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Senate File 385

By COMMITTEE ON AGRICULTURE.

Passed Senate, Date. *3-25-63*

Passed House, Date. *4-22-63*

Vote: Ayes. *48* Nays. *0*

Vote: Ayes. *99* Nays. *1*

Approved.....

5-2-63

agriculture 2 3/27

A BILL FOR

An Act to regulate the distribution of commercial feeds and customer-formula feeds in the state of Iowa.

Be It Enacted by the General Assembly of the State of Iowa:

1 Chapter one hundred ninety-eight (198) Code 1962, is hereby
2 repealed and the following enacted in lieu thereof:

1 Section 1. This Act shall be known as the "Iowa Commercial
2 Feed Law of 1964".

1 Sec. 2. This Act shall be administered by the Secretary
2 of agriculture hereinafter referred to as the "secretary".

1 Sec. 3. When used in this Act:

2 1. The term "person" includes individual, partnership,
3 corporation and association.

4 2. The term "distribute" means to offer for sale, sell or
5 barter, commercial feed or customer-formula feed; or to supply,
6 furnish or otherwise provide commercial feed or customer-
7 formula feed to a contract feeder.

8 The term "distributor" means any person who distributes.

9 3. The term "sell" or "sale" includes exchange.

10 4. The term "commercial feed" means all materials singly
11 or in combination which are distributed for use as feed or for
12 mixing in feed, for animals other than man, except:

13 a. Unmixed whole or unmixed ground, rolled, crimped or
14 flaked whole seeds.

15 b. Unground hay, straw, stover, silage, cobs, husks and
16 hulls when not mixed with other materials.

17 c. Individual chemical compounds when not mixed with other
18 materials.

19 5. The term "feed ingredient" means each of the constituent
20 materials making up a commercial feed.

21 6. The term "customer-formula feed" means a mixture of
22 commercial feeds and materials each batch of which mixture is
23 mixed according to the specific instructions of the final
24 purchaser, or contract feeder.

25 7. The term "stock tonic" means a class of commercial
26 feed for livestock and poultry such as remedies for the cure
27 and mitigation of diseases and other nonnutritional conditions.
28 They shall include only those articles and products for oral
29 administration and shall not include medicated livestock and
30 poultry feeds.

31 8. The term "brand name" means any word, name, symbol or
32 device or any combination thereof, identifying the commercial
33 feed or a distributor and distinguishing it from that of others.

34 9. The term "product name" means the name of the commercial
35 feed which identifies it as to kind, class or specific use.

36 10. The term "label" means a display of written, printed
37 or graphic matter upon or affixed to the container in which a
38 commercial feed is distributed, or on the invoice or delivery
39 slip with which a commercial feed or customer-formula feed is
40 distributed.

41 11. The term "ton" means a net weight of two thousand
42 pounds avoirdupois.

43 12. The terms "percent" or "percentage" means percentage by

44 weight.

45 13. The term "official sample" means any sample of feed
46 taken by the secretary or his agent and designated as "official"
47 by the secretary.

48 14. The term "contract feeder" means a person who, as an
49 independent contractor, feeds commercial feed to animals pursuant
50 to a contract whereby such commercial feed is supplied, furnished
51 or otherwise provided to such a person and whereby such person's
52 remuneration is determined all or in part by feed consumption,
53 mortality, profits, or amount or quality of product.

1 Sec. 4. 1. Any person who manufactures, mixes or mixes to
2 customer order any commercial feeds, or customer-formula feeds,
3 or stock tonic, offered for sale, sold or distributed in the
4 state of Iowa must first obtain a license from the secretary,
5 said license to expire on December 31 of each year and be
6 renewed annually.

7 2. The application for license shall be submitted on forms
8 furnished by the secretary providing current name and address
9 of applicant.

10 3. Each license application shall be accompanied by the
11 annual license fee of two dollars per license. License fees so
12 collected shall become a part of the fund stipulated in
13 section seven (7), subsection three (3) of this Act.

1 Sec. 5. 1. Each commercial feed and stock tonic shall be
2 registered before being distributed in this state; provided,
3 however, that customer-formula feeds are exempt from
4 registration. The application for registration shall be
5 submitted on forms furnished by the secretary and, if the
6 secretary so requests, shall also be accompanied by a label

7 or other printed matter describing the product. Upon approval
8 by the secretary a duplicate copy of the registration shall
9 be furnished to the applicant. All registrations shall expire
10 on December 31 of each year. Registrations to be renewed with
11 no changes in label guarantee may be reregistered by forwarding
12 a list showing product name and brand name and department of
13 agriculture registration number to the secretary. For any
14 commercial feed on which the label guarantee has been changed
15 or altered or for a new commercial feed, a new registration
16 application must be filed. The application shall include the
17 information required by paragraphs "b", "c", "d" and "e" of
18 subsection one (1) of section six (6). The secretary may by
19 regulation permit on the registration the alternative listing
20 of ingredients of comparable feeding value, provided that the
21 label for each package shall state the specific ingredients
22 which are in such package.

23 2. A distributor shall not be required to register any
24 brand of commercial feed which is already registered under
25 this Act by another person.

26 3. The secretary is empowered to refuse registration of
27 any application not in compliance with the provisions of this
28 Act, and to cancel any registration subsequently found not to
29 be in compliance with any provisions of this Act; provided,
30 however, that no registration shall be refused or canceled
31 until the registrant shall have been given opportunity to be
32 heard before the secretary, and to amend his application in
33 order to comply with the requirements of this Act.

34 4. All articles subject to the registration requirements

35 of this Act shall be exempt from any provisions of chapter two
36 hundred three (203) of the Code.

1 Sec. 6. 1. Any commercial feed distributed in this state
2 shall be accompanied by a legible label bearing the following
3 information.

4 a. The net weight.

5 b. The product name and brand name, if any, under which the
6 commercial feed is distributed.

7 c. The guaranteed analysis of the commercial feed, listing
8 the minimum percentage of crude protein, minimum percentage of
9 crude fat, and maximum percentage of crude fiber. For mineral
10 feeds, the list shall include the following if added:

11 Minimum and maximum percentages of calcium (Ca), minimum
12 percentage of phosphorus (p), minimum percentage of iodine (I),
13 and minimum and maximum percentages of salt (NaCl). Other
14 substances or elements, determinable by laboratory methods,
15 may be guaranteed by permission of the secretary. When any
16 items are guaranteed, they shall be subject to inspection and
17 analysis in accordance with the methods and regulations that
18 may be prescribed by the secretary. Products distributed
19 solely as mineral or vitamin supplements and guaranteed as
20 specified in this section need not show guarantee for protein,
21 fat and fiber.

22 d. The common or usual name of each ingredient used in the
23 manufacture of the commercial feed, except as the secretary
24 may, by regulation, permit the use of a collective term for a
25 group of ingredients all of which perform the same function.
26 An ingredient statement is not required for single standardized

27 ingredients feeds which are officially defined.

28 e. The name and principal address of the person responsible
29 for distributing the commercial feed.

30 2. When a commercial feed is distributed in this state in
31 bags or other containers, the label shall be placed on or
32 affixed to the container; when a commercial feed is distributed
33 in bulk the label shall accompany delivery and be furnished
34 to the purchaser at time of delivery.

35 3. A customer-formula feed shall be labeled by invoice.
36 The invoice, which shall accompany delivery and be supplied to
37 the purchaser at the time of delivery, shall bear the following
38 information.

39 a. Name and address of the mixer.

40 b. Name and address of the purchaser.

41 c. Date of sale.

42 d. The product name and brand name, if any, and number of
43 pounds of each registered commercial feed used in the mixture
44 and the name and number of pounds of each other feed ingredient
45 added.

46 4. If a commercial feed or a customer-formula feed contains
47 a nonnutritive substance which is intended for use in the
48 diagnosis, cure, mitigation, treatment or prevention of disease
49 or which is intended to affect the structure or any function of
50 the animal body, the secretary may require the label to show
51 the amount present, directions for use, and warnings against
52 misuse of the feed.

53 5. Stock tonics shall be labeled in accordance with the
54 rules and regulations prescribed by the United States food and

55 Drug administration, a division of the department of health,
56 education and welfare; and the label must include the name and
57 percentage of the active drug ingredients, list all other
58 ingredients, and present directions for use and warnings
59 against misuse, and state the quantity of contents of the
60 package in which sold or distributed.

1 Sec. 7. 1. There shall be paid by the first distributor
2 of a commercial feed in this state to the secretary for all
3 commercial feeds distributed in this state an inspection fee
4 of ten cents per ton; provided, however, that the following
5 are hereby exempted;

6 a. Feed ingredients if they are distributed in this state
7 but are subsequently shipped out of this state, either as
8 received or as components of mixed feeds.

9 b. Customer-formula feeds if the inspection fee is paid
10 on the commercial feeds which they contain.

11 c. Commercial feeds distributed to manufacturers if the
12 commercial feeds so distributed are used solely in feeds which
13 are to be registered.

14 d. Persons, firms or corporations who purchase commercial
15 feeds on which the tonnage inspection fee has been paid or has
16 been pledged to be paid.

17 2. In lieu of the tonnage inspection fee on stock tonic
18 there shall be paid a registration fee of six dollars annually.

19 3. Fees so collected shall constitute a fund for the
20 payment of only the costs of inspection, sampling, analysis and
21 administrative expenses necessary for the enforcement of this
22 Act. The secretary shall prepare a detailed annual report by
23 July 31 of each year of the moneys disbursed from this fund

24 during the preceding year, and this report shall be
25 distributed to all registrants immediately after compilation.
26 When it is unanimously agreed by the governor, secretary of
27 agriculture and the comptroller that there are sufficient
28 funds to carry out the mandates of this Act for at least
29 twelve months, they may direct that any excess funds be returned
30 to the general fund.

31 4. Every person, except as hereinafter provided, who
32 distributes commercial feed in this state shall:

33 a. File, not later than the last day of January and July
34 of each year, a semiannual statement setting forth the number
35 of net tons of commercial feeds distributed in this state during
36 the preceding six months of the calendar year, and upon filing
37 such statement shall pay the inspection fee at the rate stated
38 in subsection one (1) of this section. When more than one
39 person is involved in the distribution of a commercial feed,
40 the person who first distributes the commercial feed in the
41 state is responsible for reporting the tonnage and paying the
42 inspection fee unless he is specifically exempted by subsection
43 one (1) of this section. If the tonnage report is not filed
44 and the payment of inspection fees is not made within ten days
45 after the due date, a penalty amounting to ten percent of the
46 amount due shall be assessed against the licensee and the amount
47 of feed due plus penalty shall constitute a debt and become the
48 basis of a judgment against the licensee.

49 b. Keep such records as may be necessary to indicate
50 accurately the tonnage of commercial feed distributed in this
51 state, and the secretary shall have the right to examine such

52 records to verify statements of tonnage.

53 Failure to make an accurate statement of tonnage or to pay
54 the inspection fee or comply with the provisions herein shall
55 constitute sufficient cause for the cancellation of all
56 registrations on file for the distributor.

1 Sec. 8. No person shall distribute an adulterated feed.

2 A commercial feed or customer-formula feed shall be deemed
3 to be adulterated:

4 1. If any poisonous, deleterious or nonnutritive ingredient
5 has been added in sufficient amount to render it injurious to
6 health when fed in accordance with directions for use on the
7 label.

8 2. If any valuable constituent has been in whole or in
9 part omitted or abstracted therefrom or any less valuable
10 substance substituted therefor.

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

14 4. If it contains added hulls, screenings, straw, cobs, or
15 other high fiber material unless the name of each such material
16 is stated on the label.

17 5. If it contains viable weed seeds in amounts exceeding
18 the limits which the secretary shall establish by rule or
19 regulation.

1 Sec. 9. No person shall distribute misbranded feed. A
2 commercial feed or customer-formula feed shall be deemed to be
3 misbranded:

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

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

6 3. If it is not labeled as required in section six (6)
7 of this Act and in regulations prescribed under this Act.

8 4. If it purports to be or is represented as a feed
9 ingredient, or if it purports to contain or is represented as
10 containing a feed ingredient, unless such feed ingredient
11 conforms to the definition of identity, if any, prescribed
12 by regulation of the secretary. In the adoption of such
13 regulations the secretary shall give due regard to commonly
14 accepted definitions such as those issued by the association
15 of American feed control officials.

16 5. If any word, statement, or other information required
17 by or under authority of this Act to appear on the label or
18 labeling is not prominently placed thereon with such
19 conspicuousness (as compared with other words, statements,
20 designs, or devices in the labeling) and in such terms as to
21 render it likely to be read and understood by the ordinary
22 individual under ordinary conditions of purchase and use.

1 Sec. 10. 1. It shall be the duty of the secretary, who
2 may act through his authorized agent, to sample, inspect,
3 make analyses of, and test commercial feeds and customer-
4 formula feeds distributed within this state at such time and
5 place and to such an extent as he may deem necessary to
6 determine whether such feeds are in compliance with the
7 provisions of this Act. The secretary, individually or through
8 his agent, is authorized to enter upon any public or private
9 premises including any vehicle of transport during regular
10 business hours in order to have access to commercial feeds and

11 customer-formula feeds and to records relating to their
12 distribution.

13 2. The methods of sampling and analysis shall be those
14 adopted by the secretary from sources such as the journal of
15 the Association of Official Agricultural Chemists.

16 3. The secretary, in determining for administrative
17 purposes whether a commercial feed is deficient in any
18 component, shall be guided solely by the official sample
19 as defined in subsection thirteen (13) of section three (3)
20 and obtained and analyzed as provided for in subsection two
21 (2) of section ten (10).

22 4. When the inspection and analysis of an official
23 sample indicates a commercial feed has been adulterated or
24 misbranded, the results of analysis shall be forwarded by
25 the secretary to the distributor and the purchaser. Upon
26 request, and notwithstanding any other requirements of Title
27 X of the Code, within thirty (30) days after the distributor
28 has been notified of the adulteration or misbranding, the
29 secretary shall furnish to the distributor a portion of the
30 sample concerned.

1 Sec. 11. The secretary is hereby charged with the
2 enforcement of this Act, and after due publicity and due
3 public hearing, is empowered to promulgate and adopt such
4 reasonable rules and regulations as may be necessary in
5 order to secure the efficient administration of this Act.
6 Publicity concerning the public hearing shall be reasonably
7 calculated to give interested parties adequate notice and
8 adequate opportunity to be heard.

1 Sec. 12. 1. When the secretary or his authorized

2 agent has reasonable cause to believe any lot of commercial
3 feed is being distributed in violation of any of the
4 provisions of this Act, or of any of the prescribed
5 regulations under this Act, he may issue and enforce a
6 written or printed "withdrawal from distribution" order
7 warning the distributor not to dispose of the lot of feed
8 in any manner until written permission is given by the
9 secretary or the court. The secretary shall release the
10 lot of commercial feed so withdrawn when said provisions
11 and regulations have been complied with by said distributor.
12 If compliance is not obtained within thirty days, the
13 secretary may begin, or upon request of the distributor shall
14 begin, proceedings for condemnation.

15 2. Any lot of commercial feed not in compliance with said
16 provisions and regulations shall be subject to seizure on
17 complaint of the secretary to a court of competent jurisdiction
18 in the area in which said commercial feed is located. In
19 the event the court finds the said commercial feed to be in
20 violation of this Act and orders the condemnation of said
21 commercial feed, it shall be disposed of in any manner consistent
22 with the quality of the commercial feed and the laws of the
23 state; provided, that in no instance shall the disposition
24 of said commercial feed be ordered by the court without first
25 giving the claimant an opportunity to apply to the court for
26 release of said commercial feed or for permission to process
27 or relabel said commercial feed to bring it into compliance
28 with this Act.

1 Sec. 13. 1. Any person convicted of violating any of the
2 provisions of this Act or the rules and regulations issued

3 thereunder or who shall impede, obstruct, hinder, or otherwise
4 prevent or attempt to prevent said secretary or his duly
5 authorized agent in performance of his duty in connection
6 with the provisions of this Act, shall be adjudged guilty
7 of a misdemeanor and shall be fined not less than twenty-five
8 dollars or more than one hundred fifty dollars for the first
9 violation, and not less than fifty dollars or more than three
10 hundred dollars for a subsequent violation. In all
11 prosecutions under this Act involving the composition of a
12 lot of commercial feed, a certified copy of the official
13 analysis signed by the secretary shall be accepted as prima
14 facie evidence of the composition.

15 2. Nothing in this Act shall be construed as requiring the
16 secretary or his representative to report for prosecution or
17 for the institution of seizure proceedings as a result of
18 minor violations of the Act when he believes that the public
19 interest will be best served by a suitable written notice
20 of warning.

21 3. It shall be the duty of each county attorney to whom any
22 violation is reported to cause appropriate proceedings to be
23 instituted and prosecuted in a court of competent jurisdiction
24 without delay. Before the secretary reports a violation for
25 such prosecution, an opportunity shall be given the distributor
26 to present his view to the secretary.

27 4. The secretary is hereby authorized to apply for and
28 the court to grant a temporary or permanent injunction
29 restraining any person from violating or continuing to violate
30 any of the provisions of this Act or any rule or regulation

31 promulgated under this Act notwithstanding the existence of
32 other remedies at law, said injunction to be issued without
33 bond.

34 5. Any person adversely affected by an act, order or ruling
35 made pursuant to the provisions of this Act may within forty-
36 five days thereafter bring action in the district court in
37 and for Polk county for new trial of the issues bearing upon
38 such act, order or ruling, and upon such trial the court may
39 issue and enforce such orders, judgments or decrees as the
40 court may deem proper, just and equitable.

1 Sec. 14. The secretary shall publish at least annually,
2 in such form as determined after a public hearing to which
3 all Iowa feed registrants and other interested parties are
4 invited, a resume of the analytical results obtained including
5 information concerning the sales of commercial feeds, together
6 with such data on their production and use as he may consider
7 advisable, and a resume of the results of the analyses of
8 official samples of commercial feeds sold within the state as
9 compared with the analyses guaranteed in the registration and on
10 the label; provided, however, that the information concerning
11 production and use of commercial feeds shall not disclose the
12 operation of any person.

1 Sec. 15. If any clause, sentence, paragraph, or part of
2 this Act shall for any reason be judged invalid by any court
3 of competent jurisdiction, such judgment shall not affect,
4 impair or invalidate the remainder thereof but shall be
5 confined in its operation to the clause, sentence, paragraph
6 or part thereof directly involved in the controversy in which

7 such judgment shall have been rendered.

1 Sec. 16. All other laws and parts of laws in conflict with
2 or inconsistent with the provisions of this Act are hereby
3 superseded by the provisions of this Act for the purpose of
4 this Act.

1 Sec. 17. This Act shall take effect and be in force from
2 and after the first day of January, 1964.

EXPLANATION OF SENATE FILE 385

This bill will bring up to date the Iowa Commercial Feed Law which is presently in the 1962 Code of Iowa. The last major revision was 22 years ago in 1941. This bill follows the Uniform Feed Bill of the Association of American Feed Control Officials which has been enacted by most of the other midwestern states. It provides for consumer protection on custom mixing. It is desirable because of the enactment by the federal government of the Food Additive Amendment, in 1958, to the Federal Food, Drug and Cosmetic Act.

SENATE FILE 385

1 Amend Senate File 385, section 7, subsection 1, by insert-
2 ing before the word "commercial" in line 10, the word
3 "registered".

Filed
March 22, 1963.

*adopted
3/25*

By HILL.