



CHAPTER 106
ARTICLE 29 - INSPECTION, GRADING AND TESTING MILK AND DAIRY PRODUCTS

N.C.G.S. § 106-268.

Definitions; enforcement of Article.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 1997-261, s. 46 — third act in the lineage	RETRIEVED 21 September 2026, 04:12 UTC	SOURCE FINGERPRINT f1ec8eeefb7bed72240edfb8 - 36aee8735c956d02b4a1ebb5 - b242a3e613e394e8
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§ 106-268(a) The definitions set forth in this section shall apply to milk, dairy products, ice cream, frozen desserts, frozen confections or any other products which purport to be milk, dairy products or frozen desserts for which a definition and standard of identity has been established and when any of such products heretofore enumerated shall be sold, offered for sale or held with intent to sell by a milk producer, manufacturer or distributor, and insofar as practicable and applicable, the definitions contained in Article 12 of Chapter 106 of the General Statutes, as amended, shall be effective as to the products enumerated in this Article and section.

§ 106-268(b) The term "adulteration" means:

- (1) Failure to meet definitions and standards as established by the Board of Agriculture.
- (2) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.
- (3) If any substance has been substituted wholly or in part thereof.
- (4) If it is adjudged to be unfit for human consumption.

§ 106-268(c) The term "misbranded" means:

- (1) If its labeling is false or misleading in any particular.
- (2) If it is offered for sale under the name of another dairy product or frozen dessert.

- (3) If it is sold in package form unless it bears a prominent label containing the name of the defined product, name and address of the producer, processor or distributor and carries an accurate statement of the quantity of contents in terms of weight or measure.

§ 106-268(d)

The Department of Agriculture and Consumer Services, through its agents or inspectors, shall have free access during business hours to all places of business, buildings, vehicles, cars, storage places, containers and vessels used in the production, testing, processing and distribution of milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for which standards of purity and of identity have been established, as well as any substance which purports to be milk, dairy products, frozen dessert or confection for which a definition and standard of purity has been established; the Department acting through its duly authorized agents and inspectors, may open any box, carton, parcel, package or container holding or containing, or supposed to hold or contain any of the above-enumerated dairy products, as well as related products, and may take therefrom samples for analysis, test or inspection. If it appears that any of the provisions of this Article or of this section have been violated, or whenever a duly authorized agent of the Department has cause to believe that any milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for which standards of purity and of identity have been established or any substance which purports to be milk, a dairy product or a frozen dessert for which a definition and standard of identity has been established, is adulterated or misbranded or by reason of contamination with microorganisms has become deleterious to health during production, processing or distribution, and such products, or any of them, are in a stage of production, or are being exposed for sale, or are being held for processing or distribution or such products are being held with intent to sell the same, such agent or inspector is hereby authorized to issue a "stop-sale" order which shall prohibit further sale of any of the products above enumerated or which shall prohibit further processing, production or distribution of any of the products above enumerated. The agent or inspector shall affix to such product a tag or other appropriate marking giving notice that such product is, or is suspected of, being adulterated, misbranded or contaminated and that the same has been detained or embargoed, and warning all persons not to remove or dispose of such product, by sale or otherwise, until permission for removal or disposal is given by such agent or inspector, until the law or regulation has been complied with or said violation has otherwise been legally disposed of. It shall be unlawful for any person to remove or dispose of any embargoed product, by sale or otherwise, without such permission: Provided, that if such adulteration or misbranding can be corrected by proper labeling

or processing of the products so that the products meet the definitions and standards of purity and identity, then with the approval of such agent or inspector, sale and removal may be made. Any milk, dairy products or any of the products enumerated in this Article or section not in compliance with this Article or section shall be subject to seizure upon complaint of the Commissioner of Agriculture, or any of the agents or inspectors of the Department of Agriculture and Consumer Services, to a court of competent jurisdiction in the area in which said products are located. In the event the court finds said products, or any of them, to be in violation of this Article or of this section, the court may order the condemnation of said products, and the same shall be disposed of in any manner consistent with the rules and regulations of the Board of Agriculture and the laws of the State and in such a manner as to minimize any loss or damage as far as possible: Provided, that in no instance shall the disposition of said products be ordered by the court without first giving the claimant or owner of same an opportunity to apply to the court for the release of said products or for permission to again process or relabel the same so as to bring the product in compliance with this Article or section. In the event any "stop-sale" order shall be issued under the provisions of this Article or section, the agents, inspectors or representatives of the Department of Agriculture and Consumer Services shall release the products, or any of them, so withdrawn from sale when the requirements of the provisions of this Article and section have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
3 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1951		1974		1997
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1951	c. 1121, s. 1	ENACTED	
02	1997	S.L. 1997-456, s. 27	AMENDED	
03	1997	S.L. 1997-261, s. 46	AMENDED	

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 106-268 (1997).

PINPOINT

N.C. Gen. Stat. § 106-268(a) (1997).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1951, c. 1121, s. 1; 1997-456, s. 27; 1997-261, s. 46.)

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