



District Board of Health

ROOM 210 COURT HOUSE • PHONE (740) 354-3241

PORTSMOUTH, OHIO 45662

FAX 740-354-8623

E-MAIL: schd@zoomnet.net



KEITH GASPICH, M.D.

Commissioner of Health

LAHOMA MORGAN

Clerk

GAIL E. BROWN

Asst. Clerk

SCIOTO COUNTY BOARD OF HEALTH

R. AARON ADAMS, D.O.

PAUL MAPLE

LOWELL WELLS

R. CARL LOCHER

J.B. MARSHALL, JR

MICHAEL TRAPP, R.S.

MELISSA SPEARS, R.S.

Registered Sanitarians

PATRICIA STAKER, R.N.

VICKI FREEMAN, R.N.

CATHY WIDDIG, R.N.

Public Health Nurses

BOARD OF HEALTH RESOLUTION (EMBARGO OF FOOD)

-- Whereas, Section 901:3-4-15 of the Ohio Administrative Code states,

(A) For the purposes of this rule, "expired" means:

1. In the case of an over the counter drug, that the expiration date required by 21 C.F.R. 211.137 has passed;
2. In the case of infant formula, the "use by" date required by 21 C.F.R. 107-20 has passed;
3. In the case of baby food, that any expiration date, "use by" date, or sale date established by state or federal law or marked on the container by the manufacturer, processor, or packages has passed and whereas;

(B) Whenever a licensor finds or has cause to believe within a retail food establishment or food service operation in their jurisdiction that any food or over-the-counter drug is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of Sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, or that an over-the-counter drug, infant formula, or baby food is expired, the licensor shall affix to the item a tag giving notice that the item is, or is suspected of being, adulterated, misbranded, or expired and has been embargoed. The tag shall warn all persons not to remove or dispose of the item by sale or otherwise until permission for renewal or disposal is given by the licensor or the court. No person may remove or dispose of a detained or embargoed item by sale or otherwise without such permission and whereby;

(C) When a food, over-the-counter drug, infant formula, or baby formula that has been embargoed has been found by the licensor to be adulterated, misbranded, or expired, the licensor shall petition the municipal or county court in whose jurisdiction the item is embargoed for an order for condemnation of the item. When the licensor has not found within 10 days that an item embargoed is adulterated, misbranded, or expired, the licensor shall remove the tag or other marking and whereas;

- (D) If the court finds an embargoed item is adulterated, misbranded or expired, the item shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the licensor, and all court costs, fees, storage, and other proper expenses shall be taxed against the claimant of the item or the claimants agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the item, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the item shall be so labeled or processed, has been executed, may by order direct that the item be delivered to the claimant thereof for labeling or processing under the supervision of the licensor.

The expense of supervision shall be paid by the claimant. The bond shall be returned to the claimant of the item on representation to the court by the licensor that the item is no longer in violation of Sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, and that the expenses of supervision have been paid and whereby;


- (E) Whenever the licensor finds in any retail food establishment or food service operation, any meat, seafood, poultry, vegetable, fruit, or other perishable foods that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the foods are declared to be a nuisance, and the licensor shall forthwith condemn or destroy the foods, or in any other manner render the items unsalable as human food and whereby;
- (F) Any action that may be taken by a licensor under paragraph (A) to (E) of this rule may be taken by a health commissioner or other person employed by the licensor if the person or health commissioner is authorized by the licensor to take the action and therefore, be it resolved this 27th day of April, 2001, under authority of 901:3-4-15 of the Ohio Administrative Code the Scioto County Board of Health gives authority, by this resolution, to the registered sanitarians working directly in the food safety program or the health commissioner to implement Section 901:3-4-15 of the Ohio Administrative Code and embargo from use any food or over-the-counter drug, infant formula or baby food in a retail food establishment or food service operation that presents a public health hazard or a potential public health hazard.



Health Commissioner



Board Member



Board Member

(signatures continued next page)

Page 3 - Board of Health Resolution (Embargo of Food)



Board Member



Board Member



Board Member

MBT/geb

CC: office file