MICHIGAN COMMERCIAL FEED LAW
Act 120 of 1975

AN ACT to license and regulate the manufacture and distribution of commercial feeds; to require fees; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

The People of the State of Michigan enact:

287.521 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan commercial feed law".

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.522 Administration.

Sec. 2. This act shall be administered by the director of the department of agriculture.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.523 Definitions.

Sec. 3. As used in this act:

(a) "Brand" means a word, name, symbol, or device, or combination thereof which identifies the commercial feed of a distributor and distinguishes it from that of others.

(b) "Bulk feed" means a type of commercial feed in solid or liquid state in a nonpackaged form.

(c) "Commercial feed" means materials distributed for use as feed or for mixing in feed, for animals other than humans except:

(*i*) Unmixed seed, whole or mechanically altered, made directly from the entire seed, when not adulterated within the meaning of section 8.

(*ii*) Unground hay, straw, stover, silage, cobs, husks, and hulls when not mixed with other materials, and when not adulterated within the meaning of section 8.

(*iii*) Individual chemical compounds when not mixed with other materials, and when not adulterated within the meaning of section 8.

(*iv*) Feeds distributed and used for any domesticated animal kept as a pet which is normally confined to and maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(d) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds, a mixture of commercial feeds and other ingredients, or a mixture of other ingredients, each batch of which is mixed according to the specific instructions of the final purchaser.

(e) "Department" means the department of agriculture.

(f) "Director" means the director of the department of agriculture or the director's authorized agent.

(g) "Distribute" means to offer for sale, hold for sale, sell, barter, or otherwise supply commercial feed for feeding purposes. A "distributor" is a person who distributes.

(h) "Drug" means:

(*i*) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(*ii*) A substance other than food intended to affect the structure or a function of the body of man or other animals.

(i) "Feed ingredient" means each of the constituent materials making up a commercial feed.

(j) "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.

(k) "Labeling" means labels and other written, printed, or graphic matter upon or accompanying commercial feed at any time, and includes advertising or sales literature.

(*l*) "Manufacture" means to process, grind, mix, package, or blend custom or commercial feed for distribution. A "manufacturer" is a person who manufactures.

(m) "Percent" or "percentage" means the percentage by weight.

(n) "Person" means an individual, partnership, association, firm, or corporation.

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

(p) "Retail manufacturer" means a manufacturer selling commercial feed at retail only directly to the

ultimate user and not for resale, at not more than 3 places in the state as designated on the license.

(q) "Sample" means the sample of commercial feed taken by the director.

(r) "Sell" or "sale" means the exchange of ownership.

(s) "Ton" means a net weight of 2,000 pounds avoirdupois.

(t) "Wholesale manufacturer" means a manufacturer selling or distributing commercial feed at wholesale or otherwise through distributors, jobbers, dealers, or agents.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 1980, Act 338, Imd. Eff. Dec. 23, 1980.

287.524 License to manufacture or distribute commercial feed; application; form; fee; issuance; expiration; approval of label; exemption.

Sec. 4. (1) Beginning January 1, 1976, a person shall not manufacture or distribute in this state a commercial feed until a license is obtained by the manufacturer or distributor from the department. A license shall be issued by the director upon receipt of an application on forms provided by the director and upon payment of a $25.00 fee. Licenses expire on December 31 of each year, except a license issued before January 1, 1976, shall not expire until December 31, 1976.

(2) A label for each brand or product, except for customer-formula feed, distributed in this state shall be submitted to the director for approval before distribution in this state.

(3) A distributor shall not be required to obtain a license to distribute a brand or product if the manufacturer is already licensed under subsection (1).

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.525 Requirements as to bags and containers for commercial feed; document for customer-formula feed; label for commercial feed.

Sec. 5. (1) A person shall not distribute in this state a commercial feed, except a customer-formula feed, in a bag or other container unless the bag or container has the following placed on or affixed to it in legibly written or printed form:

(a) Net weight of the contents.

(b) The product name and brand name, if any.

(c) The name and address of the licensee.

(d) The guaranteed analysis stated in those terms as the director by rule determines is required to advise the user of the composition of the feed or to support claims made in the labeling. The substances or elements shall be determinable by laboratory methods such as the methods published by the American association of official analytical chemists.

(e) The common or usual name of each ingredient used in the commercial feed. The director, by rule, may permit the use of a collective term for a group of ingredients all of which perform a similar function or eliminate the requirement for listing of feed ingredients when the listing no longer serves a useful purpose.

(f) Adequate directions for use for commercial feeds containing drugs and for other feeds the director by rule requires as necessary for their safe and effective use.

(g) Precautionary statements the director by rule determines are necessary for the safe and effective use of the commercial feed.

(h) The date of manufacture, processing, packing, or repacking, or a code that permits the determination of the date or enables the segregation of specific feedlots if the director finds segregation is necessary for the enforcement of this act.

(2) A person shall not distribute a customer-formula feed in this state unless the purchaser on delivery is supplied with a document which includes the following information:

(a) The name and address of the mixer.

(b) The name and address of the purchaser.

(c) The date of delivery.

(d) The product name and brand name, if any, and number of pounds of each commercial feed used in the mixture and the name and number of pounds of the other ingredients added.

(e) Adequate directions for use for all commercial feeds containing drugs and for other feeds the director by rule requires as necessary for their safe and effective use.

(f) Precautionary statements the director by rule determines are necessary for the safe and effective use of the commercial feed.

(3) A person shall not distribute a commercial feed in this state in bulk unless the purchaser on delivery is supplied with a label in compliance with subsection (l).

History: 1975, Act 120, Imd. Eff June 26, 1975.

287.526 Tonnage inspection fee; filing statement of tonnage and fees; penalty; verification of statement; disclosure of information.

Sec. 6. (1) A licensee shall pay to the director a tonnage inspection fee. The tonnage inspection fee shall be levied by the director on each ton of commercial feed manufactured or distributed in this state. The inspection fee and tonnage shall be reported on forms furnished by the director. The statement of tonnage and fees shall be filed not more than 30 days after June 30 and not more than 30 days after December 31, respectively. The amount of tonnage inspection fee shall be determined by the director after due notice and public hearing and published in rules of the department. The inspection fee shall not exceed the cost of enforcement of this act. A tonnage fee shall not be paid on customer-formula feed except on commercial feeds which are used as ingredients in customer-formula feed, or a commercial feed if payment was made by a previous distributor, or on commercial feeds which are used as ingredients for the further manufacture of commercial feeds on which a tonnage fee is to be paid. Payments due of less than $1.00 may be waived and refunds of $5.00 or less will be made only upon written request.

(2) The tonnage inspection fee determined in accordance with subsection (1) shall accompany each semiannual statement. A penalty of 10% of the amount due, but not less than $10.00, shall be assessed against a licensee who fails to file a report or pay the inspection fee within 15 days after the due date.

(3) The director may verify the accuracy of a volume sales tonnage statement required by subsection (1). Information furnished under this section shall not be disclosed by an employee of the department in a manner which divulges the business operations of a licensee required by this section to make a report.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 1980, Act 338, Imd. Eff. Dec. 23, 1980.

287.527 Inspecting, sampling, and analyzing commercial feed; laboratory; methods; forwarding results of official analysis; requesting portion of sample.

Sec. 7. (1) The director shall inspect, sample, and analyze commercial feed within this state to the extent necessary to determine whether that commercial feed is in compliance with this act and the rules promulgated under this act. The director may enter, during normal business hours, a factory, warehouse, conveyance, or establishment within this state in which commercial feeds are manufactured, processed, bagged, or held for distribution, and inspect at reasonable times and within reasonable limits and in a reasonable manner, all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production procedures as may be necessary to determine compliance with the good manufacturing practices regulations established under section 8(1)(f).

(2) The director shall maintain a laboratory with equipment and personnel necessary to effectively analyze, test, and examine commercial feeds subject to this act and the rules promulgated under this act. The methods of sampling and analysis shall be those prescribed by the director by rule.

(3) The results of official analysis of a sample of commercial feed found to be in violation of this act or the rules promulgated under this act shall be forwarded to the licensee. A licensee may request a portion of a sample if the request is made not more than 30 days after the date of receipt of the analysis report.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.528 Commercial feed deemed to be adulterated.

Sec. 8. (1) A commercial feed which is, bears, or contains any of the following is deemed to be adulterated and in violation of this act:

(a) A poisonous or deleterious substance which may render the feed injurious to health, except if the substance is not an added substance in which case the commercial feed shall not be considered adulterated under this section if the quantity of the substance does not ordinarily render the commercial feed injurious to health.

(b) An added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the federal food, drug, and cosmetic act, being 21 U.S.C. section 346 (1970), other than one which is a pesticide chemical in or on a raw agricultural commodity or a food additive.

(c) A food additive which is unsafe within the meaning of section 409 of the federal food, drug, and cosmetic act, being 21 U.S.C. section 348 (Supp. 1973).

(d) A raw agricultural commodity and bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal food, drug, and cosmetic act, being 21 U.S.C. section 346a(a) (Supp. 1973). If a pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under 21 U.S.C. section 346a(a) (Supp. 1973) and the raw agricultural commodity is subjected to processing such as packaging, canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed shall not be deemed unsafe if the

residue in or on the raw agricultural commodity is removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed, or guideline established by rule of the director, for the raw agricultural commodity unless the feeding of the 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 21 U.S.C. section 346a(a) (Supp. 1973).

(e) A color additive which is unsafe within the meaning of section 706 of the federal food, drug, and cosmetic act, being 21 U.S.C. section 376 (1970).

(f) 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 director 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 rules, the director shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the federal food, drug, and cosmetic act, being 21 U.S.C. sections 301 to 392 (Supp. 1973) unless he determines that they are not appropriate to the conditions which exist in this state.

(g) Viable weed seeds in amounts exceeding the limits which the director establishes by rule.

(h) Polybrominated biphenyl in excess of .01 parts per million.

(2) A commercial feed is deemed to be adulterated if a valuable constituent is in whole or in part omitted or abstracted from the commercial feed or a less valuable substance is substituted therefor.

(3) A commercial feed is deemed to be adulterated if its composition or quality falls below or differs from that which it is purported or is represented to possess by its label.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 1976, Act 236, Imd. Eff. Aug. 4, 1976.

287.529 Commercial feed deemed to be misbranded.

Sec. 9. A commercial feed is deemed to be misbranded and in violation of this act if any of the following occur:

(a) Its labeling is false or misleading in any particular.

(b) It is distributed under the name of another commercial feed.

(c) It is not labeled as required under section 5.

(d) It purports to be or is represented as a commercial feed, or it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition prescribed by rule by the director.

(e) A word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with the 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: 1975, Act 120, Imd. Eff. June 26, 1975.

287.530 Recall of adulterated or misbranded commercial feed; notice.

Sec. 10. A feed manufacturer who voluntarily recalls a commercial feed which has been introduced into channels of trade beyond his control, and which supports the conclusion that the feed processed by him is adulterated or misbranded in a manner which would create an unreasonable risk to animals or to the public health, shall immediately notify the director of the recall and the reasons therefor. Information or a statement exclusively derived from notification required under this section, except for information contained in records required to be maintained under this act, shall not be used as evidence in a proceeding brought against the person pursuant to this act with respect to a violation of law occurring prior to or concurrently with the notification. The notification required by this section shall contain a clear description of the adulterated or misbranded feed, an evaluation of the risk related thereto, and a statement of the measures to be taken to protect animals or the public from the risk.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.531 Rules.

Sec. 11. The director may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, as are necessary to implement this act.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

Administrative rules: R 285.505.1 and R 285.635.1 et seq. of the Michigan Administrative Code.

287.532 Refusal, revocation, or suspension of license; hearing.

Sec. 12. The director may revoke or suspend the license of, or refuse to license an applicant, upon a finding supported by evidence that the licensee or applicant violated this act or a rule promulgated under this act. A license shall not be refused, suspended, or revoked until the licensee or applicant is given an opportunity to appear for a hearing.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.533 Selection of sample for official analysis and comparison with label; seizing or stopping sale of commercial feed; cooperation and agreements with governmental agencies; report.

Sec. 13. (1) The director may select from a package of commercial feed exposed for sale in this state a sample to be used for the purposes of an official analysis and for comparison with the label affixed to the package. The director may seize or stop the sale of a commercial feed that is unlicensed, adulterated, misbranded, fails to meet guarantees, or otherwise fails to comply with this act.

(2) The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations to carry out the purposes of this act.

(3) The director may publish a report of gross tonnage of feed sold or distributed in this state annually or more often as may be desirable.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.534 Misdemeanor; effect of minor violation; notice of warning.

Sec. 14. A person who violates this act or a rule promulgated under this act is guilty of a misdemeanor. This act shall not require the director to revoke or suspend a license, report for prosecution, institute seizure proceedings, or issue an order for withdrawal from distribution as a result of a minor violation of this act, if he believes the public interest will best be served by suitable notice of warning in writing.

History: 1975, Act 120, Imd. Eff. June 26, 1975.

287.535 Repeal of MCL 287.501 to 287.519.

Sec. 15. Act No. 242 of the Public Acts of 1959, being sections 287.501 to 287.519 of the Compiled Laws of 1970, and section 18 of Act No. 211 of the Public Acts of 1893, being section 289.48 of the Compiled Laws of 1970, are repealed.

History: 1975, Act 120, Imd. Eff. June 26, 1975.