§ 106-122. Certain acts prohibited.

The following acts and the causing thereof within the State of North Carolina are hereby prohibited:

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

(2) The adulteration or misbranding of any food, drug, device, or cosmetic.

(3) 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.

(4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of G.S. 106-131 or 106-135.

(5) The dissemination of any false advertisement.

(6) The refusal to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record as authorized by G.S. 106-140.

(7) 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 the State of North Carolina from whom he received in good faith the food, drug, device or cosmetic.

(8) The removal or disposal of a detained or embargoed article in violation of G.S. 106-125.

(9) 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 or adulterated.

(10) 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 the provisions of this Article.

(11) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under G.S. 106-135, or that such drug complies with the provisions of such section.

(12) The sale at retail of any food for which a definition and standard of identity for enrichment with vitamins, minerals or other nutrients has been promulgated by the Board, unless such food conforms to such definition and standard, or has been specifically exempted from same by the Board.

(13) The distribution in commerce of a consumer commodity, as defined in this Article, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Article and regulations promulgated under authority of this Article; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons:

a. Are engaged in the packaging or labeling of such commodities; or

b. Prescribe or specify by any means the manner in which such commodities are packaged or labeled.

(14) The using by any person to his own advantage, or revealing, other than to the Commissioner or authorized officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Article, any information acquired under authority of this Article concerning any method or process which as a trade secret is entitled to protection.

(15) In the case of a prescription drug distributed or offered for sale in this State, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug within the normal course of professional practice, who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Article.

(16) a. Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or

b. Selling, dispensing, disposing of or causing to be sold, dispensed or disposed of, or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subsection (a) of this section; or

c. Making, selling, or disposing of; causing to be made, sold or disposed of; keeping in possession, control or custody; or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug.

(17) The doing of any act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing of a counterfeit drug.

(18) Dispensing or causing to be dispensed a different drug in place of the drug ordered or prescribed without the express permission of the person ordering or prescribing.

(19) The acquiring or obtaining or attempting to acquire or obtain any drug subject to the provisions of G.S. 106-134.1(a)(3) or (4) by fraud, deceit, misrepresentation, or subterfuge, or by forgery or alteration of a prescription, or by the use of a false name, or the giving of a false address. (1939, c. 320, s. 3; 1975, c. 614, ss. 3-5.)