



Ohio Revised Code

Section 3715.74 Governor may declare public health state of emergency as to adulterated consumer product.

Effective: June 29, 1994

Legislation: House Bill 280 - 120th General Assembly

(A) As used in this section:

(1) "Adulterated" means adulterated as determined under section 3715.59 or 3715.63 of the Revised Code.

(2) "Consumer product" means any food or drink that is consumed by humans and any medicine, including a prescription drug, that is consumed or used by humans.

(3) "Retailer" means a place of business that offers consumer products for sale to the general public.

(B)(1) Except as provided in division (C) of this section, if the governor has a reasonable basis to believe that one or more units of a consumer product have been adulterated and that further sale or use of the consumer product presents a threat to the public health and safety, the governor may declare a public health state of emergency and make any of the following executive public health state of emergency orders:

(a) That all units of the consumer product be removed from public display by all retailers;

(b) That no units of the consumer product be sold or offered for sale during the public health state of emergency;

(c) That any retailer possessing units of the consumer product segregate these units from other merchandise and hold them or a portion of them for disposition by designated law enforcement officers or officials of the department of agriculture, the department of health, or the state board of pharmacy;

(d) Any other limitations, controls, or prohibitions that the governor considers necessary regarding



the manufacture, importation, sale, or transportation of the consumer product.

(2) The governor may amend or rescind any order issued under division (B)(1) of this section.

(C) If the particular type of consumer product referred to in division (B)(1) of this section is one that falls within the jurisdiction of the department of agriculture, the department of health, or the state board of pharmacy, the governor shall not declare a public health state of emergency pursuant to that division unless requested to do so by the department or board that regulates the consumer product. If the governor grants the request, the department or board that made the request shall enforce the provisions of this section.

(D) A public health state of emergency declared under this section shall exist for not more than sixty days unless extended by the governor for an additional thirty-day period, at which time the public health state of emergency shall end unless it is extended by a concurrent resolution adopted by both houses of the general assembly. An amendment to an executive public health state of emergency order shall not be considered a new order.

(E) Any executive public health state of emergency order or amended executive public health state of emergency order issued under this section shall be disseminated promptly by means that bring the order to the attention of the general public. The governor promptly shall file the order with the secretary of state, the department of agriculture, the department of health, and the state board of pharmacy.

(F) The state is not liable for removal, or for the costs of removal, of consumer products from public display in connection with an executive public health state of emergency order issued under division (B)(1)(a) of this section. Neither the state nor an agent of the state acting pursuant to a public health state of emergency is liable for any damages or loss incurred because of any action pursuant to an executive public health state of emergency order of that type.

(G) No person shall knowingly violate an executive public health state of emergency order issued by the governor under this section. Whoever violates an executive public health state of emergency order is subject to a fine of not less than five hundred dollars. Each day a violation continues is a separate offense.



(H) The attorney general, at the direction of the governor or upon request of the director of agriculture, the director of health, the state board of pharmacy, or a prosecuting attorney may commence an action in a court of common pleas to enjoin a violation of an executive public health state of emergency order issued pursuant to this section or to compel a person to perform a duty imposed by an executive public health state of emergency order.