SLS 24RS-307 **ORIGINAL**

2024 Regular Session

SENATE BILL NO. 249

BY SENATOR CATHEY

AGRICULTURE/FOREST DEPT. Provides relative to the Louisiana Agricultural Chemistry and Seed Commission. (gov sig)

AN ACT

To amend and reenact R.S. 3:1382(E), 1391(7) through (26), 1392(B)(2), 1393(A), 1396(A)(1) and (6) through (9), and 1398(A) and to enact R.S. 3:1391(27), 1396(A)(10) through (13), and 1400(A)(5), relative to the Louisiana Agricultural Chemistry and Seed Commission; to provide relative to the state chemist's responsibilities; to provide for definitions; to provide relative to the commission's powers and authority; to provide relative to registration and labeling; to provide for commercial feed adulteration; to provide relative to inspection, sampling, and analysis regulations; to provide relative to deficiency assessments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:1382(E), 1391(7) through (26), 1392(B)(2), 1393(A), 1396(A)(1) and (6) through (9), and 1398(A) are hereby amended and reenacted and R.S. 3:1391(27), 1396(A)(10) through (13), and 1400(A)(5) are hereby enacted to read as follows:

§1382. Commission; creation

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E. The state chemist shall be responsible for making any chemical analysis

or other tests necessary for carrying out the provisions of this Chapter. ~~He shall determine annually the values per pound of nitrogen, available phosphoric acid, potash, and any other substance claimed to have value as a fertilizer. The values so determined shall be used in determining and assessing penalties.~~ **In addition to his responsibilities the following applies:**

(1) The state chemist shall determine annually the values per pound of nitrogen, available phosphoric acid, potash, and any other substance claimed to have value as a fertilizer.

(2) The state chemist may determine the value of protein and any other substance guaranteed as a commercial feed.

(3) The values so determined shall be used in determining and assessing penalties.

§1391. Definitions

For the purposes of this Part the following definitions shall apply:

* * *

(7) "Guaranteed feeding units" means the minimum crude protein, minimum crude fat, maximum crude fiber, and minimum or maximum minerals expressed as percentages **or other required official units of measure, based on weight** and indicated on the label as being contained in the commercial feed.

(8) "Guarantor" means the entity listed on a commercial feed label or package that guarantees quality, quantity, and safety of the product.

~~(8)~~**(9)** "Ingredient" or "ingredients" means any of the constituent materials making up a commercial feed.

~~(9)~~**(10)** "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.

~~(10)~~**(11)** "Labeling" means all labels and other written, printed, or graphic matter which is located upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed.

~~(11)~~**(12)** "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

~~(12)~~**(13)** "Manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

~~(13)~~**(14)** "Manufacturer" means a person who manufactures a commercial feed or a customer-formula feed.

~~(14)~~**(15)** "Medication" means any drug, antibiotic, or other substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and any substance other than feed ingredients intended to affect the structure or any function of the animal body.

~~(15)~~**(16)** "Official sample" means a sample of feed taken by the commissioner or his agent in accordance with provisions of R.S. 3:1398.

~~(16)~~**(17)** "Package" means a parcel, bag, or other container.

~~(17)~~**(18)** "Percent" or "percentages" mean percentages by weights.

~~(18)~~**(19)** "Person" means any individual, partnership, corporation, and association, or other legal entity.

~~(19)~~**(20)** "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

~~(20)~~**(21)** "Pet food" means any commercial feed prepared and distributed for consumption by pets.

~~(21)~~**(22)** "Premises" means any place such as, but not exclusively, warehouses, factories, stores, trucks, railroad cars, boats, etc.

~~(22)~~**(23)** "Protein derived from mammalian tissues" means any protein containing a portion of mammalian animals, excluding: blood and blood products, gelatin, inspected meat products which have been cooked and offered for human food and further heat-processed for feed such as plate waste and used cellulosic food casings; milk products including milk and milk proteins; and any product in which the only mammalian protein consists entirely of porcine or equine protein.

~~(23)~~**(24)** "Registrant" means the person registering a feed with the commission.

~~(24)~~**(25)** "Ruminant" includes any mammal of the suborder Ruminantia, which includes but is not limited to cattle, buffalo, sheep, goats, deer, elk, and antelopes.

~~(25)~~**(26)** "Ton" means a net weight of two thousand pounds avoirdupois.

~~(26)~~**(27)** "Value of the protein deficiency" means the value of the crude protein as set by the state chemist times the difference between the guaranteed protein analysis and the actual protein analysis of the feed sample.

§1392. Commission; powers and authority

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B. In the interest of uniformity, the commission by regulation may adopt, unless it determines that they are inconsistent with the provisions of this Part or are not appropriate to conditions which exist in this state, the following:

* * *

(2) Any federal regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act**, the Food and Drug Administration, or the Food Safety Modernization Act**.

* * *

§1393. Registration and labeling

A. No person shall manufacture a commercial or customer-formula feed for distribution in this state unless he has registered with the commission by filing on forms provided by the commissioner his name, state of incorporation if incorporated,

the location of his principal place of business, and the location of each manufacturing facility in this state when such facilities are so located. Registration shall be renewed annually on July first. Renewal of registration may be denied by the commissioner for cause. A distributor **or guarantor** may apply to the commission for registration as a manufacturer and for authority to label feeds for sale in this state. All provisions applicable to a manufacturer shall then apply to the distributor **or guarantor**.

* * *

§1396. Adulteration

A commercial feed shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to **human or animal** health. If the substance is not an added substance, the commercial feed shall not be considered adulterated under this Paragraph if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

* * *

(6) **If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act.**

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

(8) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act.

(9) If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

~~(7)~~**(10)** If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(11) If the manufacture, processing, packaging, distribution and use do not comply with the requirements of Title 21, Code of Federal Regulations, Part

507, Subparts A, B, C, E, and F, except when the commission determines these federal regulations are not appropriate to the conditions which exist in this state.

~~(8)~~**(12)** If it contains a drug**, as defined by the Act,** ~~or antibiotic~~ and the ~~methods used in or the facilities or controls used for its~~ manufacture, processing, ~~or~~ packaging**, or distribution and use** do not conform to good manufacturing practice regulations promulgated by the commission to assure that the drug meets the requirement of this Part as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commission shall adopt the good manufacturing practice regulations for **Type A medicated articles,** medicated feed premixes and ~~for~~ medicated feeds in accordance with the Federal Food, Drug, and Cosmetic Act and 21 CFR Parts 225 and ~~507~~ **226**, except when the commission determines these federal regulations are not appropriate to the conditions which exist in this state.

~~(9)~~ **(13)** If it contains viable or poisonous weed seeds in amounts exceeding the limits which the commission shall establish by rule or regulation.

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§1398. Inspection, sampling, and analysis

A. For the purpose of enforcement of this Part and in order to determine whether its provisions have been complied with including whether or not an operation may be subject to such provisions, officers or employees duly designated by the commissioner upon presenting appropriate credentials to the owner, operator, employee in charge, are authorized to enter, during normal business hours, any premises within the state in which commercial feeds are manufactured, processed, packed, held for distribution, or sold or to enter any vehicle being used to commercially transport or hold such feeds; and to obtain official samples and to inspect at reasonable times and within reasonable limits and in a reasonable manner such premises or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling thereof. The inspection may include the

verification of such records and production and control procedures as may be necessary to determine compliance with ~~the~~ good manufacturing practice regulations for medicated feeds by regulation of the commission. **In promulgating such regulations, the commission may adopt the good manufacturing practice regulations in accordance with Title 21, Code of Federal Regulations Part 225, Part 226, and Part 507 Subparts A, B, C, E, and F, except when the commission determines these federal regulations are not appropriate to the conditions which exist in this state.** Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be notified.

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§1400. Deficiency assessments; enforcement

A. If a given lot or shipment of feed is found by official sample and analysis to be deficient in one or more of the guaranteed feeding units, a deficiency assessment of no less than ten dollars shall be assessed against the registrant with respect to the lot or shipment of feed in question in accordance with the following provisions:

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(5) All other guarantees: A deficiency assessment, not to exceed ten percent of the purchase price of the feed, if the deficiency or excess, where applicable, is greater than the tolerances established by the commission by rule.

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Mary Frances Aucoin.

DIGEST

SB 249 Original 2024 Regular Session Cathey

Present law (R.S. 3:1382) provides that the state chemist is responsible for making any chemical analysis or other tests necessary.

Proposed law retains present law and further provides that the state chemist responsibilities include determining annually the values per pound of nitrogen, available phosphoric acid, potash, and any other substance claimed to have value as a fertilizer, and determining the value of protein and any other substance guaranteed as a commercial feed.

Proposed law provides that the determined values must be used in determining and assessing penalties.

Present law (R.S. 3:1391) provides for definitions related to commercial feed.

Proposed law retains present law and further provides for the definition of "guarantor".

Present law (R.S. 3:1392) authorizes the commission to adopt any federal regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act.

Proposed law retains present law and further authorizes the commission to adopt any federal regulation promulgated pursuant to the Food and Drug Administration (FDA) or the Food Safety Modernization Act (FSMA).

Present law (R.S. 3:1393) provides that a distributor may apply to the commission for registration as a manufacturer and for authority to label feeds for sale in Louisiana.

Proposed law retains present law and further provides that a guarantor may also apply to the commission for registration as a manufacturer and for authority to label feeds for sale in Louisiana.

Present law (R.S. 3:1396) classifies when a commercial feed is or is not considered adulterated depending on if it contains a poisonous or deleterious substance causing injury to health.

Proposed law retains present law and specifies that the injury is to the health of human or animal.

Proposed law provides that a commercial feed will be deemed to be adulterated if:

(1) It bears or contains any new animal drug which is unsafe according to the Federal Food, Drug, and Cosmetic Act.

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

(3) It is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe according to the Federal Food, Drug, and Cosmetic Act.

(4) The manufacture, processing, packaging, or distribution and use do not comply with the requirements of the Code of Federal Regulations.

Present law provides that a commercial feed will be deemed to be adulterated if it contains a drug or antibiotic and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to good manufacturing practice regulations.

Proposed law clarifies that the drug must be one defined by the Federal Food, Drug, and Cosmetic Act and removes the criteria that the commercial feed will be deemed to be adulterated if it contains an antibiotic.

Present law (R.S. 3:1398) provides that the inspection of commercial feed may include the verification of such records and production and control procedures that are necessary to determine compliance with current good manufacturing practices regulations for non-medicated and medicated feeds.

Proposed law retains present law and further provides that in promulgating such regulations, the commission can adopt the good manufacturing practice regulations in accordance with federal regulations.

Present law (R.S. 3:1400) provides that a deficiency assessment of no less than $10 dollars will be assessed against the registrant regrading the shipment of feed in accordance with certain provisions, such as crude protein, crude fat, crude fiber, and minerals.

Proposed law retains present law and further provides an additional provision; for all other guarantees, a deficiency assessment cannot exceed 10 percent of the purchase price of the feed.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 3:1382(E), 1391(7) - (26), 1392(B)(2), 1393(A), 1396(A)(1) and (6) - (9), and 1398(A); adds 1391(27), 1396(A)(10) - (13), and 1400(A)(5))