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# 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, Article 15<sup>1)</sup>
- Agricultural Products Quality Control Act Article 34-3, Article 35 subparagraph 1 to 3<sup>2)</sup>
- Fishery Products Quality Control Act Article 53, Article 53-3 subparagraph 1<sup>3)</sup>
- Livestock Products Sanitary Control Act Article 45 paragraph 1 subparagraph 2,<sup>4)</sup> 3,<sup>5)</sup> 7,<sup>6)</sup> paragraph 2 subparagraph 1,<sup>7)</sup> 14<sup>8)</sup>
- Food Sanitation Act Article 93 paragraph 1,<sup>9)</sup> 2,<sup>10)</sup> Article 94 subparagraph 1,<sup>11)</sup> 2,<sup>12)</sup>

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- 1) False labelling of the Place of origin indication by the seller or provider of cooked agricultural or fishery products
  - 2) False labelling of the product with geographical indication(subparagraph 1), Selling the mixture of product with geographical indication · product of standard specification · product with certification of excellent control · product of background traceability and products which do not qualify for aforementioned products(subparagraph 2), False labelling of product of standard specification · product with certification of superb control · product with indication of distribution traceability(subparagraph 3)
  - 3) False labelling or selling the mixture of the product of standard specification · product with certification of quality · product of distribution traceability · product with certification of environment friendly fishery product · product with geographical indication
  - 4) slaughtering non-ambulatory livestock
  - 5) deception such as infusing water
  - 6) sale of livestock products that are decayed or containing poisonous substance or infected with pathogenic microbe, etc.
  - 7) slaughter and treatment of livestock, collection of milk, processing, packaging, storage and distribution of livestock products against processing standard and specification
  - 8) false labelling, advertising of the names, manufacturing methods, ingredients(such as indicating dairy cattle as meat cattle)
  - 9) using animals infected with bovine spongiform encephalopathy, anthrax, avian influenza, etc. when manufacturing · processing · cooking food products, etc. with purpose to sell
  - 10) manufacturing · processing · cooking of food products, etc. which contain ma huang, oriental aconite, etc. as substance
  - 11) selling of the harmful food products, selling of the meat of diseased animals, selling of the chemical synthetics which are not officially announced
  - 12) selling apparatus containing poisonous material

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Article 95 subparagraph 1(limited to cases violating Article 7 paragraph 4,<sup>13)</sup> Article 9 paragraph 4<sup>14)</sup> including cases to which those provisions are applied mutatis mutandis by Article 88), Article 97 subparagraph 1[only in cases of violating Article 10 paragraph 2<sup>15)</sup>(including cases to which those provisions are applied mutatis mutandis by Article 88<sup>16)</sup>), Article 13 paragraph 1<sup>17)</sup>

- Act on Functional Health Foods Article 43(limited to cases violating Article 23), Article 44 subparagraph 4,<sup>18)</sup> 6,<sup>19)</sup> 7<sup>20)</sup>
- Pharmaceutical Affairs Act Article 93 paragraph 1 subparagraph 10(limited to cases violating Article 61 paragraph 1 subparagraph 1,<sup>21)</sup> paragraph 2<sup>22)</sup> including cases to which those provisions are applied mutatis mutandis by Article 66),<sup>23)</sup> Article 94 paragraph 1 subparagraph 9(limited to cases violating Article 62 subparagraph 1 to 7,

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13) selling or manufacturing · importing · processing · using · cooking · storing · transporting · preserving or displaying with purpose to sell the food products or food additives that do not comply with the standard and criteria determined by the commissioner of the Korea food and drug administration

14) selling or manufacturing · importing · storing · transporting · displaying with purpose to sell or using for business the apparatus and container · packaging that do not comply with the standard and criteria determined by the commissioner of the Korea food and drug administration

15) failing to indicate the standards for food products, food additives, genetically modified food products, etc.

16) relevant provisions applied mutatis mutandis to mass feeding facility

17) exaggerated labelling or advertising of place or origin indication, background traceability indication, etc. or labelling of indication that may cause confusion with medicines

18) false · exaggerated labelling or advertising of title, ingredients, quality, background traceability etc. or labelling of indication that may cause confusion with medicines

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

20) selling or manufacturing · importing · using · storing · transporting · preserving or displaying with purpose to sell that do not comply with the standard and criteria determined by the commissioner of the Korea food and drug administration, selling functional health food using container · package that do not comply with the labelling standard, labelling by using similar indication, etc. that may cause confusion of the product which do not qualify for functional health food with functional health food

21) selling medicines which the container · package · appended document do not properly provide the designated information or provide false information, selling the counterfeit of the medicines

22) false labelling or advertising of an product which is not a medicine to have medical effect, efficacy, etc.

23) relevant provisions applied mutatis mutandis to 'non-medicine therapeutic products'

11.<sup>24)</sup> including cases to which those provisions are applied mutatis mutandis by Article 66)

- Cosmetics Act Article 28 paragraph 1 subparagraph 3(limited to cases violating Article 13 subparagraph 2 to 7<sup>25)</sup>), subparagraph 4<sup>26)</sup>
- 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 · altering foods, additives, functional health foods to those already licensed or reported, knowingly sells · acquires · assisting the trade of those counterfeited · altered product), Article 3 paragraph 1(limited to cases violating Pharmaceutical Affairs Act Article 62 subparagraph 2 and cases of counterfeiting · altering medicines or cosmetics to those already licensed or reported, knowingly sells · acquires · assisting the trade of those counterfeited · altered items), Article 5
- Medical Service Act Article 87 paragraph 1 subparagraph 2(limited to cases violating Article 27 paragraph 1<sup>27)</sup>)

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24) 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 commissioner of korean food and drug administration is used, selling or manufacturing · importing · storing · displaying with purpose to sell medicines which caused harm or may be harmful to the national public health

25) selling cosmetics of which the standards are determined under Article 9 but which do not meet such standard, cosmetics that all or part of which is made from unclean, degenerated, spoiled substance, cosmetics which is tainted or deemed to have been tainted by pathogenic microbe, cosmetics to which the alien substance is mixed or attached, cosmetics containing material banned from use in cosmetics as prescribed by the commissioner of the korean food and drug administration or cosmetics containing material in excess of the maximum allowable mixing level, cosmetics in which tar coloring other than that prescribed by the commissioner of the korean food and drug administration is used

26) selling cosmetics with indication which if likely to mislead consumers to believe that the product have medical effect, etc.

27) unlicensed medical practice

# I. TYPES OF OFFENSE AND SENTENCING PERIODS

## 01<sup>1</sup> FALSE LABELING

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Minor Violations (less than 50 million won)	- 8months	4months - 1yr	10months - 1yr 6months
2	Standard Violations	4months - 1yr	10months - 2yrs	1yr 6months - 3yrs 6months
3	Major Violation (more than 500 million won)	8months - 2yrs	1yr 6months - 3yrs	2yrs - 4yrs 6months

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> <li>● Extent of Violation Not Severe (Such As Selling Counterfeits Along With Genuine Products)</li> <li>● Cases Not Involving False Place of Origin Labeling or Fraudulent Acts Concerning Livestock</li> <li>● Food Products and Similar Products Were Not Placed Within the Chain of Distribution</li> </ul>	<ul style="list-style-type: none"> <li>● Resulted in Severe Damage to Public Confidence</li> <li>● Significant Difference Between the Genuine Product's Retail Market Price and the Suggested Retail Price for the Product in Question</li> <li>● Cases Involving Pharmaceutical Drugs or Cosmetics</li> <li>● Involves Organizational, Premeditated or Professional Schemes</li> </ul>
	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Visual Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowing of Corruption</li> </ul>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Type of Offense</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Actual Profits Gained From Offense Not Substantial</li> <li>● Motive for Committing Offense Can be Taken into Consideration</li> </ul>	<ul style="list-style-type: none"> <li>● Offender Actively Promoted Sales Through the Media (Such as Television)</li> <li>● Commission of Crime Through Collusion With Inspecting Public Officials</li> <li>● Commission of the Offense Prolonged for Extended Duration</li> </ul>
	Actor /Etc.	<ul style="list-style-type: none"> <li>● Immediate Measures Taken to Close Business; Dispose the Product at Issue; or Other Similar Measures Taken After Notice of Violation</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> </ul>	<ul style="list-style-type: none"> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> <li>● Repeated Offenses of Different Type under the Criminal Act or Criminal History of Same Type of Offenses that Does Not Constitute Repeated Offenses under the Criminal Act(This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## 02<sup>1</sup> 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	8months - 1yr 6months	1yr - 2yrs 6months	2yrs - 4yrs
2	Manufacturing, or similar acts of harmful food products, or other similar products	1yr - 2yrs	1yr 6months - 3yrs	2yrs 6months - 5yrs
3	Manufacturing, or similar acts of diseased animal as ingredient for food products	1yr 6months - 3yrs	2yrs - 4yrs 6months	4yrs - 7yrs
4	Selling, or similar acts of severely harmful food products, and other similar products	2yrs 6months - 4yrs	3yrs 6months - 6yrs	5yrs - 8yrs
5	Cases resulting in death	4yrs - 7yrs	5yrs - 8yrs	7yrs - 10yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> <li>● Food Products and Similar Products Were Not Placed Within the Chain of Distribution</li> </ul>	<ul style="list-style-type: none"> <li>● Resulted in Serious Bodily Harm; Involves High Risk of Causing Serious Bodily Harm; or Caused Bodily Harm to Multiple Victims</li> <li>● Use of Illegal Methods Such As False Documents or Forgery</li> <li>● Food Products of 100 Million Won or More Retail Price, Pharmaceutical Drugs (or the Like) of 20 Million Won or More Retail Price</li> <li>● Cases Involving Baby Food or Foods Consumed by Children</li> </ul>

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Visual Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowers</li> </ul>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Type of Offense</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Non-active Role Involving Manufacturing or Distribution in the Commission of the Offense; Engaged in Transporting, Preserving, or Displaying the Products</li> <li>● Motive for Committing Offense Can be Taken into Consideration</li> </ul>	<ul style="list-style-type: none"> <li>● Commission of Crime Through Collusion With Inspecting Public Officials</li> <li>● Commission of the Offense Prolonged for Extended Duration</li> <li>● Resulting in Bodily Harm (Excludes Cases That Resulted in Serious Bodily Harm; Involves High Risk of Causing Serious Bodily Harm; or Caused Bodily Harm to Multiple Victims)</li> <li>● Involves Pharmaceutical Drugs (Type 1, 4, 5)</li> <li>● Violations of Food Sanitation Act, Article 93, Paragraph 2 (Type 2)</li> </ul>
	Actor /Etc.	<ul style="list-style-type: none"> <li>● Immediate Measures to Close Business, Dispose of the Product and Other Similar Measures Taken After Notice of Violation</li> <li>● Offender Expresses Remorse and the Patient Opposes Punishment (For Cases Resulting in Bodily Injury or Death)</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> </ul>	<ul style="list-style-type: none"> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> <li>● Repeated Offenses of Different Type under the Criminal Act or Criminal History of Same Type of Offenses that Does Not Constitute Repeated Offenses under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## 03<sup>1</sup> ILLEGAL MEDICAL PRACTICES

Type	Classification	Mitigated sentencing range	Standard sentencing range	Aggravated sentencing range
1	Simple unlicensed medical practice	4months - 1yr	8months - 2yrs	1yr 6months - 3yrs
2	Unlicensed medical practice as a business	1yr - 2yrs 6months	1yr 6months - 3yrs	2yrs 6months - 4yrs
3	Cases resulting in death	2yrs 6months - 5yrs	4yrs - 7yrs	5yrs - 8yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● 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</li> <li>● Treatment Known to be Low Risk or Effective upon Objective Judgment</li> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> </ul>	<ul style="list-style-type: none"> <li>● Resulted in Serious Bodily Harm; Involves High Risk of Causing Serious Bodily Harm; or Caused Bodily Harm to Multiple Victims</li> <li>● Significant Amount of Profits Gained Through Offense (Type 2)</li> <li>● Cases Involving Misleading the Patient Such As Performing Medical Practices as a Physician, Dentist, or Doctor Practicing Oriental Medicine Without Qualification</li> </ul>
	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Visual Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowing of Corruption</li> </ul>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Type of Offense</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Given Prior Consent by the Patient</li> </ul>	<ul style="list-style-type: none"> <li>● Commission of Crime Through Collusion With Public Officials Responsible for Inspecting</li> <li>● Commission of the Offense Prolonged for Extended Duration</li> <li>● Cases Resulting in Non-serious Bodily Injuries</li> </ul>
	Actor /Etc.	<ul style="list-style-type: none"> <li>● Offender Expresses Remorse and the Patient Opposes Punishment</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> </ul>	<ul style="list-style-type: none"> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> <li>● Repeated Offenses of Different Type under the Criminal Act or Criminal History of Same Type of Offenses that Does Not Constitute Repeated Offenses under the Criminal Act(This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## [ DEFINITION OF OFFENSES ]

### 01 | FALSE LABELING

- This means offenses with the following elements of offense as prescribed in the applicable law (Applies to all offenses).

Elements of Offense	Applicable Law	Sentencing Range by law
<p>(i) False labelling of the place of origin indication or labelling of indication that is likely to cause confusion to the product's place of origin</p> <p>(ii) Damaging, altering the label of place of origin indication with purpose to cause confusion to the product's place of origin</p> <p>(iii) Selling product with camouflaged place of origin indication or selling, storing · displaying with a purpose to sell the mixture of agricultural · fishery products (or processed products of those) with place of origin indication and products without aforementioned indication</p>	<p>Act on Place of Origin Indication of Agricultural and Fishery Products Article 14</p>	<p>imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)</p>
<p>Following act by the person who cooked and sold · provided agricultural · fishery products or those processed products</p> <p>(i) False labelling of the place of origin indication or labelling of indication that is likely to cause confusion to the product's place of origin</p> <p>(ii) Cooking · selling · providing the product of which the place of origin indication is camouflaged or storing, displaying the products with damaged · altered place of origin indication with purpose to cook · sell · provide those products</p> <p>(iii) Cooking · selling · providing the agricultural · 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</p>	<p>Act on Place of Origin Indication of Agricultural and Fishery Products Article 15</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won</p>

Elements of Offense	Applicable Law	Sentencing Range by law
<ul style="list-style-type: none"> <li>(i) False labelling of the genetically modified agricultural product indication or labelling an indication that is likely to cause confusion to whether the product has been genetically modified</li> <li>(ii) Damaging · altering the label with purpose to cause confusion to the genetically modified agricultural product indication</li> <li>(iii) Selling or storing · displaying with purpose to sell the mixture of agricultural products with genetically modified agricultural product indication and other agricultural products</li> </ul>	<p style="text-align: center;">Agricultural Products Quality Control Act, Article 34 - 3</p>	<p style="text-align: center;">imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)</p>
<ul style="list-style-type: none"> <li>(i) False labelling of the genetically modified fishery product indication or labelling an indication that is likely to cause confusion to whether the product has been genetically modified</li> <li>(ii) Damaging · altering the label with purpose to cause confusion to the genetically modified fishery product indication</li> <li>(iii) Mixing of the products with genetically modified fishery product indication and other fishery products</li> </ul>	<p style="text-align: center;">Fishery Products Quality Control Act, Article 53</p>	<p style="text-align: center;">imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)</p>
<ul style="list-style-type: none"> <li>(i) increasing weight or volume by deceitful methods such as forcing livestock to drink water or infusing water into meat</li> </ul>	<p style="text-align: center;">Livestock Products Sanitary Control Act, Article 45, paragraph 1 subparagraph 3</p>	<p style="text-align: center;">imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)</p>
<ul style="list-style-type: none"> <li>(i) selling or importing, displaying, transporting with purpose to sell or using in business the food products, etc. which the labelling criteria (concerning foods or food additives, apparatus and containers · packages of which the criteria and standard is prescribed, genetically modified foods) is prescribed, without the proper labels that comply with the criteria (relevant provisions are applied mutatis mutandis to mass feeding facility)</li> <li>(ii) false labeling or exaggerated advertisement concerning the title, manufacturing methods, quality, indication of nutrition, place of origin indication, or background traceability indication/exaggerate packaging/labeling or advertising that is likely to cause confusion of foods or food additives with medicines</li> </ul>	<p style="text-align: center;">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 13, paragraph 1]</p>	<p style="text-align: center;">imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won</p>

Elements of Offense	Applicable Law	Sentencing Range by law
(i) false · exaggerated labelling or advertising of title, raw material, manufacturing methods, nutrition, ingredients, usage, quality and background traceability etc. (ii) labelling · 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 labelling that is likely to cause confusion	Act on Functional Health Foods Article 44 subparagraph 4, 6, 7 (limited to cases violating Article 25, 26)	imprisonment not exceeding 5 years or fine or fine not exceeding 50 million won (may be imposed concurrently)
(i) placing geographical indication or any indication similar thereto on the package · containers · advertisement and relevant document when the pertaining agricultural products or processed agricultural products are not a 'geographical indication product' (ii) selling or storing · displaying with purpose to sell the mixture of agricultural products or processed agricultural products of standard specification, certification of excellent control, background traceability or geographical indication with those products which do not qualify for aforementioned title (iii) placing indication of standard specification, certification of excellent control, background traceability or any indication similar thereto to agricultural products or processed agricultural products that are not qualified to use such titles	Agricultural Products Quality Control Act, Article 35 subparagraph 1 to 3	imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won
(i) false labelling such as placing indication of standard specification · certification of quality · background traceability · certification of environment friendly fishery product or geographical indication or any indication similar thereto to fishery products or processed fishery products that are not qualified to use such titles, selling of those falsely labelled products, selling of the adulterated products	Fishery Products Quality Control Act, Article 53 - 3 subparagraph 1	imprisonment not exceeding 3 years or fine or fine not exceeding 30 million won
(i) false labelling · exaggerated advertisement of the livestock products concerning the title · manufacturing methods · ingredients · nutrition · quality and its packaging or exaggerated packaging	Livestock Products Sanitary Control Act, Article 45, paragraph 2 subparagraph 14	imprisonment not exceeding 3 years or fine or fine not exceeding 50 million won (may be imposed concurrently)

Elements of Offense	Applicable Law	Sentencing Range by law
<p>(i) selling or storing · displaying with purpose to sell the medicines of which the container, package, appended document do not include properly the information which prescribed to be stated on containers, etc.</p> <p>(ii) placing on the container · package or appended document of the product which is not a medicine the indication which is likely to mislead consumers to believe that the product has medical effect · efficacy or running such misleading advertisement, selling or storing · displaying with purpose to sell the product with aforementioned label · advertisement</p> <p>(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 (may be imposed concurrently)</p>
<p>(i) selling or storing · displaying with purpose to sell the cosmetics of which the labels · indications are likely to mislead consumers to believe that the product has medical effect · efficacy</p>	<p>Cosmetics Act, Article 28, paragraph 1 subparagraph 4</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (may be imposed concurrently)</p>

## 02<sup>1</sup> 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 Offense	Applicable Law	Sentencing Range by law
<p>(i) selling or manufacturing · importing · processing · using · cooking · storing · subdividing · transporting · preserving or displaying with purpose to sell foods or food additives that do not comply with standards and specifications announced by Korea Food and Drug Administration</p> <p>(ii) selling or manufacturing · importing · storing · transporting · displaying with purpose to sell or using in business of apparatus and container · package that do not comply with standards and specifications announced by Korea Food and Drug Administration</p> <p>(iii) relevant provisions shall be applied mutatis mutandis to mass feeding facility</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 mutatis mutandis by Article 88)</p>	<p>imprisonment not exceeding 5 years or fine or fine not exceeding 50 million won (may be imposed concurrently)</p>
<p>(i) selling or manufacturing · importing · using · storing · transporting · preserving · displaying with purpose to sell functional health foods that do not comply with standards and specifications announced by 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 5 years or fine or fine not exceeding 50 million won (may be imposed concurrently)</p>
<p>(i) slaughtering, processing, milk collecting, processing, etc. of livestock or livestock products which was imported with purpose to sell in manner that do not comply with the processing standard or contents specification announced by Minister of Agriculture · Fisheries</p>	<p>Livestock Products Sanitary Control Act, Article 45, paragraph 2 subparagraph 1</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 50 million won (may be imposed concurrently)</p>

Elements of Offense	Applicable Law	Sentencing Range by law
<p>(i) selling or storing · displaying with purpose to sell counterfeited medicines</p> <p>(ii) 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 concerning "counterfeited medicines" among Article 61, paragraph 1 subparagraph 1, including cases those provision is applied mutatis mutandis by Article 66)</p>	<p>imprisonment not exceeding 5 years or fine or fine not exceeding 20 million won (may be imposed concurrently)</p>
<p>selling or manufacturing · importing · storing or displaying with purpose to sell of the following medicines</p> <p>(i) medicines which are listed in the Korean Pharmacopoeia but whose nature, efficacy or quality does not meet the standard specified in the Korean Pharmacopoeia</p> <p>(ii) medicines that are permitted or reported 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</p> <p>(iii) medicines that do not comply with standards announced by Korea Food and Drug Administration concerning manufacturing method · characteristics · efficacy · quality, etc.</p> <p>(iv) relevant provisions shall be applied mutatis mutandis to 'non-medicine therapeutic products'</p>	<p>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 mutatis mutandis by Article 66)</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (may be imposed concurrently)</p>
<p>(i) selling or manufacturing · importing · storing · displaying with purpose to sell cosmetics that do not comply with standards and specifications announced by minister of Korea Food and Drug Administration</p>	<p>Cosmetics Act, Article 28, paragraph 1 subparagraph 3 (limited to cases violating Article 13 subparagraph 2)</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (may be imposed concurrently)</p>

Elements of Offense	Applicable Law	Sentencing Range by law
<p>(i) selling or manufacturing · importing · processing · using · cooking · storing · subdividing · transporting · preserving or displaying with purpose to sell foods or food additives that do not comply with standards and specifications announced by Korea Food and Drug Administration</p> <p>(ii) selling or manufacturing · importing · using · storing · transporting · preserving · displaying with purpose to sell 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 which the principal ingredient is replaced to completely different ingredient or which do not contain full amount of ingredient as permitted, selling · acquiring with purpose to sell · assisting sale or buying with purpose to use for 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 purpose to sell · assisting sale or buying with purpose to use for 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 Offense	Applicable Law	Sentencing Range by law
(i) manufacturing · processing · cooking foods or food additives with purpose to sell using following materials or components ma huang 2. oriental aconite 3. aconite 4. aconitum seoulense 5. aconiti koreani rhizoma 6. toad venom 7. dictamnii radias cortex 8. henbane leaf	Food Sanitation Act, Article 93, paragraph 2	imprisonment for 1 year or more, fine of 2 times the retail price or more and not exceeding 5 times the retail price imposed 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 purpose to sell apparatus and container · package which contains or is tainted with toxic · noxious substance that may cause bodily harm (iii) relevant provisions shall be applied mutatis mutandis to mass feeding facility	Food Sanitation Act, Article 94 subparagraph 1, 2 (including cases to which those provisions are applied mutatis mutandis by Article 88)	imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)
(i) selling or manufacturing · importing · using · storing · transporting · displaying with purpose to sell the harmful functional health foods	Act on Functional Health Foods Article 43 (limited to cases violating Article 23)	imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed 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 purpose to sell livestock products which are decayed or containing noxious substance or tainted by pathogenic bacterium, etc.	Livestock Products Sanitary Control Act, Article 45, paragraph 1 subparagraph 2, 7	imprisonment not exceeding 7 years or fine or fine not exceeding 100 million won (may be imposed concurrently)

Elements of Offense	Applicable Law	Sentencing Range by law
<p>(i) selling or manufacturing · importing · storing · displaying with purpose to sell medicines which is composed of unclean or decayed substance, tainted by pathogenic bacterium, mixed with alien substance, containing tar coloring that is not prescribed by commissioner of Korean Food and Drug Administration, likely to cause harm to national public health</p> <p>(ii) relevant provisions shall be applied mutatis mutandis to 'non-medicine therapeutic products'</p>	<p>Pharmaceutical Affairs Act, Article 94, paragraph 1 subparagraph 9 (limited to cases violating Article 62 subparagraph 4 to 7, 1 including cases those provision is applied mutatis mutandis by Article 66)</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (may be imposed concurrently)</p>
<p>(i) selling or manufacturing · importing · storing · displaying with purpose to sell cosmetics made from spoiled, decayed substance, tainted with pathogenic bacterium, mixed with alien substance, containing material banned from use in cosmetics as prescribed by the commissioner of the korean food and drug administration, containing material in excess of the maximum allowable mixing level, containing tar coloring other than that prescribed by the commissioner of the korean food and drug administration is used</p>	<p>Cosmetics Act, Article 28, paragraph 1 subparagraph 3 (limited to cases violating Article 13 subparagraph 3 to 7)</p>	<p>imprisonment not exceeding 3 years or fine or fine not exceeding 10 million won (may be imposed concurrently)</p>
<p>(i) using chemical compound additives that the standard · 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 purpose to sell of foods containing aforementioned food additives</p>	<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)</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>

### 3. TYPE 3 MANUFACTURING, OR SIMILAR ACTS OF DISEASED ANIMAL AS INGREDIENT FOR FOOD PRODUCTS

Elements of Offense	Applicable Law	Sentencing Range by law
(i) manufacturing · processing · cooking with purpose to sell 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 for 3 or more years, fine of 2 times the retail price or more and not exceeding 5 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 with injury as a result), Article 3, paragraph 1 subparagraph 1, 3 (limited to cases with injury as a result)	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
(i) Cases with death as result of crimes that fall under Type 2, 3	identical to that of Type 2, 3	
(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 · 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

## 03<sup>1</sup> ILLEGAL MEDICAL PRACTICES

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

Elements of Offense	Applicable Law	Sentencing Range by law
(i) Unlicensed medical practice	Medical Service Act, Article 87, paragraph 1 subparagraph 2 (limited to cases violating 27, paragraph 1)	imprisonment not exceeding 5 years or fine or fine not exceeding 20 million won

### 2. TYPE 2 UNLICENSED MEDICAL PRACTICE AS A BUSINESS

Elements of Offense	Applicable Law	Sentencing Range by law
(i) 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 a oriental doctor in a form of business with 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 Offense	Applicable Law	Sentencing Range by law
(i) Cases with death as result of crimes that fall under Type 1, 2	identical to that of Type 1, 2	

## [ DEFINITION OF SENTENCING FACTORS ]

### 01<sup>1</sup> FALSE LABELING

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#### **1. OFFENSE COMMITTED FROM EMPLOYMENT RELATIONSHIP OR JOB RELATED INSTRUCTIONS**

- This means cases where the nature of participation in the commission of the offense was passive as an employee or a subordinate and for the purpose of benefiting the company or the employer.

#### **2. EXTENT OF VIOLATION NOT SEVERE SUCH AS SELLING COUNTERFEITS ALONG WITH GENUINE PRODUCTS**

- This means cases where 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. 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.

#### **4. RESULTED IN SEVERE DAMAGE TO PUBLIC CONFIDENCE**

- This means cases where 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; or
  - Other cases with comparable factors.

#### **5. 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.

#### **6. INVOLVES ORGANIZATIONAL, PREMEDITATED OR PROFESSIONAL SCHEMES**

- This means cases where one or more following factors apply:
  - Means and methods for the commission of the offense was meticulous done in-advance;
  - Multiple persons involved in a organized manner for the purpose of committing the offense;
  - Offense committed through the use of automated facilities involving packaging, printing labels, or wrappers; or
  - Other cases with comparable factors.

#### **7. CASES OF WHISTLE-BLOWING OF CORRUPTION**

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

#### **8. 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 practice) as established under this sentencing guideline.

#### **9. MOTIVE FOR COMMITTING 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

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- selling the products under false labels on a regular basis.
  - 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.

#### **10. OFFENDER ACTIVELY PROMOTED SALES THROUGH THE MEDIA (SUCH AS TELEVISION)**

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

#### **11. COMMISSION OF THE OFFENSE PROLONGED FOR EXTENDED DURATION**

- This means the duration of 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.

## **02 | HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS**

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### **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. MOTIVE FOR COMMITTING OFFENSE CAN BE TAKEN INTO CONSIDERATION**

- This means cases where 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)

#### **4. COMMISSION OF THE OFFENSE PROLONGED FOR 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.

### **03<sup>1</sup> ILLEGAL MEDICAL PRACTICES**

#### **1. 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**

- “Extreme difficulties in providing medical treatment or no known cure in modern medicine” means under objective judgment, the chances for recovery is very low with the known cures in modern medicine; this includes terminal cancer, patients in 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 a doctor practicing oriental medicine.

#### **2. TREATMENT KNOWN TO BE LOW RISK OR EFFECTIVE UPON OBJECTIVE JUDGMENT**

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

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### **3. GIVEN PRIOR CONSENT BY THE PATIENT**

- 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 a doctor practicing oriental medicine.

### **4. COMMISSION OF THE OFFENSE PROLONGED FOR 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 means cases where the offender expresses signs of remorse and the patient or the family member of the patient acknowledges this and objects punishing the offender.
- This includes cases where deposits are made in a considerable amount of money comparable to reaching of an agreement as a result of the offender's genuine efforts to reverse harm.

## [ ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS ]

### 01 | DETERMINING APPROPRIATE SENTENCING RANGE

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- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
  - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor.
  - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
  - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

### 02 | DETERMINING THE APPLICABLE SENTENCE

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- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.

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## [ GENERAL APPLICATION PRINCIPLES ]

### 01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

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- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to 1/2 from the maximum level.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to 1/2 from the minimum level.

### 02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE GUIDELINES AND APPLICABLE SENTENCING RANGE BY LAW

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When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

### 03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

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When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.

## [ GUIDELINE ON MULTI-COUNT CONVICTIONS ]

### 01 | APPLICABLE SCOPE

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- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

### 02 | DETERMINING BASE OFFENSE

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- The “base offense” means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

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

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- For purposes of calculating sentencing range for multi-count conviction 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, as a result of total summation, if the applicable offense type is one level higher than the most severe single offense among the multi-count, then reduction of 1/3 is made to the minimum sentencing range. If the applicable offense type is two or more levels higher than the most severe single offense among the

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multi-count, then reduction of 1/2 is made to the minimum sentencing range by applying the minimum sentencing range of the most severe single offense among the multi-count.

- For multi-count convictions of offenses falling within categories other than *False Labeling*, apply the *Multi-count Conviction of Different Offenses* for calculating sentencing range.

## 04 | CALCULATING SENTENCING RANGE OF MULTI-COUNT CONVICTION OF DIFFERENT OFFENSES

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- For purposes of calculating sentencing range for multi-count conviction cases with the different offense or multi-count convictions of offenses falling within categories other than *False Labeling*, the judge 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 counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
  - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.
  - ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.
- However, when the multi-count conviction includes both offenses of false labeling and different type of offenses, first set the sentencing range for multi-count conviction of the same offenses of *False Labeling*; then use the resulted point range to calculate the sentencing range for multi-count conviction with different offenses.

## II. GUIDELINE ON SUSPENSION OF SENTENCE

### 01 | FALSE LABELING

Classification	Adverse	Affirmative
<p><b>Primary Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Offense (Within Ten Years)</li> <li>● Offenses Falling Within Type 3</li> <li>● Offense Caused Serious Damage to Public Trust</li> <li>● Involves Organizational, Premeditated, or Professional Schemes</li> <li>● Significant Difference Between the Genuine Product’s Retail Market Price and the Suggested Retail Price for the Product at Issue</li> </ul>	<ul style="list-style-type: none"> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> <li>● Offenses Falling Within Type 1</li> <li>● Extent of Profits Gained Are Not Significant</li> <li>● Food Products and Similar Products Were Not Placed Within the Chain of Distribution</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowers</li> <li>● No Prior Criminal History</li> </ul>
<p><b>General Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Commission of Offense Prolonged for Extended Duration</li> <li>● Cases Involving Pharmaceutical Drugs or Cosmetics</li> <li>● Commission of Crime Through Collusion With Public Officials Responsible for Inspecting</li> <li>● Offender Actively Promoted Sales Through the Media (Such as Television)</li> <li>● Two or More Criminal History on Suspension of Sentence or for a Greater Offense</li> <li>● Lack of Social Ties</li> <li>● Absence of Remorse</li> <li>● Active Participation as an Accomplice</li> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> </ul>	<ul style="list-style-type: none"> <li>● Immediate Measures Taken to Close Business; Dispose the Product at Issue; or Other Similar Measures Taken After Notice of Violation</li> <li>● Passive Participation As an Accomplice</li> <li>● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe</li> <li>● Strongly-Established Social Ties</li> <li>● Expresses Sincere Remorse</li> <li>● Cases of Old-age Offenders</li> <li>● Cases of Physically-ill Offenders</li> <li>● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender’s Dependent Family Member</li> </ul>

## 02<sup>1</sup> HARMFUL FOOD PRODUCTS, PHARMACEUTICAL DRUGS, OR COSMETICS

Classification	Adverse	Affirmative
<p><b>Primary Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Offense (Within Ten Years)</li> <li>● Cases where it is not verified that the harmfulness is insignificant</li> <li>● Food Products of 100 Million Won or More Retail Price, Pharmaceutical Drugs (or the Like) of 20 Million Won or More Retail Price</li> <li>● Cases Involving Baby Food or Foods Consumed by Children</li> <li>● Resulted in Serious Bodily Harm Involves High Risk of Causing Serious Bodily Harm or Caused Bodily Harm to Multiple Victims</li> </ul>	<ul style="list-style-type: none"> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> <li>● Food Products and Similar Products Were Not Placed Within the Chain of Distribution</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowers</li> <li>● No Prior Criminal History</li> </ul>
<p><b>General Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Commission of Offense Prolonged for Extended Duration</li> <li>● Illegal Methods Such As False Documents or Forgery Used</li> <li>● Resulting in Bodily Harm That Are Not Severe</li> <li>● Absence of Efforts to Reverse Harm (For Cases Resulting in Bodily Harm or Death)</li> <li>● Commission of Crime Through Collusion With Public Officials Responsible for Inspecting</li> <li>● Two or More Criminal History on Suspension of Sentence or for a Greater Offense</li> <li>● Lack of Social Ties</li> <li>● Absence of Remorse</li> <li>● Active Participation as an Accomplice</li> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> </ul>	<ul style="list-style-type: none"> <li>● Immediate Measures Taken to Close Business; Dispose the Product at Issue; or Other Similar Measures Taken After Notice of Violation</li> <li>● Offender Expresses Remorse and the Victim Opposes Punishment, Significant Amount of Money Deposited, or Genuine Efforts to Reverse Harm (For Cases Resulting in Bodily Harm or Death)</li> <li>● Passive Participation As an Accomplice</li> <li>● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe</li> <li>● Strongly-Established Social Ties</li> <li>● Expresses Sincere Remorse</li> <li>● Cases of Old-age Offenders</li> <li>● Cases of Physically-ill Offenders</li> <li>● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member</li> </ul>

## 03<sup>1</sup> ILLEGAL MEDICAL PRACTICES

Classification	Adverse	Affirmative
<p><b>Primary Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Criminal History of the Same Offense (Within Ten Years)</li> <li>● Offenses Falling Within Type 2 or 3</li> <li>● Resulted in Serious Bodily Harm; Involves High Risk of Causing Serious Bodily Harm; or Caused Bodily Harm to Multiple Victims</li> <li>● Profit Gained Through Commission of Offense is More Than 20 Million Won (Type 2 or 3)</li> <li>● Cases Involving Misleading the Patient Such As Performing Medical Practices as a Physician, Dentist, or Doctor Practicing Oriental Medicine without Qualification</li> </ul>	<ul style="list-style-type: none"> <li>● Commission of Offense Caused by Patient's Active Demand in Cases of Extreme Difficulties in Providing Medical Treatment or No Known Accepted Cure in Modern Medicine</li> <li>● Treatment Known to be Low Risk or Effective upon Objective Judgment</li> <li>● Offense Committed From Employment Relationship or Job Related Instructions</li> <li>● Voluntary Surrender to Investigative Agencies or Whistle-blowers</li> <li>● No Prior Criminal History</li> </ul>
<p><b>General Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Commission of Offense Prolonged for Extended Duration</li> <li>● Resulting in Bodily Harm That Are Not Severe</li> <li>● Absence of Efforts to Reverse Harm (For Cases Resulting in Bodily Harm or Death)</li> <li>● Commission of Crime Through Collusion With Public Officials Responsible for Inspecting</li> <li>● Two or More Criminal History on Suspension of Sentence or for a Greater Offense</li> <li>● Lack of Social Ties</li> <li>● Absence of Remorse</li> <li>● Active Participation as an Accomplice</li> <li>● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense</li> </ul>	<ul style="list-style-type: none"> <li>● Offender Expresses Remorse and the Victim Opposes Punishment, Significant Amount of Money Deposited, or Genuine Efforts to Reverse Harm (For Cases Resulting in Bodily Harm or Death)</li> <li>● Passive Participation As an Accomplice</li> <li>● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe</li> <li>● Strongly-Established Social Ties</li> <li>● Expresses Sincere Remorse</li> <li>● Cases of Old-age Offenders</li> <li>● Cases of Physically-ill Offenders</li> <li>● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member</li> </ul>

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## [ DEFINITIONS OF CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE ]

- In cases where the consideration factors for suspension of 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 involving suspension of sentence, calculate from the date the defendant's suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.

## [ ASSESSING PRINCIPLES APPLICABLE TO THE CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE ]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
  - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
  - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
  - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse(affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.