§ 6813. Seizure: 1. Any drug, device or cosmetic that is adulterated, misbranded or may not be sold under the provisions of this chapter, may be seized on petition or complaint of the board and condemned in the supreme court of any county in which it is found. Seizure shall be made:

a. by process pursuant to the petition or complaint, or

b. if the secretary or other officer designated by him has probable cause to believe that the article

(1) is one which may not be sold under the provisions of section sixty-eight hundred seventeen of this chapter, or

(2) is adulterated, or

(3) is so misbranded as to be dangerous to health.

The article shall be seized by order of such officer. The order shall describe the article to be seized, the place where the article is located, and the officer or employee making the seizure. The officer, in lieu of taking actual possession, may affix a tag or other appropriate marking to the article giving notice that the article has been quarantined and warning all persons not to remove or dispose of it by sale or otherwise until permission for removal or disposal is given by the officer or the court. In case of seizures or quarantine, pursuant to such order, the jurisdiction of such court shall attach upon such seizure or quarantine, and a petition or complaint for condemnation shall be filed promptly.

2. The procedure for cases under this section shall conform as much as possible to the procedure for attachment. Any issue of fact joined in any case under this section shall be tried by jury on the demand of either party. The court at any time after seizure and up to the time of trial shall allow by order any party or his agent or attorney to obtain a representative sample of the condemned material, a true copy of the analysis on which the proceeding was based, and the identifying marks or numbers, if any, on the packages from which the samples analyzed were obtained.

3. Any drug, device or cosmetic condemned under this section shall be disposed of by destruction or sale as the court may direct after the

decree in accordance with the provisions of this section. The proceeds of the sale, if any, shall be paid into the state treasury after deduction for legal costs and charges. However, the drug, device or cosmetic shall not be sold contrary to the provisions of this article. After entry of the decree, if the owner of the condemned articles pays the costs of the proceeding and posts a sufficient bond as security that the articles will not be disposed of contrary to the provisions of this article, the court may by order direct that the seized articles be delivered to the owner to be destroyed or brought into conformance with this article under supervision of the secretary. The expenses of the supervision shall be borne by the person obtaining the release under bond. Any drug condemned by reason of its being a new drug which may not be sold under this article shall be disposed of by destruction.

4. When the decree of condemnation is entered, court costs and fees, storage and other expense shall be awarded against the person, if any, intervening as claimant of the condemned articles.

5. In any proceeding against the board, or the secretary, or an agent of either, because of seizure, or quarantine, under this section, the board, or the secretary, or such agent shall not be liable if the court finds that there was probable cause for the acts done by them.