

Promulgated on March 21, 2011. Effective on July 1, 2011.
Amended on April 13, 2015. Effective on May 15, 2015.

Chapter 14

Crimes of Food and Health

- This guideline applies to adult offenders (offenders aged 19 or older) who committed any offenses under the following provisions:
 - Act on Place of Origin Indication of Agricultural and Fishery Products, Article 14, paragraph 1, and Article 16-2¹⁾
 - Agricultural Products Quality Control Act, Article 117, Article 119, paragraph 1, subparagraph 1-2, subparagraph 2, 3, and 4²⁾
 - 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 1⁹⁾
 - 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

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 tile, 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 tile, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, of 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.

2(2),¹⁴⁾ paragraph 2¹⁵⁾, paragraph 3, Article 95, subparagraph 1 (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 88¹⁹⁾), Article 12-2, paragraph 2²⁰⁾]

- 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 7²⁵⁾

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 health functional foods includes contents of efficacy or effectiveness of prevention of disease or treatment.

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 recommit 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 93 paragraph 1 subparagraph 2 recommit 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.

- Pharmaceutical Affairs Act, Article 93, paragraph 1, subparagraph 10 (limited to cases violating Article 61, paragraph 1, subparagraph 1,²⁶⁾ paragraph 2,²⁷⁾ 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 11²⁹⁾ 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

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 Korea 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.

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

²⁹⁾ Medicine which are listed in the Korean Pharmacopoeia but whose nature, efficacy or quality does not meet the standard specified in the Korean Pharmacopoeia, medicine 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 Korea 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.



- 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⁾

³¹⁾ This relates to unlicensed medical practice.

PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

01^I FALSE LABELING

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Minor Violations (less than 50 million won)	- 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 won)	8 mos. - 2 yrs.	1 yr. 6 mos. - 3 yrs.	2 yrs. - 4 yrs. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Special consideration can be taken into account for engaging in the offense Extent of violation not severe (such as selling counterfeits along with genuine products) Extent of false labeling is not serious or violating standards for labeling Food products and similar products were not placed within the chain of distribution 	<ul style="list-style-type: none"> Resulted in severe damage to public confidence Significant difference between the genuine product's retail market price and the suggested retail price for the product in question Involves organizational, premeditated, or professional schemes
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Those with hearing and visual impairments Those with mental incapacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies or whistleblowing of corruption 	<ul style="list-style-type: none"> Habitual offender (This applies to false labeling of a place of origin indication of agricultural and fishery products) Repeated commission of same type offense within five years upon the completion of sentence or an exemption from sentence (indicating or advertising efficacy)



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			or effect of prevention of disease or treatment, or others) or criminal history of the same type of offense
General Sentencing Determinant	Conduct	<ul style="list-style-type: none">• Actual profits gained from an offense not substantial• Motive for committing offense can be taken into consideration	<ul style="list-style-type: none">• Indicating 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 prolonged for an extended duration
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none">• Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation• Expresses sincere remorse• No prior criminal history	<ul style="list-style-type: none">• Destroying evidence or attempting to conceal evidence after the commission of the offense• Different types of repeated offenses under the Criminal Act or the criminal history of the same type of offense does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

02 | HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Manufacturing, or similar acts of counterfeit food products, or other products which does 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 diseased animal as ingredient for food products	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 Determinant	Conduct	<ul style="list-style-type: none"> Special considerations can be taken into account for engaging in the offense 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) 	<ul style="list-style-type: none"> 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 won or more retail price, pharmaceutical drugs (or the like) of 20 million won or more retail price Cases involving baby food or foods consumed by children
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Those with hearing and visual impairments Those with mental incapacity (cases where the offender cannot 	<ul style="list-style-type: none"> Repeated commission of same type offense within five years upon the completion of sentence or upon the exemption from sentence (selling hazardous food

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		be held liable) <ul style="list-style-type: none"> Voluntary surrender to investigative agencies or whistle blowers 	and other activities) or criminal history of the same type of offense
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Non-active role involving manufacturing or distribution in the commission of the offense; engaged in transporting, preserving, or displaying the products Motive for committing offense can be taken into consideration 	<ul style="list-style-type: none"> Commission of crime through collusion with inspecting public officials Commission of the offense prolonged for an extended duration 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)
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Immediate measures to close business, dispose of the product, and other similar measures taken after notice of violation Offender expresses remorse, and the patient opposes punishment (for cases resulting in bodily injury or death) Expresses sincere remorse No prior criminal history 	<ul style="list-style-type: none"> Destroying evidence or attempting to conceal evidence after the commission of the offense Different types of repeated offenses under the Criminal Act or the criminal history of the same type of offense does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

03¹ 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 in 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 Determinant	Conduct	<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> 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
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Those with hearing and visual impairments Those with mental incapacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies or whistleblowing of corruption 	<ul style="list-style-type: none"> The criminal history of the same type of offense
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Given prior consent by the patient 	<ul style="list-style-type: none"> Commission of crime through collusion with public officials responsible for inspecting Commission of the offense prolonged for an extended duration Cases resulting in non-serious bodily injuries



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none">• Offender expresses remorse, and the patient opposes punishment• Expresses sincere remorse• No prior criminal history	<ul style="list-style-type: none">• Destroying evidence or attempting to conceal evidence after the commission of the offense• Different types of repeated offenses under the Criminal Act or the criminal history of the same type of offense does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

DEFINITION OF OFFENSES

01¹ FALSE LABELING

* This means offenses with the following elements of crime as prescribe in the applicable law (This applies to all offenses).

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> (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 	Act on Origin Labeling of Agricultural and Fishery Products, Article 14, paragraph 1	Imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (This may be imposed concurrently)
<p>Following act by the person who cooked and sold, or provided agricultural or fishery products or those processed products</p> <ul style="list-style-type: none"> (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 or fine not exceeding 100 million won (may be imposed concurrently)

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
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 or fine not exceeding 150 million won (may be imposed concurrently)
<p>(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</p> <p>(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</p> <p>(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</p>	Agricultural and Fishery Products Quality Control Act, Article 117	Imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (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 or fine not exceeding 100 million won (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 <i>mutatis mutandis</i> 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 <i>mutatis mutandis</i> by Article 88), Article 12-2, paragraph 2]	Imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
Following content is included in false labeling, exaggerated advertisement or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the tile, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, of 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 or fine not exceeding 100 million won (This may be imposed concurrently)
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 more than one year and 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 or 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 tile, manufacturing methods, quality, indication of nutrition, genetically modified foods, or background traceability indication, or nutrition indication, raw materials, ingredient, of 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 or fine not exceeding 50 million won.
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 or fine not exceeding 100 million won (This may be imposed concurrently)



ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
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 recommit 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 more than one year and 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 or a fine between four and ten times the selling price thereof concurrently
<p>(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</p> <p>(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</p> <p>(iii) Selling functional food products violating prescribed labeling criteria, violating the prohibition of labeling that is likely to cause confusion</p>	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 or fine not exceeding 50 million won (This may be imposed concurrently)

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<p>(i) Affixing a label indicating products labeled good or a seminal label to agricultural and fishery products or processed agricultural and fishery products</p> <p>(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</p> <p>(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 tile</p> <p>(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</p>	<p>Agricultural and Fishery Products Quality Control Act, Article 119, subparagraph 1, subparagraph 1-2, subparagraph 2, 3, and 4</p>	<p>Imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won</p>
<p>Following content is included in false labeling, exaggerated advertisement, or advertisement with exaggerated or indication of secret methods contents or exaggerated packaging concerning the tile, manufacturing methods, ingredient, indication of nutrition, raw material, usage, quality, and packaging of livestock products:</p> <p>(i) Effect or efficacy of prevention of disease or treatment, etc.</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 1, subparagraph 6(2)</p>	<p>Imprisonment not exceeding 10 years or fine not exceeding 100 million won (This may be imposed concurrently)</p>
<p>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) recommitts the offense within five years since such sentence has become final and conclusive</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 2</p>	<p>Imprisonment with labor for more than one year and less than 10 years</p>
<p>Sales of livestock products by a person who committed the offense prescribed in Article 45 paragraph 2, paragraph 1, subparagraph 6(2)</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 2</p>	<p>Imprisonment with labor for more than one year and less than 10 years or a fine between four and ten times the selling price thereof concurrently</p>



ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<p>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 tile, manufacturing method, background traceability indication, or nutrition indication, raw materials, ingredient, of usage of livestock products:</p> <p>(i) Not truth or exaggerated contents (ii) Deception of customers, etc. (iii) Secret methods other entities, etc.</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 3</p>	<p>Imprisonment not exceeding 5 years or fine or fine not exceeding 50 million won (This may be imposed concurrently)</p>
<p>(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 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'</p>	<p>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]</p>	<p>Imprisonment not exceeding 5 years or fine or fine not exceeding 20 million won (This may be imposed concurrently)</p>

02 | HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS

(1) TYPE 1 — MANUFACTURING, OR SIMILAR ACTS OF COUNTERFEIT FOOD PRODUCTS, OR OTHER PRODUCTS WHICH DOES NOT COMPLY WITH STANDARD SPECIFICATIONS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<p>(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 the Korea Food and Drug Administration</p> <p>(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 the Korea Food and Drug Administration</p> <p>(iii) Relevant provisions shall be applied <i>mutatis mutandis</i> to mass feeding facilities</p>	<p>Food Sanitary 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 <i>mutatis mutandis</i> by Article 88)</p>	<p>Imprisonment not exceeding five years or fine or fine not exceeding 50 million won (This may be imposed concurrently)</p>
<p>(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</p> <p>(ii) Manufacturing, importing, selling, displaying functional health foods which containing materials used only for medicines or combination·mixing proportion·contents are same or similar with medicines</p>	<p>Act on Functional Health Foods Article 44 subparagraph 7 (limited to cases violating Article 24)</p>	<p>Imprisonment not exceeding five years or fine or fine not exceeding 50 million won (This may be imposed concurrently)</p>
<p>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 Agriculture·Fisheries</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 4, subparagraph 1</p>	<p>Imprisonment not exceeding three years or fine or fine not exceeding 50 million won (This may be imposed concurrently)</p>



ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
(i) Selling or storing·displaying with the purpose to sell counterfeited medicines (ii) Relevant provisions shall be applied <i>mutatis mutandis</i> 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 those provision is applied <i>mutatis mutandis</i> by Article 66)	Imprisonment not exceeding five years or fine or fine not exceeding 20 million won (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 (ii) Pharmacopoeia 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) Permitted or reported Medicines that do not comply with standards announced by the Korea Food and Drug Administration concerning manufacturing method·characteristics·efficacy·quality, etc. (iv) Relevant provisions shall be applied <i>mutatis mutandis</i> to on-medicine therapeutic products	Pharmaceutical Affairs Act, Article 94, paragraph 1 subparagraph 9 (limited to cases violating Article 62 subparagraph 1 to 3, including cases those provisions are applied <i>mutatis mutandis</i> by Article 66)	Imprisonment not exceeding three years or fine or fine not exceeding 10 million won (This may be imposed concurrently)
(i) 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 or fine not exceeding 30 million won (This may be imposed concurrently)

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<p>(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 the Korea Food and Drug Administration</p> <p>(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</p> <p>(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</p>	<p>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.)</p>	<p>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</p>
<p>(i) Manufacturing medicines in which the principal ingredient is replaced to 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</p> <p>(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</p>	<p>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.)</p>	<p>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</p>



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

ELEMENTS OF CRIME	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 koreanii rhizoma 6. toad venom 7. dictamni radialis 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 Sanitary Act, Article 93 paragraph 3	Imprisonment with labor exceeding one year or a fine between two and five times the selling price thereof 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 2 recommits the offense within five years since such sentence has become final and conclusive	Food Sanitary Act, Article 93 paragraph 4	Imprisonment with labor exceeding one year or 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 <i>mutatis mutandis</i> to mass feeding facility	Food Sanitation Act, Article 94 paragraph 1 subparagraph 1 and 2 (including cases to which those provisions are applied <i>mutatis mutandis</i> by Article 88)	Imprisonment not exceeding 10 years or fine or fine not exceeding 100 million won (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 Sanitary Act, Article 94 paragraph 2	Imprisonment with labor exceeding one year and less than 7 years

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
Sales of foods by the person who committed the offense prescribed in Article 94, paragraph 2, subparagraph 1 and 2	Food Sanitary Act, Article 94, paragraph 3	Imprisonment with labor exceeding one year and less than 7 years or a fine between four and ten times the selling price thereof concurrently
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 or fine not exceeding 100 million won (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 recommitts 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 or 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 or fine not exceeding 100 million won (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 recommitts the offense within five years since such sentence has become final and conclusive	Livestock Products Sanitary Control Act, Article 45, the front part of paragraph 2	Imprisonment with labor exceeding one year and less than 10 years

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
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, the latter part of paragraph 2	Imprisonment with labor exceeding one year and less than 10 years or a fine between four and ten times the selling price thereof concurrently.
<p>(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</p> <p>(ii) Relevant provisions shall be applied <i>mutatis mutandis</i> to 'non-medicine therapeutic products'</p>	Pharmaceutical Affairs Act, Article 94, paragraph 1 subparagraph 9 (limited to cases violating Article 62, subparagraph 4 to 7, 11 including cases those provision is applied <i>mutatis mutandis</i> by Article 66)	Imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (This may be imposed concurrently)
(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 or fine not exceeding 30 million won (This may be imposed concurrently)
<p>(i) Using chemical compound additives that the standard or specification has not been publicly announced and substance containing that chemical compound as food additives</p> <p>(ii) Selling or manufacturing, importing, processing, using, cooking, storing, subdividing, transporting, displaying with a purpose to sell of foods containing aforementioned food additives</p>	Act on Special Measures for the Control of Public Health Crimes Article 2, paragraph 1 subparagraph 2 (limited to cases violating Livestock Products Sanitary Control Act, Article 6)	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

(3) TYPE 3 — MANUFACTURING, OR SIMILAR ACTS OF DISEASED ANIMAL AS INGREDIENT FOR FOOD PRODUCTS

ELEMENTS OF CRIME	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 bovine spongiform encephalopathy (mad cow disease), anthrax, 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
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 recommit 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 CRIME	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 CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
(i) Cases with death as result of crimes that fall under Type 2, 3	Identical to that of Type 2 and 3, respectively	
(ii) 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

03¹ ILLEGAL MEDICAL PRACTICES

(1) TYPE 1 — UNLICENSED MEDICAL PRACTICE ONLY WITHOUT ANY OTHER CONDUCTS

ELEMENTS OF CRIME	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 or fine not exceeding 20 million won

(2) TYPE 2 — UNLICENSED MEDICAL PRACTICE AS A BUSINESS

ELEMENTS OF CRIME	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 million won or more and not exceeding 10 million won imposed concurrently

(3) TYPE 3 — CASES RESULTING IN DEATH

ELEMENTS OF CRIME	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

01¹ FALSE LABELING

(1) SPECIAL CONSIDERATIONS CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN THE OFFENSE

- This indicates cases in which one or more following factors apply:
 - 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 (This excludes 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 factors

(2) EXTENT OF VIOLATION NOT SEVERE SUCH AS SELLING COUNTERFEITS ALONG WITH GENUINE PRODUCTS

- This indicates cases in which the extent of disapproving the conduct 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.

(3) EXTENT OF FALSE LABELING IS NOT SERIOUS OR VIOLATING STANDARDS FOR LABELING

- 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] Resulted in Severe Damage to Public Confidence

(4) FOOD PRODUCTS AND SIMILAR PRODUCTS WERE NOT PLACED WITHIN THE CHAIN OF DISTRIBUTION

- This means the food product or similar products are still under the offender's control and have not been delivered to a third party to transfer possession or convey ownership.

(5) RESULTED IN SEVERE DAMAGE TO PUBLIC CONFIDENCE

- This indicates cases in which one or more following factors apply:
 - The product in question is a socially familiar merchandise
 - The product is sold in places such as department stores or authorized retail shops where the public hold in high confidence
 - False labeling by a well-known conglomerate offender
 - Other cases with comparable factors

(6) SIGNIFICANT DIFFERENCE BETWEEN THE GENUINE PRODUCT'S RETAIL MARKET PRICE AND THE SUGGESTED RETAIL PRICE FOR THE PRODUCT IN QUESTION

- This means the difference between the genuine product's market price and the retail price for the product after removing the false labeling is significant.

(7) INVOLVES ORGANIZATIONAL, PREMEDITATED OR PROFESSIONAL SCHEMES

- This indicates cases in which one or more following factors apply:
 - The means and methods for the commission of the offense was meticulously done in-advance

- There were multiple persons involved in an organized manner for the purpose of committing the offense
- Offense committed through the use of automated facilities involving packaging, printing labels, or wrappers
- Other cases with comparable factors

(8) CASES OF WHISTLEBLOWING

- This means the investigation was initiated with a voluntary report by a former participant of structural corruption with the intent to end the offense.

(9) Repeated commission of same

- type offense within five years upon the completion of sentence or an exemption from sentence (indicating or advertising efficacy or effect of prevention of disease or treatment, or others)
- 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
 - Agricultural and Fishery Products Quality Control Act, Article 45, paragraph 2, subparagraph 6(2)

(10) Indicating or advertising efficacy or effect of prevention of disease or treatment, or others

- 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
 - Agricultural and Fishery Products Quality Control Act, Article 45, paragraph 1, subparagraph 6(2)

(11) Conducting unfair practices regarding livestock

- This indicates cases in which following Acts are applied:
 - Agricultural and Fishery Products Quality Control Act, Article 45, paragraph 1, paragraph 3

(12) CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE

- This means the offender has prior incidents of sentencing 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.

(13) MOTIVE FOR COMMITTING THE OFFENSE CAN BE TAKEN INTO CONSIDERATION

- This means one or more of the following factors apply:
 - Offender periodically sold false labeled the place of origin products when in shortage of particular goods from certain places and did not engage in the act of selling the products under false labels regularly
 - Engaged in the act of false labeling to meet the unit price of the buyer company's excessively low price
 - Other cases with comparable factors

(14) OFFENDER ACTIVELY PROMOTED SALES THROUGH THE MEDIA (SUCH AS TELEVISION ADVERTISING)

- In this case, the media indicates television, radios, newspapers, magazines, internet websites, and other similar mechanisms.

(15) COMMISSION OF THE OFFENSE PROLONGED FOR AN EXTENDED DURATION

- This means the commission of the offense extended for more than two years, starting from the date commencing the sale to the date when the violation was enforced.



02¹ HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS

(1) ILLEGAL METHODS SUCH AS FALSE DOCUMENTS OR FORGERY USED

- This means the offender used additional illegal methods for the purpose of concealing the commission of the crime by falsifying documents submitted or recorded and maintained at the government agencies as mandated by law.

(2) CASES INVOLVING BABY FOOD OR FOODS CONSUMED BY CHILDREN

- This means the product at issue is food, medication, or cosmetic product related to babies' or children's health or development including powdered formula, baby food, children's vitamin, children's moisturizer, and other similar products.

(3) Repeated commission of same type offense within five years upon the completion of sentence or an exemption from sentence(selling hazardous food and other activities)

- This indicates cases in which following Acts are applied:
 - 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
 - Agricultural and Fishery Products Quality Control Act, Article 45, paragraph 2, paragraph 1, subparagraph 7

(4) MOTIVE FOR COMMITTING OFFENSE CAN BE TAKEN INTO CONSIDERATION

- This indicates cases in which the purpose of engaging in the commission of the crime was not to inflict harm to other people but to gain profits (For example, the case of manufacturing pharmaceutical drugs and medical supplies for the purpose of clinical tests).

(5) COMMISSION OF THE OFFENSE PROLONGED FOR AN EXTENDED DURATION

- This means the duration of the commission of the offense extended for more than one year, starting from the date commencing the sale to the date when the violation was enforced.

03¹ ILLEGAL MEDICAL PRACTICES

(1) COMMISSION OF OFFENSE CAUSED BY PATIENT'S ACTIVE DEMAND WHEN EXTREME DIFFICULTIES IN MEDICAL TREATMENT OR NO KNOWN CURE EXISTS IN MODERN MEDICINE

- “Extreme difficulties in providing medical treatment or no known cure in modern medicine” mean under an objective judgment, the chances for recovery are very low with the known cures in modern medicine; this includes terminal cancer, patients in a vegetative state due to brain damage, brain death, and other similar incidents.
- “Patient’s active demand” means the patient directly or through the legal guardian explicitly demanded the treatment to the offender while being aware of the offender’s unqualified position to practice as a physician, dentist, or doctor practicing oriental medicine.

(2) LOW-RISK TREATMENT OR TREATMENT WAS EFFECTIVE WHEN OBJECTIVELY VIEWED

- This means cases involving medical treatment such as health examination, venereal inspection, DNA testing, or other similar treatment that would not constitute a direct invasion of the patient’s body. Cases of moxibustion or acupuncture or other cases where the extent of the remedial effect is significant are also considered as a minor invasion.

(3) PATIENT GIVES PRIOR CONSENT

- This means the patient directly or through the legal guardian did not make active demands but give permission to treat in advance while being aware of the offender’s unqualified position to practice as a physician, dentist, or doctor practicing oriental medicine.

(4) COMMISSION OF THE OFFENSE PROLONGED FOR AN EXTENDED DURATION

- This means the duration of the commission of the offense extended for more than one year, starting from the date commencing the sale to the date when the violation was enforced.



(5) OFFENDER EXPRESSES REMORSE AND THE PATIENT OPPOSES PUNISHMENT

- This indicates cases in which the offender expresses remorse for committing the crime, and the patient or the family member of the patient acknowledges this and objects to punishing the offender.
- This includes cases where deposits are made in a considerable amount of money comparable to reaching an agreement as a result of the offender's genuine efforts to reverse the harm.

ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

01¹ DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
 - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
 - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- After an assessment, if a greater number of aggravating factors than the mitigating factors exist, then the aggravating zone is recommended when determining the sentencing range. If a greater number of mitigating factors exist, then a mitigating sentencing range is recommended. For other cases, the standard sentencing range is recommended.

02¹ DETERMINING THE SENTENCE APPLICABLE

- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.



GENERAL APPLICATION PRINCIPLES

01¹ SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to $\frac{1}{2}$.
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to $\frac{1}{2}$.

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

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

03¹ APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

01 | 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 involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING THE BASE OFFENSE

- The “base offense” indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

03 | CALCULATING THE SENTENCING RANGE OF MULTI-COUNT CONVICTION OF THE SAME OFFENSE

- For purposes of calculating sentencing range for multiple offense cases with the same offense of *False Labeling*, the judge shall apply the following principles:
 - ① In setting sentencing range take into account the total amount of sales price of the falsely labeled product, and select the appropriate sentencing range by considering all relevant factors.
 - ② However, after the total summation, when the applicable offense type is one level higher than the most severe single offense, then a reduction of $\frac{1}{3}$ is made to the minimum sentencing range. When the applicable offense type is two or more levels higher than the most severe single offense, a reduction

of $\frac{1}{2}$ is made to the minimum sentencing range by applying the minimum sentencing range of the most severe single offense.

- For multiple offenses falling within categories other than *False Labeling*, apply the *Multiple Offense of Different Types of Offenses* to calculate the sentencing range.

04¹ DETERMINING THE SENTENCE OF AN OFFENDER CONVICTED OF MULTIPLE OFFENSES OF THE DIFFERENT TYPE

- To calculate the sentencing range for multi-count conviction cases with a different offense, the court shall apply the following principles unless the offenses are deemed as a single offense under the sentencing guideline:
 - ① In setting sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the second offense.
 - ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) $\frac{1}{3}$ of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
 - ③ In cases in which the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.
- However, in cases in which an offender convicted of multiple offenses of bribery of the same type, first set the sentencing range for multiple conviction of the same offense, and then use the resulted point range to calculate the sentencing range for multiple conviction of different offenses.

PART B — GUIDELINE ON SUSPENDING A SENTENCE

01¹ FALSE LABELING

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Criminal history of the same offense (within ten years) • Offenses falling within Type 3 • Offense caused serious damage to 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 (This applies to false labeling of a place of origin indication of agricultural and fishery products) 	<ul style="list-style-type: none"> • Special considerations can be taken into account for engaging or participating in the offense • Offenses falling within Type 1 • Extent of profits gained are not significant • Food products and similar products were not placed within the chain of distribution • Voluntary surrender to investigative agencies or whistleblowers • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Indicating or advertising efficacy or effect of prevention of disease or treatment, or others • Conducting unfair practices regarding livestock • Commission of the offense prolonged for an extended duration • Commission of crime through collusion with public officials responsible for inspecting • Offender actively promoted sales through the media (such as television) • Two or more criminal history on the suspension of sentence or for a greater offense • Lack of social ties • Absence of remorse • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense 	<ul style="list-style-type: none"> • Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation • Offender's passive participation as an accomplice • No criminal history of the suspension of sentence or imposing of other sentences more severe • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Cases of physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member



02¹ HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Criminal history of the same offense (within ten years) • Cases whereas it is not verified that the harmfulness is insignificant • Food products of 100 million won or more retail price, pharmaceutical drugs (or the like) of 20 million won or more retail price • Cases involving baby food or foods consumed by children • Resulted in serious bodily harm; involves a high risk of causing serious bodily harm; or caused bodily harm to multiple victims 	<ul style="list-style-type: none"> • Special considerations can be taken into account for engaging or participating in the offense • Food products and similar products were not placed within the chain of distribution • Voluntary surrender to investigative agencies or whistleblowers • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Commission of offense prolonged for an extended duration • Illegal methods such as false documents or forgery used • Resulting in bodily harm that is not severe • Absence of efforts to reverse the harm (for cases resulting in bodily harm or death) • Commission of crime through collusion with public officials responsible for inspecting • Two or more criminal history on the suspension of sentence or for a greater offense • Lack of social ties • Absence of remorse • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense 	<ul style="list-style-type: none"> • Immediate measures taken to close business; dispose of the product at issue, or other similar measures taken after notice of violation • Offender expresses remorse, and the victim opposes punishment, a significant amount of money was deposited, or genuine efforts to reverse the harm (for cases resulting in bodily harm or death) • Offender's passive participation as an accomplice • No criminal history of the suspension of sentence or imposing of other sentences more severe • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Cases of physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member

03¹ ILLEGAL MEDICAL PRACTICES

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Criminal history of the same offense (within ten years) • Offenses falling within type 2 or 3 • Resulted in serious bodily harm; involves a high risk of causing serious bodily harm; or caused bodily harm to multiple victims • Profit gained through the commission of an offense is more than 20 million won (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 	<ul style="list-style-type: none"> • Commission of offense caused by patient's active demand • Low-risk treatment or treatment was effective when objectively viewed • Offense committed from employment relationship or job-related instructions • Voluntary surrender to investigative agencies or whistleblowers • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Commission of offense prolonged for an extended duration • Resulting in bodily harm that are not severe • Absence of efforts to reverse the harm (for cases resulting in bodily harm or death) • Commission of crime through collusion with public officials responsible for inspecting • Two or more criminal history on the suspension of sentence or for a greater offense • Lack of social ties • Absence of remorse • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense 	<ul style="list-style-type: none"> • Offender expresses remorse, and the victim opposes punishment, a significant amount of money was deposited, or genuine efforts to reverse the harm (for cases resulting in bodily harm or death) • Offender's passive participation as an accomplice • No criminal history of the suspension of sentence or imposing of other sentences more severe • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Cases of physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member



DEFINITION OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.
- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, the prior criminal history is calculated from the final date the sentence was completed until the date the offense was committed.

ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
 - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
 - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.