

Chapter 12 Utah Commercial Feed Act

4-12-101 Title.

This chapter is known as the "Utah Commercial Feed Act."

Renumbered and Amended by Chapter 355, 2018 General Session

4-12-102 Definitions.

As used in this chapter:

(1) "Adulterated commercial feed" means any commercial feed that:

(a)

- (i) contains any poisonous or deleterious substance that may render it injurious to health;
- (ii) contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide chemical in or on a raw agricultural commodity or a food additive;
- (iii) contains any food additive or color additive that is unsafe within the meaning of 21 U.S.C. Sec. 348 or 379e;
- (iv) contains a pesticide chemical in or on a raw agricultural commodity that is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on the processed feed is removed to the extent possible through good manufacturing practices as prescribed by rules of the department so that the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;
- (v) contains viable weed seeds in amounts exceeding limits established by rule of the department;
- (vi) contains a drug that does not conform to good manufacturing practice as prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds unless the department determines that the regulations are not appropriate to the conditions that exist in this state;
- (vii) contains any filthy, putrid, or decomposed substance, or is otherwise unfit for feed; or
- (viii) has been prepared, packed, or held under unsanitary conditions; or

(b) has a valuable constituent omitted or abstracted from it, in whole or in part, or its composition or quality falls below or differs from that represented on its label or in labeling.

(2)

(a) "Animal remedy" means a remedy that:

- (i) is not used for food or cosmetic purposes; and
- (ii) is prepared or compounded for animal use.

(b) "Animal remedy" does not mean:

- (i) a material, other than food, that is intended to affect the structure or function of the body of a human; or
- (ii) a product produced primarily as feed, to which medication is added at the time of manufacture as an additional ingredient.

(3) "Brand name" means one or more words, names, symbols, or devices that:

- (a) identify a distributor or registrant's commercial feed; and
 - (b) distinguish the distributor or registrant's commercial feed from the commercial feed of others.
- (4)
- (a) "Commercial feed" means all materials that are distributed for use as feed or for mixing in feed.
 - (b) "Commercial feed" does not include:
 - (i) unadulterated, whole, unmixed seeds;
 - (ii) unadulterated, physically altered, entire, unmixed seeds;
 - (iii) any unadulterated commodity that the department specifies by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances, unless the commodities, compounds, or substances are intermixed or mixed with other materials;
 - (iv) a live, whole, or unprocessed animal that is not:
 - (A) adulterated; or
 - (B) misbranded; or
 - (v) an animal remedy that is not:
 - (A) adulterated; or
 - (B) misbranded.
- (5) "Contract feeder" means a person who:
- (a) is an independent contractor; and
 - (b) in accordance with the terms of a contract:
 - (i) is provided commercial feed;
 - (ii) feeds the commercial feed to an animal; and
 - (iii) receives remuneration that is calculated in whole or in part by feed consumption, mortality, profit, product amount, or product quality.
- (6) "Customer-formula feed" means commercial feed that 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.
- (7) "Distribute" means to:
- (a) offer for sale, sell, exchange, or barter commercial feed; or
 - (b) supply, furnish, or otherwise provide commercial feed to a contract feeder.
- (8) "Drug" means any article intended:
- (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; and
 - (b) to affect the structure or any function of the animal body, unless the article is feed.
- (9) "Feed ingredient" means each constituent material in a commercial feed.
- (10) "Home-produced" means a pet treat produced in a private home kitchen in the state.
- (11) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.
- (12) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.
- (13) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (14)
- (a) "Misbranded" means any commercial feed, whether in a container or in bulk, that bears a label that:
 - (i) is false or misleading in any particular; or
 - (ii) does not strictly conform to the labeling requirements of Section 4-12-105.

- (b) "Misbranded" includes commercial feed that is distributed under the name of another commercial feed.
- (15) "Official sample" means a sample of commercial feed taken by the department in accordance with this chapter and designated as "official."
- (16) "Percent" or "percentage" means percentage by weight.
- (17) "Pet" means a domesticated dog or cat.
- (18) "Pet food" means a commercial feed prepared and distributed for consumption by a pet.
- (19) "Pet treat" means commercial feed intended for pets that:
 - (a) is not intended to provide complete and balanced nutrition; and
 - (b) is fed intermittently for training, reward, enjoyment, or other purposes.
- (20) "Pharmaceutical" means a product prescribed for the treatment or prevention of disease for veterinary purposes, including:
 - (a) a vaccine;
 - (b) a synthetic or natural hormone;
 - (c) an anesthetic;
 - (d) a stimulant; or
 - (e) a depressant.
- (21) "Product name" means the name of the commercial feed that:
 - (a) identifies the kind, class, or specific use of the commercial feed; and
 - (b) distinguishes the commercial feed from all other products bearing the same brand name.
- (22) "Quantity statement" means the net weight in mass, liquid measurement, or count.
- (23) "Remedy" means:
 - (a) a drug;
 - (b) a combination of drugs;
 - (c) a pharmaceutical;
 - (d) a proprietary medicine;
 - (e) a veterinary biologic; or
 - (f) a combination of drugs and other ingredients.
- (24) "Specialty pet" means any animal normally maintained in a household for nonproduction purposes, including rodents, ornamental birds, ornamental fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits.
- (25) "Specialty pet food" means a commercial feed prepared and distributed for consumption by a specialty pet.
- (26) "Ton" means a net weight of 2,000 pounds avoirdupois.
- (27) "Veterinary biologic" means a biologic product used for veterinary purposes, including:
 - (a) an antibiotic;
 - (b) an antiparasiticide;
 - (c) a growth promotant; or
 - (d) a bioculture product.

Amended by Chapter 528, 2023 General Session

4-12-103 Department authorized to make and enforce rules -- Cooperation with state and federal agencies authorized.

- (1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce rules to administer and enforce this chapter and may cooperate with, or enter into agreements with, other agencies of this state, other states, and agencies of the United States in the administration and enforcement of this chapter.

- (2) The department shall by rule adopt the following, unless the department determines that they are inconsistent with the provisions of this chapter or are not appropriate to conditions that exist in this state:
- (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 federal regulation made pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, U.S.C. Sec. 301 et seq., unless the department does not have the authority under this chapter to make a corresponding rule.

Renumbered and Amended by Chapter 355, 2018 General Session

4-12-104 Distribution of commercial and customer-formula feed -- Registration or license required -- Application -- Fees -- Expiration -- Renewal.

- (1) A home-produced pet treat:
- (a) is exempt from Subsections (2), (4), (5)(a), and (6)(a); and
 - (b) is required to comply with Section 4-12-105.5.
- (2)
- (a) A person may not distribute a commercial feed in this state without a registration from the department.
 - (b) Except as provided by Subsection (4)(a), a person shall apply for a registration from the department for each brand name of commercial feed by:
 - (i) submitting forms prescribed and furnished by the department; and
 - (ii) paying an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2).
 - (c) Upon receipt of the appropriate application forms and fee payment, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.
- (3)
- (a) Subject to Subsection (3)(b) the department may:
 - (i) refuse registration to any commercial feed found to not be in compliance with this chapter; and
 - (ii) cancel the registration of any commercial feed found to not be in compliance with this chapter.
 - (b) A registration may not be refused or canceled unless the department gives the registrant an opportunity to:
 - (i) be heard before the department; and
 - (ii) amend the registrant's application in order to comply with the requirements of this chapter.
- (4)
- (a) A person who distributes customer-formula feed is not required to register the feed, but is required to obtain a license from the department before distribution.
 - (b) A person shall apply for a license to distribute customer-formula feed from the department by:
 - (i) submitting forms prescribed and furnished by the department; and
 - (ii) paying an annual license fee, determined by the department pursuant to Subsection 4-2-103(2).
 - (c) Upon receipt of the appropriate application forms and fee payment, the commissioner shall issue a license to the applicant allowing the applicant to distribute customer-formula

feed in this state through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

- (5)
 - (a) Each commercial feed registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.
 - (b) Each registration renewal fee shall be paid on or before December 31 of each year.
- (6)
 - (a) Each customer-formula feed license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original license fee.
 - (b) Each license renewal fee shall be paid on or before December 31 of each year.

Amended by Chapter 528, 2023 General Session

4-12-105 Labeling requirements for commercial and customer-formula feed specified.

- (1) A home-produced pet treat:
 - (a) is exempt from the provisions of this section, other than Subsection (3); and
 - (b) is required to comply with Section 4-12-105.5.
- (2) Except for customer-formula feed, each container of commercial feed distributed in this state shall bear a label specifying:
 - (a) the name and principal mailing address of the manufacturer, distributor, or registrant;
 - (b) the product name and brand name, if any, under which the commercial feed is distributed;
 - (c) the common name of each feed ingredient used in the commercial feed, stated in the manner prescribed by rule of the department, unless the department finds that a full statement of ingredients is not required to serve the interests of a consumer;
 - (d) the guaranteed analysis of the feed, expressed on an as-is basis:
 - (i) advising the user of the feed composition; or
 - (ii) supporting claims made in the labeling;
 - (e) a quantity statement for the feed;
 - (f) the lot number or some other means of lot identification;
 - (g) adequate direction for the feed's safe and effective use; and
 - (h) precautionary statements, if necessary, or any information prescribed by rule of the department considered necessary for the safe and effective use of the feed.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may by rule authorize a label to use a collective term for a group of ingredients that perform a similar function.
- (4)
 - (a) Except for customer-formula feed, each bulk shipment of commercial feed distributed in this state shall be accompanied by a printed or written statement specifying the information in Subsections (2)(a) through (h).
 - (b) The statement shall be delivered to the purchaser at the time the bulk feed is delivered.
- (5) Each container or bulk shipment of customer-formula feed distributed in this state shall be accompanied by a label, invoice, delivery slip, or other shipping document specifying:
 - (a) the name and principal mailing address of the manufacturer;
 - (b) the name and principal mailing address of the purchaser;
 - (c) the date of delivery;
 - (d) the product name of each commercial feed;

- (e) the quantity statement of each commercial feed;
 - (f) the net weight for each ingredient used that is not a commercial feed;
 - (g) except as provided in Subsection (6), the quantity statement of each ingredient used in the mixture, stated in terms the department determines necessary to advise the user of the feed composition or to support claims made on the label;
 - (h) directions for the feed's use;
 - (i) precautionary statements, if applicable; and
 - (j) any information considered necessary for the safe and effective use of the customer-formula feed as prescribed by rule of the department.
- (6) If the manufacturer of a customer-formula feed intends to protect a proprietary formula, the information required by Subsection (5)(g) may be substituted with a guaranteed analysis of each nutritional component the feed intends to deliver, stated in terms the department determines necessary to advise the user of the feed composition.
- (7) If a customer-formula feed contains a drug, the label shall include the:
- (a) purpose of the medication;
 - (b) established name of each active drug ingredient; and
 - (c) amount of each drug included in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

Amended by Chapter 528, 2023 General Session

4-12-105.5 Labeling and registration requirements for home-produced pet treats specified.

- (1) Each container of home-produced pet treats distributed in the state shall have a label specifying:
- (a) the name and principal mailing address of the manufacturer or registrant;
 - (b) the text "Assorted Pet Treats" and the brand name, if any, under which the pet treat is distributed;
 - (c) the common name of each ingredient used in the pet treat, in descending order, by predominance based on weight;
 - (d) a quantity statement for the treat;
 - (e) adequate direction for the treat's safe and effective use, if necessary; and
 - (f) precautionary statements, if necessary.
- (2)
- (a) A home-produced pet treat:
 - (i) shall be registered as an "Assorted Pet Treat";
 - (ii) shall include a label with the registered name;
 - (iii) may not be distributed outside of the state; and
 - (iv) is restricted to retail sales only.
 - (b) A registration described in Subsection (2)(a)(i) covers all versions of a home-produced pet treat.

Enacted by Chapter 528, 2023 General Session

4-12-106 Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Results to be forwarded to registrant or licensee -- Warrants.

- (1) In order to determine compliance with this chapter, the department:
- (a) shall periodically sample, inspect, analyze, and test commercial feeds distributed within this state;

- (b) may enter during normal business hours, within reasonable limits, and in a reasonable manner, any:
 - (i) factory;
 - (ii) warehouse; or
 - (iii) establishment in which commercial feed is manufactured, processed, packed, or held for distribution; and
- (c) may enter any vehicle used to transport or hold commercial feed in order to inspect:
 - (i) equipment;
 - (ii) finished and unfinished materials;
 - (iii) containers;
 - (iv) records; and
 - (v) labels.
- (2) The department's methods for sampling and for analyses of feed ingredients, mineral ingredients, or other ingredients, or for analyses of customer-formula feeds, shall be in accordance with methods published by the Association of Official Analytical Chemists or other generally recognized methods.
- (3) The official sample shall guide the department in determining whether a commercial feed is misbranded, adulterated, or otherwise deficient.
- (4) The department shall:
 - (a) forward the results of all tests of official samples to the manufacturer, distributor, licensee, or registrant using the address specified on the container, label, or on the written statement or invoice; and
 - (b) furnish to the manufacturer, distributor, licensee, or registrant part of any official sample that the department determines is misbranded or adulterated upon written request to the department by the manufacturer, distributor, licensee, or registrant within 30 days after receipt of the unsatisfactory test results.
- (5) If the department is refused admittance authorized by Subsections (1)(b) and (1)(c), the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Renumbered and Amended by Chapter 355, 2018 General Session

4-12-107 Suspension or revocation authorized -- Refusal to register or issue license authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

- (1) Upon satisfactory evidence that a manufacturer, distributor, licensee, or registrant has used fraudulent or deceptive practices in the registration, licensing, or distribution of a commercial feed or customer-formula feed, the department may:
 - (a) suspend or revoke the registration or license of any brand name of commercial feed or customer-formula feed; or
 - (b) refuse to register or license any brand name or product of commercial feed or customer-formula feed.
- (2)
 - (a) The department may issue a "stop sale, use, or removal order" to the distributor or owner of any commercial feed or lot of commercial feed that it finds or has reason to believe is misbranded, adulterated, or otherwise in violation of this chapter.

- (b) The order described in Subsection (2)(a) shall be in writing and no commercial feed subject to the order shall be moved, offered, or exposed for sale, except upon subsequent written release by the department.
 - (c) Before an order release is issued, the department may require the distributor or owner of the "stopped" commercial feed or lot of commercial feed to pay the expense incurred by the department in connection with the withdrawal of the product from the market.
- (3)
- (a) The department is authorized in a court of competent jurisdiction to seek:
 - (i) an order of seizure or condemnation of a commercial feed;
 - (ii) a temporary restraining order; or
 - (iii) a permanent injunction to prevent the violation of this chapter.
 - (b) No bond shall be required of the department in an injunctive proceeding brought under this section.
- (4) If the court orders condemnation of a commercial feed, the commercial feed shall be disposed of as the court directs, provided the order gives the manufacturer, distributor, licensee, or registrant an opportunity to apply to the court for permission to:
- (a) relabel, reprocess, or otherwise bring the commercial feed into conformance with this chapter and administrative rules; or
 - (b) remove the commercial feed from the state.
- (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the commercial feed.

Renumbered and Amended by Chapter 355, 2018 General Session

4-12-108 Unlawful acts specified.

A person in this state may not:

- (1) manufacture or distribute adulterated or misbranded commercial feed;
- (2) adulterate or misbrand any commercial feed;
- (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs, husks, or bulbs that are adulterated;
- (4) remove or dispose of any commercial feed in violation of a "stop sale, use, or removal order";
- (5) distribute any commercial feed that is not registered or any customer-formula feed that is not licensed; or
- (6) reuse a bag or tote previously used for commercial feed, including customer-formula feed, unless the user:
 - (a) appropriately cleans the bag or tote; and
 - (b) documents the clean-out procedure used on the bag or tote.

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