

**§ 106-549.51. Definitions.**

For purposes of this Article, the following terms shall have the meanings stated below:

- (1) "Adulterated" shall apply to any poultry product under one or more of the following circumstances:
  - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
  - b.
    1. If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;
    2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;
    3. If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
    4. If it bears or contains any color additive which is unsafe within the meaning of section 721 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not otherwise deemed adulterated under paragraphs 2, 3, or 4 shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in official establishments;
  - c. If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;
  - d. If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
  - e. If it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;
  - f. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
  - g. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or
  - h. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto

or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

- (2) "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.
- (3) "Board" means the North Carolina Board of Agriculture.
- (4) "Capable of use of human food" shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans.
- (5) "Color additive" shall have the same meaning for purposes of this Article as under the Federal Food, Drug, and Cosmetic Act.
- (6) "Commissioner" means the North Carolina Commissioner of Agriculture or his authorized representative.
- (7) "Container" or "package" includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.
- (8) "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto.
- (9) "Federal Poultry Products Inspection Act" means the act so entitled, approved August 28, 1957 (71 Stat. 441), as amended by the Wholesome Poultry Products Act (82 Stat. 791).
- (10) "Food additive" shall have the same meaning for purposes of this Article as under the Federal Food, Drug, and Cosmetic Act.
- (11) "Immediate container" includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.
- (12) "Inspection service" means the official government service within the Department of Agriculture and Consumer Services designated by the Commissioner as having the responsibility for carrying out the provisions of this Article.
- (13) "Inspector" means an employee or official of the Department of Agriculture and Consumer Services authorized by the Commissioner to inspect poultry and poultry products under the authority of this Article, or any employee or official of the government of any county or other governmental subdivision of this State authorized by the Commissioner to inspect poultry and poultry products under authority of this Article, under an agreement entered into between the Department and such governmental subdivision.
- (14) "Intrastate commerce" means commerce within this State.
- (15) "Label" means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article.
- (16) "Labeling" means all labels and other written, printed, or graphic matter
  - a. Upon any article or any of its containers or wrappers, or
  - b. Accompanying such article.
- (17) "Misbranded" shall apply to any poultry product under one or more of the following circumstances:
  - a. If its labeling is false or misleading in any particular;
  - b. If it is offered for sale under the name of another food;

- c. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;
- d. If its container is so made, formed, or filled as to be misleading;
- e. Unless it bears a label showing
  - 1. The name and place of business of the manufacturer, packer, or distributor; and
  - 2. An accurate statement of the quantity of the product in terms of weight, measure, or numerical count;

Provided, that under paragraph 2 of this subdivision e, reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established, by regulations prescribed by the Board;

- f. If any word, statement, or other information required by or under authority of this Article to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- g. If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board under G.S. 106-549.55 unless
  - 1. It conforms to such definition and standard, and
  - 2. Its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;
- h. If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board under G.S. 106-549.55, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;
- i. If it is not subject to the provisions of subdivision g, unless its label bears
  - 1. The common or usual name of the food, if any there be, and
  - 2. In case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Commissioner be designated as spices, flavorings, and colorings without naming each: Provided, that, to the extent that compliance with the requirements of clause 2 of this subdivision i is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board;
- j. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States, determines to be, and

- by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;
- k. If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: Provided, that, to the extent that compliance with the requirements of this subdivision k is impracticable, exemptions shall be established by regulations promulgated by the Board; or
  - l. If it fails to bear on its containers, and in the case of nonconsumer packaged carcasses (if the Commissioner so requires) directly thereon, as the Board may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.
- (18) "Official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions under this Article.
  - (19) "Official device" means any device prescribed or authorized by the Board for use in applying any official mark.
  - (20) "Official establishment" means any establishment as determined by the Commissioner at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this Article.
  - (21) "Official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with this Article.
  - (22) "Official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or poultry under this Article.
  - (23) "Person" means any individual, partnership, corporation, association, or other business entity.
  - (24) "Pesticide chemical" shall have the same meaning for purposes of this Article as under the Federal Food, Drug, and Cosmetic Act.
  - (25) "Poultry" means any domesticated bird, whether live or dead.
  - (25a) "Poultry composting facility" means a structure or enclosure in which whole, unprocessed poultry carcasses are decomposed by a natural process into an organic, biologically safe by-product that can be used for plant food.
  - (26) "Poultry product" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Board from definition as a poultry product under such conditions as the Board may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.
  - (27) "Poultry products broker" means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating

purchases or sales of such articles other than for his own account or as an employee of another person.

- (28) "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.
- (29) "Raw agricultural commodity" shall have the same meaning for purposes of this Article as under the Federal Food, Drug, and Cosmetic Act.
- (30) "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, or poultry, except rendering conducted under inspection or exemption under this Article.
- (31) "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container. (1971, c. 677, s. 4; 1995, c. 543, s. 3; 1997-261, s. 61; 2017-108, s. 11(b).)