

**§2152. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §146 (AMD).]

**1. Advertisement.** "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

**1-A. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or his duly authorized agents.  
[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Contaminated with filth.** "Contaminated with filth" applies to any food not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

**3. Federal Act.** "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

**4. Food.** "Food" means articles used for food or drink for man or other animals, chewing gum and articles used for components of any such article.

**4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a caregiver, as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a qualifying patient pursuant to chapter 558-C. The following establishments are not considered food establishments required to be licensed under section 2167:

A. Eating establishments, as defined in section 2491, subsection 7; [PL 1995, c. 331, §1 (NEW).]

B. Fish and shellfish processing establishments inspected under Title 12, section 6101, 6102 or 6856; [PL 2005, c. 434, §13 (AMD).]

C. Storage facilities for native produce; [PL 1995, c. 331, §1 (NEW).]

D. Establishments such as farm stands and farmers' markets primarily selling fresh produce not including dairy and meat products; [PL 1997, c. 96, §1 (AMD).]

E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; [PL 2011, c. 407, Pt. A, §2 (AMD).]

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and [PL 2011, c. 407, Pt. A, §2 (AMD).]

G. A caregiver, as defined in section 2422, subsection 8-A, conducting an activity allowed in section 2423-A for a qualifying patient who is a member of the family, as defined in section 2422, subsection 5-A, or member of the household, as defined in section 2422, subsection 5-B, of the caregiver. [PL 2017, c. 452, §1 (AMD).]

[PL 2017, c. 452, §1 (AMD).]

**4-B. Food salvage establishment.** "Food salvage establishment" means a food establishment engaged in reconditioning or by other means salvaging distressed merchandise and includes any food establishment that sells, buys, warehouses or distributes any salvaged merchandise.

[PL 1989, c. 664, §1 (NEW).]

**5. Immediate container.** "Immediate container" does not include the package liners but in the case of bottles shall include crowns or caps affixed thereto.

**5-A. Irradiated food.**

[PL 1995, c. 276, §1 (RP).]

**6. Label.** "Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this subchapter, that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement or other information appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

**7. Labeling.** "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.

If an article is alleged to be misbranded because the labeling is misleading or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

**7-A. Retail food establishment.** "Retail food establishment" means a food establishment where food and food products are offered for sale to the consumer and intended for off-premise consumption. [PL 1979, c. 672, Pt. A, §53 (NEW).]

**7-B. Salvage broker.** "Salvage broker" means a person, firm or corporation engaged in buying, selling, distributing or warehousing any distressed merchandise, whether or not in combination with other merchandise, which does not operate a food salvage establishment. [PL 1989, c. 664, §1 (NEW).]

**8. Selling of food.** This subchapter regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.

**SECTION HISTORY**

PL 1979, c. 541, §A146 (AMD). PL 1979, c. 672, §§A51-53 (AMD). PL 1979, c. 731, §19 (AMD). PL 1981, c. 705, §C3 (AMD). PL 1987, c. 174, §1 (AMD). PL 1989, c. 664, §1 (AMD). PL 1995, c. 276, §1 (AMD). PL 1995, c. 331, §1 (AMD). PL 1997, c. 96, §1 (AMD). PL 2005, c. 434, §13 (AMD). PL 2009, c. 631, §4 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. A, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2017, c. 452, §1 (AMD).

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