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.

Compiler's note: Enacting section 1 of Act 83 of 2015 provides:
"Enacting section 1. R 285.635.15, R 285.635.16, and R 285.635.17 of the Michigan administrative code are rescinded."

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 "feed law".

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.522 Administration of act.

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

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.523 Definitions.

Sec. 3. As used in this act:

(a) "AAFCO official publication" means the document entitled "2015 Official Publication", as published by the Association of American Feed Control Officials.

(b) "Animal" means any vertebrate animal, other than human beings, including mammals, birds, fish, reptiles, and amphibians, and any domesticated insect.

(c) "Animal feed" means edible material that is consumed by an animal and contributes energy, nutrients, or both, to the animal's diet.

(d) "Brand" means a word, name, symbol, or device, or a combination of any of these that identifies the commercial feed of a manufacturer or distributor and distinguishes it from that of other manufacturers or distributors.

(e) "Bulk" or "in bulk" means feed that is not divided into parts or packaged in separate units or any lot that is not in a closed container at the time it passes to the possession of the purchaser and includes that feed at any stage of distribution.

(f) "Cease order" means a cease order issued by the director pursuant to section 15.

(g) "Commercial feed" means all materials or combination of materials, including feed ingredients, that are distributed or intended for distribution for use as animal feed or for mixing in animal feed. Commercial feed does not include any of the following:

(*i*) Unmixed whole seeds or physically altered entire unmixed seeds, if both of the following conditions are met:

(A) The seeds are not chemically changed.

(B) The seeds are not adulterated within the meaning of section 8.

(*ii*) Commodities, including, but not limited to, hay, straw, stover, silage, cobs, and husks, that have undergone normal harvesting practices, that are not intermixed with other materials or chemically changed, and that are not adulterated within the meaning of section 8.

(*iii*) Individual chemical compounds that are not intermixed with other materials and are not adulterated within the meaning of section 8.

(*iv*) Feed provided to contract feeders that is manufactured by integrated operators that is not adulterated within the meaning of section 8.

(*v*) Unmixed meat, poultry, fish, and other portions of animal carcasses to be commercially sold in their raw or natural state without further processing or packaging, except freezing or denaturing, if both of the following conditions are met:

(A) The products are not adulterated within the meaning of section 8.

(B) The products are not intended as commercial feed or for use as a feed ingredient.

(*vi*) Feeder mice, other live feeder animals, and crickets that are not adulterated within the meaning of section 8.

(h) "Commission" means the commission of agriculture and rural development.

(i) "Contract feeder" means a person that is an independent contractor that feeds animals pursuant to a

contract if the feed is supplied, furnished, or otherwise provided to the person.

(j) "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 or purchaser's agent.

(k) "Department" means the department of agriculture and rural development.

(*l*) "Director" means the director of the department or the director's authorized representative.

(m) "Distribute" means either of the following:

(*i*) To offer for sale, hold for sale, sell, exchange, or barter commercial feed.

(*ii*) To supply, furnish, or otherwise provide commercial feed to a contract feeder or integrated operator.

(n) "Distributor" means a person that distributes.

(o) "Drug" means either of the following:

(*i*) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals.

(*ii*) Any article other than feed intended to affect the structure or a function of the animal body.

(p) "Embargo order" means an embargo order issued by the director pursuant to section 15.

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

(r) "Food additive" means that term as defined in 21 USC 321(s).

(s) "Fund" means the feed control fund created in section 17.

(t) "Guarantor" means a person that agrees to be responsible for labeling, information, guarantees, and claims.

(u) "Integrated operator" means a person located within this state that manufactures animal feed for other integrated operators if there is a minimum of 5% ownership by all persons involved in each aspect of the operation that supply or share feed and ingredients.

(v) "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.

(w) "Labeling" means all labels and other written, printed, electronic, or graphic matter, and includes advertising.

(x) "License" means a commercial feed license issued under this act.

(y) "Licensee" means a person that has been issued a license.

(z) "Local unit of government" means a county, township, city, or village.

(aa) "Manufacture" means to prepare, grind, mix, package, repackage, or relabel commercial feed for distribution.

(bb) "Manufacturer" means a person that manufactures.

(cc) "Noncommercial feed" means all materials or combination of materials, not distributed or intended for distribution, that are for manufacturing and use as feed or for mixing in feed. A person manufacturing noncommercial feed is not subject to licensing or tonnage fees under this act.

(dd) "Official sample" means a sample of feed taken by the director in accordance with section 7.

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

(ff) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(gg) "Pet food" means any commercial feed prepared and distributed for consumption by dogs or cats.

(hh) "Product name" means the name of the commercial feed that identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.

(ii) "Quantity statement" means a writing containing the net weight of a solid or net weight or net volume of a liquid.

(jj) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(kk) "Seizure order" means a seizure order issued by the director pursuant to section 15.

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

(mm) "Specialty pet" means any noncanine or nonfeline domesticated animal kept as a pet and normally confined to and maintained in a cage or tank within the owner's domicile, including, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

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

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 1980, Act 338, Imd. Eff. Dec. 23, 1980;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018.

287.524 Persons required to be licensed; application; fee; late fee; issuance of initial or renewal license; notice of incomplete application; display and expiration of license; labels;

powers of director; refusing, conditioning, revoking, or suspending license; hearing; revoking or refusing to issue or renew license after hearing; licensed distributor and guarantor operating from out-of-state location; effect of license issued before October 1, 2015.

Sec. 4. (1) Except as provided in subsection (2), the following persons shall obtain a license under this act:

(a) A manufacturer of commercial feed for each facility in this state used to manufacture commercial feed.

(b) A person, other than a manufacturer, that distributes commercial feed within this state or that serves as guarantor of commercial feed distributed within this state.

(2) The following persons are not required to obtain a license:

(a) A person that makes only retail sales of commercial feed that contains labeling or another approved indication that the commercial feed is from a licensed manufacturer, distributor, or guarantor that has assumed full responsibility for the inspection fee due under section 6.

(b) An on-farm mixer-feeder, if the person is not distributing feed commercially.

(c) An integrated operator that does not distribute feed commercially.

(d) A person that manufactures or distributes food that was originally intended for human consumption or other processed by-product that is intended for use as animal feed, is not exempt under section 3(g), and is not adulterated as defined in section 8, and that person distributes the food or other processed by-product only to a person holding a commercial feed license. The person holding a commercial feed license is responsible for ensuring the animal feed complies with the requirements of this act, including labeling under section 5 and the inspection fee under section 6.

(3) A person that wishes to obtain a license shall submit an application to the department on a form provided by or approved by the director and accompanied by a license fee payable to this state in the following amount:

(a) For a manufacturer, $100.00 for each manufacturing facility, except that the fee for a manufacturer that manufactures commercial feed in containers of 5 pounds or less is $25.00 for each manufacturing facility.

(b) For a distributor or guarantor whose name appears on the label, $100.00, except that the fee for a distributor or guarantor of commercial feed that is distributed in containers of 5 pounds or less is $25.00.

(4) A new applicant that fails to obtain a license within 30 calendar days after notification of the requirement to obtain a license, or any licensee that fails to comply with license renewal requirements by June 30, shall pay a $50.00 late fee in addition to the license fee.

(5) License fees and late fees collected under this section must be forwarded to the state treasurer for deposit into the fund.

(6) The director shall issue an initial or renewal license not later than 90 days after the applicant submits a complete application accompanied by the appropriate license fee. If the application is incomplete, the department shall notify the applicant within 60 days after the department receives the application.

(7) After approval by the director, a license must be furnished to the applicant. The license must be displayed prominently at each manufacturing facility used to manufacture commercial feed and must be available at the principal business office or the registered office of each distributor or guarantor.

(8) A license expires on June 30. A license is not transferable from 1 person to another, from 1 owner to another, or from 1 location to another.

(9) To determine compliance with this act and rules promulgated under this act, the director may require a current licensee or an applicant for a new license to submit labels or labeling being used or intended for use with a commercial feed.

(10) The director may do 1 or more of the following:

(a) Place conditions that limit the manufacture or distribution of a particular commercial feed on the license of any person found not in compliance with this act or the rules promulgated under this act.

(b) Refuse to license an applicant, or revoke or suspend the license of any person not in compliance with this act or the rules promulgated under this act.

(11) A license must not be refused, conditioned, revoked, or suspended until the licensee or applicant for a license is given the opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) After a hearing is conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, under subsection (11), the department may revoke or refuse to issue or renew a license if any of the following occurred within the 3 years preceding the date of the license application:

(a) A previous license issued under this act to a person with an ownership or management interest in the new operation was revoked due to the adulteration of commercial feed under section 8 or a violation of section 9.

(b) The applicant, a manager employed by the applicant, or any other individual with management responsibilities for the feed manufacturing operation of the applicant was convicted of any felony involving fraud, conversion, or embezzlement.

(c) The applicant's license under the federal food, drug, and cosmetic act, 21 USC 301 to 399h, registration under 21 USC 350d, or commercial feed license in another state was revoked or canceled because of a violation of the respective act.

(13) Each distributor and guarantor holding a license that operates from a business location outside this state shall do either of the following:

(a) Continuously maintain in this state a registered office and a resident agent, which agent may be an individual resident in this state whose business office or residence is identical with the registered office, a domestic corporation or limited liability company, or a foreign corporation or limited liability company authorized to transact business in this state and having a business office identical with the registered office. The licensee shall file with the department the name, address, and telephone number of the resident agent and shall maintain and make available records required by this act.

(b) Maintain and make available to the department records required by this act and pay all costs incurred by the department in auditing the records if they are held at an out-of-state location.

(14) A license issued before October 1, 2015, remains in effect until July 1, 2016, subject to revocation or suspension as otherwise provided in this act. Beginning July 1, 2016, all persons required to obtain a license under this section shall obtain a license as provided in this section.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018

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287.525 Commercial feed; label; document for customer-formula feed; information.

Sec. 5. (1) Commercial feed must be labeled as follows:

(a) Each container of commercial feed, except a customer-formula feed, must be accompanied by a label with the following information in legibly printed form:

(*i*) The quantity statement of the contents.

(*ii*) The product name and brand name, if any.

(*iii*) 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 must be determinable by laboratory methods such as the methods published by AOAC International.

(*iv*) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the director may do either or both of the following:

(A) By rule, permit the use of a collective term for a group of ingredients that perform a similar function.

(B) Exempt commercial feeds, or any group of commercial feeds, from the requirement of this subparagraph if the director finds that the information required is not in the interest of purchasers.

(*v*) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(*vi*) 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.

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

(*viii*) If a drug product is used, both of the following:

(A) The purpose of the medication.

(B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules prescribed as necessary by the director.

(*ix*) The date of manufacture, processing, packing, or repacking, or a code that permits the determination of the date or enables the segregation of specific lots of feed if the director finds segregation is necessary for the enforcement of this act. Tag perforations, notches, and other similar markings are not suitable codes for the purpose of identifying specific lots of feed unless they can be translated into an alphanumeric code without the use of special tools.

(2) A commercial feed, except a customer-formula feed, distributed in bulk, must be accompanied by a label in accordance with subsection (1), and the label must be presented to the purchaser or the purchaser's agent or affixed to the purchaser's storage container at the time of delivery of the commercial feed.

(3) Bulk commercial feed held for further manufacturing or distribution must be labeled in such a manner that its identity and traceability are maintained at all times.

(4) A customer-formula feed must be accompanied by a label, invoice, delivery slip, or other shipping document that contains the following information:

(a) The name and address of the manufacturer.
(b) The name and address of the purchaser.
(c) The date of delivery.
(d) The product name.
(e) A quantity statement of the lot or lots delivered.
(f) If a drug product is used, both of the following:
(*i*) The purpose of the medication.
(*ii*) The established name of each active ingredient and the level of each drug used in the final mixture expressed in accordance with rules promulgated, as necessary, by the director.
(5) The following information related to a customer-formula feed must be sent to the purchaser upon delivery, or within 1 business day, by electronic means, such as electronic mail or facsimile:
(a) The product name and quantity statement for each commercial feed and each other ingredient used in the mixture.
(b) Adequate directions for use for all commercial feeds containing drugs and for other feeds as necessary for their safe and effective use if required by rule.
(c) Precautionary statements as necessary for the safe and effective use of the commercial feed if required by rule.

History: 1975, Act 120, Imd. Eff June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018.

287.526 Inspection fee per ton; payment; filing statement of tonnage and fees; failure to comply with section; disclosure of information.

Sec. 6. (1) An inspection fee of $0.30 per ton must be paid on commercial feed distributed in this state by the person whose name appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume responsibility for the inspection fee, subject to the following:
(a) If more than 1 person is involved in the distribution of commercial feed, the last person that is required to be licensed and that distributes to a nonlicensee is responsible for reporting the tonnage distributed and paying the inspection fee.
(b) A fee will not be paid on customer-formula feed if the inspection fee is paid on the commercial feeds that are used as ingredients within the customer-formula feed.
(c) The minimum inspection fee is $50.00 per July 1 to June 30 annual period.
(d) The inspection fee is $0.15 per ton on feed ingredients that are by-products of manufacturing processes and have a moisture content equal to or greater than 60%.
(2) Each person liable for paying the inspection fee under subsection (1) shall do both of the following:
(a) File annually, by the last day of July, a statement, stating the number of tons of commercial feed distributed in this state during the preceding July 1 to June 30 period. The inspection fee and tonnage must be reported on forms furnished or approved by the director. Payments due of less than $5.00 are waived, and refunds of less than $5.00 will not be processed unless requested in writing. For any report not filed with the department by the due date, a penalty of $50.00 or 10% of the amount due, whichever is greater, will be assessed. The assessment of this penalty fee does not prevent the department from taking other actions as provided in this act.
(b) Maintain records for 2 years to accurately indicate the commercial feed tonnage distributed in this state. The director may examine the records to verify statements of tonnage.
(3) Failure to make an accurate statement of tonnage, pay the inspection fee, or comply with this section constitutes sufficient cause for suspending a distributor license.
(4) Unless disclosure is required for the enforcement of this act, the information furnished under this section is private or nonpublic, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by an employee of the department in any manner that 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;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018.

287.527 Entry and inspection of operations; powers of director; refusal to permit entry or inspection; warrant; maintenance of laboratory to analyze, test, and examine commercial feed; forwarding of results to licensee; official sample as guide in determination of deficient animal feed.

Sec. 7. (1) For the purpose of enforcing and determining compliance with this act, including whether or not any operations are subject to this act, the director may do 1 or more of the following:

(a) Enter, during normal business hours, any factory, warehouse, or any other establishment within this state in which commercial feeds or noncommercial feeds are stored, manufactured, or held for distribution or enter any vehicle being used to transport or hold the commercial or noncommercial feeds.

(b) Inspect at reasonable times and within reasonable limits and in a reasonable manner any factory, warehouse, or any other establishment or vehicle and all pertinent equipment, finished and unfinished commercial or noncommercial feeds or feed ingredients, containers, and labeling therein. A noncommercial feed inspection shall be with permission and based on cause. The inspection may include sampling of feed and feed ingredients and the verification of only the records and production and control procedures as are necessary to determine compliance with this act.

(c) Enter any vehicle of transport during regular business hours to access and obtain samples, and examine records relating to distribution of feed for the enforcement of this act. Subject to subsection (2), entry upon farm premises shall not be made without permission of the landowner or the operator of the farm and based on cause.

(2) If the owner of any factory, warehouse, or establishment described in subsection (1), or the owner's agent, refuses permission to enter or inspect in accordance with subsection (1), the director may obtain from any state court a warrant directing the owner or owner's agent to submit the premises described in the warrant to inspection.

(3) The director may 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. Sampling and analysis shall be conducted in accordance with methods published by AOAC International or in accordance with other generally recognized methods.

(4) The results of official analyses of all samples of animal feed found to be in violation of this act or the rules promulgated under this act shall be forwarded to the licensee. The owner or agent from the place of sampling may request a copy of the official results. The licensee may request a portion of a sample if the request is made not more than 60 days after the date of receipt of the analysis report.

(5) The director, in determining for administrative purposes whether an animal feed is deficient in any component, shall be guided by the official sample.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.528 Commercial feed or material considered to be adulterated.

Sec. 8. A commercial feed or material described in section 3(g)(*i*) to (*vi*) shall be considered to be adulterated if any of the following conditions exist:

(a) It bears or contains any poisonous or deleterious substance that may render the feed injurious to health. However, if the substance is not an added substance, the commercial feed is not considered adulterated under this section if the quantity of the substance does not ordinarily render the commercial feed injurious to health.

(b) It bears or contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe under 21 USC 346a, except for the following:

(*i*) A pesticide chemical in or on a raw agricultural commodity.

(*ii*) A food additive.

(c) It bears or contains a pesticide chemical residue that is unsafe under 21 USC 346a(a).

(d) It is, or it bears or contains, any food additive that is unsafe under 21 USC 348.

(e) It is, or it bears or contains, a new animal drug, or conversion product thereof, that is unsafe under 21 USC 360b.

(f) It is, or it bears or contains, any color additive that is unsafe under 21 USC 379e.

(g) It consists in whole or in part of any filthy, putrid, or decomposed substance or it is otherwise unfit for feed.

(h) It has been prepared, packed, held, or transported under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(i) It is, in whole or in part, the product of a diseased animal or of an animal that has died other than by slaughter, which is unsafe under 21 USC 342(a)(1) or (2).

(j) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(k) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to 21 USC 348.

(*l*) It is, or it bears or contains, any substance prohibited from use in animal food or feed as provided in 21 CFR 589.

(m) It contains viable prohibited or restricted noxious weed seeds in amounts exceeding the limits established by rule.

(n) It is inferior or is damaged, and the inferiority or damage has been concealed.

(o) Any substance has been added or mixed or packed with it so as to deceptively increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(p) Any valuable constituent has been in whole or in part omitted or abstracted from the feed or any less valuable substance is substituted within the feed.

(q) Its composition or quality falls below or differs from that purported or represented on its label.

(r) It contains a drug defined as a veterinary feed directive in 21 CFR 558.3 and does not conform to the requirements of 21 CFR 558.6.

(s) It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to rules promulgated by the director to assure that the drug meets the requirement of this act as to safety and has the purported or represented identity, strength, quality, and purity.

(t) It violates current good manufacturing practice regulations under 21 CFR 225.1 to 225.202 for medicated feeds and for medicated premixes, regulations under 21 CFR 226.1 to 226.115.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 1976, Act 236, Imd. Eff. Aug. 4, 1976;—Am. 2015, Act 83, Eff. Oct. 1, 2015

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287.529 Commercial feed considered to be misbranded.

Sec. 9. A commercial feed is considered 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 on the commercial feed 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;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.530 Recall of adulterated or misbranded commercial feed; notification.

Sec. 10. A manufacturer that voluntarily recalls a commercial feed that has been introduced into channels of trade beyond its control, and that supports the conclusion that the feed processed by the manufacturer is adulterated or misbranded in a manner that creates an unreasonable risk to animals or to the public health, shall immediately notify the director of the recall and the reasons for the recall. The notification may be oral if it is followed by a written notice to the director. 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 to the feed, 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;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.531 Rules.

Sec. 11. The director may promulgate rules necessary to implement this act.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

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

287.532 Implementation of act; agreements; reports.

Sec. 12. (1) 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 implement this act.

(2) 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.

(3) The director may annually publish a report of official sample analyses results of commercial feed sold within this state as compared with the analyses guaranteed on each respective product label.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.533 Manufacture or distribution of commercial feed; requirements.

Sec. 13. A person manufacturing or distributing commercial feed shall comply with all of the following:

(a) The requirements in 21 CFR 558.6 for a veterinary feed directive drug as defined in 21 CFR 558.3.

(b) The requirements in 21 CFR 589.1 to 589.2001 for prohibited mammalian protein.

(c) The following requirements of manufacturing or distributing commercial feeds containing drugs:

(*i*) The regulation prescribing good manufacturing practices for type B and type C medicated feeds in 21 CFR 225.1 to 225.202.

(*ii*) The regulations prescribing good manufacturing practices for type A medicated articles in 21 CFR 226.1 to 226.115.

(d) The requirements in 21 CFR part 507 for good manufacturing practices and preventive controls for animal food.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018
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287.534 Prohibited acts.

Sec. 14. A person shall not do or shall not cause any of the following:

(a) Manufacture or distribute any commercial feed that is adulterated or misbranded.

(b) Adulterate or misbrand any commercial feed.

(c) Distribute agricultural commodities such as whole grain, whole seed, hay, straw, stover, silage, cobs, and husks, that are adulterated within the meaning of section 8. Upon prior approval by the director, commodities described in this subdivision may be distributed if reworked to acceptable levels for safe use to be fed to animals.

(d) Remove or dispose of, without authorization from the director, commercial feed subject to a seizure order.

(e) Fail or refuse to obtain a license required under section 4.

(f) Fail to make records available, furnish reports, permit the examination of records, or pay an inspection fee as required under section 6.

(g) Refuse, or cause another person to refuse, to permit entry, inspection, sampling, or examination and copying of production and distribution records and production and control procedures authorized under section 7.

(h) Provide false information in a matter pertaining to this act or resist, impede, or hinder the director or authorized representatives in the discharge of their duties.

(i) Violate section 16(8).

(j) Violate a rule promulgated under section 11.

(k) Reuse bags, totes, or other containers for animal feed, including customer-formula feeds, unless the container has always been used and restricted to use within a commercial licensed facility, or is in, on, or upon a portable device and can be filled without entering the manufacturing facility. Containers that have been used to directly feed livestock, such as tubs, troughs, licks, or other containers, must not be refilled with feed.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015;—Am. 2018, Act 93, Imd. Eff. Mar. 26, 2018
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287.535 Administrative orders; correction of violation; costs; damages; finding of nuisance; storage of seized commercial feed as risk to animal or human health; "nuisance" defined.

Sec. 15. (1) The following administrative orders may be issued by the director to enforce this act:

(a) A cease order in compliance with this subdivision. When the director has probable cause to believe that a commercial feed operation is manufacturing or distributing adulterated or misbranded feed or fails to comply with this act or any of the rules promulgated under this act, the director may at any time order the responsible party to cease manufacturing or distributing commercial feed entirely or with limitations. The cease order may be either oral or written and shall inform the manufacturer, distributor, or other seller of the reason for the order. An oral cease order shall be followed by a written cease order as follows:

(*i*) Upon receipt of the cease order, the responsible party shall immediately comply with the order. Failure to comply subjects the responsible party to the penalties imposed under section 16.

(*ii*) The director shall rescind the cease order immediately upon being satisfied by inspection that the order has been complied with. An inspection may be conducted as soon as possible at the oral or written request of the responsible party. The rescission may be oral, and the responsible party may rely on the oral rescission.

However, an oral rescission shall be followed by a written rescission.

(b) A seizure order in compliance with this subdivision. When necessary for the enforcement of this act, the director may seize without formal warrant any commercial feed being distributed in violation of this act or rules promulgated under this act as follows:

(*i*) The director may issue and enforce a written seizure order when the director finds or has probable cause to believe that commercial feed is unlicensed, adulterated, or misbranded, fails to meet guarantees, or is being distributed in violation of this act or rules promulgated under this act. When the director issues a seizure order, the distributor must hold the lot of commercial feed at the location where the seizure order was issued and not dispose of the lot of commercial feed in any manner until permission is given by the director.

(*ii*) The director shall release the lot of seized commercial feed when this act and the rules promulgated under this act have been complied with. If compliance is not obtained within 30 days, the director may, or, upon request of the licensee, shall, begin administrative proceedings for disposal or other use of the commercial feed.

(c) An embargo order in compliance with this subdivision. If the director finds or has probable cause to believe that any commercial feed is adulterated or misbranded or poses a threat to animal or human health, the director may issue an embargo order on the commercial feed product. A person shall not remove or dispose of the commercial feed that is subject to an embargo order until permission for removal or disposal is given by the director or a court of competent jurisdiction.

(2) If proper processing or relabeling will correct a violation of this act, the commercial feed may be delivered to the licensee for processing or relabeling under the supervision of the director.

(3) A licensee that is not in compliance with this act is responsible for all costs incurred in reprocessing or relabeling the commercial feed intended to correct the violation and is responsible for all costs involved in the transportation and disposal of any commercial feed not in compliance with this act. Disposal shall be in a manner consistent with the quality of the commercial feed and the laws of this state.

(4) A court shall not allow the recovery of damages by a person against whom an administrative action was brought resulting in an order requiring seizure or embargo of commercial feed if the court finds that there was probable cause for the action or order.

(5) If the director finds any adulterated feed that the director declares to be a nuisance, the director shall immediately condemn, destroy, or in any other manner render the feed unsaleable as commercial feed. If adulterated or misbranded feed is a nuisance or is fraudulent and requires the director's supervision, or if the feed establishment requests the supervision of the director for sorting, destruction, reconditioning, or other disposition, the feed establishment that is in possession of the feed at the time of the seizure or embargo is liable for the costs of that supervision.

(6) If storage of seized commercial feed is not possible without risk to animal or human health, the director shall order immediate destruction of the feed to be accomplished without delay by the owner, operator, or person in charge of the feed establishment. The feed shall be destroyed as specified in the order for destruction.

(7) As used in this section, "nuisance" means animal feed that is adulterated to the extent that it constitutes an impending danger to the health, safety, or welfare of humans or animals.

History: 1975, Act 120, Imd. Eff. June 26, 1975;—Am. 2015, Act 83, Eff. Oct. 1, 2015.

287.536 Violation of act or rules; administrative fine; warning; penalty; injunction; protection of information as trade secret; civil action; affirmative defense; liability; restitution.

Sec. 16. (1) A person that violates this act or rules promulgated under this act is subject to the penalties and remedies provided in this act regardless of whether the person acted alone or through an employee or agent.

(2) Upon a finding by the director, after notice and an opportunity for an administrative hearing, that a person has violated or attempted to violate this act or a rule promulgated under this act, the director may impose an administrative fine of not more than $1,000.00 for each violation or attempted violation.

(3) If the director finds that a violation or attempted violation has occurred despite the exercise of due care or did not result in significant harm to human or animal health or the environment, or if the director believes the public interest will best be served, the director may issue a warning instead of imposing an administrative fine.

(4) The director shall advise the attorney general of the failure of a person to pay an administrative fine imposed under this section. The attorney general shall bring an action in a court of competent jurisdiction to recover the administrative fine.

(5) A person that violates or attempts to violate this act or a rule promulgated under this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both, for each violation or attempted violation, in addition to any administrative fines imposed.

(6) A person that knowingly and with malicious intent violates or attempts to violate this act or a rule promulgated under this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $25,000.00, or both, for each offense.

(7) The director may bring an action to enjoin a violation or threatened violation of this act or a rule promulgated under this act in a court of competent jurisdiction in the county in which the violation occurs or is about to occur.

(8) A person that uses to his or her own advantage or reveals to a person, other than the director, officers of the department, the attorney general, or the department of treasury, or the courts when relevant in any judicial proceeding, any information acquired under this act concerning any method, record, formulation, or process that as a trade secret is entitled to protection, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days and shall be fined not less than $500.00. This prohibition does not prohibit the director from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

(9) The attorney general may file a civil action for a violation of this act. A person that violates this act or a rule promulgated under this act may be ordered to pay a civil fine of not more than $5,000.00 for each violation or attempted violation. In addition, the attorney general may bring an action in circuit court to recover the reasonable costs of the investigation from any person that violated this act or attempted to violate this act. Money recovered under this subsection shall be forwarded to the state treasurer for deposit into the fund.

(10) As an affirmative defense of an action filed under this section, in addition to any other lawful defense, a person may present evidence that, at the time of the alleged violation or attempted violation, the person was in compliance with this act and the rules promulgated under this act.

(11) A person that violates this act is liable for all damages sustained by a purchaser of a product sold in violation of this act. In an enforcement action, a court, in addition to other remedies or penalties provided by law, may order restitution to a person injured by the purchase of a product sold in violation of this act.

History: Add. 2015, Act 83, Eff. Oct. 1, 2015.

287.537 Feed control fund.

Sec. 17. (1) The feed control fund is created within the state treasury.

(2) The state treasurer shall receive for deposit in the fund all fees, administrative or civil fines, and payments for the costs of investigations incurred by the director collected under this act. In addition, the state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The director shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration and enforcement of this act.

(b) Training programs and outreach and educational materials to ensure the proper use and handling of animal feed.

History: Add. 2015, Act 83, Eff. Oct. 1, 2015.

287.538 Actions by local unit of government.

Sec. 18. (1) Except as otherwise provided in this section, this act preempts any local ordinance, regulation, or resolution that would in any manner duplicate, extend, revise, contradict, or conflict with the provisions of this act. Except as otherwise provided in this section, a local unit of government shall not adopt, maintain, or enforce an ordinance, regulation, or resolution that in any manner duplicates, extends, revises, contradicts, or conflicts with this act.

(2) If a local unit of government is under contract with the department to act as its agent or the local unit of government has received prior written authorization from the department, that local unit of government may adopt an ordinance that is identical to this act and rules promulgated under this act, except as prohibited in subsection (6). The local unit of government's enforcement response for a violation of the ordinance that involves the manufacturing, storage, distribution, sale, or agricultural use of products regulated by this act is limited to issuing a cease order in the manner prescribed in section 15.

(3) A local unit of government may adopt an ordinance prescribing standards different from those contained in this act and rules promulgated under this act and that regulates the manufacturing, storage,

distribution, sale, or agricultural use of a product regulated by this act only under either or both of the following circumstances:

(a) The local unit of government has determined that unreasonable adverse effects on the environment or public health will otherwise exist within the local unit of government, taking into consideration specific populations within that local unit of government whose health may be adversely affected.

(b) The local unit of government has determined that the manufacturing, storage, distribution, sale, or agricultural use of a product regulated by this act within that unit of government has resulted or will result in the violation of other existing state or federal laws.

(4) An ordinance adopted under subsection (2) or (3) shall not conflict with existing state laws or federal laws. An ordinance adopted under subsection (3) shall not be enforced by a local unit of government until approved by the commission. The commission shall provide a detailed explanation of the basis of a denial within 60 days.

(5) Within 60 days after the legislative body of a local unit of government submits to the department a resolution identifying unreasonable adverse effects on the environment or public health as provided for in subsection (3)(a), the director shall hold a local public meeting to determine the nature and extent of unreasonable adverse effects on the environment or public health due to the manufacturing, storage, distribution, sale, or agricultural use of a product regulated by this act. Within 30 days after the local public meeting, the director shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(6) The director may contract with a local unit of government to act as its agent for the purpose of enforcing this act and the rules promulgated under this section. The director has sole authority to assess fees and license feed manufacturers and distributors.

(7) A local unit of government that adopts an ordinance under subsection (2) or (3) shall require persons enforcing the ordinance to comply with training and enforcement requirements determined appropriate by the director.

History: Add. 2015, Act 83, Eff. Oct. 1, 2015.

287.539 Actions by director to facilitate continued access to market.

Sec. 19. To facilitate continued access to markets for feed and feed ingredients, the director may do 1 or more of the following:

(a) At the request of a licensee or based upon records voluntarily supplied by a licensee, inspect, audit, or certify locations where feed regulated under this act is stored or business records are kept.

(b) Issue certificates pursuant to subdivision (a), including, but not limited to, certificates of export from this state.

(c) Promulgate rules to inspect, audit, or certify and issue certificates pursuant to this section.

(d) Include a schedule of fees that addresses all activities required under this section. The schedule of fees shall not duplicate those provided in other sections of this act.

History: Add. 2015, Act 83, Eff. Oct. 1, 2015.