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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4] (*Part 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 3. Guarantees [110245 - 110285] (*Chapter 3 added by Stats. 1995, Ch. 415, Sec. 6.*)

110245. No dealer shall be prosecuted under this part for a violation concerning any food, drug, device, or cosmetic that is contained in an original, unbroken, and undamaged package that bears the original labeling if all of the following requirements are satisfied:

- (a) He or she has used reasonable care in the storage and handling of the food, drug, device, or cosmetic.
- (b) He or she received the food, drug, device, or cosmetic in the usual channels of trade as first-class merchantable stock and not as seconds or damaged articles or job lots purchased under conditions that indicate that the food, drug, device, or cosmetic was not usual first-class merchandise.
- (c) He or she can produce a guarantee to the effect that the food, drug, device, or cosmetic is not adulterated, misbranded, or falsely advertised, within the meaning of this part, or that it is not a food, drug, device, or cosmetic which, pursuant to this part, may not be sold or offered for sale in this state.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110250. The guarantee shall be dated prior to the date of sale of the food, drug, device, or cosmetic and it shall be signed by the wholesaler, jobber, manufacturer, or other person located or residing in this state from whom the dealer received the food, drug, device, or cosmetic in good faith.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110255. A guarantee may be either a general guarantee or a special guarantee and shall be produced prior to the time of reporting an alleged violation to the Attorney General, the district attorney, or a city attorney for prosecution.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110260. A general guarantee shall guarantee without condition or restriction any food, drug, device, or cosmetic that is produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated, mislabeled, misbranded, falsely advertised, or that the article is not an article under this part that may not be sold or offered for sale.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110265. A special guarantee shall guarantee in the same manner as a general guarantee the particular food, drug, device, or cosmetic listed in an invoice of the food, drug, device, or cosmetic, and shall be attached to, or shall fully identify, the invoice.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110270. All guarantees shall contain the name and address of the guarantor making the sale of food, drug, device, or cosmetic. A guarantee shall protect the person only when the food, drug, device, or cosmetic covered by the guarantee remains identical, both as to composition and labeling, with the food, drug, device, or cosmetic as composed and labeled when originally received from the guarantor.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110275. It is unlawful for any person to give a guarantee or undertaking that is false.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110280. If the guarantee is to the effect that the food, drug, device, or cosmetic is not in violation within the meaning of the federal act, it shall be sufficient for all the purposes of this part, and shall have the same force and effect as though it referred to this part, unless, pursuant to this part, the standard for the food, drug, device, or cosmetic concerned is higher than the standard for a like food, drug, device, or cosmetic under the federal act. In that case, this part shall prevail over the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110285. In any case where the department has adopted a regulation prescribing a tolerance, including, but not limited to, a zero tolerance, for a poisonous or deleterious substance, food additive, pesticide chemical, or color additive in processed foods, the department may require manufacturers to guarantee that foods they market in the state comply with the tolerance. The department may require a guarantee periodically but in no case more often than once each calendar quarter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)