the Revised Code, he shall, unless he finds that the article is so misbranded as to constitute a serious danger to the public health, give the manufacturer or distributor, whose name appears on the label, written notice of the suspected violation and an opportunity to reply to such notice within ten days. If the director finds that the article is so misbranded as to constitute a serious danger to the public health, or if after ten days following the written notice of the suspected violation he finds that the article is misbranded, he may, affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being in violation of section 3716.02 of the Revised Code, and has been detained or embargoed, and warning all persons not to dispose of such article by sale or otherwise until permission for removal is given by the director or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

(B) When an article detained or embargoed has been found by the director to be in violation of section 3716.02 of the Revised Code, he shall petition to any court of competent jurisdiction in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. When the director has not found within ten days that an article so detained or embargoed is in violation of section 3716.02 of the Revised Code, he shall remove the tag or other marking. When the director institutes proceedings under this section the embargo upon such goods shall remain in full effect until a final determination of such proceeding.

(C) If the court finds that the detained or embargoed article is in violation of section 3716.02 of the Revised Code, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the director, and all court costs, fees, storage, and other proper expenses shall be charged against the claimant of such hazardous substance or his agent; provided, that the violation can be corrected by proper labeling or processing of the substance, the



court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such substance shall be so labeled or processed, has been executed, may by order direct that the substance be delivered to the claimant therefor for such labeling or processing under the supervision of the director. The expense of such supervision shall be paid by such claimant. Such bond shall be returned to the claimant on representation to the court by the director that the substance is no longer in violation of section 3716.02 of the Revised Code, and that the expenses of such supervision have been paid.