

tion or test made, for the purpose of disclosing the existence of the violation; and (2) that the inspection or examination or test and the instrumentalities, personnel and methods used in connection therewith would reasonably be expected to disclose the existence of the violation; and (3) that the inspection or examination or test, or the written report thereof, provided no basis for a belief that the violation existed; and (4) that he did not commit the violation purposely, knowingly, recklessly or negligently. For purposes of this subsection (b), an inspection or examination or test by representative samples of a lot, delivery or other mercantile quantity shall be deemed to be a method which would reasonably be expected to disclose the existence of a violation with respect to all articles included in the lot, delivery or other mercantile quantity. No person shall be convicted of a violation under paragraphs (4) through (15) (iii) or (16) and (17) of Section 187B of this subheading or subject to the penalties of subsection (a) of this section if he establishes by a preponderance of the evidence that the violation was not committed purposely, knowingly, recklessly, or negligently.

(c) No publisher, radio or television broadcast licensee, or other agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section for the dissemination of a false advertisement.

187E.

(a) Whenever a duly authorized agent of the Secretary finds or has probable cause to believe, that any food, drug, device, cosmetic, or consumer commodity, as defined by this subheading, is adulterated or so misbranded as to be dangerous or fraudulent, within the meaning of this subheading, or is in violation of Section 188D or 189D of this subheading, he shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by an authorized agent or the court. It is unlawful for any person to remove or dispose of a detained or embargoed article by sale or otherwise without permission.

(b) When an article is adulterated or misbranded or is in violation of Section 188D or 189D of this subheading it is liable to be proceeded against by the filing of a petition with the Circuit Court of the jurisdiction in which the article is located, detained, or embargoed, for the forfeiture of the article. When an authorized agent of the Secretary has found that an article which is embargoed or detained is not adulterated or misbranded, he shall remove the tag or other marking.

(c) If the court finds that a sampled, detained, or embargoed article is adulterated or misbranded, the article shall, after entry of the decree of forfeiture, be destroyed at the expense of the owner thereof, under the supervision of an authorized agent of the Secretary, and all court costs and fees, and storage and other proper expenses, shall be taxed against the owner of the article; provided, however, that if the adulteration or misbranding can be corrected by proper labeling or processing of the article, after entry of the decree and after costs, fees and expenses have been paid and a good