

CHAPTER 25

COMMERCIAL FEED

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25.31 CITATION, COMMERCIAL FEED LAW.

Sections 25.31 to 25.44 shall be known and cited as the Minnesota commercial feed law.

History: 1971 c 433 s 1; 1980 c 509 s 5

25.32 ENFORCING OFFICIAL.

Sections 25.31 to 25.44 shall be administered by the commissioner of the department of agriculture, hereinafter referred to as the "commissioner".

History: 1971 c 433 s 2; 1980 c 509 s 6

25.33 DEFINITIONS.

Subdivision 1. When used in sections 25.31 to 25.44, the terms defined in this section have the meanings given them.

Subd. 2. "Person" includes individuals, partnerships, corporations, associations, firms, societies, and companies.

Subd. 3. "Distribute" means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

Subd. 4. "Distributor" means any person who distributes commercial feed in this state.

Subd. 5. "Commercial feed" means all materials except unmixed seed, whole or processed, when not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D) which are distributed for use as feed or for mixing in feed, including feed for aquatic animals. The commissioner by rule may exempt from this definition, or from specific provisions of sections 25.31 to 25.44, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D).

Subd. 6. "Feed ingredient" means each of the constituent materials making up a commercial feed or pet food.

Subd. 7. "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

Subd. 8. "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body.

Subd. 9. "Customer formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.

Subd. 10. "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

Subd. 11. "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

Subd. 12. "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.

Subd. 13. "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

Subd. 14. "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying or supporting such commercial feed.

Subd. 15. "Ton" means a net weight of 2,000 pounds avoirdupois.

Subd. 16. "Percent" or "percentages" means percentages by weights.

Subd. 17. "Official sample" means a sample of feed taken by the commissioner or the commissioner's agent in accordance with the provisions of section 25.41, subdivision 3, 5, or 6.

Subd. 18. "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals, pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

Subd. 19. "Pet food" means any commercial feed prepared and distributed for consumption by pets.

Subd. 20. "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

History: 1971 c 433 s 3; 1980 c 509 s 7,8; 1985 c 248 s 70; 1986 c 444; 1991 c 309 s 12

25.34 REGISTRATION.

Subdivision 1. No person shall manufacture a commercial feed in this state without filing with the commissioner on forms provided by the commissioner, the person's name, place of business and location of each manufacturing facility in this state.

Subd. 2. No person shall distribute in this state a commercial feed, except a customer formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner and on forms as prescribed by the commissioner by rule.

Subd. 3. The commissioner may refuse registration of any commercial feed not in compliance with the provisions of sections 25.31 to 25.44 and may cancel any registration subsequently found not to be in compliance with any provision of sections 25.31 to 25.44. No registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the commissioner and to amend the registrant's application in order to comply with the requirements of sections 25.31 to 25.44.

History: 1971 c 433 s 4; 1980 c 509 s 9; 1985 c 248 s 70; 1986 c 444

25.35 LABELING.

A commercial feed shall be labeled as follows:

(A) In case of a commercial feed, except a customer formula feed, it shall be accompanied by a label bearing the following information:

- (1) The net weight.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in such terms as the commissioner by rule determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. The commissioner may by rule permit the use of a collective term for a group of ingredients which perform a similar function, or may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement on finding that such statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the commissioner may require by rule as necessary for their safe and effective use.

(7) Such precautionary statements as the commissioner by rule determines are necessary for the safe and effective use of the commercial feed.

(B) In the case of a customer formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

- (1) Name and address of the manufacturer.
- (2) Name and address of the purchaser.
- (3) Date of delivery.
- (4) The product name and brand name, if any, and either (1) the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used, or (2) a guaranteed analysis and list of ingredients in paragraph (A), (3) and (4).

(5) Adequate directions for use for all customer formula feeds containing drugs and for such other feeds as the commissioner may require by rule as necessary for their safe and effective use.

(6) Such precautionary statements as the commissioner by rule determines are necessary for the safe and effective use of the customer formula feed.

History: 1971 c 433 s 5; 1985 c 248 s 70; 1986 c 444

25.36 MISBRANDING.

A commercial feed shall be deemed to be misbranded:

(A) If its labeling is false or misleading in any particular.

(B) If it is distributed under the name of another commercial feed.

(C) If it is not labeled as required in section 25.35.

(D) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient unless such commercial feed or feed ingredient conforms to the definition; if any, prescribed by rule by the commissioner.

(E) If any word, statement, or other information required by or under authority of sections 25.31 to 25.44 to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

History: 1971 c 433 s 6; 1980 c 509 s 10; 1985 c 248 s 70

25.37 ADULTERATION.

A commercial feed shall be deemed to be adulterated:

(A) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this section if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or

(B) If it bears or contains any added poisonous, added deleterious, or added non-nutritive substance which is unsafe within the meaning of section 406 of the federal food, drug, and cosmetic act, other than the one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive; or

(C) If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the federal Food, Drug, and Cosmetic Act; or

(D) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the federal Food, Drug, and Cosmetic Act; or

(E) If it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the federal Food, Drug and Cosmetic Act; or

(F) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor; or

(G) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; or

(H) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the commissioner to assure that the drug meets the requirement of this act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such rules, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the federal Food, Drug, and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions which exist in this state; or

(I) If it contains viable weed seeds in amounts exceeding the limits which the commissioner shall establish by rule.

History: 1971 c 433 s 7; 1985 c 248 s 70; 1986 c 444

25.38 PROHIBITED ACTS.

The following acts and the causing thereof within the state of Minnesota are prohibited:

(A) The manufacture or distribution of any commercial feed that is adulterated or misbranded.

(B) The adulteration or misbranding of any commercial feed.

(C) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of section 25.37(A), (B), (C), and (D).

(D) The removal or disposal of a commercial feed in violation of an order under section 25.42.

(E) The failure or refusal to register in accordance with section 25.34.

(F) Failure to pay inspection fees or file reports as required by section 25.39.

History: 1971 c 433 s 8

25.39 INSPECTION FEES AND REPORTS.

Subdivision 1. An inspection fee at the rate of 16 cents per ton shall be paid on commercial feeds distributed in this state by the person who distributes the commercial feed to the consumer, subject to the following:

(A) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(B) No fee shall be paid on customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(C) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment. A Minnesota feed distributor who distributes commercial feed to purchasers outside the state may purchase commercial feeds, without payment by any person of the inspection fee required on such purchases, under a permit issued by the commissioner. Such permits shall only be issued to commercial feed distributors who comply with such rules as may be required by the commissioner relative to record keeping, tonnage of commercial feed distributed in Minnesota, total of all commercial feed tonnage distributed and all other information which the commissioner may require so as to insure that proper inspection fee payment has been made.

(D) In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee of \$50 shall be paid in lieu of the inspection fee specified above.

Subd. 2. Each person who is liable for the payment of such fee shall file with the commissioner on forms furnished by the commissioner, a semiannual statement for the

periods ending December 31 and June 30 setting forth the number of net tons of commercial feeds distributed in this state during such reporting period. The report shall be due on or before the 30th of the month following the close of each reporting period of each calendar year. The inspection fee at the rate specified in subdivision 1, shall accompany the statement. For each tonnage report not filed or payment of inspection fees not made within 30 days after the end of a reporting period, a penalty of 10 percent of the amount due, with a minimum penalty of \$10, shall be assessed against the registrant, and the amount of fees due, plus penalty, shall constitute a debt and may be recovered in a civil action against the registrant. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter.

Subd. 3. Each distributor shall keep such records as may be necessary or required by the commissioner to indicate accurately the tonnage of commercial feed distributed in this state, and the commissioner shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

Subd. 4. **Commercial feed inspection account.** A commercial feed inspection account is established in the state treasury. Fees and penalties collected under sections 25.35 to 25.44 and interest attributable to money in the account must be deposited in the state treasury and credited to the commercial feed inspection account.

History: 1971 c 433 s 9; 1973 c 448 s 1; 1985 c 248 s 70; 1Sp1985 c 10 s 46; 1993 c 172 s 27

25.40 RULES.

Subdivision 1. The commissioner may promulgate such rules for commercial feeds and pet foods as are authorized in sections 25.31 to 25.44 and such other reasonable rules as may be necessary for the efficient enforcement of sections 25.31 to 25.44. In the interest of uniformity the commissioner shall by rule adopt, unless the commissioner determines that they are inconsistent with the provisions of sections 25.31 to 25.44 or are not appropriate to conditions which exist in this state, the following:

(A) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, and

(B) Any rule promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act, provided, that the commissioner would have the authority under sections 25.31 to 25.44 to promulgate such rules.

Subd. 2. Before the issuance, amendment, or repeal of any rule authorized by sections 25.31 to 25.44, the commissioner shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. The provisions of this subdivision notwithstanding, if the commissioner, pursuant to the authority of sections 25.31 to 25.44, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said association or by the secretary of health, education and welfare in the case of regulations promulgated pursuant to the federal Food, Drug, and Cosmetic Act, shall be adopted automatically under sections 25.31 to 25.44 without regard to the publication of the notice required by this subdivision unless the commissioner, by order specifically determines that said amendment or modification shall not be adopted.

History: 1971 c 433 s 10; 1980 c 509 s 11; 1985 c 248 s 70; 1986 c 444

25.41 INSPECTION, SAMPLING, AND ANALYSIS.

Subdivision 1. For the purpose of enforcement of sections 25.31 to 25.44, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (2) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under section 25.37, clause (H).

Subd. 2. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

Subd. 3. If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

Subd. 4. If the owner of any factory, warehouse, or establishment described in subdivision 1, or the owner's agent, refuses to admit the commissioner or the commissioner's agent to inspect in accordance with subdivisions 1 and 2, the commissioner is authorized to obtain from the district court of the county in which the premises are located a warrant directing such owner or agent to submit the premises described in such warrant to inspection.

Subd. 5. For the purpose of the enforcement of sections 25.31 to 25.44, the commissioner or the commissioner's duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

Subd. 6. Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists, or in accordance with other generally recognized methods.

Subd. 7. The results of all analyses of official samples shall be forwarded by the commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicated a commercial feed has been adulterated or misbranded and upon request within 30 days following receipt of the analysis the commissioner shall furnish to the registrant a portion of the sample concerned.

Subd. 8. The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in section 25.33, subdivision 17 and obtained and analyzed as provided for in subdivisions 3, 5, and 6.

History: 1971 c 433 s 11; 1980 c 509 s 12,13; 1985 c 248 s 70; 1986 c 444

25.42 DETAINED COMMERCIAL FEEDS.

Subdivision 1. When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of sections 25.31 to 25.44 or of any of the prescribed rules under sections 25.31 to 25.44, the commissioner or agent may issue and enforce a writ-

ten or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when said provisions and rules have been complied with. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

Subd. 2. Any lot of commercial feed not in compliance with said provisions and rules shall be subject to seizure on complaint of the commissioner to the district court of the county in which said commercial feed is located. In the event the court finds the commercial feed to be in violation of sections 25.31 to 25.44 and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance, shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with sections 25.31 to 25.44.

History: 1971 c 433 s 12; 1980 c 509 s 14; 1985 c 248 s 70; 1986 c 444

25.43 PENALTIES.

Subdivision 1. Any person convicted of violating any of the provisions of sections 25.31 to 25.44 or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said commissioner or duly authorized agent in performance of a duty in connection with the provisions of sections 25.31 to 25.44, shall be guilty of a misdemeanor.

Subd. 2. Nothing in sections 25.31 to 25.44 shall be construed as requiring the commissioner or the commissioner's representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of sections 25.31 to 25.44, or when the commissioner or representative believes the public interest will best be served by suitable notice of warning in writing.

Subd. 3. Each county attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in the district court or other court of competent jurisdiction without delay. Before the commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present views to the commissioner.

Subd. 4. The commissioner may apply to the district court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of sections 25.31 to 25.44 or any rule promulgated under the act notwithstanding the existence of other remedies at law.

Subd. 5. **Appeal.** Any person adversely affected by an act, order, or ruling made pursuant to the provisions of sections 25.31 to 25.44 may seek judicial review in accordance with chapter 14.

History: 1971 c 433 s 13; 1980 c 509 s 15; 1982 c 424 s 130; 1983 c 247 s 17; 1985 c 248 s 70; 1986 c 444

25.44 AGREEMENTS FOR COOPERATION.

The commissioner may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of sections 25.31 to 25.44.

History: 1971 c 433 s 14; 1980 c 509 s 16

25.45 [Repealed, 1975 c 227 s 10]

25.46 HAY AND STRAW WEIGHING, SAMPLING, ANALYSIS.

The commissioner of agriculture shall exercise general supervision over the inspection, grading, sampling and analysis of hay and straw in the state. The functions, powers

and duties of the department of transportation relating to the inspection, grading, sampling and analysis of hay and straw are abolished.

History: 1980 c 460 s 1

25.47 HAY AND STRAW STANDARDS.

Subdivision 1. The commissioner of agriculture shall have jurisdiction over hay and straw standards established in Minnesota and shall regulate the inspection, grading, weighing, sampling and analysis of hay and straw within the state.

Subd. 2. The commissioner of agriculture shall, on or before June 15 of each year, establish the grades of hay and straw subject to state inspection which shall be known as the "Minnesota Grades" and hay and straw received at a public warehouse shall be graded accordingly. The grades shall not be changed before June 15 of the next succeeding year. The commissioner of agriculture shall also adopt rules in accordance with the administrative procedure act as it deems necessary to implement this section and section 25.46.

History: 1980 c 460 s 2