

CHAPTER 37.

[H. B. 240.]

FEEDSTUFFS, COMMERCIAL FERTILIZERS AND
LIVESTOCK REMEDIES.

AN ACT relating to manufacturing, sale and distribution of concentrated commercial feeding stuffs, commercial fertilizers and livestock remedies and defining the powers and duties of the director of agriculture in relation thereto; providing for chemists of the department of agriculture and defining their duties; providing for the registration, inspection and sampling of concentrated commercial feeding stuffs, commercial fertilizers and livestock remedies; providing for brands of concentrated commercial feeding stuffs, commercial fertilizers and livestock remedies; defining "manufacturer," "importer," "mixer," "distributor," "agent" and "vendor"; providing penalty for violation; providing for cancellation of brand registration; defining the duties of prosecuting attorneys under this act; providing penalties for obstructing the enforcement of this act; defining domestic birds, domestic fowl and domestic animals; defining "standard sack"; requiring labels and other information; regulating advertising of other than standard sacks; providing for sale and regulation of use of leather as fertilizer; providing for hay and alfalfa mixes; providing for use of secondhand sacks; making unlawful the inclusion of certain by-products in concentrated commercial feeding stuffs; defining "concentrated commercial feeding stuffs"; limiting crude fiber to ten per cent, with certain exceptions, and crude ash to twelve per cent in concentrated commercial feeding stuffs; adopting certain definitions promulgated by the Association of American Feed Control Officials, Inc., and the American Association of Official Agricultural Chemists; defining "commercial fertilizers" and providing for the labelling of packages thereof; defining "livestock remedies" and providing for registration thereof; creating a feed and fertilizer fund and making an appropriation therefrom; saving the constitutionality of separate sections of this chapter; providing for repeal of acts or parts of acts in conflict herewith; and declaring an emergency.

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

Director of
Agriculture.

SECTION 1. The director of agriculture is hereby empowered to prescribe and enforce such rules and regulations and make such definitions relating to

concentrated commercial feeding stuffs, commercial fertilizers or livestock remedies as he may deem necessary to carry into effect the full intent and meaning of this chapter and may register or refuse the registration of any concentrated commercial feeding stuffs, commercial fertilizers or livestock remedies which may be sold or offered or exposed for sale or distribution within the State of Washington, and which do not comply with all of the provisions of this chapter, or with regulations which may be hereafter made by the director of agriculture concerning concentrated commercial feeding stuffs, commercial fertilizers or livestock remedies, or which contain noxious weed seeds or other materials which may contaminate the soil as they may be defined or determined by the director of agriculture.

SEC. 2. The chemist of the agricultural experiment station of the State College of Washington and the dean of the college of pharmacy of the University of Washington shall be the chemists of 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 analyze any and all substances that the director of agriculture of the State of Washington, his deputies or inspectors may send to them, and report to the director, without unnecessary delay, the results of any analyses 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 any prosecutions for the violation of any law pertaining to the department.

Chemists.

Duties.

SEC. 3. (a) The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemists of the department of agriculture and such chemists may be required to

Additional chemists.

and are empowered to perform any or all of the duties required of the chemists of the department of agriculture authorized in section 2 of this act. Such additional chemists shall be entitled to such compensation for their services as may be determined by the director of agriculture. Any of such additional chemists may be assigned to duties under the supervision of either of the chemists authorized in section 2 of this act;

State college.

(b) In order to promote better laboratory facilities, materials and equipment, and when consistent with prompt and efficient service, the director of agriculture may submit feeds, fertilizers, livestock remedies, insecticides and similar substances, preferably to the authorized chemist at the State College of Washington and he may submit foods, drugs, dairy products and similar substances, preferably to the authorized chemist at the University of Washington.

University.

Samples for analysis.

SEC. 4. The director of agriculture, or any person deputized by him is hereby empowered to procure from any lot, parcel or package of concentrated commercial feeding stuffs or commercial fertilizers offered for sale, or found in the State of Washington, a sample, quantity thereof not to exceed two pounds, but the said sample shall be taken in the presence of the party or parties in interest, or their representatives, and taken from a parcel or number of packages which shall be not less than ten per cent (10%) of the whole lot inspected, and shall be thoroughly mixed, the same to be divided into two approximately equal parts, each to be sealed, and one part promptly delivered to the manufacturer, importer, mixer, distributor, agent or vendor, the other to be delivered to a chemist of the department of agriculture. A label shall be placed on each sample stating the name or brand of the material sampled, the name of the party from whose stock the sample was taken, and the time and place of taking the same, and said

Label.

label shall be signed by the director or his deputy, and by the party or parties in interest, or their representatives present at the taking and sealing of said samples. Said chemist who makes the analysis shall return to the department of agriculture two certified copies of his findings, one copy of which shall be forwarded promptly to the manufacturer, importer, mixer, distributor, agent or vendor thereof. Such certified findings shall be admissible in the trial of any case, civil or criminal, involving any provision of this chapter as *prima facie* evidence of the facts therein set forth.

Certified findings.

SEC. 5. It shall be unlawful for any manufacturer, importer, mixer, distributor, agent or vendor to sell, offer to sell, or distribute any brand of concentrated commercial feeding stuff, commercial fertilizer or livestock remedy in the State of Washington, unless each such brand shall have been registered with the director of agriculture on a form prescribed by the director and showing the ingredients and the guaranteed analysis, and a registration fee of six dollars (\$6.00) for each brand shall have been paid to the said director. Each such manufacturer, importer, mixer, distributor, agent or vendor shall on or before the first day of April of each calendar year, after the registration of any brand in the manner provided above, pay to the director of agriculture an annual registration fee of six dollars (\$6.00) for each such brand manufactured or mixed by him, which fee shall be paid by the director of agriculture into the state treasury to be used exclusively for the maintenance and enforcement of the provisions of this chapter: *Provided*, That a sum not to exceed fifteen per cent (15%) of the registration fees above specified, collected in any one year, may be used with the approval of the director of agriculture for the purchase of equipment and materials necessary to facilitate the testing and analysis of concentrated com-

Brand must be registered.

Fee.

mercial feeding stuffs, commercial fertilizers or livestock remedies.

Definitions.

SEC. 6. The words "manufacturer," "importer," "mixer," "distributor," "agent" or "vendor" as used in this chapter shall be deemed to include any individual, firm, corporation or association engaged in the manufacture, sale, distribution or mixing of any concentrated commercial feeding stuff, commercial fertilizer or livestock remedy, which is exposed, offered for sale or distributed in the State of Washington.

Domestic animals.

SEC. 7. For all the purposes of this chapter, domestic animals shall include horses, cattle, sheep, pigs, mules, dogs, cats, rabbits, canaries, parrots, pigeons, chickens, turkeys, ducks, geese and all other species of animals, birds or fowl which have been brought under control by man and adapted to his uses or pleasures.

Penalty.

SEC. 8. Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall for the first offense be fined not more than one hundred dollars (\$100.00) and for the second and each subsequent offense not more than five hundred dollars (\$500.00).

Registration cancelled or refused.

SEC. 9. (a) The director, after a hearing as herein provided, may cancel the registration of, or refuse to register, the brand or brands of any person who sells or proposes to sell any concentrated commercial feeding stuffs, commercial fertilizers or livestock remedies detrimental or injurious in effect when applied or used as directed, or which are known to be of little or no value for the purpose for which they are intended, or as to which false or misleading claims are made or implied. He may, after a hearing as herein provided, cancel the registration of the brand or brands of any person who violates any of the provisions of this chapter;

(b) In the event the director has reason to suspect that any such person is violating the provisions of this chapter he may cause a notice to be served personally or by mail upon such person, in writing, setting forth the provisions of this chapter which such person is charged with violating, and setting a date and place in said notice whereat a hearing will be had to determine whether or not such person has violated such provisions, which date shall be not less than ten (10) days from the date such notice is served;

Notice of hearing on violation.

(c) Any hearing held under this chapter shall be held in the county in which the applicant or holder of the brand registration has his principal place of business within the state, or in the county where the violation or violations may have occurred, and at a place designated by the director in his notice of hearing. The director shall, in any such hearing, have the power to administer oaths and to issue subpoenas. Any order of the director cancelling or refusing to register a brand shall be subject to review by any court of competent jurisdiction.

Hearing held.

SEC. 10. It shall be the duty of the prosecuting attorneys of the several counties of this state to cause proceedings to be commenced against any person or persons whom the director of agriculture, or any person deputized by him shall report to have violated any section of this chapter and to prosecute the same in the manner required by the law.

Prosecuting attorneys.

SEC. 11. Any person who shall prevent or strive to prevent the director of agriculture, or any person deputized by him, from inspecting and obtaining samples of any concentrated commercial feeding stuff, commercial fertilizer or livestock remedy as provided for in section 4 of this chapter shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined as defined in section 8 of this chapter.

Unlawful to prevent inspection.

Standard.

SEC. 12. A standard sack of concentrated commercial feeding stuff shall contain one hundred (100) pounds net weight. It shall be unlawful to distribute, sell, offer for sale, or advertise for sale, concentrated commercial feeding stuff in sacks containing more or less than the standard one hundred (100) pounds, unless there is attached to each sack a label specifying the true net weight of the contents of the said sack in plain English words and figures at least one half inch in height, and any advertisement covering other than standard sack of concentrated commercial feeding stuff shall state in a conspicuous manner the true net weight of the contents of each such sack.

"Concentrated commercial feeding stuff."

SEC. 13. "Concentrated commercial feeding stuff" as used in this chapter shall be defined to be a substance, used, sold, offered or exposed for sale, as food for domestic animals, and claimed to have a nutritive value: *Provided, however,* That the expression "concentrated commercial feeding stuffs" shall not include hay, either whole, chopped or ground where no other materials are added and no part of the whole removed; wheat flours or other flours; whole feeds or unmixed meals made from whole grains of wheat, rye, barley, oats, corn or other cereal and no part of the whole removed: *Provided, further,* That the director may permit the sale, under such conditions and safeguards as he may prescribe, of beet pulp, fruit by-products, brewers' or distillers' spent grains, pea by-products, oat by-products, alfalfa stem meal, alfalfa leaves and blossoms, and hemp seed meal, when sold singly or when mixed with molasses.

Shipments.

SEC. 14. Any manufacturer, importer, mixer, distributor, agent or vendor who shall sell, offer or expose for sale in this state any concentrated commercial feeding stuff, shall include in the invoice of every bulk shipment, or shall affix or cause to be affixed to

every package or sample of such concentrated commercial feeding stuff, in a conspicuous place on the outside thereof, a tag or label, which shall have plainly printed thereon in the English language the number of net pounds of concentrated commercial feeding stuff, contained in the package or bulk shipment, except as provided for in section 12 of this chapter, the name, brand or trade-mark under which the concentrated commercial feeding stuff is sold, the name and address of the manufacturer, importer, mixer, distributor, agent or vendor, the guaranteed analysis stating the minimum percentages of crude fat and crude protein; the maximum percentage of moisture; the maximum percentage of crude ash which shall not exceed twelve per cent (12%) except in the case of minerals and mineral mixtures; the maximum percentage of crude fiber, which shall not exceed ten per cent (10%), except as provided in section 13 of this act; and a list of the ingredients from which the concentrated commercial feeding stuff referred to in such list by inclusion of the registered brand name thereof, is compounded. Such tag or label shall be construed as a guarantee by the manufacturer, importer, mixer, distributor, agent or vendor of the facts therein stated.

SEC. 15. It shall be unlawful to include in any concentrated commercial feeding stuff any dirt, damaged or decayed feed, mill, elevator or other sweepings or dust, or any injurious, deleterious or worthless or damaged ingredients.

Injurious
ingredients.

SEC. 16. Exclusive of the definitions provided in this chapter, the definitions of feedstuffs regulated by this act shall be as defined by the Association of American Feed Control Officials, Inc., as of the effective date of this act; and the definitions of fertilizer materials regulated by this act shall be as defined by the American Association of Official Agricultural Chemists as of the effective date of this act.

Feedstuffs
and
fertilizers
defined.

Second
hand
sacks or
containers.

SEC. 17. The use of secondhand branded sacks as containers of stock feed while being offered for sale is prohibited: *Provided*, That clean, branded sacks which have been used as such containers may be used again if thoroughly cleaned so that all feed and foreign matter is removed, and if turned inside out or the labels obliterated so that the outer surface is free from all matter deceptive as to the contents of the sack.

"Commercial
fertilizer."

SEC. 18. The term "commercial fertilizer" as used in this chapter, shall include any material used in preserving or rebuilding soil fertility. Every lot, parcel or package of commercial fertilizer sold or offered for sale within this state, the retail price of which is ten dollars (\$10.00) or more per ton, shall have firmly attached thereto a printed label stating clearly and truly the number of pounds of fertilizer in each package; the guaranteed analysis and ingredients of the same; the name, brand or trade-mark under which the fertilizer is sold; the name and address of the manufacturer or importer; the place of manufacture; the chemical analysis stating the percentage of nitrogen, of potash soluble in water and of soluble reverted and insoluble phosphoric acid. Whenever any commercial fertilizer is shipped or sold in bulk, for use by the farmers of this state, a statement must be sent to the director of agriculture giving the information required on the label above referred to in this section.

Leather as
fertilizer.

SEC. 19. No person shall sell, offer or expose for sale in this state, any leather, pulverized, raw, steamed, roasted, or in any form as fertilizer, unless a label is attached to each package or container, or invoice covering bulk shipments thereof, on which there is clearly stated the process under which the said leather has been prepared as fertilizer, and the name and address of the manufacturer or distributor.

SEC. 20. For all the purposes of this chapter concentrated commercial feeding stuffs and commercial fertilizers shall be considered as distinct brands when differing either in guaranteed analysis, ingredients, trade-mark, name, or any other characteristic method of marking of any nature whatsoever.

Distinct
brands.

SEC. 21. The term "livestock remedies" as used in this chapter shall include all medicinal lotions, insecticides, body builders or preservers, worm capsules or other worm eradicators, pills, salves, or any other substance sold, exposed or offered for sale, in the State of Washington, as preventative or curative medicine for domestic animals. For all the purposes of this chapter, "livestock remedies" shall be considered as distinct brands when differing in trade-mark, name, or in any other characteristic method of marking of any nature whatsoever.

"Livestock
remedies."

SEC. 22. Applications for registrations of livestock remedies shall have attached thereto a true copy of the label used upon the package or container, and a list of the ingredients which are contained in, or make up the livestock remedy.

Applications
for
registration.

SEC. 23. There is hereby created in the state treasury a special fund to be known as the feed and fertilizer fund in which shall be deposited all monies hereafter or heretofore collected as fees for the registration of concentrated commercial feeding stuffs, commercial fertilizers and livestock remedies. There is hereby appropriated from said fund the sum of twenty thousand dollars (\$20,000.00) to be available to the director of agriculture for the purpose of carrying out the provisions of this act, but in no case shall such expenses exceed the receipts from registration fees, and all fees heretofore or hereafter collected on account of such registrations shall remain in said fund until expended.

Feed and
fertilizer
fund.

Appropriation.

SEC. 24. If any section or part of a section, sentence or part of a sentence of this chapter shall, for

Partial
invalidity.

any cause, be held unconstitutional, such holdings shall not affect the validity of any other section or part of a section, sentence or part of a sentence of this chapter.

Statutes
repealed.

SEC. 25. All acts or parts of acts in conflict herewith are hereby repealed; and specifically section 11 of chapter 60 of the Laws of 1913, chapter 101 of the Laws of 1919, chapter 49 of the Laws of the Extraordinary Session of 1925, chapter 151 of the Laws of 1927, and chapter 84 of the Laws of 1933, are hereby repealed: *Provided, That*

(a) If this chapter or any portion hereof shall be declared unconstitutional, portions of this chapter, if any, shall not be deemed to repeal any existing laws upon the same subject matter;

(b) The enacting of this chapter shall not have the effect of terminating, or in any manner modifying the liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective.

Effective
immediately.

SEC. 26. This chapter is necessary for the immediate preservation of public peace, health and safety, for the preservation of the financial structure of the state, for the preservation of agriculture and to prevent a financial crisis, and for the support of the state government and its existing institutions, and shall take effect immediately.

Passed the House February 25, 1937.

Passed the Senate February 24, 1937.

Approved by the Governor March 1, 1937.