

(4) Any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C., et seq.), as the same may be amended from time to time; or

(5) Any seed or other commodity subject to the provisions of Sections 149 through 159 of Article 48 of this Code, as the same may be amended from time to time.

(v) The term "color additive" means a material which [;]: (1) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, or (2) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that the term does not include any material which has been or hereafter is exempted under the federal act. The term "color" includes black, white, and intermediate grays.

#### 187D.

(b) No person shall be convicted of a violation under [subsections (a), (b), or (c) 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 with respect to the violation: (1) that he made an inspection or examination or test, or received a written report certifying to the results of an inspection or examination 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.

#### 188C.

A food shall be deemed to be misbranded:

- (1) (i) If its labeling is false or misleading in any particular.
- (ii) If its labeling or packaging fails to conform with the requirements of Section 191A of this subheading.
- (2) If it is offered for sale under the name of another food.
- (3) 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.