

## 21 U.S. Code § 378

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### Advertising of foods

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#### **(a) Determination of misbranding; notification of Federal Trade Commission by Secretary; contents**

- (1) Except as provided in subsection (c), before the Secretary may initiate any action under subchapter III—
- (A) with respect to any food which the Secretary determines is misbranded under section 343(a)(2) of this title because of its advertising, or
  - (B) with respect to a food's advertising which the Secretary determines causes the food to be so misbranded, the Secretary shall, in accordance with paragraph (2), notify in writing the Federal Trade Commission of the action the Secretary proposes to take respecting such food or advertising.
- (2) The notice required by paragraph (1) shall—
- (A) contain (i) a description of the action the Secretary proposes to take and of the advertising which the Secretary has determined causes a food to be misbranded, (ii) a statement of the reasons for the Secretary's determination that such advertising has caused such food to be misbranded, and
  - (B) be accompanied by the records, documents, and other written materials which the Secretary determines supports his determination that such food is misbranded because of such advertising.

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