



## Ohio Revised Code

### Section 3715.55 Notice of adulteration, misbranding, or expiration.

Effective: September 12, 2008

Legislation: House Bill 283 - 127th General Assembly

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(A) As used in this section, "expired" means:

(1) In the case of a drug, that the expiration date required by 21 C.F.R. 211.137 has passed;

(2) In the case of infant formula, the "use by" date required by 21 C.F.R. 107.20 has passed;

(3) In the case of baby food, that any expiration date, "use by" date, or sale date established by state or federal law or marked on the container by the manufacturer, processor, or packager has passed.

(B) Except as otherwise provided in this division, whenever the director of agriculture or the state board of pharmacy finds or has cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, or that a drug, infant formula, or baby food is expired, the director or board shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated, misbranded, or expired and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the director or the board or the court. No person may remove or dispose of a detained or embargoed article by sale or otherwise without such permission. This division does not apply to expired drugs donated pursuant to sections 3715.88 to 3715.92 of the Revised Code.

(C) When an article detained or embargoed has been found by the director or board to be adulterated, misbranded, or expired, the director or board shall petition the municipal or county court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. When the director or the board has not found within ten days that an article so detained or embargoed is adulterated, misbranded, or expired, the director or board shall remove the tag or other marking.



(D) If the court finds that a detained or embargoed article is adulterated, misbranded, or expired, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the director or the board, and all court costs, fees, storage, and other proper expenses shall be taxed against the claimant of the article or the claimant's agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, 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 the article shall be so labeled or processed, has been executed, may by order direct that the article be delivered to the claimant thereof for labeling or processing under the supervision of the director or the board. The expense of supervision shall be paid by the claimant. The bond shall be returned to the claimant of the article on representation to the court by the director or the board that the article is no longer in violation of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, and that the expenses of supervision have been paid.

(E) Whenever the director finds in any room, building, vehicle of transportation, or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable articles that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the articles are declared to be a nuisance, and the director shall forthwith condemn or destroy the articles, or in any other manner render the articles unsalable as human food.