

CONSENT AGREEMENT

BETWEEN

DONALD R. WAREHIME, D.O.

AUG - 8 1988

AND

THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement (hereinafter "AGREEMENT") is entered into by and between Donald R. Warehime, D.O., and The State Medical Board of Ohio, a state agency charged with enforcing Chapter 4731, Ohio Revised Code.

Donald R. Warehime, D.O., enters into this AGREEMENT being fully informed of his rights under Chapter 119, Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues considered herein.

This AGREEMENT is entered into on the basis of the following admissions and understandings:

1. Donald R. Warehime, D.O. (hereinafter "DR. WAREHIME"), admits that he received a notice of opportunity for hearing (hereinafter "citation letter"), which was dated November 11, 1987.
2. DR. WAREHIME states the following:
 - a. On or about April 9, 1987, agents of the State Pharmacy Board of Ohio were voluntarily given by DR. WAREHIME and his staff from DR. WAREHIME's office the drugs which are listed on "Table A" which was attached to the citation letter. Certain of said drugs were in bottles that were beyond the expiration date of said drugs. Certain of said drugs were placed in bottles that did not contain the labeling information set forth in §3715.64, Ohio Revised Code.
 - b. On or about March 26, 1987, DR. WAREHIME admitted to William L. Padgett, Enforcement Agent, the State Pharmacy Board of Ohio, that he administers and dispenses the hormones, testosterone and estrogen, to his patients for purposes of weight loss. Patients are injected

with 1/2 cc of estrogen or testosterone during their office visits, and are dispensed 1-1/2 cc of additional testosterone or estrogen in vials that are labeled before the patient leaves the office, placed in a styrofoam cup with ice with certain labeling instructions, the date and name of the drug, and specific instructions as to application, with instructions to inject themselves with 1/2 cc per week for three weeks.

c. On or about March 26, 1987, in the course of an inspection of DR. WAREHIME's office by William L. Padgett, Enforcement Agent, the State Pharmacy Board of Ohio, it was noted that DR. WAREHIME had in stock quantities of Phentermine HCL, a schedule IV controlled substance stimulant, which he had caused to be placed in vials for dispensing to his patients. Said stocks included thirty-six (36) vials of Phentermine HCL 37.5 mg. in amounts of twenty-eight (28), and twenty-nine (29) vials of Phentermine HCL 30 mg. in amounts of thirty (30). Phentermine HCL in such strengths is indicated for weight loss on a one-a-day basis only. DR. WAREHIME sends with each patient instructions and certain labeling that one pill per day is to be taken for twenty-eight (28) days.

3. DR. WAREHIME does not concede that the allegations contained in paragraph two (2), above, constitute violations of the provisions as alleged by the State Medical Board of Ohio in the citation letter.
4. DR. WAREHIME is fully prepared to contest the allegations contained in the citation letter and offer evidence to justify, explain, and support his conduct. However, because of his age and health, DR. WAREHIME is already in the process of winding down his practice of medicine and will retire on or before December 31, 1988. For this reason, and also to avoid the expense and uncertainty of a hearing before The State Medical Board, a possible appeal, and further litigation, DR. WAREHIME elects to enter into this AGREEMENT for the reasons herein expressed.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, DR. WAREHIME, knowingly and voluntarily, and The State Medical Board of Ohio (hereinafter "BOARD") agree to the following conditions and limitations:

- A. DR. WAREHIME agrees that upon the effective date of this AGREEMENT, he shall immediately surrender, shall be ineligible to hold, and shall not ever apply for, registration with the United States Drug Enforcement Administration to prescribe, dispense or administer controlled substances.
- B. DR. WAREHIME agrees that, sixty (60) days after the effective date of this AGREEMENT, he shall permanently refrain from the practice of medicine or surgery.
- C. DR. WAREHIME agrees that during the sixty (60) day period between the effective date of the AGREEMENT and his permanent cessation of the practice of medicine, he shall not see any new patients, except that DR. WAREHIME may see new patient(s) during this time period if an emergency is present and immediate care by DR. WAREHIME is necessary to treat the new patient(s).
- D. DR. WAREHIME agrees that during the sixty (60) day time period between the effective date of this AGREEMENT and his permanent cessation of the practice of medicine, he will obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.
- E. DR. WAREHIME agrees that he will permanently retire from the practice of medicine on December 31, 1988.
- F. DR. WAREHIME and the BOARD agree not to request modification of this AGREEMENT so long as all parties continue to abide by this AGREEMENT.
- G. The BOARD agrees to not proceed with any further proceedings or determinations of the matters set forth or alleged in the citation letter so long as DR. WAREHIME is in compliance with this AGREEMENT.

If in the discretion of the Secretary of BOARD, DR. WAREHIME appears to have violated or breached any terms or conditions of this AGREEMENT, the BOARD reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this AGREEMENT.

Any action initiated by the BOARD based on alleged violations of this AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119, Ohio Revised Code.

DR. WAREHIME hereby releases the BOARD, its members, employees, agents, officers, and representatives, individually and collectively, jointly and severally, from any and all liability arising from the within matter.

It is AGREED and UNDERSTOOD by and between both parties that this CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

IN WITNESS WHEREOF, we have hereto set our hands on the respective dates set forth below each signature:

FOR LICENSEE:

FOR THE STATE MEDICAL BOARD:

Donald R. Warehime
DONALD R. WAREHIME, D.O.
LICENSEE

Henry S. Cramblett M.D. */G.E. Rauch*
HENRY S. CRAMBLETT, M.D.
SECRETARY

8-2-88
DATE

8-5-88
DATE

Kenneth S. Blumenthal
KENNETH S. BLUMENTHAL, ESQ.
ATTORNEY FOR DONALD R.
WAREHIME, D.O.

John E. Rauch *no.*
JOHN E. RAUCH, D.O.
SUPERVISING MEMBER

8/4/88
DATE

8-5-88
DATE

Chris J. Costantini
CHRISTOPHER J. COSTANTINI
ASSISTANT ATTORNEY GENERAL

8/5/88
DATE

3962S

STATE OF OHIO
THE STATE MEDICAL BOARD
65 South Front Street
Suite 510
Columbus, Ohio 43266-0315

November 11, 1987

Donald R. Warehime, D.O.
530 Second Avenue
Gallipolis, Ohio 45631

Dear Doctor Warehime:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about April 9, 1987, agents of the State Pharmacy Board of Ohio seized from your office the drugs which are listed on the attached Table A. All said drugs were adulterated, as that term is defined in Section 3715.63, Ohio Revised Code, and/or misbranded, as that term is defined in Section 3715.64, Ohio Revised Code. You had admitted to an agent of the State Pharmacy Board during a previous conversation that you have never thrown anything away in more than forty (40) years of practice, and that you would often empty new bottles of stock into old bottles that were on the shelves.

Such acts in the above paragraph (1), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs," as that clause is used in Section 4731.22 (B)(2), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Sections 3715.52 and 3715.99, Ohio Revised Code, Prohibitions.

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Further, as concerns the 7-3/4 tablets of Quaalude 300 mg. and 238 tablets of Quaalude 150 mg., a Schedule I controlled substance, as listed in Table A, such acts in the above paragraph (1), individually and/or collectively, constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed", as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, Trafficking in Drugs.

- (2) On or about March 26, 1987, you admitted to William L. Padgett, Enforcement Agent, the State Pharmacy Board of Ohio, that you administer and dispense the hormones, testosterone and estrogen, to your patients for purposes of weight loss. Patients are injected with 1/2 cc of estrogen or testosterone during their office visits, and are dispensed 1-1/2 cc of additional testosterone or estrogen in unlabeled vials, with instructions to inject themselves with 1/2 cc per week for three weeks.

Such acts in the above paragraph (2), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs," and "failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts in the above paragraph (2), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, such acts in the above paragraph (2), individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

- (3) On or about March 26, 1987, in the course of an inspection of your office by William L. Padgett, Enforcement Agent, the State Pharmacy Board of Ohio, it was noted that you had in stock quantities of Phentermine HCL, a schedule IV controlled substance stimulant, which you had caused to be placed in vials for dispensing to your patients. Said stocks included thirty-six (36) vials of Phentermine HCL 37.5 mg. in amounts of twenty-eight (28), and twenty-nine (29) vials of Phentermine HCL 30 mg. in amounts of thirty (30). Phentermine HCL in such strengths is indicated for weight loss on a one-a-day basis only.

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Such acts in the above paragraph (3), individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-04(B) and/or 4731-11-04(B)(5)(a), Ohio Administrative Code. Pursuant to Rule 4731-11-04(C), Ohio Administrative Code, such violations also violate Sections 4731.22(B)(2), 4731.22(B)(3), and 4731.22(B)(6), Ohio Revised Code.

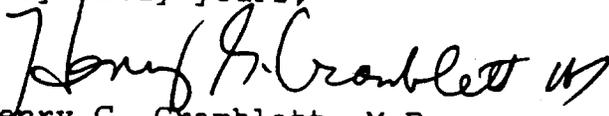
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing made within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Henry G. Cramblett, M.D.
Secretary

HGC:caa

Enclosures

CERTIFIED MAIL RECEIPT NO. P 026 073 381
RETURN RECEIPT REQUESTED

DRUG

AQUACCAINE 100CC
ASMINYL
B-COMPLEX C INJ
B1/B6/B12
BACTERIOSTATE WATER
BENTYL INJ
CALPHOSAN
CALPHOSAN-1312
CALUATE
CETANE 500CC
CHORIONIC GONADOTROPIN
CINCOSAL 20 CC
CLACIUM GLUCONATE 10 ML
CYANOCABALAMIN
CYANOCOBALAMIN
CYNACYL
DECARDON LA 5ML
DENBEE 10CC
DEXTRO AMPHETAMINE SULFATE
ESTRONE INJ
FERRO-ARSEN 10CC
FOLEXITE
GLUID-STAN-DILUENT
GOMENOL COMPOUND IN OIL 30ML
GYNERGEN
GYNOGEN R.P.
HYDROCHLORIC ACID
HYDROCORTISONE ACETATE 10CC
HYDROXOMIN
ISOTONIC PROCAINE HYD. 500
LA DEZONE
LUFYLLIN
MAGNESEUM SULFATE
NATURAL ESTROGENIC 2 MG/ML
NEO-TOPIX
NORFLEX
PHYATROMINE
PLASMO QB 30CC
PYRIDOXINE HCL
RHUS TOX ANTIGEN
ROBAXIN 10CC
SODIUM CHL.
SODIUM CHLORIDE
STERILE WATER INJ 10CC
TESTOSTERONE IM ONLY
THIAMINE HCL 30 ML
VISTANIL HCL
VITAMIN B
VITAMIN D
XYLOCAINE HCL

DRUG	QTY
8 DM	1 BOTTLE
STIFIED SRY	1 BOTTLE
ALERTONIC	1 BOTTLE
ALKALINE AROMATIC	1 BOTTLE
ALTERWAGEL	1
AMOXIL	1 BOTTLE
ANALGESIC	15 ML
ARTHROPAN	1
ASMINYL LIQ	2 BOTTLES
BARBIDONNA	1 BOTTLE
BELLADONNA	1 BOTTLE
BENADRYL	1/2 GAL
BENADYL ELIXER	1 BOTTLE
BI-K	1/2
CASCARA AROMATIC	1 BOTTLE
CEPASTAT	1/2
CETANE 500	8 BOTTLES
CHLORASEPTIC	30ML
CHOLEDYL	3 BOTTLES
CHOLEDYL TABS AND ELIXER	1 BOTTLE
GLYCERIN CP	1 BOTTLE
COMP. BENZION TINC	1 BOTTLE
COMTrex	1/2
DAYTOL NASAL SPRAY OIL	2 BOTTLES
DERMALAC	1 BOTTLE
DILUTED HYDROCHORIC ACID	1/4
DIMETAPP	1 BOTTLE
DONNAGEL PG	1 BOTTLE
ELIXIR SEDABLE COMP	1 BOTTLE
GANTANOL	3
GAVISON	2000
GENTIAN VIOLET	2 BOTTLES
GLYCERIN CP	2 BOTTLES
HAXIBER	1 BOTTLE
HYBEPHEN	1/4
	1 BOTTLE
ILOMEL	4 CANS
IODIDES	1 BOTTLE
ISOPHED	1 BOTTLE
KAON	1 BOTTLE
KAOPECTATE	1 BOTTLE
KOLYUM	1 BOTTLE
LACTIC ACID	1/4 GAL
LIQ. ANALGESIC BALM	1 BOTTLE
LOMOTIL	1/4
LORTHIO	10 BOTTLES
LUFYLLIN	1 BOTTLE
LUFYLLIN-GG	1 BOTTLE
MILANTA 2	30ML
MILK OF MAG.	3 BOTTLES
MISC.	9 BOTTLES
MODANE BULK	1/4
N.F. MOUTHWASH	4 JARS
NELDECON	3/4
NEORON SUSP.	10ML
NEUTHYLLINE	1/2
	1 BOTTLE

NOLVD.	1/2
NOVAHISTINE DH	1 BOTTLE
NOVAHISTINE	1 BOTTLE
ORGANIDIN	1 BOTTLE
ORGANIDIN SOL.	1 BOTTLE
ANACOL	1 BOTTLE
AND S LIQUID	1 BOTTLE
PAMINE	6 BOTTLES
PANMYCIN	1 BOTTLES
PANSCUG BODY LOTION	2 BOTTLES
PARADIRNE SULF. SUSP	5 BOTTLES
PHENERGAN VC	3 BOTTLE
PHENERGAN	1 BOTTLE
	3 BOTTLES
PHENERGAN VC	6 BOTTLES
POTTASSIUM CHL	2 BOTTLE
QUIBON	1 BOTTLE
QUIBRON	1 BOTTLE
RONIALCOLE ELIX	1/2 GAL
ROSE SULLABLE	6 BOTTLES
RYNA-C	3 BOTTLES
SILVER NITRATE	1 BOTTLE
SILVER NITRATE 10%	3 BOTTLES
SURGICOTA	1 BOTTLE
SYNOPHYLLATE ELIX	3/4
SYNPTOM	1 BOTTLE
T-125	1 BOTTLE
TAKA-DIASTASE	1/2
THEOPHIN	3 BOTTLES
TINCTURE HYOSCYANUS	1 BOTTLE
TINCHURE MOTAPHES	1 BOTTLE
TINCTURE BEMZION CP	1 BOTTLE
TINCTURE HYOSCYAMIS	1 BOTTLE
TINCTURE OF BELLADONNA	1 BOTTLE
TRIAMINIC	1 BOTTLE
TUSSAR SF	12 BOTTLES
TUSSEN EX	2 BOTTLES
TUSSI ORGANOIDN	4 BOTTLES
TYLENOL ELIX	1 BOTTLE
TYZNE	1 BOTTLE
VITAMINS	1 BOTTLE
VOSOL	1 BOTTLE
WRIGHTS BLOOD STAIN	1 BOTTLE
XYLENE	1 BOTTLE
XYLOCAINE 2%	20 ML
ZENTRON	1 BOTTLE
ZYLATE	1 BOTTLE

DRUG	QTY
A.L. CAROID POWDER	
ABC-DIENESTROL	12.0
ACHOL	15.0
ACHOL-TABS	20.0
ACHROYCIN	15.0
ACI-GEL CREME	5,000.0
ACTIFED	1.0
ACUSOL	100.0
ACUTUSS	500.0
ADRENNUCLEO	100.0
ADVIL	1,000.0
AFRODEX	50.0
ALBURON	100.0
ALCHOL TABS	500.0
ALDACTAZIDE	100.0
ALDACTONE	100.0
	500.0
	40.0
	30.0
ALDORIL	
	200.0
	100.0
ALDORIL D30	
ALDORIL-D50	80.0
ALLBEE W-C	70.0
ALLER	5.0
ALUPENT INHALER	3,000.0
ALUPENT	30.0
AMINO ACID	800.0
AMINO ACID TABS	1,000.0
AMINO ACIDS/BL	1,000.0
AMINOPHYLLIN	500.0
AMMONIUM CHLORIDE	500.0
AMOXIL	350.0
	30.0
	20
	2.0
AMPHEDASE	
AMPICILLIAN	300.0
ANALOIZER	300.0
ANAMINE	75.0
ANAPHASE	1.0
	25.0
	25.0
ANAPHEN	
ANATUSS	100.0
ANDOSIX	50.0
	800.0
	300.0
ANEXSIA-D	
ANADRON	3.0
ANHYDRON-K	50.0
ANODYNOS-DHC	20.0
ANSFOR	500.0
	100.0
	20.0
ANTI-ACIDTABS	
	25.0

ANTURANE	
APASAL	35.0
AFC TABS	300.0
APFEASE	9,000.0
APRESAZIDE	2,000.0
	50.0
	30.0
ARCHROCIDIN	
ARISTOCORT	50.0
ARLIDIN	500.0
	1,000.0
	400.0
	10.0
ARTANE	
ARTHRIN	500.0
ASA HAB	100.0
ASCORBIC ACID	1,000.0
ASCORBICAP	800.0
ASCRIFTIN A/D	10.0
ASCRIPTON	30.0
ASENDIN	500.0
	300.0
	100.0
	50.0
	30.0
ASMINYL	
ASCORBIC ACID	1,000.0
ATACAPS	5.0
ATIVON	12.0
	12.0
	5.0
ATTHRIN	
ABRALGAN OPTIC TABLETS	1,500.0
AVC-3000	200.0
AVENTYL	10.0
AYOTAC	20.0
AYOTAL	30.0
AZENE	600.0
AZO-SANTRISIN	100.0
AZO-MANDELAMANE	70.0
ZI/B6/B10	100.0
BACTRIM	7.0
	100.0
	100.0
BANCAF-HC	
BARSISODITE	400.0
BARD-SE	40.0
BECCITIN	500.0
	70.0
	75.0
BELLERID	
	100.0
	100.0
BENADRYL	
BENDECTIN	100.0
BENEMID	100.0
BENISONE	80.0
BEROCCA	1.0
BEROCCA PLUS	100.0
BETAIN-HCL	30.0
BITRINSIC	5,000.0
	90.0

INTRINSIC-E BLOCADREN	800.0 1,000.0 10.0
BOWTAB	
BREONESIN	2.0
BRETHINE	12.0 75.0 6.0
BREXIN	
BRICANYL	10.0 130.0 100.0 50.0 3.0
BRINCANYL	
BROKOMETER	100.0
BRONCHISOTE	40.0
BRONDECON	900.0 150.0 25.0
BRONDILATE	
BRONKODYL	1,200.0 400.0 100.0 50.0 25.0
BRONKODYL INHALER	
BRONKODYL-2 INHALER	40.0
BRONKOTABS	500.0
BRONKOTABS	300.0 50.0 50.0
BUCALON	
BUCALON	75.0 400.0 100.0
CALCIUM	100.0 100.0
CALCIUM PANGANATE	
CANTIL	10.0
CAPACOL	50.0
CAPOTEN	100.0
CARINATE	50.0 100.0
CARDIOQUIN	
CARDIQUIN	80.0
CYAPLEX	50.0
CEBETINIC	10.0
CELESTONE	300.0
CENASERT	200.0
CENTRAY	330.0 500.0 50.0
CERASTAT	
CEPLUMENEX	50.0
DETANE	10.0
CHELARATE	10.0 20.0

CHILDRENS ASPIRIN	
CHLOR-TRIMETON	1,000.0
CHLOR-TRIMENTON	1,000.0
CHLORASEPTIC	60.0
CHLORHENIRAMINE MALFATE	36.0
CHLORO-SUL VAG SUPP	200.0
CHLORPHENIRAMINE	292.0
CHODEDYL	2,200.0
CHOLANE DH	1,600.0
CHOLEDYL	100.0
	100.0
	100.0
	75.0
	50.0
CHOLEDYL LIQ	
CHOLEDYL SA	1.0
CHOLEDYL-SA	100.0
CHORYSHENIRAMINE	100.0
CLEOCEN T	2,000.0
CLEOCIN-T	10.0
CLINDRIL	10.0
	1,000.0
	200.0
	30.0
CO-PYSONIL	
COBIRON	100.0
COLY-MYCIN	75.0
COMPAZINE	20.0
	100.0
	50.0
CONTRON	
CONAP-40	100.0
CONESTRON	100.0
CONHIST	30.0
CONSTAT-T	50.0
CONSTAN	200.0
CONTRON	50.0
CONTROL-D	100.0
CORIGARD	25.0
	100.0
	70.0
CORICIDIN D	
CORICIDIN	50.0
	100.0
	30.0
COPICIDE	
COUMADIN	50.0
CREMOR	50.0
	4.00
	1,000.0
CRYSTODIGEN	
CYCLAPREN	500.0
	20.0
	10.0
CYCLAPREN W	
CYRUTA-A-PLUS	20.0
DAINITE LL	35.0
DALMANE	150.0
	200.0
	100.0
	30.0

INCREASE DARICON	200.0 100.0 100.0
DARVACET DARVON	50.0 125.0 25.0
DECADRON DECADRON CREAM DECADRON OINTMENT DELFIN VAG CREAM DERMA D CREME DESOXYEPHEDRINE DESYREL DETAIN HCL DI-METREX DIABATA DIALOG DIALOSE	1.0 100.0 6.0 70.0 4.0 100.0 500.0 5,000.0 100.0 30.0 30.0 150.0 100.0
DIANABOL DIANARDL DIAMITE KL DIAZINE DIANARDL DIUMORAL DIEMESTROL CREAM DIEMESTROL CREAM DIETHYLSTILBESTROL DIGEST TABS DIGESTIZIME	100.0 200.0 100.0 100.0 10.0 30.0 355.0 21.0 10.0 500.0 1,000.0 800.0
DILANTIN DILATRATE	100.0 50.0 10.0
DILSO ELIXIR DILYN DIMACOL DIMETAPP DIPHENHYDRAMINE HYD DIUCARDIN	20.0 1,000.0 100.0 100.0 100.0 100.0
DIUPRES DIUPRES-500 DURIL DOLISID	400.0 50.0 20.0 1,000.0 255.0
DOMOSO-GEL DONABARS DONNATAL DOPHENCO DORIDEN DRAMAMINE DROP-A-WEIGHT DURIL	50.0 1,000.0 100.0 900.0 15.0 100.0 15.0 25.0

BITENSEN	
DURICEF	500.0
DV CREME	10.0
DYRENIUM	7.0
	800.0
	200.0
	20.0
E-FEROL	
E-MYCIN	300.0
EASFRIN	10.0
ECOPROL	50.0
EDECIN	10.0
EFEROL SUCCINATE	50.0
EL-FED-RON	100.0
ELAVIL	20.0
	75.0
	30.0
ELDER	
ELIXOPHYLUN SR	10.0
ELZYME	80.0
ELZYME 303	25.0
EMKO VAG FOAM	10.0
EMPLETS THROID	30.0
EMPRACIL	4,000.0
ENDECIN	15.0
ENDURON	50.0
ENDURENYL	100.0
	500.0
	50.0
ENOVID	
EPICORT LOTION	400.0
ERUANIL	20.0
ERCO-STAT	200.0
ERGOSTAN	20.0
ERGOTRATE	10.0
ERY-125	30.0
ESBIC	10.0
	10.0
	70.0
	15.0
ESIMIL	
ESTROVAG	20.0
ESTROVIS	24.0
ETHATAL	50.0
ETHER	10.0
	14.0
	14.0
ETHE IL	
ETRAFON	10.0
	40.0
	30.0
EURAX CREME	
EVAC-U-GEN LAXATIVE	300.0
EVAC-U-GEN	1,000.0
EVACUGEN	300.0
F-8-C-TABS	2,000.0
FASTIN	1,000.0
FBC TABLETS	20.0
FEMOGEN	200.0
	100.0
	5.5

FEMOGEN CREAM	6.0
	3.5
	2.0
FEMOGEN SUPP	
FENROUS SULFATE	14.0
FENYL-C	75.0
FEOSOL	100.0
FERO-GRAD 500	50.0
FERR-DICAL	25.0
FERRON	200.0
FESTAL	50.0
FIBERCON	75.0
FIGGESIC	500.0
FLAGYL	25.0
FLATULENCE	30.0
	1,000.0
	1,000.0
	100.0
FLEXERIL	
	50.0
	32.0
FLORONE OITMENT	
FORMULA K	50.0
FULVICIN P-6330	9.0
FURACIN CREAM	100.0
FURACIN VAG SUPP	114.0
FURADANTIN	144.0
GASTOMINS	75.0
GASTOMINUS	3,000.0
GAVISON-2	500.0
GELATINE	70.0
GELUSIL	25.0
GELUSTIL-2	10.0
GENTIAN VIOLET	50.0
GENSTATS-4	500.0
GERITHE IMP	500.0
GERONIAZOL TT	1,000.0
GERONIAZOL	500.0
GEVREST IN	400.0
GEVRITE	100.0
GLCOTONE	40.0
GLUCONIC	500.0
GLYCOTONE	500.0
GRISACIN	1,900.0
GUICE CREME	300.0
GYBEN CREME	5.0
GYNE-LOTTRIN	10.0
HEB	100.0
HELDOL	100.0
	100.0
	80.0
HALORONE	
	400.0
	300.0
HALOTETSTIN	
HARMONYL	50.0
HEB	100.0
HEMOCAINE	500.0
HEPA-DESICOL	15.0
HEPARIN SODIUM	800.0
	10.0

PLAN	
HESPERIDIN-C	10.0
HEXA-BETALIN	500.0
HIPREX	10.0
	100.0
	25.0
HONEY BEE POLEN	
HYDRELT	75.0
HYDELTRA-TBA	6.0
HYDERGINE	5.0
	400.0
	100.0
	20.0
HYDRO-RESERP	
HYDRODIURIL	1,000.0
HYDRODURIL	20.0
HYDROMOX	100.0
HYDROFRES	500.0
HYDRYLLIN	25.0
HYGRO 10	25.0
HYGROTEN	100.0
HYGROTON	500.0
	500.0
	500.0
IBERET-FOLIC	
ILOCALM	10.0
ILOPAN-CHOLINE	100.0
ILOSONE	30.0
	10.0
	10.0
ILOTYCIN OINTMENT	
INDERIDE	1.0
INDINON	50.0
IODIZED LIME	100.0
IODIZED SALT	500.0
ISUNAMIN	2,000.0
ISOPTO-DETAMINE	3.0
ISORDIL	105.0
	50.0
	100.0
	20.0
	10.0
	10.0
ISUPREL INHALER	
ISURDIA	75.0
K-B-F WITH SODIUM	100.0
K-DIPAL	200.0
K-LIP	10.0
K-LITE	10.0
KAFODIN	5.0
KAFODIN	40.0
KADON	100.0
KADON CL 10	50.0
KADON CL TABS	800.0
KATO	500.0
KLOTRIX	148.0
KOLANTYL WAFERS	800.0
KOLOYD	100.0
KUTROL	400.0
LANOIN	100.0
LASIX	100.0
	200.0

	105.0
LEVOPHEN	4,000.0
	100.0
LEVSIN	200.0
LIBITOTABS	50.0
LIBRATABS	100.0
LIBRIUM	20.0
	14.0
LIDOSPORIN OPTIC SOLUTION	40.0
LIMBITROL	200.0
LIVITAMIN	100.0
LIYA-PLEX	20.0
LOPID	100.0
	100.0
LOPPRESSOR	800.0
	500.0
	75.0
LOFURIN	50.0
LOTRIMIN	30.0
LUERIM	27.0
LUDIOMIL	25.0
LUFKIN	500.0
LYSOZYME	25.0
M-A-11 VITAMINS	25.0
MARAX	1,700.0
MASARNESEPHTATE 812	5.0
MALABEETIC	100.0
MANDELAMINE	50.0
MANDOSTAT	75.0
MANTOL MEYAL PHENERVA	500.0
MAOLATE	200.0
	50.0
MARAX	30.0
MATHEAMINE	1,000.0
MAXIDE	100.0
MAZAMP	50.0
MECLOMEN	300.0
	500.0
	100.0
MEDROL	25.0
MEGA-PAGE	100.0
MELLAFOL	400.0
	200.0
MELLEROL	100.0
MONEST	1,000.0
MEPHO-D	300.0
MEPROBAMATE	200.0
MEROL	30.0
MESULFIN	100.0
METHYL TESTOSTERONE	1,000.0
	100.0
METHYL-TESTOSTERONE	20.0

HYLTEST USTERONE

METROPINE	10,000.0
MI-CEBRIN	200.0
MI-CEBRINT	75.0
MICRAININ	200.0
MIDRIN	100.0
MINICIN	100.0
MINIPRESS	100.0
MINIZIDE	30.0
MINOCIN	20.0
MISC CREMES	150.0
MOBRIFYN	5.0
MODANE	1,000.0
MODANE PLUS	200.0
MODURECTIC	100.0
MODURETIC	400.0
MONISTAT	27.0
MONISTATT	23.0
MOTRIN	56.0
	500.0
	100.0
MUCAMIDE	
MULTI VITAMIN	900.0
MULTI-METHYL AM	2.0
MULTIPLE VITAMIN	60.0
MULTRATE	100.0
MYADEC	50.0
MYCOLOG-2 CREAM	15.0
MYCOSTATIN	8.0
	80.0
	12.0
MYLANTA	
MYLICON	1,000.0
MYLICON 80	80.0
MYSOLENE	100.0
NAPROXYN	1,000.0
	150.0
	5.0
NAPT	
NEO-CORTISTAN OINTMENT	700.0
NEO-GUIGODIDE	1.0
NEO-HYDRO KLIPS	5.0
NEO-MAGNACORT OINTMENT	25.0
NEOCYLATE HCL	10.0
NEODECADRON OINTMENT	50.0
NEOPHORINE	15.0
NEPYTAL	10.0
NEVITOL	1,000.0
NIACIN	25.0
NIALEX	100.0
	1,000.0
	1,000.0
NIATRE	
NICOSID	100.0
NICOSPAN	100.0
	100.0
	60.0
NIFEREX	
	12.0
	10.0
NILSTATE ORAL DROPS	48.0

TABLE A

NITRO STAT	200.0
NITRO-BID	100.0
NITROBID	200.0
	200.0
NITROGLUETRON	50.0
NITROGLYCERIN	200.0
NITROGLYN	180.0
NITROSPAN	20.0
NITROSTAT-SR	50.0
NGCTEC	100.0
NOLAMINE	30.0
NOLUDAR	50.0
NORAPACE-CR 150	170.0
NORBRAMIN	100.0
NORDETTE	357.0
NORDETTES	181.0
NORFLEX	100.0
NORLESTRIN	8.0
NORMOBYNE	200.0
NORMODYNE	100.0
NOROXIN 400	50.0
NORFACE	100.0
NORFRAMIN	30.0
NOVAFED	14.0
NOVAFED-A	100.0
NOVAHISTINE	100.0
	30.0
	11.0
NU-IRON	15.0
NU-IRON V	25.0
NUPPIN	30.0
NYLMERATE JELLY	4.5
OBESTAT	30.0
	10.0
OC-U-ZIN	12.0
OGEN	2,000.0
OPACEDON	25.0
OPTIMINE	70.0
	2.00
OR-ESTRO	1,000.0
ORAMAG	25.0
ORDIS	15.0
ORNACOL	15.0
ORPAGE	15.0
ORNEX	100.0
OROCAL	100.0
	75.0
	10.0
OROMAG	50.0
	25.0
OROMAY	100.0
ORTHO-NOVUM 1/50	42.0
ORUDIS	200.0
OTOMYXIN OPTIC SOLUTION	20.0
OTOMYXIN	

CLRAL	
OVSTATIN	210.0
P-200	70.0
PALATREIZINE	10.0
PALICYMIN-C	900.0
PANCREASE	1,000.0
PAPASE	10.0
PARAFON FORTE	25.0
	100.0
	50.0
PARASED	
PARLOID THYROID	100.0
PARMULIN	5,040.0
PATHIBAMTE	300.0
PATHILON	150.0
PAVA KEY	700.0
PAVABID	60.0
PAVABID HF	25.0
PAVAKEY	100.0
PAXIPAM	100.0
PEDIATAB	200.0
PEDICON	900.0
PENICILLAN TABS	20.0
PENTESTAN	25.0
PENTHRANE	900.0
PENTRYATE	75.0
PERFULE	96.0
PERI COLACE	200.0
PERIHEMIN	10.0
PERIQUIN	20.0
PERITRATE SA	1,200.0
PHARMEZ	400.0
PHAZINE-95	25.0
PHENAZINE	30.0
PHENERGAN COMP	1,800.0
PHENERGAN O	200.0
PHENERGAN	50.0
PHENERGAN COMP	50.0
PHENERGAN-O	30.0
PHENTAZINE	25.0
PHENTOL 2	2.0
PHENYL L.A. CAP	100.0
PHENYL-MINE	25.0
PHYLLCONTIN	20.0
PITUITARY	100.0
	2,000.0
	1,000.0
	1,000.0
	1,000.0
PITUITROPHEM	
PLESINE	100.0
POLARAMANE	20.0
PONSCEL	20.0
PORANTH	12.0
POROSTACIN	1,000.0
POTASSIUM CHL	190.0
POTASSIUM GLUCONATE	1,000.0
	125.0
	100.0
POTASSIUM-PERMANGANATE	
POTASSIUM-GLUCONATE	100.0
PRECEPTIN	100.0

TABLE A

FREDNICYL	
FREDNISNONE	50.0
FREDNISOTONE	100.0
FREMARIN	500.0
	112.0
	112.0
	25.0
	25.0
PREMARIN CREAM	
PRIODAX	112.0
PRO-AMS	90.0
PRO-BANTHINE	1,000.0
PRO-F WAFERS	400.0
PROBUTYLIN	1,200.0
PROCAN SR	25.0
PROCARDIA	30.0
PROLIXIN	100.0
PROLOID	400.0
PROPAHIST	15.0
PROPAMINE PLUS	50.0
PROPOXPHENE	8.0
PROSTAPHLIN	30.0
PROTEIN	6.0
PROTEIN WAFERS	25.0
PROTEIN WAFERS	1,000.0
PROSTAT	500.0
PROVENTIL	3.0
PROVENTIL INHALER	50.0
PROXON	24.0
PRYLOXIM	100.0
QUADRECIN	200.0
QUADRINAL	900.0
	200.0
	100.0
QUINAPRIL	100.0
QUINERON	15.0
QUINERON PLUS	20.0
QUINERON T	25.0
QUINERON-T	25.0
QUINERON-TYER	200.0
QUINERON-TSR	200.0
QUINAPRIL	100.0
QUINIDINE	75.0
	100.0
	100.0
RACIPROXIN	100.0
RAGLON	100.0
RE-CLUF	100.0
RE-CLUF	4.0
RENTAL-MEDICINE	7,000.0
REGLIN	20.0
REGROTEN	30.0
	300.0
	10.0
RENATAB	
	1,000.0
	400.0
RENESE	
RENESE	500.0
REPENDO	25.0
RESERPTINE	50.0

...DUFOIS	
RITONIC	5,000.0
ROBAXIN	100.0
ROBAXISAL	400.0
RODEX T.D.	10.0
	1,000.0
	800.0
	100.0
ROMILAR	
RONDONMYCIN	200.0
RONIACOL	7.0
	50.0
	40.0
RONIACOL TIMESPAN	
RU-LOR	75.0
RU-VERT	10.0
RU-VERT-M	20.0
SANDOREX	6.0
SANDOREX	25.0
	400.0
	60.0
SCR-AP-ES	
SEATONE	50.0
SEBIZON LOTION	2,400.0
SECTRAL	3.0
SEMICID	300.0
SENOKOT	36.0
	120.0
	50.0
SERAX	
	100.0
	100.0
	50.0
	35.0
SIBLIN	
SIGTAB	12.0
SIMRON	550.0
SIMRON PLUS	150.0
	525.0
	100.0
	100.0
SINEME	
SINEQUAN	100.0
SINGLET	25.0
SINUSID	25.0
	200.0
	100.0
	100.0
SIBLIN	
SIGTAB	25.0
PLUS COMPALINE	50.0
SLOW F	25.0
SLOWFE	75.0
SNTHROID	25.0
SODIUM SALICYLATE	20.0
	3,000.0
	500.0
	100.0
SOMA	
	24.0
	15.0

SOMA COMP	25.0
	20.0
SOMA COMP/CODIENE	100.0
SOMA COMPOUND	1,000.0
	300.0
	75.0
SOMACORT	
SPARINE	100.0
SPAROLIN	15.0
SPASTICAL SA	500.0
SPECOLIN	300.0
SFOROSTACIN CREAM	2,000.0
	285.0
	96.0
SPOROSTACIN	
	95.0
	1.0
STATUSS	
STEAMINE OTIC	25.0
STELAZINE	160.0
	400.0
	50.0
	10.0
STEFFISAL	
STERANE	1,000.0
STERO-DARVON	300.0
STN-29	25.0
	16.0
STRYCHNINE SULFATE	
STUART PRENATA	1,000.0
SUDAFED	100.0
SULFA-DEEPRYN CREME	500.0
SULFADIAZINE	1.0
SULFACETS	5,000.0
	5,000.0
	900.0
	500.0
SULFASTTIN CREME	
SULFATHIAZOLE	2.0
SULFER POWDER	900.0
SULFRDIAZINE	74.0
SULTRIM CREAM	300.0
SUMYCIN	46.0
	40.0
	15.0
SUPRESS	
SURBEX-T	50.0
SY NOPHYLATE	15.0
SYNALAR CREAM	300.0
SYNALGOS	135.0
SYNALDS	15.0
SYNTHROID	25.0
	2,100.0
	140.0
	50.0
	50.0
TAGAMET	
	50.0
	20.0
	16.0

TAL-ESTAMINE	
TALACEN	800.0
TALUDON	50.0
TALWIN	300.0
TANDEARIL	15.0
TAVIST	500.0
	75.0
	20.0
TEDRAL	
	200.0
	100.0
	15.0
TEDRAL SA	
TEDROL	500.0
TELERON	50.0
TEN-K	100.0
TENUATE DOSPAN	24.0
TERIMINE	50.0
TERRA-CORTRIL ODNMENT	12.0
TERRAMYCIN	20.0
	100.0
	15.0
TESSALON	
TESTON	25.0
TETRACYN	50.0
THEO-24	10.0
THEO-DUR	100.0
THEO-NAR	100.0
THEOVENT	100.0
THEPA-COMBEX	100.0
	300.0
	25.0
THERACAL	
THERAGRAN	10.0
THERAGRAN-M	10.0
THERGAN	25.0
THERUHISTIN	10.0
THIAMINE	100.0
	4,500.0
	500.0
	75.0
THORAZINE	
	75.0
	3.0
THYLOGENNALATE	
THYROIDINE	50.0
THYROID	400.0
	10,000.0
	1,000.0
	700.0
	500.0
	200.0
	200.0
	30.0
THYROLOR	
TIGAN	25.0
TIMOLIDE	250.0
TIN-TABS	400.0
TOFRAVIL	300.0
TOLERON	120.0
	50.0

DOXYCYCLINE	
TORECAN	350.0
TORR-LOSE	100.0
TRANDATE	150.0
TRI-AMINE	50.0
TRI-BARBS	400.0
TRI-SULFATE	75.0
TRIAMINIC	5,000.0
	15.0
	10.0
TRIAVIL	
	300.0
	150.0
	100.0
	25.0
	20.0
TRIHEMIC	
TRILCIFON	35.0
TRILISATE	500.0
TRILISOTE	20.0
TRIMAGILL	100.0
TRIMPEX	40.0
	20.0
TRIPHASIL-21	105.0
TRIPLE-SULFATE	1,000.0
TRMPAGESIC EAR DROPS	10.0
TROSE	1,000.0
	500.0
TRULOS	
TULECTIN	22.0
TURBINATE DECARDRUM	100.0
TUSEGEN	10.0
TUSEND	400.0
TUSSIONEX	25.0
TYDOLIN	25.0
TYZINE NASAL DROPS	15.0
ULTRACE F	135.0
ULTRACEF	20.0
	11.0
	10.0
UNIPEN	
UNISOM	25.0
UNKNOWN	25.0
UNKNOWN BLUE TAB	4.0
UNKNOWN GREEN/WHITE CAPS	3,000.0
UNKNOWN GREEN	30.0
UNKNOWN PINK TABS	15.0
UNKNOWN PINK/WHITE CAPS	25.0
UNKNOWN RED/WHITE CAPS	25.0
UNKNOWN RED TABS	100.0
UNKNOWN RED/CLEAR CAPS	50.0
UNKNOWN RED ATABS	30.0
UNKNOWN TABS	15.0
UNKNOWN WHITE TABS	12.0
	5,000.0
	100.0
	4.0
URIPASS	
UROBIOTIC-250	150.0
UROBITIC	50.0
UTIBED	50.0
	50.0

CYS-TINE	
VAGITRIC	800.0
VALETHAMATE BROMIDE	6.0
VALISONE SPRAY	5.0
VALIUM	170.0
	50.0
	10.0
VALRELEASE	75.0
VANOBID	512.0
	12.0
	8.0
	4.0
	2.0
VAONBID	
VASCULIN	2.0
VASODILAN	15.0
VASOTEC	100.0
VASUTEC	20.0
VEETIDS	50.0
VEGA-TROL	50.0
VIBRA-TABS	1,000.0
VISKIN	10.0
VISTARIL	25.0
	200.0
	75.0
VITALITY PLUS	
VITAMIN A TABS	15.0
VITAMIN B	100.0
VITAMIN B-6	200.0
VITAMIN B6	900.0
VITAMIN C	2,000.0
VITAMIN E	15.0
	4,000.0
	100.0
VITAMIN F	
VITAPEDS	1,000.0
VITAPLUREX	21.0
VOLAXIN	1,000.0
VOSOLSTIC	250.0
WHCHOL	270.0
WHEAT GERM OIL	100.0
WINSTROL	1.0
WYANYCIN	100.0
WYTERSEN	10.0
	200.0
	25.0
	20.0
X-OTAG	
XANTHINOL	2,000.0
X-MIS	800.0
Z-BEL	1,000.0
ZACTIRIC	5.0
ZENTINIC	100.0
ZESTAN	400.0
ZINC SULFATE	1,000.0
	900.0
	200.0
ZYLOPRIN	
	20.0

Donald R. Warehime, D.O.

QUAALUDE 300 mg.
QUAALUDE 150 mg.
RITALIN 10 mg.
BIPHETAMINE

TABLE A

7 3/4
238
914
17

Vinegar, shall brand on each head of each cask, barrel, or keg containing such vinegar, the name and residence of the manufacturer, the date when manufactured, and the words "cider vinegar." Vinegar shall not be branded "fruit vinegar" unless it is made wholly from apples, grapes, or other fruits.

HISTORY: GC § 5793; RS § 4200-54; 84 v 216, 219 v 185, § 4. EF 10-1-53.

Research Act
Vinegar; Labeling:
O-Jur2d Food § 25
Am-Jur2d Food §§ 25, 29

§ 3715.36 Prohibition against selling vinegar not made or branded in compliance with law. (GC § 12774)

No person shall manufacture for sale, sell, deliver, or offer or expose for sale, or have in his possession with intent to sell or deliver, vinegar not made in compliance with sections 3715.28 to 3715.35, inclusive, of the Revised Code, or contained in packages not branded in compliance with such sections.

No person shall violate sections 3715.28 to 3715.36, inclusive, of the Revised Code.

Whoever violates this section shall pay all necessary costs and expenses incurred in inspecting and analyzing the vinegar.

HISTORY: GC § 12774; RS § 4200-53, 4200-54; 92 v 100 § 4; 93 v 185, § 4. EF 10-1-53.

Cross-References to Related Sections
Penalty, RC § 3715.39(C).

CASE NOTES AND OAG

1. The manager of a mercantile corporation may be prosecuted, even though the adulterated article is sold or offered for sale by an agent of such corporation, and the offense is tried in the county in which such article is sold or offered for sale. *Meyer v. State*, 54 OS 242, 43 NE 2d 101.

§ 3715.37 Branding of cider vinegar by manufacturing farmer. (GC § 5794)

Sections 3715.28 to 3715.36, inclusive, of the Revised Code apply to any farmer who manufactures for sale in any one year more than twenty-five barrels of pure cider or fruit vinegar. Such vinegar must be branded "domestic cider vinegar," and marked with the name of such farmer and the date of its manufacture.

HISTORY: GC § 5794; RS § 4200-54; 84 v 216, 219 v 185, § 4. EF 10-1-53.

3715.38 [Labeling of honey.]

No person shall sell, offer, or expose for sale any product that is:

(A) In the semblance of honey and labeled as

honey, or otherwise represented to be honey if it is not honey;

(B) In the semblance of honey and containing a label that applies the word "imitation" to the product, regardless of whether it contains any honey;

(C) In the semblance of honey and is a blend of honey and other ingredients that contains a label with the word "honey," or any picture, drawing, or other representation implying honey, when such word, picture, drawing, or representation is more prominently displayed than the word "blend" or other word clearly implying the existence of other ingredients.

HISTORY: 136 v H. EF 10-31-75.

Cross-References to Related Sections
Penalty, RC § 3715.99(A).

Comparative Legislation

Labeling of honey:
—Ann. Stat. ch. 56½, § 511
N.Y.—Agric. & Mkts. Law § 206
Pa.—Stat. Ann. tit. 31, § 382

[ADULTERATION AND MISBRANDING]

§ 3715.52 Prohibitions.

The following acts and causing them are prohibited:

(A) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;

(B) The adulteration or misbranding of any food, drug, device, or cosmetic;

(C) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(D) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 3715.61 or 3715.65 of the Revised Code;

(E) The dissemination of any false advertisement;

(F) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 3715.70 of the Revised Code;

(G) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom he received in good faith the food, drug, device, or cosmetic;

(H) The removal or disposal of a detained or embargoed article in violation of section 3715.55 of the Revised Code;

(I) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part

of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded;

(J) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under sections 3715.52 to 3715.72 of the Revised Code;

(K) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that any application with respect to such drug is effective under section 3715.65 of the Revised Code or that such drug complies with the provisions of such section;

(L) The sale, offering for sale, giving away, or delivery at retail or to the consumer without a prescription from a physician, veterinarian, or dentist of any drug which under federal or Ohio law can be sold only on prescription;

(M) The using by any person to his own advantage, or revealing, other than to the director of agriculture or to the courts when relevant in any judicial proceeding under sections 3715.52 to 3715.72 of the Revised Code, any information acquired under authority of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, concerning any information which as a trade secret is entitled to protection;

(N) The issuance by the manufacturer, packer, or distributor of a dangerous drug of any advertisements, catalogues, or price lists, except those lists specifically designed for disseminating price change information, that do not contain in clearly legible form the name and place of business of the manufacturer who mixed the final ingredients and if different, the manufacturer who produced the drug in its finished dosage form and, if different, the packer or distributor.

HISTORY: 127 v 819 (EF 9-13-57); 129 v 582 (799) (EF 1-10-61); 137 v S 45. EF 1-1-73.

The effective date of S 45 is set by section 3 of the act.

Cross-References to Related Sections

Penalty, RC § 3715.99(D).

Applicability of RC §§ 3715.52 to 3715.71 to the sale of shell eggs when not in conflict with RC §§ 925.02 to 925.07.1, RC § 925.02.

Pharmacists; disciplinary action by state board of pharmacy for willful violation of RC §§ 3715.52 to 3715.72, RC § 4729.16.

See RC §§ 3715.01, 3715.52, 3715.54-3715.57, 3715.59, 3715.60, 3715.63-3715.71 which refer to RC §§ 3715.52 to 3715.72.

See RC §§ 3715.01, 3715.53, 3715.54, 3715.99 which refer to this section.

Ohio Administrative Code

Display of placard. OAC 901:3-23-02.

Comparative Legislation

Adulteration of food:

Cal.—Health & Safety Code §§ 26520 et seq

Fla.—Stat. Ann. § 500.10

Ill.—Ann. Stat. ch. 56½, § 506

Ind.—Code § 16-1-29-2 et seq

Ky.—Rev. Stat. Ann. § 217.025

Mich.—Comp. Laws Ann. § 289.716

N.Y.—Agric. & Mkts. Law § 198 et seq

Pa.—Stat. Ann. tit. 31, § 1 et seq

Misbranding food and drugs:

Cal.—Health & Safety Code §§ 26550, 26630

Fla.—Stat. Ann. §§ 500.11, 500.15

Ill.—Ann. Stat. ch. 56½, § 506

Ind.—Code § 16-1-29-7 et seq, 16-1-30-5 et seq

Ky.—Rev. Stat. Ann. § 217.035 and 217.065

Mich.—Comp. Laws Ann. § 289.717

N.Y.—Agric. & Mkts. Law § 201

Pa.—Stat. Ann. tit. 31, § 1 et seq

Research Aids

Adulteration and misbranding:

O-Jur2d: Drugs §§ 11, 14; Food §§ 10, 14; Wts & M § 20

Am-Jur2d: Food §§ 21-26

Civil liability; practice and procedure:

O-Jur2d: Food §§ 52, 57

Am-Jur2d: Food § 84 et seq

Criminal liability; practice and procedure:

O-Jur2d: Food § 43

Am-Jur2d: Food § 74 et seq

ALR

Adulterated: construction and application of Federal Food, Drug, and Cosmetic Act § 402(a)(3) as to food deemed "adulterated," if it is filthy or the like, or unfit for food. 45 ALR2d 861.

Law Review

Advertising of food and drugs: concealing a truth, hinting a lie. Comment. Barry S. Donner. 8 Akron LRev 456 (1975).

Consumer protection in Ohio against false advertising and deceptive practices. James W. Carpenter. 32 OSLJ 1 (1971).

Products liability — the test of consumer expectation for "natural" defects in food products. Note. Charles Robert Janes. 37 OSLJ 634 (1976).

Reasonable certainty of no harm: reviving the safety standard for food additives, color additives, and animal drugs. Daryl M. Freedman. 7 EcologyLQ 245 (1978).

The product liability of manufacturers: an understanding and exploration. Donald M. Jenkins. 4 AkronLRev 135 (1971).

Unwanted pregnancy and the pill—the question of liability of the manufacturer. Note. James M. Bordicks. 41 CinLRev 335 (1972).

CASE NOTES AND OAG

1. (1966) A company selling seasonings to a meat packing company is negligent per se in the sale of adulterated food products in violation of RC §§ 3715.59 and 3715.52 where adulterated seasonings caused spoilage of hot dogs: Taylor v. B. Heller and Company, 364 F2d 608 (6thCir).

2. (1968) Disclosures of trade secrets by an em-

adulterated" within the meaning of this section and related sections merely because it is artificial imitation: 1928 OAC vol.1, p.45.

§ 3715.61 Powers of director.

(A) Whenever the director of agriculture finds after investigation that the distribution in this state of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, and in such case may, he shall propose regulations for adoption by the public health council providing for the issuance, to manufacturers, processor[s], or packer[s] of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class food, for such temporary period of time, as may be necessary to protect the public health and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such regulations.

(B) The director is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and on inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.

(C) The director shall have access to any factory or establishment, the operator of which holds a permit from the director for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

HISTORY: 127 v 819 (827), § 1 (ER 9-3-57); 129 v 882 (804), § 1. ER 1-10-61.

Cross-References to Related Sections See RC § 3715.52 which refers to this section.

Research Aids Opinions and proceedings by district board of health: Am-Jur2d: Health § 45 Am-Jur2d: Food § 57

DECISION UNDER FORMER SECTION 3715.59

The federal courts have no authority to restrain the enforcement of the pure food laws by the dairy and food commissioner of Ohio: Arbuckle v. Clarkburn, 13 Fed 816, 51 CCA 122, 13 OFD 4

§ 3715.62 Unsafe food.

Any poisonous or deleterious substance added to any food except where such substance is required in the production thereof cannot be avoided by good manufacturing practice, shall be unsafe for purposes of the application of division (B) of section 3715.59 of the Revised Code, but when such substance is so required or cannot be so avoided, the director of agriculture shall propose regulations for adoption by the public health council limiting the quantity therein or thereon to such extent as the director finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of division (B) of section 3715.59 of the Revised Code. While such regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of division (A) of section 3715.59 of the Revised Code. In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

HISTORY: 127 v 819 (827), § 1 (ER 9-15-57); 129 v 882 (805), § 1. ER 1-10-61.

Cross-References to Related Sections "Adulterated" in re meat inspection, RC § 918.01

Official Code Administrative Code Meat, poultry, and fish. OAC Chapter 901:3-31.

Research Aids Adulteration; preservatives: O-Jur2d: Food § 14 Am-Jur2d: Food §§ 23, 24

§ 3715.63 Adulterated drugs.

A drug or device is adulterated within the meaning of sections 3715.01 and 3715.52 to 3715.72, inclusive, of the Revised Code, if:

- (A) It consists, in whole or in part, of any filthy, putrid, or decomposed substance.
(B) It has been produced, processed, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with

filth, or whereby it may have been rendered injurious to health.

(C) It is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(D) It is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the "Federal Food, Drug and Cosmetic Act."

(E) It purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence or inadequacy of such tests or methods of assay, those prescribed under the authority of the federal act. No drug defined in an official compendium is adulterated under this division because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homoeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the homoeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

(F) It is not subject to the provisions of division (E) of this section, and its strength differs from, or its purity or quality falls below that which it purports or is represented to possess.

(G) It is a drug and any substance has been:

(1) Mixed or packed therewith so as to reduce its quality or strength;

(2) Substituted wholly or in part therefor.

HISTORY: 127 v 819 (828), § 1 (EF 9-13-57); 129 v 582 (806), § 1. EF 1-10-61.

Forms

Food and drugs, 2 Ohio Civ. Prac. § 63.01.

Research Aids

What constitutes adulteration:

O-Jur2d: Drugs § 12

Am-Jur2d: Drugs § 29

DECISIONS UNDER FORMER SECTION 3715.04

1. In the absence of a specific statutory reference to a designated edition of the pharmacopoeia, a statute which adopts the pharmacopoeia as a standard refers to that edition which is in use when the

statute is enacted; and a subsequent edition which adopts a higher standard is not to be applied as a standard, in the absence of a showing that such edition established the same standard as the earlier edition with reference to the drug in question: State v. Emery, 55 OS 364, 45 NE 319; Emery v. State, 3 NP 204.

2. Since whiskey is recognized in the United States pharmacopoeia, which is adopted by this statute, it is to be regarded as a drug within the meaning of this section: State v. Hutchinson, 58 OS 82, 46 NE 71.

3. This section, relative to the sale and adulteration of drugs, including whiskey, as pharmacopoeially defined, applies only to whiskey when manufactured and sold as a drug; while the liquor control act (GC § 6084-1 [RC §§ 4301.01, 4303.01]) deals with intoxicating and spiritous liquors "fit for use for beverage purposes . . . by whatsoever name called": State ex rel Wetterstroem v. Department of Liquor Control, 129 OS 185, 1 OO 573, 194 NE 372.

4. The department of liquor control and its director are not amenable to, and need not comply with, the provisions of this section, GC §§ 7778 and 5784 (RC §§ 3715.02 and 3715.05) of the pure food and drug law, pertaining to the sale and labeling of whiskey as a drug: State ex rel Wetterstroem v. Department of Liquor Control, 129 OS 185, 1 OO 573, 194 NE 372.

5. An affidavit which charges the accused with having for sale a drug "which differed from the standard of strength laid down in said United States pharmacopoeia" and which does not show in what respect the said drug differed from said standard, is indefinite and insufficient: Greenland v. State, 4 NP 122, 6 OD 313 [affirmed, without report, 39 Bull 2].

~~3715.64 Misbranded drug.~~

~~(A) A drug or device is misbranded within the meaning of sections 3715.01 and 3715.02 to 3715.72 of the Revised Code, if:~~

~~(1) Its labeling is false or misleading in any particular.~~

~~(2) It is in package form and does not bear a label containing:~~

~~(a) In clearly legible form the name and place of business of the manufacturer, packer, or distributor;~~

~~(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; but reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the director of agriculture.~~

~~(3) It is a dangerous drug and does not bear a label containing in clearly legible form the name and place of business of the manufacturer and the finished dosage form and, if different, the packer or distributor.~~

~~(4) Any word, statement, or other information required by or under authority of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code to appear on the label or labeling is not~~

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(3) The representation of a drug in its labeling or advertisement, as an antiseptic, a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an anti- septic for insitutory use as a wet dressing, oint- ment, dusting powder, or such other use as involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the direc- tor or the board of pharmacy, the jurisdiction of the board of pharmacy shall be limited to the sale, offering for sale, giving away, delivery, or dispens- ing in any manner of drugs at the wholesale and retail levels or to the consumer and shall be exclu- sive in the case of such sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer in any place where prescriptions are dis- pensed or compounded.

(C) To assist in effectuating the provisions of sec- tions 3715.52 to 3715.72 of the Revised Code, the director or board of pharmacy may request assist- ance or data from any government or private agency or individual.

*HISTORY: RC 3715.52 to 3715.72 added by H 135 (EF 10-6-84); 140 + H 206, EF 9-2-84.

Cross-References to Related Sections

"Grade A milk products" defined, RC § 3707.37.1.

Selection of generically equivalent drugs permitted, RC § 4729.56.

See RC §§ 2305.37, 4729.56 which refer to this chapter.

§ 3715.17.1 Misbranded food (sale dates label.)

Cross-References to Related Sections

Donation of person donating perishable food for dis- tribution to needy individuals, RC § 2305.37.

§ 3715.64 Misbranded drug.

(A) A drug or device is misbranded within the meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, if:

(1) Its labeling is false or misleading in any particular.

(2) It is in package form and does not bear a label containing:

(a) In clearly legible form the name and place of business of the manufacturer, packer, or distribu- tor;

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; but reasonable variations shall be permitted, and exemptions as to small packages shall be estab- lished by regulations prescribed by the director of agriculture.

(3) It is a dangerous drug and does not bear a label containing in clearly legible form the name and place of business of the manufacturer of the finished dosage form and, if different, the packer or distributor.

(4) It is a dangerous drug in finished solid oral dosage form, unless it has clearly and prominently marked or imprinted on it an individual symbol, company name, national drug code number or other number, words, letters, or any combination thereof, identifying the drug and its manufacturer or distributor. This requirement does not apply to drugs that are compounded by a registered phar- macist. The manufacturer or distributor of each such drug shall make available to the state board of pharmacy descriptive material identifying the mark or imprint used by the manufacturer or dis- tributor. The board of pharmacy shall provide this information to all poison control centers in the state. Upon application by a manufacturer or dis- tributor, the board may exempt a drug from the requirements of this division on the grounds that marking or imprinting such drugs is not feasible because of its size, texture, or other unique charac- teristic.

(5) Any word, statement, or other information required by or under authority of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, to ap- pear on the label or labeling is not prominently placed thereon with such conspicuousness as com- pared with other words, statements, designs, or de- vices, in the labeling, and in such terms as to ren- der it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(6) It is for use by man and contains any quan- tity of the narcotic or hypnotic substance alpha- eucaïne, barbituric acid, beta-eucaïne, bromal, cannabis, cabromal, chloral, coca, cocaine, co- deïne, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which deriva- tive has been found by the director to be, and by regulations proposed by the director and adopted by the public health council designated as, habit forming, unless its label bears the name and quan- tity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(7) It is a drug and it is not designated solely by a name recognized in an official compendium unless its label bears:

(a) The common or usual name of the drug, if any;

(b) In case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, aminopyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis flucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; but to the extent that compliance with these requirements is impracticable, exemptions shall be established by regulations proposed by the director and adopted by the public health council.

(8) Its labeling does not bear:

(a) Adequate directions for use;

(b) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary to the protection of users;

(c) Where compliance with any requirements of division (A)(8)(a) of this section, as applied to any drug or device, is not necessary for the protection of the public health, the director shall propose and the public health council shall adopt regulations exempting such drug or device from such requirements.

(9) It purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein, but the method of packing may be modified with the consent of the director. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia.

(10) It has been found by the director to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required by regulations proposed by the director and adopted by the public health council as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the director has informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body has failed within a reasonable time to prescribe such requirements.

(11)(a) It is a drug and its container is so made, formed, or filled as to be misleading.

(b) It is an imitation of another drug.

(c) It is offered for sale under the name of another drug.

(d) The drug sold or dispensed is not the brand or drug specifically prescribed or ordered or, when dispensed by a pharmacist upon prescription, is neither the brand or drug prescribed nor a generically equivalent drug.

(12) It is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(13) It is a drug intended for use by man which:

(a) Because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a physician, dentist, veterinarian, or person licensed to prescribe any drug which, under the federal act, federal narcotic law, as defined in section 4729.02 of the Revised Code, and under sections 3715.01 to 3715.75, or Chapter 3719. of the Revised Code, may be dispensed only upon a prescription;

(b) Is limited by an effective application under section 505 of the "Federal Food, Drug, and Cosmetic Act" to use under professional supervision by a physician, dentist, or veterinarian, unless it is dispensed only:

(i) Upon a written prescription of a physician, dentist, or veterinarian;

(ii) Upon the oral prescription of a physician, dentist, or veterinarian which is reduced promptly to writing by the pharmacist;

(iii) By refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is promptly reduced to writing by the pharmacist.

(B) Any drug dispensed by filling or refilling a written or oral prescription of a physician, dentist, veterinarian, or person licensed to prescribe any drug which, under the federal act, federal narcotic law, as defined in section 4729.02 of the Revised Code, or under sections 3715.01 to 3715.75, or Chapter 3719. of the Revised Code, may be dispensed only upon a prescription shall be exempt from the requirements of this section except divisions (A)(1) and (11) of this section if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in the prescription. Unless the prescription directions prohibit labeling, the label shall include the brand name of the drug dispensed. If the drug dispensed has no brand name, the generic name and the distributor of the finished dosage form shall be included. This exemption shall not apply to any drug dispensed in the course of the

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"HISTORY: 136 v H 135. EF 1-1-82.

The effective date provisions of § 3 of HB 135 (130 v —) read as follows:

SECTION 3. The requirement of division (A)(4) of section 3715.64 of the Revised Code that manufacturers and distributors of dangerous drugs in finished solid oral dosage form make available to the State Board of Pharmacy descriptive material identifying the mark or imprint used by the manufacturer or distributor shall not take effect until January 1, 1982. No criminal penalty shall be imposed for the manufacture, sale, or delivery, or holding or offering for sale of any misbranded drug as defined in division (A)(4) of section 3715.64 of the Revised Code unless such drug was manufactured on or after July 1, 1982.

§ 3715.65 Application for drugs.

References to Related Sections

To "practice pharmacy" includes participation in drug sale pursuant to RC Chapter 3715., RC § 4729.02. "Unprofessional conduct in the practice of pharmacy" includes fraudulent application for license under RC Chapter 3715., RC § 4729.16.

§ 3715.68 False advertising.

(A) An advertisement of food, drug, device, or cosmetic is false if it is false or misleading in any particular.

(B) For the purpose of sections 3715.01 and 3715.52 to 3715.54 of the Revised Code, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, catarrchitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, osteomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, tuberculosis, tumors, typhoid, uremia, venereal disease, is also false, except that no advertisement not in violation of division (A) of this section is false under this division if it is disseminated only to members of the medical, dental, pharmaceutical, or veterinary profession, or appears only in the scientific periodicals of these professions; provided, that whenever the director of agriculture determines that an advance in medical science has made any use of self-medication safe as to any of the diseases named above, the director shall propose regulations for adoption by the public health council authorizing the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interests of public health; provided, that this division shall not be construed as

indicating that self-medication for diseases other than those named in this section is safe or effective.

"HISTORY: 136 v H 988. EF 4-9-81.

§ 3717.31 Sale of adulterated milk of milk from diseased cows.

No person shall sell, exchange, deliver, or have in his custody or possession with intent to sell or exchange, or dispose or offer for sale or exchange milk from diseased or sick cows, adulterated milk, or milk to which water or any foreign substance has been added, or from cows kept in an unclean or unsanitary condition.

"HISTORY: 136 v H 47 (EF 8-27-81); 140 v H 988. EF 7-1-86. The effective date of HB 388 is set by section 4 of the act.

§ 3717.51 Definitions.

As used in sections 3717.51 to 3717.54 of the Revised Code:

(A) "Frozen dessert" means ice cream, frozen custard, milk sherbet, or any sherbet, imitation ice cream, vegetable or fruit dessert, lowfat frozen dairy dessert, and milk milk.

(B) "Milk products" means pure, clean, and wholesome cream, pure milk fat, butter, milk, evaporated milk, skimmed milk, condensed milk, sweetened condensed milk, condensed skimmed milk, sweetened condensed skimmed milk, dried milk, and dried skimmed milk.

(C) "Ice cream" means a pure, clean, frozen product made from a combination of two or more of the following ingredients: milk products, eggs, water, and sugar with harmless coloring and with or without harmless coloring, also with or without added stabilizer composed of wholesome, edible material. It contains not more than one half of one per cent by weight of stabilizer, not less than ten per cent by weight of milk fat, and not less than eighteen per cent by weight of total milk solids; except when fruit, nuts, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, then it shall contain not less than ten per cent by weight of milk fat and not less than eighteen per cent by weight of total milk solids, except for such reduction in milk fat and total milk solids as is due to the addition of such flavoring, but in no such case shall it contain less than eight per cent by weight of milk fat nor less than fourteen per cent by weight of total milk solids. In no case shall any ice cream weigh less than four and one-quarter pounds per gallon.

(D) "Frozen custard" means custard ice cream, ice custard, parfais, and similar frozen products. Frozen custard is a clean, wholesome product made from a combination of two or more of the following ingredients: milk products, eggs, water,

provisions of sections 3715.01 or 3715.52 to 3715.72, inclusive, of the Revised Code, are being violated;

(B) To secure samples of specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample.

The director or the board of pharmacy shall make or cause to be made examination of samples secured under the provisions of this section to determine whether or not any provisions of sections 3715.01 and 3715.52 to 3715.72, inclusive, of the Revised Code, are being violated.

HISTORY: 127 v 819 (833), § 1 (EF 9-1-57); 129 v 582 (812), § 1. EF 1-10-61.

Cross-References to Related Sections

See RC § 3715.52 which refers to this section.

Research Aids

Enforcement of law:
O-Jur2d: Drugs § 13
Am-Jur2d: Drugs § 13

§ 3715.71 Publication of reports on judgments; dispensing of information.

(A) The director of agriculture or the board of pharmacy may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under sections 3715.01 and 3715.52 to 3715.72, inclusive, of the Revised Code, including the nature of the charge and the disposition thereof.

(B) The director or the board of pharmacy may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the director or the board of pharmacy deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the director or the board of pharmacy from collecting, reporting, and illustrating the results of the investigations of the director or the board of pharmacy.

HISTORY: 127 v 819 (833), § 1 (EF 9-1-57); 129 v 582 (812), § 1. EF 1-10-61.

Research Aids

Enforcement; prosecution:
O-Jur2d: Drugs §§ 13, 14

§ 3715.72 Administration; exceptions.

(A) Sections 3715.01 and 3715.52 to 3715.71, inclusive, of the Revised Code shall be governed by and be administered in accordance with sections 119.01 to 119.13, inclusive, of the Revised Code.

(B) Sections 3715.01 and 3715.52 to 3715.71, inclusive, and section 3715.99, of the Revised Code, do not apply when such sections are in

conflict with sections 923.41 to 923.55, inclusive, and section 923.99 of the Revised Code.

(C) Sections 3715.52 to 3715.71, inclusive, of the Revised Code do not permit the manufacture, sale, or offering for sale, of any food, drug, cosmetic, or device otherwise prohibited by any provision of the Revised Code or by any regulations promulgated pursuant to any provision of the Revised Code; nor do sections 3715.52 to 3715.71, inclusive, of the Revised Code or any regulations thereunder, prohibit the sale or offering for sale, of any food, drug, cosmetic, or device through any outlet where such items are now permitted by any provision of the Revised Code to be sold or offered for sale.

HISTORY: 127 v 819 (834) (EF 1-10-61); 129 v 582 (812) (EF 1-10-61); 130 v 853 (EF 7-26-63); 131 v 911 (H 1. EF 3-26-71).

Cross-References to Related Sections

See RC § 3715.01 which refers to this section.

Research Aids

Enforcement of law:
O-Jur2d: Drugs § 11, 13

§ 3715.73 Disposition of fines and forfeited bonds.

(A) All fines or forfeited bonds assessed and collected under prosecution by the director of agriculture or prosecution commenced by the director in enforcement of sections 3715.01 to 3715.72, inclusive, of the Revised Code, shall, within thirty days, be paid to the director and by him paid into the state treasury.

(B) All fines or forfeited bonds assessed and collected under prosecution by the board of pharmacy or prosecution commenced by the board in enforcement of sections 3715.01 to 3715.72, inclusive, of the Revised Code, shall, within thirty days, be paid to the secretary of the board and by him paid into the state treasury.

HISTORY: 130 v 853, § 1. EF 8-19-68.

§ 3715.99 Penalties.

(A) Whoever violates sections 3715.13 to 3715.19, 3715.25 to 3715.27, or 3715.38 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 3715.22, 3715.25, 3715.26, 3715.27, or 3715.34 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 3715.23 or 3715.36 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates section 3715.52 or 3715.65 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense such person is guilty

of a misdemeanor of the second degree.

HISTORY: Bureau of Code Revision (EF 10-1-53); 127 v 819 (834) (EF 9-13-57); 136 v H 396 (EF 10-31-75); 136 v S 38, EF 1-1-77.

The effective date of SB 38 is set by § 3 of the act.

Cross-References to Related Sections

Penalty for misdemeanor, RC § 2929.21; minor misdemeanor, RC § 2929.21(D).

See RC §§ 3715.54, 3715.72 which refer to this section.

Section
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(1) By force, threat, or deception, administer to another or induce or cause another to use a controlled substance;

(2) By any means, administer or furnish to another or induce or cause another to use a controlled substance with purpose to cause serious physical harm to such person, or with purpose to cause such person to become drug dependent;

(3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby cause serious physical harm to such person, or cause such person to become drug dependent;

(4) By any means, furnish or administer to a person under age eighteen who is at least four years his junior, or induce or cause a person under age eighteen who is at least four years his junior to use a controlled substance, or induce or cause a person under age eighteen who is at least four years his junior to commit a felony drug abuse offense, where the offender knows the age of such person or is reckless in that regard.

(B) Division (A)(1), (2), or (4) of this section does not apply to manufacturers, wholesalers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. of the Revised Code.

(C) Whoever violates this section is guilty of corrupting another with drugs.

(1) If the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, corrupting another with drugs is a felony of the first degree and the court shall impose a sentence of actual incarceration of seven years, and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of twelve years.

(2) If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, corrupting another with drugs is a felony of the second degree and the court shall impose a sentence of actual incarceration of three years, and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of five years.

(3) If the drug involved is marihuana, corrupting another with drugs is a felony of the fourth degree and the court shall impose a sentence of actual incarceration of three months, and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of six months.

HISTORY: 138 v H 300, EH 7-1-78.

References to Related Sections
Penalties for felonies, RC § 2929.11.
Actual incarceration, RC § 2925.01(D).
Definitions applicable to drug offenses, RC § 3719.01.

Drug abuse offense defined, RC § 2925.01.
Drug dependent person defined, RC § 3719.01.1.
Felony drug abuse offense defined, RC § 2925.01(F).
Felon defined, RC § 2901.01(A).
Knowingly defined, RC § 2901.22(B).
Prior conviction—
Pleading, RC § 2941.11.
Proceeding, RC § 2945.73.
Serious physical harm to persons defined, RC § 301.01(E).

Comparative Legislation
Corrupting another with drugs:
21 USC § 863
CA—Health & Safety §§ 11104, 11360
IL—Ann Stat § 140-1/2 § 1102
IN—Code § 35-48-1-1
KY—Rev Stat Ann § 218A.140, 218A.990
MI—Comp Laws § 333.740
NY—Penal Law § 220.31-220.33
PA—CSA tit 35 § 7801-7813

Text Discussion
Elements of offense. 1 Ohio Ann. Prac. & Pro. § 62.12

Forms
Corrupting another with drugs. OJI § 525.02
Statutory charge. 2A Ohio Crim. Proc. & Pro. 8.125a

Research Aids
Corrupting another with drugs:
O-Jur3d: Crim L. § 2279, 2280
Am-Jur2d: Drugs § 27.13-27.19

ALR
Criminality of act of directing to, or recommending, source from which illicit drugs may be purchased. 42 ALR3d 1072.
Criminal liability for death resulting from unlawfully furnishing intoxicating liquor or drugs to another. 32 ALR3d 589.
Civilians selling, or prescribing dangerous drugs as contributing to the delinquency of a minor. 38 ALR3d 1292.

§ 2925.03 Trafficking in drugs.

(A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance in an amount less than the minimum bulk amount as defined in section 2925.01 of the Revised Code.

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe such drug is intended for sale or resale by the offender or another;

(3) Cultivate, manufacture, or otherwise engage in any part of the production of a controlled substance;

(4) Possess a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(5) Sell or offer to sell a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(6) Possess ~~a~~ controlled substance in an amount equal to or exceeding three times the bulk amount;

(7) Sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount;

(8) Provide money or other items of value to another person with the purpose that the recipient of the money or items of value would use them to obtain controlled substances for the purpose of selling or offering to sell such controlled substances in amounts exceeding a bulk amount or for the purpose of violating division (A)(3) of this section.

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. of the Revised Code.

(C) If the drug involved is any compound, mixture, preparation, or substance included in schedule I with the exception of marihuana or in schedule II, whoever violates this section is guilty of aggravated trafficking.

(1) Where the offender has violated division (A)(1) of this section, aggravated trafficking is a felony of the third degree, and if the offender has previously been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree.

(2) Where the offender has violated division (A)(2) of this section, aggravated trafficking is a felony of the third degree, and if the offender has previously been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree.

(3) Where the offender has violated division (A)(3) of this section, aggravated trafficking is a felony of the second degree and the court shall impose a sentence of actual incarceration of three years and if the offender has previously been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree and the court shall impose a sentence of actual incarceration of five years.

(4) Where the offender has violated division (A)(4) of this section, aggravated trafficking is a felony of the third degree and the court shall impose a sentence of actual incarceration of eighteen months and if the offender has previously been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and the court shall impose a sentence of actual incarceration of three years.

(5) Where the offender has violated division (A)(5) or (A)(6) of this section, aggravated trafficking is a felony of the second degree and the court shall impose a sentence of actual incarceration of three years and if the offender has previously been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree, and the court shall impose a sentence of actual incarceration of five years.

(6) Where the offender has violated division (A)(7) of this section, aggravated trafficking is a felony of the first degree and the court shall impose a sentence of actual incarceration of five years and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of at least seven years.

(7) Where the offender has violated division (A)(8) of this section, aggravated trafficking is a felony of the first degree and the court shall impose a sentence of actual incarceration of seven years and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of ten years.

(D) If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates this section is guilty of trafficking in drugs.

(1) Where the offender has violated division (A)(1) or (A)(2) of this section, trafficking in drugs is a felony of the fourth degree and if the offender has previously been convicted of a drug abuse offense, trafficking in drugs is a felony of the third degree.

(2) Where the offender has violated division (A)(3) of this section, trafficking in drugs is a felony of the third degree and the court shall impose a sentence of actual incarceration of one year and if the offender has previously been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and the court shall impose a sentence of actual incarceration of two years.

(3) Where the offender has violated division (A)(4) of this section, trafficking in drugs is a felony of the fourth degree and the court shall impose a sentence of actual incarceration of six months and if the offender has previously been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the third degree and the court shall impose a sentence of actual incarceration of eighteen months.

(4) Where the offender has violated division (A)(5) of this section, trafficking in drugs is a felony of the third degree and the court shall impose a sentence of actual incarceration of one year and if the offender has previously been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and the court shall impose a sentence of actual incarceration of two years.

(5) Where the offender has violated division (A)(6) of this section, trafficking in drugs is a felony of the third degree and the court shall impose a sentence of actual incarceration of eighteen months and if the offender has previously been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and the court shall impose a sentence of actual incarceration of three years.

(6) Where the offender has violated division (A)(7) of this section, trafficking in drugs is a felony of the second degree and the court shall impose a sentence of actual incarceration of two years and if the offender has previously been convicted of a fel-

ony drug abuse offense, trafficking in drugs is a felony of the first degree and the court shall impose a sentence of actual incarceration of four years.

(7) Where the offender has violated division (A)(8) of this section, trafficking in drugs is a felony of the first degree and the court shall impose a sentence of actual incarceration of five years and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of seven years.

(E) If the drug involved is marihuana, whoever violates this section is guilty of trafficking in marihuana.

(1) Where the offender has violated division (A)(1), (2), (3), or (4) of this section, trafficking in marihuana is a felony of the fourth degree and if the offender has previously been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the third degree.

(2) Where the offender has violated division (A)(5) or (6) of this section, trafficking in marihuana is a felony of the third degree and if the offender has previously been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the second degree.

(3) Where the offender has violated division (A)(7) of this section, trafficking in marihuana is a felony of the second degree and the court shall impose a sentence of actual incarceration of six months and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of one year.

(4) Where the offender has violated division (A)(8) of this section, trafficking in marihuana is a felony of the second degree and the court shall impose a sentence of actual incarceration of one year, and if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of two years.

(5) If the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor for the first offense and a misdemeanor of the third degree for any subsequent offense.

(F) It shall be an affirmative defense, as provided in section 2901.05 of the Revised Code, to a charge under this section for possessing a bulk amount of a controlled substance or for cultivating marihuana that the substance which gave rise to the charge is in such amount, in such form, or is prepared, compounded, or mixed with substances which are not controlled substances in such a manner, or is possessed or cultivated in any other circumstances whatsoever as to indicate that the substance was solely for personal use.

(G) When a person is charged with possessing a bulk amount or a multiple thereof, the jury, or the

court trying the accused shall determine the amount of the controlled substance involved at the time of the offense, and if a guilty verdict is returned shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is a bulk amount or the requisite multiple thereof, or that the amount of the controlled substance involved is less than a bulk amount or the requisite multiple thereof.

(H) Notwithstanding the fines otherwise required to be imposed pursuant to section 2929.11 or 2929.31 of the Revised Code for violations of this section and notwithstanding section 2929.14 of the Revised Code:

(1) If the offense is trafficking in marihuana and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of one thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of two thousand dollars.

(2) If the offense is trafficking in drugs and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of one thousand five hundred dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of three thousand dollars.

(3) If the offense is trafficking in marihuana and a violation of division (A)(2), (3), or (4) of this section, or if the offense is trafficking in drugs and a violation of division (A)(2) of this section, the court shall impose a mandatory fine of two thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of four thousand dollars.

(4) If the offense is aggravated trafficking and a violation of division (A)(1) of this section, or if the offense is trafficking in drugs and a violation of division (A)(3) of this section, the court shall impose a mandatory fine of two thousand five hundred dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of five thousand dollars.

(5) If the offense is trafficking in marihuana and a violation of division (A)(5) or (6) of this section, or if the offense is trafficking in drugs and a violation of division (A)(4), (5), or (6) of this section, the court shall impose a mandatory fine of three thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of six thousand dollars.

(6) If the offense is trafficking in marihuana and a violation of division (A)(7) of this section, if the offense is trafficking in drugs and a violation of division (A)(7) of this section, or if the offense is aggravated trafficking and a violation of division (A)(2),

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(4), (5), or (6) of this section, the court shall impose a mandatory fine of five thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of ten thousand dollars.

(7) If the offense is aggravated trafficking and a violation of division (A)(3) or (7) of this section, the court shall impose a mandatory fine of seven thousand five hundred dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of fifteen thousand dollars.

(8) If the offense is trafficking in marihuana and a violation of division (A)(8) of this section or if the offense is trafficking in drugs and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of ten thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of twenty thousand dollars.

(9) If the offense is aggravated trafficking and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of twenty-five thousand dollars and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of fifty thousand dollars.

(I) When the mandatory fine imposed pursuant to division (H) of this section does not exceed the maximum fine that could be imposed pursuant to section 2929.11 or 2929.31 of the Revised Code, the court may impose an additional fine if the total of the mandatory and additional fines together does not exceed the maximum fine that could be imposed pursuant to section 2929.11 or 2929.31 of the Revised Code. When the mandatory fine exceeds the maximum fine that could be imposed pursuant to section 2929.11 or 2929.31 of the Revised Code, the court shall not impose an additional fine.

(J) Any mandatory fine imposed pursuant to this section shall be paid to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. The mandatory fines shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses. Any additional fine imposed pursuant to division (I) of this section shall be disbursed as otherwise provided by law.

(K) If a person is charged with any violation of this section and posts bail pursuant to sections 2937.22 to 2937.46 of the Revised Code or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid pursuant to division (J) of this section.

(L) No court shall impose a mandatory fine pursuant to division (H) of this section upon an offender who alleges in an affidavit filed with the court prior to sentencing that he is indigent and is unable to pay any mandatory fine imposed pursuant to that divi-

sion, if the court determines that the offender is an indigent person and is unable to pay the fine.

HISTORY: 136 v H 300 (EF 7-1-78); 141 v S 67, EF 8-29-86.

Cross-References to Related Sections

Penalties—

Felonies, for, RC § 2929.11.

Misdemeanors, for, RC § 2929.21.

Actual incarceration defined, RC § 2925.01(D).

Bulk amount defined, RC § 2925.01(E).

Corrupt activity defined, RC § 2923.31.

Cultivate defined, RC § 2925.01(G).

Definitions applicable to drug abuse offenses, RC § 3719.01.

Drug abuse offense defined, RC § 2925.01(H).

Felony drug abuse offense defined, RC § 2925.01(I).

Knowingly defined, RC § 2901.22(B).

Organized criminal activity, RC § 177.01.

Possess defined, RC § 2925.01(L).

Prior conviction—

Pleading, RC § 2941.11.

Proof, RC § 2943.75.

Trafficking in drugs defined as drug abuse offense, RC § 2925.01(H).

Treatment in lieu of conviction, RC § 2951.04.1

Comparative Legislation

Trafficking in drugs:

21 USC § 2103

CA—Health & S § 11379.5

FL—Stat Ann §§ 859.05, 893.04, 893.06

IL—Ann Stat ch 56 1/2 § 1401

IN—Code § 35-48-1-1

KY—Rev Stat Ann § 218A.140, 218A.990

MI—Comp Laws Ann § 333.7401

NY—Penal Law §§ 220.31-220.43

PA—CSA tit 35 § 750-113

Forms

Aggravated trafficking: trafficking in drugs/marihuana, 4 OJI § 525.03

Statutory charge, 2A Ohio Crim. Prac. & Pro. 8.126b

Research Aids

Trafficking in drugs:

O-Jur3d: Crim L §§ 2281-2286

Am-Jur2d: Drugs §§ 27.13-27.19

ALR

Admissibility of evidence of other sales in prosecution for illegal sale of narcotics, 93 ALR2d 1097.

Constitutionality of state legislation imposing criminal penalties for personal possession or use of marijuana, 96 ALR3d 225.

Validity and construction of statute creating presumption or inference of intent to sell from possession of specified quantity of illegal drugs, 60 ALR3d 1128.

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