

SENATE BILL REPORT

HB 1955

AS REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES,  
MARCH 28, 1991

**Brief Description:** Changing provisions regarding misbranded or adulterated food.

**SPONSORS:** Representatives Rayburn, Nealey, Kremen, McLean, Roland, Inslee, Rasmussen, Basich and Brekke; by request of Department of Agriculture.

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

**Majority Report:** Do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, Hansen, and Newhouse.

**Staff:** Steve Nelsen (786-7535)

**Hearing Dates:** March 28, 1991

**BACKGROUND:**

The state's Uniform Food, Drug and Cosmetic Act permits the Director of the Department of Agriculture to embargo articles of trade which are injurious or potentially injurious to the consuming or purchasing public. The director has 20 days in which to petition the superior court to affirm the embargo.

Rules adopted by the federal government under the federal Food, Drug and Cosmetic Act are adopted by reference under the state's laws. These rules apply and therefore limit the director's authority to adopt different rules, unless the director holds a hearing of nonapplicability within 30 days of the date the federal rules are adopted.

Most violations of the act are misdemeanors.

**SUMMARY:**

The director is empowered to impose civil penalties up to \$1000 per violation per day for violations of the Uniform Food, Drug and Cosmetic Act.

The director may embargo an article under the act for being adulterated or misbranded without a finding that the embargo is necessary to protect the public from injury or possible injury. The time period for the director to petition the superior court for an order affirming the director's embargo of an article is extended from 20 to 30 days.

Federal rules adopted under the federal Food, Drug and Cosmetic Act no longer limit the director's authority to adopt rules under the state act. Employees of the Department of Agriculture are authorized to take verified statements in enforcing the state act.

**Appropriation:** none

**Revenue:** yes

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The bill permits the Department of Agriculture to take actions to prevent contamination of food, rather than just responding to incidents of contamination. In its inspections, the department is finding incidents of contamination which require immediate response. Civil penalties will enhance the department's enforcement abilities in those rare instances where there is a lack of cooperation. Allowing field investigators to take verified statements from witnesses will lessen the need for the witness to testify in person.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Mike Schwisow, Department of Agriculture (pro)