

FEED LAW (EXCERPT)
Act 120 of 1975

***** 287.535.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2015 *****

287.535.amended 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.