

SEC. 2. This act is necessary for the support of the state government and its existing public institutions and shall take effect immediately. Emergency.

Passed the House March 1, 1953.

Passed the Senate March 10, 1953.

Approved by the Governor March 16, 1953.

CHAPTER 80.

[H. B. 226.]

WASHINGTON COMMERCIAL FEED LAW OF 1953.

AN ACT relating to commercial feed, repealing certain provisions of chapter 15.52, RCW; providing penalties; designating the "Washington Commercial Feed Law of 1953"; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. When used in this act:

The term "director" means the director of agriculture of the state, or his authorized agents or representatives. Definitions.
"Director."

The term "distribute" means to offer for sale, sell, barter, or otherwise supply commercial feeds. "Distribute."

The term "sell" or "sale" includes exchange. "Sell" or
"sale."

The term "commercial feed" means all materials which are distributed for use as feed for animals other than man except: "Commercial
feed."

1. Unmixed whole seeds and meals made directly from the entire seeds with no part of the whole removed.

2. Unground hay.

3. Whole or ground straw, stover, silage, cobs, and hulls when not mixed with other materials.

4. Wheat flours or other flour.

The term "brand" means the terms, design, or trademark and other specific designation under which an individual commercial feed is distributed "Brand."

in this state, and commercial feed shall be considered as a distinct brand when differing either in guaranteed analysis, ingredients, trademark name, or any other characteristic method of marking.

"Label."

The term "label" means a display of written, printed, or graphic matter upon or attached to the container in which a commercial feed is distributed.

"Ton."

The term "ton" means a net weight of two thousand pounds, avoirdupois.

"Per cent" or "percentage."

The term "per cent" or "percentage" means percentage by weight.

"Official sample."

The term "official sample" means any sample of commercial feed taken by the director.

"Retail"

The term "retail" as used in this act means the selling or offering for sale of any commercial feed, directly to the consumer.

"Official state lab."

An "official state lab." shall be a laboratory under the supervision of the chairman of the department of agricultural chemistry of the State College of Washington or the dean of the college of pharmacy of the University of Washington or the director.

"Special mix"

The term "special mix" means a commercial feed prepared in accordance with a formula provided and signed by the purchaser for consumption or processing by such purchaser.

"Run of the mill"

The term "run of the mill" when used in reference to grain screenings is well established in the industry and means the restoration of the total quantity of such naturally present screenings, when finely ground, to the processed grain in which it was received, or to the total wheat mixed feed produced in the manufacture of wheat flour from the grain in which it was received.

Registration of brands.

SEC. 2. Each brand of commercial feed shall be registered before being offered for sale, sold or otherwise distributed in this state, except for brands of commercial feeds which are offered for sale, sold or otherwise distributed by a registrant who has a

brand of feed registered having the same formula but which differs only in the physical form in which it is sold. The application for registration shall be submitted to the director on forms furnished by the director, and shall be accompanied by a fee of ten dollars per brand, and shall be also accompanied by a label or other printed matter describing the product. Upon approval by the director a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

SEC. 3. The applications hereinabove shall include the following information:

Same;
application
contents.

1. The name and principal address of the person guaranteeing the commercial feed.

2. The name or brand under which the commercial feed is to be sold.

3. The guaranteed analysis, listing the minimum percentage of crude protein, minimum percentage of crude fat, maximum percentage of crude fibre, maximum percentage of crude ash and maximum percentage of moisture. For mineral feeds or other feeds containing more than a total of five per cent of one or more added mineral ingredients the list shall include the following if added: minimum and maximum percentage of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), and minimum and maximum percentage of salt (NaCl), and maximum percentage of fluorine. Other nutritional substances or elements, determinable by laboratory methods, may be guaranteed by permission of the director by and with the advice of the State College of Washington. When any such other items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the director. Products sold solely as mineral and/or vitamin supplements and guaranteed as speci-

fied in this section need not show guarantees for protein, fat, and fibre.

4. The name of each ingredient used in the manufacture of the commercial feed according to the definitions of ingredient names provided in the regulations issued pursuant to the terms of this act.

Same; previously registered brands.

SEC. 4. A distributor shall not be required to register any brand of commercial feed which is already registered under this act by another person.

Same; changes in guarantee.

SEC. 5. Changes in the guarantee of either chemical or ingredient composition of a feed may be permitted provided satisfactory evidence is submitted showing that:

1. Such changes would not result in a lowering of the feeding value of the product for the purpose for which designed; or

2. The requested changes are unavoidable because of the unavailability of guaranteed ingredients.

Same; crude fiber content limitation.

SEC. 6. No commercial feed may be registered which has a guaranteed crude fibre content of: (1) More than ten per cent for hog and poultry feeds, (2) More than twelve per cent for dairy, beef, sheep, goat and horse feeds, or (3) More than twenty-two per cent for rabbit feeds: *Provided*, That the fibre limitations stated herein do not apply to commercial feeds which state on their labels the percentages of the various ingredients according to the definitions of ingredients stated in this act or regulations issued pursuant to the terms of this act.

Same; refusal and cancellation.

SEC. 7. The director may refuse registration of any application not in compliance with all provisions of this act and may cancel any registration when it is subsequently found to be in violation of any provision of the act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the pro-

visions of the act or regulations thereunder; [Provided,] however, that no registration shall be refused or cancelled until the registrant shall have been given an opportunity to be heard before the director.

SEC. 8. The director shall have ninety days after the receipt of the application for registration of a commercial feed not previously registered, in which to investigate the claims made by the applicant as to the efficacy of the product and to conduct experiments in order to determine whether the said product is harmful, deleterious, or is of the claimed value for the purpose intended, when used as directed. At the end of ninety days, if the director during such period has not notified the applicant that a hearing will be held or has not registered the product, then the product shall be registered, and a certificate of registration issued by the director: *Provided*, That during the ninety-day period provided herein, if the product has not been registered, the applicant shall not sell the product in the state.

Same; investigation by director.

SEC. 9. No person shall sell, offer to sell, or distribute within this state any commercial feed at retail without having first obtained a retail feed license for each establishment or vehicle used by such person in selling commercial feed at retail: *Provided*, That the above license shall not be required of any vehicle used by a licensed dealer merely in delivering commercial feed, nor to any dealer as to his sales of foods for domestic pets such as, dogs, cats and birds. Applications for such licenses shall be made in writing and under oath to the director on such forms as he shall prescribe.

Retail feed license.

SEC. 10. There shall be paid to the director with each application for a retail feed license an annual license fee of ten dollars. The money derived therefrom shall be paid by the director into the state treasury for deposit in the commercial feed fund.

Fee.

Expiration
date.

Nontrans-
ferable.

Distribution
in bags,
barrels or
other con-
tainers; label
requirements.

Distribution
in bulk;
statement
of contents.

Special
mixes.

SEC. 11. Each retail feed license shall expire on the thirty-first day of December following its date of issuance. Such license shall not be transferable to any person or be applicable to any location or vehicle other than that for which originally issued.

SEC. 12. Any brand of commercial feed offered for sale or sold or otherwise distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container in stenciled or imprinted form the net weight and the information required by items 1, 2, 3, and 4 of section 3.

SEC. 13. If a brand of commercial feed is distributed in bulk, a written or printed statement of the net weight and the information required by items 1, 2, 3, and 4 of section 3, shall accompany delivery and be furnished to the purchaser, and a copy of the statement shall be kept on file in the office of the vendor which shall be available for inspection by the director for a period of not less than six months from the date of the transaction.

SEC. 14. Any person who manufactures, processes, or mixes any commercial feed for another in accordance with a formula provided and signed by the purchaser for consumption or processing by such purchaser (a "special mix") shall furnish to the person for whom such commercial feed is manufactured, processed or mixed, a numbered invoice which shall have written or printed thereon the date of sale and the name and the number of pounds of each ingredient according to the definitions of ingredient names provided in the regulations issued pursuant to the terms of this act. Copies of all such invoices shall remain on file in the place of business of the vendor for six months, during which time they are subject to inspection by the director. No two invoices issued in one calendar year shall bear the same number. When packaged, each package of

such commercial feed (special mix) shall have attached thereto, in lieu of the information referred to in section 3, a written or printed tag upon which shall be stated: that the product in the container or package is a special mix which is not registered with the director; the name of the mixer, processor or manufacturer; the net weight of the contents; and the invoice of a packaged special mix shall state the numbers of the tags on the packages sold.

SEC. 15. No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

Adulterated
commercial
feeds.

(1) If any poisonous, deleterious, or non-nutritive ingredient has been added in sufficient amount to render it injurious to animal health, or if any dirt, soil, damaged or decayed feed, mill, elevator, or other sweeping or dust is included in commercial feed.

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

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

(4) If it contains added hulls, screenings, straw, cobs, or other such high fibre material unless the name and percentage of each such material is clearly and prominently stated and underscored on the label.

(5) If it contains viable primary noxious weed seeds in excess of one per pound, or if it contains viable secondary noxious weed seeds in excess of twenty-five per pound. The primary and secondary noxious weed seeds shall be those as named pursuant to the terms of the Washington Seed Act and Regulations issued pursuant thereto.

Misbranded
commercial
feeds.

SEC. 16. No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

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

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

(3) If its container is not labeled as required in this act, and in regulations prescribed under this act.

(4) If it purports to be, or is represented as, a commercial feed for which a definition of identity and standard of quality has been prescribed by regulation unless it conforms to such definition and standard.

(5) If any 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 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.

(6) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the director determines to be, and by regulations prescribes as, necessary in order to fully inform the purchaser as to its value for such uses.

Inspection
by director;
powers and
duties.

SEC. 17. It shall be the duty of the director, who may act through his authorized agents, to sample, inspect, make chemical and microscopic analysis of, and cause to be tested at an official state laboratory commercial feeds distributed within this state at such time and place and to such an extent as he may deem necessary to determine whether such commercial feeds are in compliance with the provisions

of this act. The director, individually or through his agent, is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial feeds subject to the provisions of this act and the rules and regulations pertaining thereto.

The methods of sampling and analysis shall be those accepted by the director from recognized sources such as the association of official agricultural chemists, or the American association of feed control officials. Methods.

The director, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as above defined and as obtained and as analyzed as provided for above. Official sample is sole guide.

SEC. 18. The chairman of the department of agriculture chemistry of the State College of Washington, and the Dean of the college of pharmacy of the University of Washington shall when requested by the director act as chemists and microscopists for the department of agriculture, and it shall be the duty of such chemists or either of them, without compensation other than their expenses necessarily incurred in the performance of such work to make chemical and microscopic analyses of any and all substances that the director may send to them, and report to the director, without unnecessary delay, the results of any analysis so made, and when called upon by said director, any such chemist, or any of the additional chemists as hereafter provided, shall assist, as an expert or otherwise, in prosecutions for the violation of this act. Chemists and microscopists; named.

SEC. 19. The director may appoint one or more competent graduate chemists to perform any or all of the duties required of the chemists of the department of agriculture authorized in this act. Other chemists authorized.

Report of
chemist
prima facie
evidence.

SEC. 20. The reports of analysis and tests made by the state chemists to the director both as to chemical and microscopic analysis are admissible in evidence as prima facie evidence of the facts therein set forth in any proceeding of either a civil or criminal nature brought pursuant to the terms of this act.

Director's
powers and
duties.

SEC. 21. The director is charged with the enforcement of this act, and after publication and public hearing may promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this act. The director is hereby empowered to adopt regulations establishing definitions and standards for commercial feeds and ingredients, and such other regulations as may be necessary for the enforcement of any provisions of this act.

"Withdrawal
from sale"
order.

SEC. 22. When the director has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of this act or of any of the prescribed regulations under this act, he may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the feed in any manner until written permission is given by the director or the superior court. The director shall release the commercial feed so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within thirty days, the director shall begin proceedings for condemnation.

Seizure on
complaint.

SEC. 23. Any lot of commercial feed not in compliance with the provisions of this act shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this act 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 re-label said commercial feed to bring it into compliance with this act.

SEC. 24. It is unlawful for any person:

Specific unlawful acts.

(1) Without authority to remove or dispose of by sale or otherwise, any commercial feed in respect to which there is in effect a "withdrawal from sale" order,

(2) To alter, mutilate, destroy, obliterate, or remove without proper authority, any mark, stamp, tag, label, seal, sticker, or other identification device used by the director, in carrying out the provision of this act,

(3) To forge, counterfeit, simulate, or falsely represent, or without proper authority use any mark, stamp, tag, label, seal, sticker, or other identification device used by the director in carrying out the provisions of this act.

SEC. 25. In all prosecutions under this act involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the chemist or microscopist who made the analysis shall be accepted as prima facie evidence of the composition.

Certified copy of official analysis is prima facie evidence.

SEC. 26. Nothing in this act shall be construed as requiring the director or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the act when he believes that the public interests will be best served by a suitable notice of warning in writing.

Warnings.

Prosecution.

SEC. 27. It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the director reports a violation for such prosecution, an opportunity shall be given the distributor to present his views to the director.

Injunctions.

SEC. 28. The director is hereby authorized to apply for, and a court is authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies at law.

Report of
director.

SEC. 29. The director shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label: *Provided*, That the information concerning production and use of commercial feeds shall not disclose the operations of any person.

Severability
clause.

SEC. 30. If any clause, sentence, paragraph, or part of this act is for any reason judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Commercial
feed fund.

SEC. 31. There is hereby created in the state treasury a special fund to be known as the commercial feed fund in which shall be deposited all moneys

hereafter or heretofore collected as fees for feed licenses, and for the registration of commercial feed.

SEC. 32. Chapter 211, Laws of 1939, as last amended by chapter 167, Laws of 1949, in so far as it relates to commercial feeds, is repealed. Repealing clause.

SEC. 33. Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director or his duly authorized agent in performance of his duty in connection with the provisions of this act, shall be adjudged guilty of a gross misdemeanor and shall be fined not less than fifty dollars, or more than one hundred dollars, for the first violation, and not less than two hundred fifty dollars, nor more than five hundred dollars, for subsequent violations. Penalty.

SEC. 34. This act shall be known as the "Washington Commercial Feed Law of 1953." Title of act.

SEC. 35. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Emergency.

Passed the House February 17, 1953.

Passed the Senate March 9, 1953.

Approved by the Governor March 16, 1953.