CHAPTER 31

Crimes Related to Food · Health

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- This guideline applies to adult offenders (nineteen years of age or older) who have committed any of the following provisions:
  - Act on Original Labeling of Agricultural and Fishery Products, Article 14, paragraph 1, and Article 16-2[1)]
  - Agricultural and Fishery Products Quality Control Act, Article 117, Article 119, subparagraph 1, subparagraph 1-2, subparagraph 2, 3, and 4[2)]
  - Livestock Products Sanitary Control Act, Article 45, paragraph 1, subparagraph 2,[3)] 3,[4)] 6-2,[5)] 7,[6)] paragraph 2,[7)] paragraph 3,[8)] paragraph 4, subparagraph 1-2[9)], Food Sanitation Act, Article 93, paragraph 1,[10)] paragraph 2,[11)] paragraph 3, paragraph 4, Article 94, paragraph 1, subparagraph 1,[12)]2,[13)] subparagraph 2-2,[14)] paragraph 2[15)], paragraph 3, Article 95, subparagraph 1

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1) An offender who habitually commits offenses falling within crimes under Article 14 and 15 of the Act on Original Labeling of Agricultural and Fishery Products.
2) False labeling or advertising of products labeled good, selling agricultural and fishery products labeled as standardized products, obtained certification of Good Practices, obtained quality certification, with traceability registration or geographical indication, etc., false labeling of geographical indication.
3) Slaughtering non-ambulatory livestock.
4) Deception such as infusing water.
5) False labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, or usage thereof.
6) Sale of livestock products that are decayed or containing the poisonous substance or infected with the pathogenic microbe, or others.
7) An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 45, paragraph 1, subparagraph 6-2, paragraph 7, recommits the offense within five years since such sentence has become final and conclusive.
8) False labeling or exaggerated advertisement excludes cases of false labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, or usage of livestock products.
9) Slaughter and treatment of livestock, collection of milk, processing, packaging, storage, and distribution of Livestock products against processing standard and specification.
10) Using animals infected with bovine spongiform encephalopathy, anthrax, avian influenza, etc. when manufacturing · processing · cooking food products, etc. with a purpose to sell.
11) Manufacturing, processing, cooking food products, etc, which contain ma huang, oriental aconite, and others as substances.
12) Selling of the harmful food products, selling of the meat of diseased animals, selling of the chemical synthetics which are not officially announced.
13) Selling apparatus containing poisonous material.
14) False or exaggerated labeling, an indication of secret methods or advertising concerning title, raw material, manufacturing method, nutrition, ingredients, usage, quality, and tracking management of records on foods includes contents of efficacy or effectiveness of prevention of disease or treatment.

(limited to cases violating Article 7, paragraph 4,[16] Article 9, paragraph 4,[17] Article 13, paragraph 1, subparagraph 2 through 5,[18] including cases to which those provisions are applied *mutatis mutandis* by Article 88), and Article 97, subparagraph 1 [only in cases of violating Article 10 paragraph 2 (including cases to which those provisions are applied *mutatis mutandis* by Article 88[19])), Article 12-2, paragraph 2[20])]

- Act on Functional Health Foods Article 43, paragraph 1, subparagraph 2,[21] subparagraph 3, paragraph 2,[22] paragraph 3, and Article 44, subparagraph 4,[23] subparagraph 6,[24] and subparagraph 7[25]
- Pharmaceutical Affairs Act, Article 93, paragraph 1, subparagraph 10 (limited to cases violating Article 61, paragraph 1, subparagraph 1,[26] paragraph 2,[27]

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15) An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 94, paragraph 1, subparagraph 1, paragraph 2 recommits the offense within five years since such sentence has become final and conclusive.

16) Selling or manufacturing, importing, processing, using, cooking, storing, transporting, preserving or displaying with a purpose to sell the food products or food additives that do not comply with the standard and criteria determined by the Minister of Food and Drug Safety.

17) Selling or manufacturing, importing, storing, transporting, displaying with a purpose to sell or using for Business the apparatus and container · packaging that do not comply with the standard and criteria determined by the Minister of Food and Drug Safety.

18) False or exaggerated labeling, an indication of secret methods or advertising concerning title, raw material, manufacturing method, nutrition, ingredients, usage, quality, and tracking management of records on foods includes contents of efficacy or effectiveness of prevention of disease or treatment.

19) Relevant provisions applied *mutatis mutandis* to mass feeding facility.

20) Failing to indicate the standards for food products, food additives, genetically modified food products, etc.

21) False or exaggerated labeling, indication of secret methods or advertising concerning title, raw material, manufacturing method, nutrition, ingredients, usage, quality, and tracking management of records on health functional foods includes contents of efficacy or effectiveness of prevention of disease or treatment.

22) An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 43 paragraph 1 subparagraph 2 recommits the offense within five years since such sentence has become final and conclusive.

23) False labeling or advertising, indication or advertisement of secret methods excluding indications of efficacy or effectiveness in preventing disease or treatment.

24) Labeling · advertising by using the title of 'company applying excellent manufacturing standard' or similar contents when the offender was not designated as such.

25) Selling or manufacturing, importing, using, storing, transportation, preserving, displaying with a purpose to sell that does not comply with the standard and criteria determined by the Minister of Food and Drug Safety, selling functional health food using container, package that does not comply with the labeling standard, labeling by using similar indication, etc. that may cause confusion of the product which do not qualify for functional health food with functional health food.

26) Selling medicines in which the container, package, appended document does not properly provide the designated information or provide false information, selling the counterfeit of the medicines.

27) False labeling or advertising of a product that is not a medicine to have a medical effect, efficacy, etc.

including cases to which those provisions are applied *mutatis mutandis* by Article 66),[28] and Article 94, paragraph 1, subparagraph 9 (limited to cases violating Article 62, subparagraph 1 to 7, subparagraph 11[29] including cases to which those provisions are applied *mutatis mutandis* by Article 66)

- Cosmetics Act, Article 36, paragraph 1, subparagraph 3 (limited to cases violating Article 15, subparagraph 2 to 5)[30]
- Act on Special Measures for the Control of Public Health Crimes, Article 2, paragraph 1 (limited to cases violating Food Sanitation Act, Article 6, Article 7, paragraph 4, Act on Functional Health Foods, Article 24, paragraph 1 and cases of counterfeiting or altering foods, additives, functional health foods to those already licensed or reported, knowingly sells, acquires, or assists the trade of those counterfeited or altered product), Article 3, paragraph 1 (limited to cases violating the Pharmaceutical Affairs Act, Article 62, subparagraph 2 and cases of counterfeiting or altering medicines to those already licensed or reported, knowingly sells, acquires or assists the trade of those counterfeited or altered items), and Article 5
- Medical Service Act, Article 87, paragraph 1, subparagraph 2 (limited to cases violating Article 27, paragraph 1)[31]

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

28) Relevant provisions applied *mutatis mutandis* to 'non-medicine therapeutic products.'

29) Medicines which are listed in the Korean Pharmacopoeia but whose nature, efficacy or quality does not meet the standard specified in the Korean Pharmacopoeia, medicines that are permitted or reported under Article 31, paragraph 2, 3, Article 41, paragraph 1 but whose ingredients or quantities (if effective ingredients are not clear, the essence thereof or outline of the manufacturing method) are different from the contents permitted or reported, medicines whose standards are determined under Article 52, paragraph 1 but which do not meet such standard, medicines that all or part of which is made from unclean, degenerated, spoiled substance, medicine which are tainted or deemed to have been tainted by pathogenic microbe, medicines to which the alien substance is mixed or attached, medicines in which tar coloring other than that prescribed by the Minister of Food and Drug Safety is used, selling or manufacturing · importing · storing · displaying with a purpose to sell medicines which caused harm or may be harmful to the national public health.

30) Selling cosmetics which do not comply with safety standards for cosmetic distribution under Article 8, paragraph 5, or cosmetics made from fully or partially deteriorated cosmetics, contaminated by pathogens, mixed, or mingled with foreign substance, or using raw materials that cannot be used for cosmetics.

31) This relates to unlicensed medical practice.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 FALSE LABELING

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Minor Violations (less than 50 million)	– 8 mos.	4 mos. – 1 yr.	10 mos. – 1 yr. 6 mos.
2	Standard Violations	4 mos. – 1 yr.	10 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs. 6 mos.
3	Major Violation (more than 500 million)	8 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs. 6 mos.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Where the offense is not grave in nature (such as selling counterfeits along with genuine products) • Degree of false labeling is not serious or violating standards for labeling • Food products and similar products were not placed within the chain of distribution	• Resulted in severely undermining public confidence • Significant difference between the genuine product's retail market price and the suggested retail price for the product in question • Involves organizational, planned, or professional schemes
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing of corruption	• Habitual offender (this applies to false labeling of a place of origin indication of agricultural and fishery products) • Repeat commission of the same-offense within five years (labeling or advertising efficacy or effect of prevention of disease or treatment, or others) or same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Actual profits gained from an offense are not substantial • Special circumstances mitigating the offender's motives to commit the offense	• Labeling or advertising efficacy or effect of prevention of disease or treatment, or others • Conducting unfair practices regarding livestock • Offender actively promoted sales through the media (such as television) • Commission of crime through collusion with inspecting public officials • Commission of the offense over a prolonged period
	Offender /Etc.	• Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation • Sincere remorse • No prior criminal convictions	• Post-offense evidence tampering or attempt to conceal or destroy evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2 HARMFUL FOOD PRODUCTS · PHARMACEUTICAL DRUGS · COSMETICS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Manufacturing, or similar acts of counterfeit food products · other products which do not comply with standard specifications	8 mos. ~ 1 yr. 6 mos.	1 yr. ~ 2 yrs. 6 mos.	2 yrs. ~ 4 yrs.
2	Manufacturing, or similar acts of harmful food products, or other similar products	1 yr. ~ 2 yrs.	1 yr. 6 mos. ~ 3 yrs.	2 yrs. 6 mos. ~ 5 yrs.
3	Manufacturing, or similar acts of food made from animals afflicted with specified diseases	1 yr. 6 mos. ~ 3 yrs.	2 yrs. ~ 4 yrs. 6 mos.	4 yrs. ~ 7 yrs.
4	Selling, or similar acts of severely harmful food products, and other similar products	2 yrs. 6 mos. ~ 4 yrs.	3 yrs. 6 mos. ~ 6 yrs.	5 yrs. ~ 8 yrs.
5	Cases resulting in death	4 yrs. ~ 7 yrs.	5 yrs. ~ 8 yrs.	7 yrs. ~ 10 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Food products and similar products were not placed within the chain of distribution • Cases which do not violate the Act on Special Measures for the Control of Public Health Crimes (Type 1, Type 2)	• Resulted in serious bodily harm; involves high risk of causing serious bodily harm; or caused bodily harm to multiple victims • Use of illegal methods such as false documents or forgery • Food products of 100 million or more retail price, pharmaceutical drugs (or the like) of 20 million or more retail price • Cases involving baby food or foods consumed by children
	Offender /Etc.	• Hearing and/or speech impairment • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing of corruption	• Repeat commission of the same-offense within five years (selling hazardous food and other activities) or same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Non-active role involving manufacturing or distribution in the commission of the offense; engaged in transporting, preserving, or displaying the products • Special extenuating circumstances mitigating the offender's motives to commit the offense	• Commission of crime through collusion with public officials responsible for inspecting • Commission of the offense over a prolonged period • Resulting in bodily harm (excludes cases that resulted in serious bodily harm; involves a high risk of causing serious bodily harm; or caused bodily harm to multiple victims) • Involves pharmaceutical drugs (Type 1, 4, 5) • Violations of the Food Sanitation Act, Article 93, paragraph 2 (Type 2)
	Offender /Etc.	• Immediate measures to close business, dispose of the product, and other similar measures taken after notice of violation • Sincere remorse • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Post-offense evidence tampering or attempt to conceal or destroy evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, which do not constitute statutory recidivism (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

(unit: KRW)

3 ILLEGAL MEDICAL PRACTICES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unlicensed medical practice only without any other conducts	4 mos. – 1 yr.	8 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
2	Unlicensed medical practice as a business	1 yr. – 2 yrs. 6 mos.	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 4 yrs.
3	Cases resulting in death	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	5 yrs. – 8 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Commission of offense caused by patient's active demand in cases of extreme difficulties in providing medical treatment or no known cure in modern medicine • A treatment is known to be low risk or effective upon an objective judgment • An offense committed from employment relationship or job-related instructions	• Resulted in serious bodily harm; involves a high risk of causing serious bodily harm; or caused bodily harm to multiple victims • A significant amount of profits gained through offense (Type 2) • Cases involving misleading the patient such as performing medical practices as a physician, dentist, or doctor practicing oriental medicine without qualification
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing of corruption	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Given prior consent by the patient	• Commission of crime through collusion with public officials responsible for inspecting • Cases where the offense was committed over a prolonged period • Offenses resulting in not serious injuries
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Destroying evidence or attempting to conceal evidence after the commission of the offense • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, which do not constitute statutory recidivism (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 FALSE LABELING

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) False labeling of the place of origin indication or labeling of indication that is likely to cause confusion to the product's place of origin (ⅱ) Damaging, altering the label of a place of origin indication with a purpose to cause confusion to the product's place of origin (ⅲ) Selling product with the camouflaged place of origin indication or selling, storing · displaying with a purpose to sell the mixture of agricultural or fishery products (or processed products of those) with a place of origin indication and products without aforementioned indication Following act by the person who cooked and sold, or provided agricultural or fishery products or those processed products (ⅰ) False labeling of the place of origin indication or labeling of indication that is likely to cause confusion to the product's place of origin (ⅱ) Cooking, selling or providing the product of which the place of origin indication is camouflaged or storing, displaying the products with the damaged or altered place of origin indication with a purpose to cook, sell, or provide those products (ⅲ) Cooking, selling or providing the agricultural or fishery products (or processed products of those) with place of origin indication adulterated with the same kind of products without the place of origin indication	Act on Origin Labeling of Agricultural and Fishery Products, Article 14, paragraph 1	Imprisonment not exceeding 7 years or fine not exceeding 100 million (this may be imposed concurrently)
Habitually committing offenses prescribed in Article 14 or 15	Act on Origin Labeling of Agricultural and Fishery Products Article 16-2	Imprisonment not exceeding 10 years or fine not exceeding 150 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) Person who has a duty to indicate 'genetically modified agricultural product' commits offenses of false labeling of the genetically modified agricultural or fishery product indication or labeling an indication that is likely to cause confusion as to whether the product has been genetically modified (ⅱ) Person who has a duty to indicate 'genetically modified agricultural product' commits offenses of damaging or altering the label with a purpose to cause confusion to the genetically modified agricultural or fishery product indication (ⅲ) Person who has a duty to indicate 'genetically modified agricultural product' commits offenses of mixing of the products with genetically modified fishery product indication and other agricultural or fishery products	Agricultural and Fishery Products Quality Control Act, Article 117	Imprisonment not exceeding 7 years or fine not exceeding 100 million (this may be imposed concurrently)
Increasing weight or volume by deceitful methods such as forcing livestock to drink water or infusing water into meat	Livestock Products Sanitary Control Act, Article 45, paragraph 1 subparagraph 3	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)
Importing, displaying, transporting, or using in business with a purpose to sell the food products, etc. which the labeling criteria concerning foods or food additives, apparatus, and containers, packages of which the criteria and standard is prescribed (relevant provisions are applied *mutatis mutandis* to mass feeding facility), genetically modified foods is prescribed, without the proper labels that comply with the criteria	Food Sanitation Act, Article 97, subparagraph 1 [only in cases of violating Article 10, paragraph 2 (including cases to which those provisions are applied *mutatis mutandis* by Article 88), Article 12-2, paragraph 2]	Imprisonment not exceeding 3 years or fine not exceeding 30 million
Following content is included in false labeling, exaggerated advertisement or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, or usage of foods or food additives: (ⅰ) Effect or efficacy of prevention of disease or treatment, etc.	Food Sanitation Act, Article 94, paragraph 1, subparagraph 2-2	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
An offender who commits a crime under Article 94, paragraph 1, subparagraph 2-2 again within five years after being sentenced to imprisonment without labor	Food Sanitation Act, Article 94, paragraph 2	Imprisonment with labor for one year or more but less than 7 years
Sales of food by the person who commits the crime under Article 94, paragraph 2, paragraph 1, subparagraph 2-2	Food Sanitation Act, Article 94, paragraph 3	Imprisonment with labor for more than one year and less than 7 years and a fine between four and ten times the selling price thereof concurrently.
This indicates cases in which one or more of the following factors apply regarding false labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, or usage of foods or food additives: (i) Not truth or exaggerated contents (ii) Deception of customers, etc. (iii) Secret methods, other entities, etc. (iv) No-deliberation, etc.	Food Sanitation Act, Article 95, subparagraph 1 [only in cases of violating Article 13, paragraph 1, subparagraph 2 through 5]	Imprisonment not exceeding 5 years or fine not exceeding 50 million.
Cases where false or exaggerated labeling, indication of secret methods or advertising concerning title, raw material, manufacturing method, nutrition, ingredients, usage, quality and tracking management of records on health functional foods includes contents of efficacy or effect of prevention of disease or treatment	Health Functional Foods Act, Article 43, paragraph 1, subparagraph 2	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)
Sales by a person who sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 43, paragraph 1, subparagraph 2 recommits the offense within five years since such sentence has become final and conclusive	Health Functional Foods Act, Article 43, paragraph 2	Imprisonment with labor for exceeding one year or less than 10 years
Sales of health functional foods by the person who committed the offense prescribed in Article 43, paragraph 2, paragraph 1, subparagraph 2	Health Functional Foods Act, Article 43, paragraph 3	Imprisonment with labor for more than one year and less than 10 years and a fine between four and ten times the selling price thereof concurrently

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) Cases excluding cases where false or exaggerated labeling or advertising of title, raw material, manufacturing methods, nutrition, ingredients, usage, quality, and background traceability etc. includes contents of efficacy or effect of prevention of disease or treatment (ⅱ) labeling or advertising by using the title of 'company applying excellent manufacturing standard' or similar contents when the offender was not designated as such company (ⅲ) Selling functional food products violating prescribed labeling criteria, violating the prohibition of labeling that is likely to cause confusion	Act on Functional Health Foods, Article 44, subparagraph 4, 6, and 7 (limited to cases violating Article 25, and 26)	Imprisonment not exceeding 5 years or fine not exceeding 50 million (this may be imposed concurrently)
(ⅰ) Affixing a label indicating products labeled good or a similar label to agricultural and fishery products or processed agricultural and fishery products (ⅱ) Advertising agricultural and fishery products or processed agricultural and fishery products as products labeled good, though they are not products labeled as good, or advertising such products to be misled as products labeled good (ⅲ) Selling, storing, or displaying with a purpose to sell the mixture of agricultural products or processed agricultural products of standard specification, certification of excellent control, quality-certified, background traceability or geographical indication with those products with do not qualified for previous title (ⅳ) Labeling a geographical indication or similar indication on the packaging, containers, advertising materials, or related documents of agricultural and fishery products or processed agricultural and fishery products not bearing a geographical indication	Agricultural and Fishery Products Quality Control Act, Article 119, subparagraph 1, subparagraph 1-2, subparagraph 2, 3, and 4	Imprisonment not exceeding 3 years or fine not exceeding 30 million
Following content is included in false labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing methods, ingredient, indication of nutrition, raw material, usage, quality, and packaging of livestock products: (ⅰ) Effect or efficacy of prevention of disease or treatment, etc.	Livestock Products Sanitary Control Act, Article 45, paragraph 1, subparagraph 6-2	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 45 paragraph 1, subparagraph 6-2 recommits the offense within five years since such sentence has become final and conclusive	Livestock Products Sanitary Control Act, Article 45, paragraph 2, first part	Imprisonment with labor for more than one year and less than 10 years
Sales of livestock products by a person who committed the offense prescribed in Article 45 paragraph 2, paragraph 1, subparagraph 6-2	Livestock Products Sanitary Control Act, Article 45, paragraph 2, latter part	Imprisonment with labor for more than one year and less than 10 years and a fine between four and ten times the selling price thereof concurrently
This indicates cases in which one or more of following factors apply regarding false labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the title, manufacturing method, background traceability indication, or nutrition indication, raw materials, ingredient, or usage of livestock products: (ⅰ) Not truth or exaggerated contents (ⅱ) Deception of customers, etc. (ⅲ) Secret methods other entities, etc.	Livestock Products Sanitary Control Act, Article 45, paragraph 3	Imprisonment not exceeding 5 years or fine not exceeding 50 million (this may be imposed concurrently)
(ⅰ) Selling or storing or displaying with a purpose to sell of the medicines of which the container, package, or appended document does not include properly the information which is prescribed to be stated on containers, etc. (ⅱ) Placing on the container or package or appended document of the product which is not medicine the indication which is likely to mislead consumers to believe that the product has medical effect or efficacy or running such misleading advertisement, selling, or storing or displaying with a purpose to sell the product with aforementioned label, and advertisement (ⅲ) Relevant provisions shall be applied *mutatis mutandis* to 'non-medicine therapeutic products'	Pharmaceutical Affairs Act, Article 93, paragraph 1, subparagraph 10 [limited to cases violating Article 61, paragraph 1 subparagraph 1 (however, selling, etc. of the 'counterfeited medicine' is excluded), paragraph 2 including cases to which those provisions are applied *mutatis mutandis* by Article 66]	Imprisonment not exceeding 5 years or fine not exceeding 20 million (this may be imposed concurrently)

(unit: KRW)

2 HARMFUL FOOD PRODUCTS · PHARMACEUTICAL DRUGS · COSMETICS

1. TYPE 1 — MANUFACTURING, OR SIMILAR ACTS OF COUNTERFEIT FOOD PRODUCTS · OTHER PRODUCTS WHICH DO NOT COMPLY WITH STANDARD SPECIFICATIONS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) Selling or manufacturing · importing · processing · using · cooking · storing · subdividing · transporting · preserving or displaying with the purpose to sell of foods or food additives that do not comply with standards and specifications announced by Ministry of Food and Drug Administration (ⅱ) Selling or manufacturing · importing · storing · transporting · displaying with the purpose to sell or using in the business of apparatus and container · package that does not comply with standards and specifications announced by Ministry of Food and Drug Administration (ⅲ) Relevant provisions shall be applied *mutatis mutandis* to mass feeding facilities	Food Sanitation Act, Article 95 subparagraph 1 (limited to cases violating Article 7, paragraph 4, Article 9, paragraph 4 including cases to which those provisions are applied *mutatis mutandis* by Article 88)	Imprisonment not exceeding five years or fine not exceeding 50 million (this may be imposed concurrently)
(ⅰ) Selling or manufacturing · importing · using · storing · transporting · preserving · displaying with the purpose to sell of functional health foods that do not comply with standards and specifications announced by the Minister of Korea Food and Drug Administration (ⅱ) Manufacturing, importing, selling, displaying functional health foods containing materials used only for medicines or combination · mixing proportion · contents are same or similar with medicines	Act on Functional Health Foods Article 44 subparagraph 7 (limited to cases violating Article 24)	Imprisonment not exceeding five years or fine not exceeding 50 million (this may be imposed concurrently)
Slaughtering, processing, milk collecting, processing, or others of livestock or livestock products which was imported with the purpose to sell in a manner that does not comply with the processing standard or contents specification announced by the Minister of Food and Drug Safety	Livestock Products Sanitary Control Act, Article 45, paragraph 4, subparagraph 1–2	Imprisonment not exceeding three years or fine not exceeding 50 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(i) Selling or storing · displaying with the purpose to sell counterfeited medicines (ii) Relevant provisions shall be applied *mutatis mutandis* to 'non-medicine therapeutic products'	Pharmaceutical Affairs Act, Article 93, paragraph 1, subparagraph 10 (limited to cases concerning 'counterfeited medicines' among Article 61, paragraph 1, subparagraph 1, including cases to which those provisions are applied *mutatis mutandis* by Article 66)	Imprisonment not exceeding five years or fine not exceeding 20 million (this may be imposed concurrently)
Selling or manufacturing · importing · storing or displaying with the purpose to sell the following medicines (i) Medicines that are listed in the Korean Pharmacopoeia but whose nature, efficacy, or quality does not meet the standard specified in the Korean Pharmacopoeia (ii) Medicines that are permitted or reported but whose ingredients or quantities (if the effective ingredients are not clear, the essence thereof or outline of the manufacturing method) are different from the contents (iii) Medicines that do not comply with standards announced by Ministry of Food and Drug Administration concerning manufacturing method · characteristics · efficacy · quality, etc. (iv) Relevant provisions shall be applied *mutatis mutandis* to non-medicine therapeutic products	Pharmaceutical Affairs Act, Article 94, paragraph 1 subparagraph 9 (limited to cases violating Article 62 subparagraph 1 to 3, including cases which those provisions are applied *mutatis mutandis* by Article 66)	Imprisonment not exceeding three years or fine not exceeding 10 million (this may be imposed concurrently)
Selling or manufacturing · importing · storing · displaying with the purpose to sell of cosmetics that do not comply with standards and specifications according to Article 8, paragraph 5	Cosmetics Act, Article 36, paragraph 1, subparagraph 3 (limited to cases violating the latter part of Article 15 subparagraph 5)	Imprisonment not exceeding three years or fine not exceeding 30 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) Selling or manufacturing · importing · processing · using · cooking · storing · subdividing · transporting · preserving or displaying with the purpose to sell of foods or food additives that do not comply with standards and specifications announced by Ministry of Food and Drug Administration (ⅱ) Selling or manufacturing · importing · using · storing · transporting · preserving · displaying with the purpose to sell of functional health foods that do not comply with standards and specifications (ⅲ) Counterfeiting · altering foods, food additives, functional health foods similar to those already permitted or reported or selling · acquiring · assisting trade of those products while knowing that the products have been counterfeited · altered	Act on Special Measures for the Control of Public Health Crimes Article 2, paragraph 1, subparagraph 2 (limited to cases violating Food Sanitation Act, Article 7, paragraph 4, Act on Functional Health Foods, Article 24, paragraph 1 and counterfeiting · altering foods, etc.)	Imprisonment for life or imprisonment for 3 or more years and fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently
(ⅰ) Manufacturing medicines in which the principal ingredient is replaced with a completely different ingredient or which do not contain the full amount of ingredient as permitted, selling · acquiring with the purpose to sell · assisting sale or buying with the purpose to use for the medical practice of those products while knowing such facts (ⅱ) Counterfeiting · altering medicines, cosmetics similar to those already permitted or selling · acquiring with the purpose to sell · assisting sale or buying with the purpose to use for the medical practice of those products while knowing that the products have been counterfeited · altered	Act on Special Measures for the Control of Public Health Crimes Article 3, paragraph 1, subparagraph 2 (limited to cases violating Pharmaceutical Affairs Act, Article 62, subparagraph 2 and cases of counterfeiting · altering medicines, etc.)	Imprisonment for life or imprisonment for 3 or more years and fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently

(unit: KRW)

2. TYPE 2 — MANUFACTURING, OR SIMILAR ACTS OF HARMFUL FOOD PRODUCTS, OR OTHER SIMILAR PRODUCTS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ⅰ) Manufacturing, processing, cooking foods or food additives with a purpose to sell using the following materials or components 1. ma huang 2. oriental aconite 3. aconite 4. aconitum seoulense 5. aconiti koreani rhizoma 6. toad venom 7. dictamni radicis cortex 8. henbane leaf	Food Sanitation Act, Article 93 paragraph 2	Imprisonment for 1 year or more
Sales of foods by the person who committed the offense prescribed in Article 93 paragraph 2	Food Sanitation Act, Article 93 paragraph 3	Imprisonment with labor not less than one year and a fine between two and five times the selling price thereof concurrently
Sales of foods by a person who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 94 paragraph 2 recommits the offense within five years since such sentence has become final and conclusive	Food Sanitation Act, Article 93 paragraph 4	Imprisonment with labor not less than one year and a fine between four and ten times the selling price thereof concurrently
(ⅰ) Selling or collecting · manufacturing · importing · processing · using · cooking · storing · subdividing · transporting · displaying of harmful foods, etc., meat of diseased animals, etc., chemical compounds standard, specification has not been officially announced (ⅱ) Selling or manufacturing, importing, storing, transporting, displaying with a purpose to sell of apparatus and container or package which contains or is tainted with a toxic or noxious substance that may cause bodily harm (ⅲ) Relevant provisions shall be applied *mutatis mutandis* to mass feeding facility	Food Sanitation Act, Article 94 paragraph 1 subparagraph 1 and 2 (including cases to which those provisions are applied *mutatis mutandis* by Article 88)	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)
Sales of foods by a person who sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 94, paragraph 1 and 2 recommits the offense within five years since such sentence has become final and conclusive	Food Sanitation Act, Article 94 paragraph 2	Imprisonment with labor for one year or more but not exceeding 7 years
Sales of foods by the person who committed the offense prescribed in Article 94, paragraph 2, subparagraph 1 and 2	Food Sanitation Act, Article 94, paragraph 3	Imprisonment with labor for one year or more but not exceeding 7 years and a fine between four and ten times the selling price thereof concurrently

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Selling or manufacturing, importing, using, storing, transporting, displaying with a purpose to sell the harmful functional health foods	Act on Functional Health Foods Article 43 paragraph 1 subparagraph 3	imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)
An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 43, paragraph 1, subparagraph 3 recommits the offense within five years since such sentence has become final and conclusive	Act on Functional Health Foods Article 43 paragraph 2	Imprisonment with labor exceeding one year and less than 10 years
Sales of Health foods by the person who committed the offense prescribed in Article 43 paragraph 2, paragraph 1, subparagraph 3	Act on Functional Health Foods Article 43 paragraph 3	Imprisonment with labor exceeding one year and less than 10 years and a fine between four and ten times the selling price thereof concurrently
(ⅰ) Slaughtering, processing of non-ambulatory livestock and using or selling the meat as food (ⅱ) Selling or handling, processing, packaging, using, importing, storing, transporting, displaying with a purpose to sell livestock products that are decayed or containing the noxious substance or tainted by a pathogenic bacterium, etc.	Livestock Products Sanitary Control Act, Article 45, paragraph 1 subparagraph 2, and 7	Imprisonment not exceeding 10 years or fine not exceeding 100 million (this may be imposed concurrently)
An offender who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 45 paragraph 1, subparagraph 7 recommits the offense within five years since such sentence has become final and conclusive	Livestock Products Sanitary Control Act, Article 45, paragraph 2, first part	Imprisonment with labor for one year or more but not exceeding 10 years
Sales of livestock products by the person who commits the crime under Article 45, the front part of paragraph 2, paragraph 1, subparagraph 7	Livestock Products Sanitary Control Act, Article 45, paragraph 2, latter part	Imprisonment with labor for one year or more but not exceeding 10 years and a fine between four and ten times the selling price thereof concurrently
(ⅰ) Selling or manufacturing, importing, storing, displaying with a purpose to sell of medicines which are composed of unclean or decayed substance, tainted by a pathogenic bacterium, mixed with alien substance, containing tar coloring that is not prescribed by Minister of Food and Drug Safety, likely to cause harm to national public health	Pharmaceutical Affairs Act, Article 94, paragraph 1 subparagraph 9 (limited to cases violating Article 62, subparagraph 4 to 7, 11 including cases to which those provision is applied *mutatis mutandis*	Imprisonment not exceeding 3 years or fine not exceeding 10 million (this may be imposed concurrently)

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(ii) Relevant provisions shall be applied *mutatis mutandis* to 'non-medicine therapeutic products'	by Article 66)	
(i) Selling or manufacturing, importing, storing, or displaying with a purpose to sell of cosmetics made from fully or partially deteriorated cosmetics, contaminated by pathogens, mixed or mingled with a foreign substance, or using raw materials that cannot be used for cosmetics (including cosmetics containing materials which are banned from use in cosmetics in excess of the maximum allowable mixing level)	Cosmetics Act, Article 36, paragraph 1, subparagraph 3 (limited to cases violating Article 15 subparagraph 2 to 5)	Imprisonment not exceeding 3 years or fine not exceeding 30 million (this may be imposed concurrently)
(i) Using chemical compound additives that the standard or specification has not been publicly announced and substance containing that chemical compound as food additives (ii) Selling or manufacturing, importing, processing, using, cooking, storing, subdividing, transporting, displaying with a purpose to sell of foods containing aforementioned food additives	Act on Special Measures for the Control of Public Health Crimes Article 2, paragraph 1 subparagraph 2 (limited to cases violating Food Sanitation Act, Article 6)	Imprisonment for life or imprisonment for 3 or more years and fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently

(unit: KRW)

3. TYPE 3 — MANUFACTURING, OR SIMILAR ACTS OF FOOD MADE FROM ANIMALS AFFLICTED WITH SPECIFIED DISEASES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(i) Manufacturing, processing, importing, or cooking with a purpose to sell of foods or food additives using animals infected with 1. bovine spongiform encephalopathy (mad cow disease), 2. anthrax, 3. avian influenza	Food Sanitation Act, Article 93, paragraph 1	Imprisonment with labor for 3 or more years
Sales of foods by the person who committed the offense prescribed in Article 93, paragraph 1	Food Sanitation Act, Article 93, paragraph 3	Imprisonment for life or imprisonment for 3 or more years, fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Sales of foods by a person who was sentenced to imprisonment without labor or heavier punishment for any of the violations referred to in Article 94, paragraph 1 recommits the offense within five years since such sentence has become final and conclusive	Food Sanitation Act, Article 93, paragraph 4	Imprisonment for life or imprisonment for 3 or more years, fine of 4 times the retail price or more and not exceeding 10 times the retail price imposed concurrently

4. TYPE 4 — SELLING, OR SIMILAR ACTS OF SEVERELY HARMFUL FOOD PRODUCTS, AND OTHER SIMILAR PRODUCTS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
(i) Cases where foods, food additives or functional health foods are significantly harmful to human body (ii) Cases where medicines or cosmetics are significantly harmful to human body	Act on Special Measures for the Control of Public Health Crimes Article 2, paragraph 1 subparagraph 1, 3 (limited to cases resulting in injury), Article 3, paragraph 1 subparagraph 1, 3 (limited to cases resulting in injury)	Imprisonment for life or imprisonment for 5 or more years, fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently

5. TYPE 5 — CASES RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Cases with death as result of crimes that fall under Type 2, 3	Identical to that of Type 2 and 3, respectively	
Cases with death as result of crimes that fall under Type 4	Act on Special Measures for the Control of Public Health Crimes Article 2, paragraph 1 subparagraph 3 (limited to cases with death as a result), Article 3, paragraph 1 subparagraph 3 (limited to cases with death as a result)	Death or imprisonment for life or imprisonment for 5 or more years, fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed concurrently

3 ILLEGAL MEDICAL PRACTICES

1. TYPE 1 — UNLICENSED MEDICAL PRACTICE ONLY WITHOUT ANY OTHER CONDUCTS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Unlicensed medical practice	Medical Service Act, Article 87, paragraph 1, subparagraph 2 (limited to cases violating Article 27, paragraph 1)	Imprisonment not exceeding five years or fine not exceeding 20 million

(unit: KRW)

2. TYPE 2 — UNLICENSED MEDICAL PRACTICE AS A BUSINESS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Cases where medical practice is performed by a person who is not a doctor, dental practice by a person who is not a dentist, oriental medical practice by a person who is not an oriental doctor in the form of business with the purpose to gain commercial profit	Act on Special Measures for the Control of Public Health Crimes, Article 5	Imprisonment for life or imprisonment for 2 or more years, fine of 1 million or more and not exceeding 10 million imposed concurrently

(unit: KRW)

3. TYPE 3 — CASES RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Cases with death as result of crimes that fall under Type 1, 2	Identical to that of Type 1 and 2, respectively	

DEFINITION OF SENTENCING FACTORS

1 FALSE LABELING[32)]

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - Cases where the nature of participation in the commission of the offense was passive as an employee or a subordinate and to benefit the company or the employer
  - Participation in the crime was forced by another person or resulted from threats (excluding cases where the Criminal Act, Article 12 is applicable)
  - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime
  - Other cases with comparable mitigating factors

2. IN CASES WHERE THE DEGREE OF THE VIOLATION IS NOT SEVERE, SUCH AS SELLING GOODS BY MIXING GENUINE AND COUNTERFEIT PRODUCTS

- This indicates cases in which the degree of violation is relatively minor; this involves selling imported rice as locally grown by combining the imported produce with the genuine local produce, that is distinguished from cases claiming locally grown rice of imported produce; this also applies to cases selling imported and local hot pepper powder labeled as '30% imported and 70% locally grown' hot pepper powder while in fact, the ratio is '50% imported and 50% locally grown' hot pepper powder.

32) Sentencing factors with the same designation that apply to crimes of Harmful Food Products, Pharmaceutical Drugs, or Cosmetics, and Illegal Medical Practices have the same definition unless separately defined.

3. EXTENT OF FALSE LABELING IS MINOR OR VIOLATING THE STANDARDS FOR LABELING

- This indicates cases in which following Acts are applied:
  - Food Sanitation Act, Article 97, subparagraph 1 [only in cases of violating Article 10, paragraph 2 (including cases to which those provisions are applied *mutatis mutandis* by Article 88)],
  - Food Sanitation Act, Article 95, subparagraph 1 [only in cases of violating Article 13, paragraph 1 subparagraph 2 through 5],
  - Act on Functional Health Foods Article 44, subparagraph 4, 6, 7 (limited to cases violating Article 25, 26),
  - Agricultural and Fishery Products Quality Control Act, Article 119, subparagraph 1, subparagraph 1-2, subparagraph 2, 3, and 4,
  - Livestock Products Sanitary Control Act, Article 45, paragraph 3,
  - Pharmaceutical Affairs Act, Article 93, paragraph 1, subparagraph 10 [limited to cases violating Article 61, paragraph 1 subparagraph 1 (however, selling, etc. of the 'counterfeited medicine' is excluded), paragraph 2 including cases to which those provisions are applied *mutatis mutandis* by Article 66]

4. WHERE THE MANUFACTURED FOOD PRODUCTS OR SIMILAR PRODUCTS WERE NOT DISTRIBUTED

- This means that the food products or similar products remained under the offender's control and were not delivered to any third party for the purpose of transferring possession or ownership.

5. PUBLIC CONFIDENCE WAS SIGNIFICANTLY UNDERMINED

- This applies where one or more of the following are present:
  - The product in question is a product with which the public is generally familiar.
  - The product was sold at locations such as department stores or authorized retail outlets that enjoy a high level of public trust.
  - The offense involved false labeling committed by a well-known conglomerate.
  - Other cases with comparable aggravating factors

6. SIGNIFICANT PRICE DISPARITY BETWEEN THE GENUINE PRODUCT AND THE FALSELY LABELED PRODUCT

- This refers to a significant difference between the genuine product's market price and the retail price of the product after the false labeling has been removed.

7. INVOLVES ORGANIZED, PLANNED, OR PROFESSIONAL SCHEMES

- This indicates cases in which one or more of the following factors apply:
  - The means and methods of committing the offense were meticulously planned in advance.
  - Multiple persons were involved in an organized manner for the purpose of committing the offense.
  - The offense was committed through the use of automated facilities, including those for packaging, label printing, or wrapping.
  - Other cases with comparable factors

8. INTERNAL WHISTLE-BLOWING

- This refers to cases in which the investigation was initiated by a voluntary internal report made by an offender who had participated in an organized wrongdoing, motivated by a genuine intent to terminate the offense.

9. HABITUAL OFFENSES (FALSE LABELING OF ORIGIN OF PRODUCT)

- This indicates cases in which following Acts are applied:
  - Act on Origin Labeling of Agricultural and Fishery Products, Article 16-2

10. REPEAT COMMISSION OF SAME-OFFENSE WITHIN FIVE YEARS (LABELING OR ADVERTISING CLAIMS OF DISEASE PREVENTION OR TREATMENT EFFICACY, AND OTHER SIMILAR ACTS)

- This indicates cases in which following Acts are applied:
  - Food Sanitation Act, Article 94, paragraph 2, paragraph 1, subparagraph 2-2, paragraph 3
  - Health Functional Foods Act, Article 43, paragraph 2, paragraph 1, subparagraph 2, paragraph 3

- Livestock Products Sanitary Control Act, Article 45, paragraph 2, paragraph 1, subparagraph 6-2

11. LABELING OR ADVERTISING CLAIMS OF DISEASE PREVENTION OR TREATMENT EFFICACY, AND OTHER SIMILAR ACTS

- This indicates cases in which following Acts are applied:
  - Food Sanitation Act, Article 94, paragraph 1, subparagraph 2-2
  - Health Functional Foods Act, Article 43, paragraph 1, subparagraph 2
  - Livestock Products Sanitary Control Act, Article 45, paragraph 1, subparagraph 6-2

12. DISHONEST METHODS TO INCREASE WEIGHT OR VOLUME CONCERNING LIVESTOCK

- This indicates cases in which following Acts are applied:
  - Livestock Products Sanitary Control Act, Article 45, paragraph 1, subparagraph 3

13. PRIOR CRIMINAL CONVICTIONS FOR THE SAME-OFFENSE

- This means the offender was convicted for offenses related to food or health (this is not limited to false labeling but including offenses involving harmful food products, pharmaceutical drugs, cosmetics, and other illegal medical practices) as established under this sentencing guideline.

14. SPECIAL CIRCUMSTANCES MITIGATING THE OFFENDER'S MOTIVES TO COMMIT THE OFFENSE

- This applies where one or more of the following are present:
  - The offender sold products with falsely indicated origins only on an occasional basis, when particular goods from certain regions were in short supply, and did not regularly engage in the sale of falsely labeled products.
  - The offender engaged in false labeling in order to meet the buyer company's excessively low unit price.
  - Other cases with comparable factors

15. ACTIVELY PROMOTED PRODUCT THROUGH THE MASS MEDIA INCLUDING TV COMMERCIALS

- In this context, "media" refers to television, radio, newspapers, magazines, internet websites, and other similar means.

16. WHERE THE COMMISSION OF THE OFFENSE WAS PROLONGED

- This refers to cases in which the offense continued for more than two years, from the commencement of sales to the date on which the violation was detected.

17. SINCERE REMORSE

- This indicates cases in which the offender is deemed to show genuine remorse for the offense after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending.

18. NO PRIOR CRIMINAL CONVICTIONS

- It means that the offender has no criminal conviction before. However, this does not apply to cases in which the offense was committed repeatedly over an extended period.

2 HARMFUL FOOD PRODUCTS · PHARMACEUTICAL DRUGS · COSMETICS[33)]

1. USE OF ILLEGAL METHODS SUCH AS FALSE DOCUMENTS OR FORGERY

- This refers to cases in which the offender employed additional illegal methods, such as falsifying documents submitted to, or recorded and maintained by, government agencies as required by law, for the purpose of concealing the commission of the offense.

33) Unless otherwise defined herein, the same sentencing factors applied to Illegal Medical Practices shall apply to as well.

2. CASES INVOLVING BABY FOOD OR PRODUCTS INTENDED FOR CHILDREN

- This refers to cases in which the product at issue is a food, pharmaceutical, or cosmetic product intended for babies or children and related to their health or development, including powdered formula, baby food, children's vitamins, children's moisturizers, and other similar products.

3. REPEATED COMMISSION OF SAME-OFFENSE WITHIN FIVE YEARS (SELLING HAZARDOUS FOOD PRODUCTS)

- This applies where one or more of the following are present:
  - Food Sanitation Act, Article 94, paragraph 2, paragraph 1, subparagraph 1 and 2, paragraph 3
  - Health Functional Foods Act, Article 43, paragraph 2, paragraph 1, subparagraph 3, paragraph 3
  - Livestock Products Sanitary Control Act, Article 45, paragraph 2, paragraph 1, subparagraph 7

4. SPECIAL EXTENUATING CIRCUMSTANCES MITIGATING THE OFFENDER'S MOTIVES TO COMMIT THE OFFENSE

- This indicates cases in which the purpose of engaging in the commission of the crime was neither to inflict harm to other people nor to gain profits (For example, the case of manufacturing pharmaceutical drugs and medical supplies for the purpose of clinical tests).

5. WHERE THE COMMISSION OF THE OFFENSE WAS PROLONGED

- This refers to cases in which the offense continued for more than one years, from the commencement of sales to the date on which the violation was detected.

6. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT OF THE OFFENDER

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishing the offender. However, this should not apply in the following cases:

- (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or
- (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.

- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

7. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damages to a degree comparable to a formal settlement, or in which restitution of such degree is reasonably assured.
- In the case of a deposit, this applies only where it amounts to substantial recovery of damages, as determined through careful examination of the following: the opinion of the victim or the victim's legal representative (in case of a deceased victim, this includes the spouse, lineal relatives, and siblings); whether the defendant is able by law to recover the deposited money or is likely to do so; and the nature of the legal interest harmed and the scale and degree of the damage.
- Cases where the victim has received aid from the State under the Crime Victim Protection Act in connection with the damage (including where the defendant subsequently fulfills the obligation to indemnify the State) shall be excluded, absent special circumstances.

8. CAUSING HARM WHILE ATTEMPTING TO REACH A SETTLEMENT WITH THE VICTIM (EXCLUDING CASES WHERE THE ACT CONSTITUTES ANY OTHER CRIME SUCH AS THE CRIME OF COERCION)

- This indicates cases in which the offender persistently harassed the victim or exerted undue pressure by implying tangible or intangible disadvantages in the course of attempting to reach a settlement, or otherwise caused harm through comparable means in response to the victim's refusal to settle.

3 ILLEGAL MEDICAL PRACTICES

1. COMMISSION OF THE OFFENSE AT THE PATIENT'S ACTIVE REQUEST IN CASES OF EXTREME DIFFICULTY IN MEDICAL TREATMENT OR ABSENCE OF A KNOWN CURE IN MODERN MEDICINE

- "Cases of Extreme Difficulty in Medical Treatment or Absence of a Known Cure in Modern Medicine" refers to cases in which, based on an objective assessment, the likelihood of recovery is extremely low using currently recognized medical treatments. This includes terminal cancer, a persistent vegetative state resulting from brain damage, brain death, and other comparable conditions.
- "Commission of the Offense at the Patient's Active Request" means that the patient, either directly or through a legal guardian, explicitly requested the treatment from the offender while being aware that the offender was not qualified to practice as a physician, dentist, or practitioner of traditional (oriental) medicine.

2. LOW-RISK TREATMENT OR TREATMENT DEEMED EFFECTIVE UNDER AN OBJECTIVE ASSESSMENT

- This refers to cases involving medical procedures such as health examinations, venereal disease testing, DNA testing, or other similar procedures that do not constitute a direct invasion of the patient's body. It also includes cases involving moxibustion, acupuncture, or other procedures in which the remedial effect is significant, such that the degree of bodily invasion is considered minor.

3. PRIOR CONSENT GIVEN BY THE PATIENT

- This refers to cases in which the patient, either directly or through a legal guardian, did not actively request the treatment but gave prior consent to the treatment while being aware that the offender was not qualified to practice as a physician, dentist, or practitioner of traditional (oriental) medicine.

4. WHERE THE COMMISSION OF THE OFFENSE WAS PROLONGED

- This refers to cases in which the offense continued for more than one year, from the commencement of practice to the date on which the violation was detected.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE SAME-OFFENSES

- For concurrent offenses of False Labeling, the following method of aggravation for multiple offenses shall apply.
  - ❶ The Type of offense shall be determined based on the aggregate amount of criminal gain by selling products with false labeling. Within that Type, the sentencing range shall be selected by the judge taking into account all relevant circumstances.

❷ (1) Where the aggregation of criminal gain results in an offense Type one level higher than that of the most severe single offense among offenses of the same Type, the lower end of the sentencing range shall be reduced by 1/3. (2) Where the aggregation of criminal gain results in an offense Type two levels or more higher than that of the most severe single offense, the lower end of the sentencing range shall be reduced by 1/2. However, the reduced lower end of the sentencing range shall not fall below the lower end of the sentencing range of the offense Type applicable to the most severe single offense.

- Except for offenses of False Labeling, the following methods of 'Determining the Sentencing Range for the Concurrent Offenses of the Different Type' shall apply.

4 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE DIFFERENT-OFFENSES

- Except for concurrent different-offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply.

❶ The sentencing range for multiple offenses involving two offenses shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest upper end of the sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest upper end of the sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

- However, where the multiple offenses include concurrent same-offenses of the False Labeling, the sentencing range shall first be determined by applying the method for concurrent same-offenses involving False Labeling, and the method of aggravation for multiple different-offenses set out above shall then be applied to that sentencing range.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

1 FALSE LABELING

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Prior convictions for the same-offense (within ten years) • Offenses falling within Type 3 • Offense seriously undermined public trust • Involves organizational, premeditated, or professional schemes • Significant difference between the genuine product's retail market price and the suggested retail price for the product at issue • Habitual offender (false labeling of a place of origin indication of agricultural and fishery products)	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offenses falling within Type 1 • The actual gain was negligible • Food products and similar products were not placed within the chain of distribution • Voluntary surrender to investigative authorities or internal whistle-blowers • No prior criminal convictions
General Circumstance	• Labeling or advertising efficacy or effect of prevention of disease or treatment, or others • Dishonest methods to increase the weight or volume concerning livestock • The offense was committed over a prolonged period • Commission of crime through collusion with public officials responsible for inspecting • Actively promoted product through the mass media including TV commercials • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Absence of sincere remorse • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence	• Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation • Offender's minor participation as a co-offender • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Stable family/social ties • Sincere remorse • Offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

2 HARMFUL FOOD PRODUCTS · PHARMACEUTICAL DRUGS · COSMETICS

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Prior convictions for the same-offense (within ten years) • Cases where it is not verified that the harmfulness is insignificant • Food products of 100 million KRW or more retail price, pharmaceutical drugs (or the like) of 20 million KRW or more retail price • Cases involving baby food or foods for children • Where serious bodily injury occurred, or there was a very high risk thereof, or multiple victims sustained injuries	• Cases with special extenuating circumstances that mitigate the offender's involvement • Food products were not distributed • Voluntary surrender to investigative authorities or internal whistle-blowers • No prior criminal convictions
General Circumstance	• The offense was committed over a prolonged period • Illegal methods such as false documents or forgery used • Resulting in bodily harm that is not severe • Absence of efforts to remedy the harm (for cases resulting in bodily harm or death) • Commission of crime through collusion with public officials responsible for inspecting • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of social ties • Absence of sincere remorse • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation • Offender's minor participation as an accomplice • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Stable family/social ties • Sincere remorse • Offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on his/her family members • Victim expresses the intent of non-punishment or substantial restitution to the victim

3 ILLEGAL MEDICAL PRACTICES

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Prior convictions for the same-offense (within ten years) • Offenses falling within type 2 or 3 • Where serious bodily injury occurred, or there was a very high risk thereof, or multiple victims sustained injuries • Profit gained through the commission of an offense is more than 20 million KRW (Type 2 or 3) • Cases involving misleading the patient such as performing medical practices as a physician, dentist, or doctor practicing oriental medicine without qualification	• Commission of the offense at the patient's active request in cases of extreme difficulty in medical treatment or absence of a known cure in modern medicine • Low-risk treatment or treatment was effective when objectively viewed • Offense committed from employment relationship or job-related instructions • Voluntary surrender to investigative authorities or internal whistle-blowers • No prior criminal convictions
General Circumstance	• The offense was committed over a prolonged period • Resulting in bodily harm that is not severe • Absence of efforts to remedy the harm (for cases resulting in bodily harm or death) • Commission of crime through collusion with public officials responsible for inspecting • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of social ties • Absence of sincere remorse • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Offender's minor participation as a co-offender • No prior convictions for other offenses resulting in a suspended sentence of imprisonment without labor or heavier punishment • Stable family/social ties • Sincere remorse • Offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on offender's family members • Victim expresses the intent of non-punishment or substantial restitution to the victim

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  - ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  - ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  - ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.