

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1326
(Representatives Pollert, D. Johnson, Haak)
(Senators Klein, Wanzek, Heckaman)

AN ACT to create and enact six new sections to chapter 19-13.1 and sections 19-13.1-06.1 and 19-13.1-06.2 of the North Dakota Century Code, relating to the manufacturing and distribution of commercial feed; to amend and reenact sections 19-13.1-02, 19-13.1-04, 19-13.1-06, 19-13.1-07, 19-13.1-08, 19-13.1-09, 19-13.1-11, 19-13.1-12, and 19-13.1-13 of the North Dakota Century Code, relating to the manufacturing and distribution of commercial feed; to repeal sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North Dakota Century Code, relating to rules, enforcement, and registration and licensing requirements applicable to commercial feed; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-13.1-02 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-02. Definitions of words and terms.

~~When used in~~In this chapter, unless the context otherwise requires:

1. ~~"Brand name" means any word, name, symbol, or device, or any singly or in combination thereof, identifying the, that identifies commercial feed of a distributor and distinguishing it and distinguishes it from that of all others.~~
2. ~~"Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds when not adulterated within the meaning of section 19-13.1-07, which are distributed for use as feed or for mixing in feed. The commissioner, by rule, may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials and are not adulterated within the meaning of section 19-13.1-07~~any materials, singly or in combination, that are distributed, or which are intended to be distributed, for use as feed or for mixing in feed, except for:
 - a. Unmixed whole seeds and unmixed physically altered seeds, provided they are not chemically changed or adulterated;
 - b. Commodities such as hay, straw, stover, silage, cobs, husks, and hulls, provided the commodities are:
 - (1) Not intermixed or mixed with other materials;
 - (2) Not adulterated; and
 - (3) Specifically exempted by the agriculture commissioner;
 - c. Individual chemical compounds or substances, provided they are:
 - (1) Not intermixed or mixed with other materials;
 - (2) Not adulterated; and
 - (3) Specifically exempted by the agriculture commissioner; and

- d. Unprocessed grain screenings or unprocessed mixed grain screenings, provided:
- (1) The distributor does not make oral or written reference to the nutritional value of the screenings;
 - (2) The screenings are not adulterated; and
 - (3) The screenings are specifically exempted by the agriculture commissioner.
3. "Contract feeder" means ~~a person who, as an independent contractor, that~~ feeds commercial feed to animals pursuant to a contract ~~whereby such~~under which the commercial feed is supplied, furnished, or otherwise provided to ~~such~~the person and ~~whereby such~~the person's remuneration is determined ~~all in whole~~ or in part by feed consumption, mortality, profits, or the amount or quality of the product.
4. "Customer-formula feed" means ~~a mixture of commercial feeds or feed ingredients each batch of which is mixed~~commercial feed that is manufactured according to the specific instructions of the final purchaser ~~or contract feeder.~~
5. "Distribute" means to offer:
- a. Offer for sale, sell, exchange, or barter commercial feed or customer-formula feed; or to supply
 - b. Supply, furnish, or otherwise provide commercial feed or customer-formula feed to a contract feeder. ~~"Distributor" means any person who distributes.~~
6. "Drug" means any:
- a. Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in animals other than mandisease in an animal other than a human; and articles
 - b. Any article, other than feed, that is intended to affect the structure or any function of the animalan animal's body.
7. "Feed ingredient" means each of the constituent materials making up a commercial feed.
8. "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 or customer-formula feed is distributed.~~
9. "Labeling" means ~~all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed~~any printed or stamped information on or attached to a commercial feed container or its wrapper and written information accompanying the distribution of a commercial feed or customer-formula feed.
- ~~10-9.~~ "Manufacture" means to grind, mix, or blend, or further process a commercial feed for distribution.
11. "Mineral feed" means ~~a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.~~
- ~~12-10.~~ "Official sample" means any sample of feed taken by the commissioner and designated as "official" by the agriculture commissioner in accordance with section 19-13.1-09.
13. "Percent" or "percentage" means percentage by weight.
14. "Person" includes ~~individual, partnership, corporation, limited liability company, and association.~~

15. ~~"Pet" means any domesticated animal normally maintained in or near the household of the owner.~~
- 16:11. "Pet food" means any commercial feed prepared and distributed for consumption by ~~pets~~dogs or cats.
- 17:12. "Product name" means ~~the name of the commercial feed which~~ a term that identifies its commercial feed as to its kind, class, or specific use and which distinguishes that feed from all other products bearing the same brand name.
18. ~~"Retail" means to sell to the consumer or final purchaser.~~
19. ~~"Sell" or "sale" includes exchange.~~
- 20:13. "Specialty pet food" means ~~any~~ a commercial feed prepared and distributed for consumption by any animal normally maintained in confinement, including~~canaries, finches, gerbils, goldfish, hamsters, mynahs, psittacine birds, fish, snakes, turtles, and zoo animals~~any other domesticated animal normally maintained in a cage or a tank.
21. ~~"Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].~~

SECTION 2. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Manufacturer's license - Retailer's license.

1.
 - a. A person shall obtain a commercial feed manufacturer's license for each facility at which the person manufactures commercial feed if the person distributes the feed within this state.
 - b. A person shall obtain a commercial feed manufacturer's license if the person's name appears on the label of a commercial feed as a guarantor.
 - c. This subsection does not apply to a person that manufactures or guarantees pet food or specialty pet food.
2. A person shall obtain a commercial feed retailer's license for each facility at which the person sells commercial feed other than pet food or specialty pet food. This subsection does not apply to a person licensed as a commercial feed manufacturer.
3. In order to obtain an initial license required by this section, a person shall submit an application form at the time and in the manner required by the agriculture commissioner and:
 - a. If the person is applying for a manufacturer's license, a fee in the amount of one hundred twenty dollars for a manufacturer's license; or
 - b. If the person is applying for a retailer's license, a fee in the amount of sixty dollars.
4. In order to renew a license required by this section, a person shall submit an application form at the time and in the manner required by the commissioner and:
 - a. If the person is applying for a manufacturer's license renewal, a fee in the amount of one hundred dollars; or
 - b. If the person is applying for a retailer's license renewal, a fee in the amount of fifty dollars.
5. A license issued under this section is valid during the period beginning on January first of an even-numbered year and ending on December thirty-first of the ensuing odd-numbered year.

6. If a person fails to renew a license within thirty-one days of its expiration, that person must apply for an initial license.

SECTION 3. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Product registration.

Each commercial feed manufacturer required to be licensed under this chapter shall register all feeds distributed in this state with the agriculture commissioner, at the time and in the manner required by the commissioner. This section does not apply to customer-formula feeds.

SECTION 4. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

License - Registration - Hearing.

1.
 - a. The agriculture commissioner may refuse to issue a license to an applicant that is not in compliance with this chapter.
 - b. The commissioner may revoke a license if the licensee is not in compliance with this chapter.
 - c. The commissioner may refuse to register any feed and may cancel the registration of any feed if the registrant is not in compliance with this chapter.
2. Before the commissioner may act under this section, the commissioner shall provide the affected person with an opportunity for an informal hearing.

SECTION 5. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Pet food - Specialty pet food - Registration - Penalty.

1. Before being distributed in this state, each pet food product and each specialty pet food product must be registered. This requirement does not apply to a distributor, provided the pet food or specialty pet food is registered by another person.
2. In order to register pet food and specialty pet food, a person shall submit:
 - a. An application form at the time and in the manner required by the agriculture commissioner; and
 - b. A fee in the amount of one hundred twenty dollars.
3. In order to renew a registration required by this section, a person shall submit:
 - a. An application form at the time and in the manner required by the commissioner; and
 - b. A fee in the amount of one hundred dollars.
4. A registration issued under this section is valid during the period beginning on January first of an even-numbered year and ending on December thirty-first of the ensuing odd-numbered year.
5. If a person fails to renew a registration within thirty-one days of its expiration, that person must apply for an initial registration.

6. Upon approving an application for an initial registration or a renewed registration, the commissioner shall furnish a certificate of registration to the applicant. A certificate of registration is not transferable.
7. Any person violating this section is subject to a penalty of twenty-five dollars for each product that must be registered.

SECTION 6. AMENDMENT. Section 19-13.1-04 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-04. Labeling Commercial feed - Label - Content.

Any~~Except as provided in section 7 of this Act, any~~ commercial feed that is distributed in this state must be accompanied by a legible label bearing the information prescribed by rule labeled. The label must include:

1. The product's name, including any brand name under which the product is distributed;
2. The product's weight, volume, or quantity, as appropriate;
3. A guaranteed analysis expressed on an "as is" basis;
4. Unless waived by the agriculture commissioner in the interest of consumers, the commonly accepted name of each ingredient or, if permitted by the commissioner, a collective term for a group of ingredients that perform a similar function;
5. The name and principal mailing address of the manufacturer or the distributor;
6. Directions for use of any commercial feed containing drugs; and
7. Any precautionary statements recommended by the commissioner to ensure the safe and effective use of the feed.

SECTION 7. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Customer-formula feed - Label - Content.

Any customer-formula feed that is distributed in this state must be labeled.

1. The label must include:
 - a. The name and address of the manufacturer;
 - b. The name and address of the purchaser;
 - c. The date of delivery;
 - d. The product's name;
 - e. The weight, volume, or quantity, as appropriate, of each ingredient, including commercial feed; and
 - f. Any precautionary statement recommended by the agriculture commissioner to ensure the safe and effective use of the feed.
2. If the feed contains drugs, the label must also include:
 - a. The purpose of each drug;
 - b. The weight, volume, or quantity, as appropriate, of each drug; and

- c. The name of each active ingredient.

SECTION 8. AMENDMENT. Section 19-13.1-06 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-06. Inspection fees~~fee~~.

~~There must be paid to the commissioner for all commercial feeds and customer formula feeds, except pet foods and specialty pet foods, distributed in this state an~~

- ~~1. An inspection fee at the rate of twenty cents per ton [907.18 kilograms] with a minimum of ten dollars. However, customer formula feeds are exempted if the inspection fee is paid on the commercial feeds that they contain and distribution of commercial feeds to manufacturers is exempted if the commercial feeds so distributed are used solely in manufacture of feeds that are registered. Every person, except as hereinafter provided, who distributes commercial feed in this state shall:~~
- ~~1. File, not later than the thirty-first day of January of each year, an annual statement under oath setting forth the number of net tons [kilograms] of commercial feeds distributed in this state during the preceding year; and upon filing such statement shall pay the inspection fee. If the statement is not received by January thirty-first, a penalty of ten percent of the amount owed, with a minimum of ten dollars and a maximum of two hundred fifty dollars, may be assessed. The person whose name appears on the label as the manufacturer, guarantor, or distributor shall assume the liability for reporting and paying the inspection fee.~~
- ~~2. Keep such records as may be necessary or required by the commissioner to indicate accurately the tonnage of commercial feed distributed in this state and the commissioner has the right to examine such records to verify statements of tonnage.~~

~~Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein constitutes sufficient cause for the cancellation of all licenses on file for the distributor is imposed on all commercial feed distributed in this state. The minimum fee payable under this section is ten dollars.~~

- ~~2. Subsection 1 does not apply if:~~
 - ~~a. The fee was paid earlier in the year by another person;~~
 - ~~b. The commercial feed is to be used in the manufacturing of a registered commercial feed;~~
 - ~~c. The feed is a customer-formula feed and the fee has been paid on the commercial feeds used as ingredients; or~~
 - ~~d. The manufacturer produces only customer-formula feed.~~

SECTION 9. Section 19-13.1-06.1 of the North Dakota Century Code is created and enacted as follows:

19-13.1-06.1. Inspection fee - Responsibility for payment - Penalty.

- ~~1. The person responsible for payment of the inspection fee is:~~
 - ~~a. The manufacturer listed on the label;~~
 - ~~b. The guarantor listed on the label; or~~
 - ~~c. The distributor listed on the label.~~
- ~~2. Before the close of business on each February fifteenth, the person responsible for the payment of the inspection fee shall provide to the agriculture commissioner:~~

- a. A sworn statement indicating the number of net tons [kilograms] of commercial feed, by class, that the person distributed in this state during the immediately preceding calendar year; and
 - b. The inspection fees due in accordance with this chapter.
3. If the person responsible for the payment of the inspection fee fails to submit the assessments as required by this section, the commissioner may impose a penalty equal to ten percent of the amount due, plus interest at the rate of six percent per annum from the due date. If imposed, a penalty under this section may not be less than ten dollars nor more than two hundred and fifty dollars.

SECTION 10. Section 19-13.1-06.2 of the North Dakota Century Code is created and enacted as follows:

19-13.1-06.2. Inspection fee - Records.

1. The person responsible for payment of the inspection fee shall maintain, for a period of three years, records of all transactions necessary to verify the statement of tonnage required by section 19-13.1-06.1.
2. The person shall make the records required by this section available to the agriculture commissioner for examination upon request.
3. If the commissioner determines that the records required by this section were not maintained accurately, the commissioner may cancel all licenses on file for the distributor.

SECTION 11. AMENDMENT. Section 19-13.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-07. Adulteration.

~~No~~A person may not distribute an ~~adulterated~~ feed. ~~Any~~ commercial feed or ~~customer formula~~ feed that is adulterated:

1. ~~a. If it bears~~Commercial feed is adulterated if it contains any poisonous or deleterious substance that may render ~~it~~the feed injurious to health. ~~If~~However, if the substance is not an added substance, the commercial feed is ~~not~~may be considered adulterated under this subsection only if the ~~quantity of the substance in the commercial feed does not ordinarily~~is present in sufficient quantity to render it injurious to health;
- b. ~~2. If it bears or~~Commercial feed is adulterated if it contains any added substance that is poisonous, added deleterious, or added nonnutritive ~~substance that is, and~~ unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, as amended [~~Pub. L. 75-717; 52 Stat. 1049; 21 U.S.C. 346~~] other than one which is a. ~~This subsection does not apply to any pesticide chemical in or on a raw agricultural commodity or to a food additive;~~
- e. ~~3. If it is, or it bears or~~Commercial feed is adulterated if it contains; any food additive that is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, as amended [~~Pub. L. 85-929; 72 Stat. 1785; 21 U.S.C. 348~~];
- d. ~~4. a. If~~Commercial feed is adulterated if it is a raw agricultural commodity and it ~~bears or~~ contains a pesticide ~~chemical~~ that is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act, as amended [~~Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a~~]. ~~Except that when~~
- b. However, if a pesticide ~~chemical~~ has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act, as amended [~~Pub. L. 85-791; 68 Stat. 511;~~

21 U.S.C. 346a] and if the raw agricultural commodity has been subjected to processing a process such as canning, cooking, dehydration, freezing, dehydrating, or milling, the residue of the any pesticide chemical residue remaining in or on the processed feed may not be deemed unsafe if the, provided:

- (1) The residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice; and the
- (2) The concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless.

c. The exception set forth in subdivision b does not apply if the feeding of such processed feed will result or is likely to may result in a pesticide residue in the edible product of the animal, which evidencing a pesticide residue that is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-791; 68 Stat. 544; 21 U.S.C. 346a];.

e.5. If it is, or it bears or Commercial feed is adulterated if it contains, any color additive that is unsafe within the meaning of section 721 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 102-571; 106 Stat. 4498; 21 U.S.C. 379e]; or.

f.6. If it is, or it bears or Commercial feed is adulterated if it contains, any new animal drug which that is unsafe within the meaning of section 512 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 90-399; 82 Stat. 343; 21 U.S.C. 360b];.

2.7. In addition to the foregoing subsections, commercial feed is adulterated if:

- a. If anyAny valuable constituent has been omitted, in whole or in part omitted or abstracted therefrom or anyor removed from the feed an, thereby providing a lower nutritive value in the finished product;
3. b. If itsThe composition or quality of the feed falls below or differs from that which it is purported or is represented to possess by its labelingis stated on its label;
4. c. If itThe feed contains added hulls, screenings, straw, cobs, or other high fiber material, unless the name of each such each material is stated on the label;
5. d. If itThe feed contains viable weed seeds in amounts exceeding the limits whichthat the commissioner shall establishestablishes by rule;
6. e. If itThe feed contains a drug and the methods used in or the facilities or controls used for its manufacturing, processing, or packaging do not conform to current good manufacturing practice rules adopted by the commissioner to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess;
7. f. If itThe feed consists in whole or in part of any filthy, putrid, or decomposed substance, or if itthe feed is otherwise unfit for feedits intended use;
8. g. If itThe feed has been prepared, packed, or held under unsanitary conditions, whereby it that may have caused it to become contaminated with filth; or whereby it may have been rendered injurious to health;
9. h. If it is,The feed consists in whole or in part,of the product of a diseased animal or of an animal that 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, as amended [Pub. L. 75-717; 52 Stat. 1046; 21 U.S.C. 342];

40. i. ~~If its~~The feed's container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
- j. The feed has been packaged in bags or totes that previously contained pesticide products, treated seeds, or other hazardous materials; or
44. k. ~~If it~~The feed has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act, as amended [~~Pub. L. 85-929; 72 Stat. 1785;~~ 21 U.S.C. 348].

SECTION 12. AMENDMENT. Section 19-13.1-08 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-08. Misbranding.

~~No~~A person may not distribute any commercial feed that is misbranded feed. ~~A commercial feed or customer-formula feed is~~Commercial feed is misbranded if:

1. ~~If its labeling~~Its label is false or misleading in ~~any particular;~~
2. ~~If it~~It is distributed under the name of another commercial feed;
3. ~~If it~~It is not labeled as ~~required in section 19-13.1-04 and in rules prescribed under~~in accordance with this chapter;
4. ~~If it~~It purports to be or is represented as being a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition of identity, if any, prescribed by rules of the agriculture commissioner; ~~in the adopting of the rules the commissioner shall give due regard to commonly accepted definitions such as those issued by the association of American feed control officials;~~ or
5. ~~If any word, statement, or other~~Any information required by or under authority of this chapter to ~~appear on the label or labeling~~ is not prominently placed thereon, with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms ~~so~~ as to render it likely to be read and understood readable and comprehensible by the ~~ordinary~~an individual under customary conditions of purchase and use.

SECTION 13. AMENDMENT. Section 19-13.1-09 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-09. Inspection, sampling, analysis.

1. a. ~~For the purpose of enforcement of~~purposes of enforcing this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, designated officers ~~or~~ and employees duly ~~designated by~~of the agriculture commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized to may enter and inspect, during normal business hours, any factory, warehouse, or establishment ~~within~~in this state, in which commercial feeds are manufactured, processed, packed, or held for distribution, ~~or~~ provided the individuals first present their credentials and written notice to the owner or manager.
- b. For purposes of enforcing this chapter, designated officers and employees of the commissioner may enter and inspect any vehicle being used to transport or hold such feeds; and to inspect commercial feed, provided the individuals first present their credentials and written notice to the owner, manager, or driver.

- ~~2.~~ Any inspection authorized under this section must take place at reasonable times and, within reasonable limits, and in a reasonable manner, the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production and control procedures, as may be necessary to determine compliance with the good manufacturing practice rules established under subsection 6 of section 19-13.1-07 this chapter and rules implemented under this chapter.
- ~~2-3.~~ A separate notice must be given for each such authorized inspection, but a. However, a separate notice is not required for each entry made during the period covered by the inspection. Each inspection must be commenced and completed with reasonable promptness. Upon completion of the inspection, the person individual in charge of the facility or the individual in charge of the vehicle must be so notified.
- ~~3-4.~~ If the officer or employee making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, the officer or employee shall give to the owner, operator, or agent in charge or manager a receipt describing the samples obtained.
- ~~4-5.~~ If the owner, or agent of the owner, of any factory, warehouse, or establishment described in subsection 1 refuses to admit the officer or agent to inspect in accordance with If an officer or employee of the commissioner is denied entry as authorized by this section, the commissioner is authorized to may obtain a warrant from any state court directing the owner or the owner's agent manager to submit the premises described in the warrant to inspection.
- ~~5-6.~~ Any agent officer or employee of the commissioner is authorized to enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to, and to any structure or vehicle in accordance with this section, may obtain samples, and to examine records relating to distribution of commercial feeds to enforce this chapter.
- ~~6-7.~~ Sampling under this section must be conducted in accordance with generally recognized methods and any analysis of the samples taken must be conducted in accordance with methods published by the association of official analytical chemists or in accordance with other generally recognized laboratory methods.
- ~~7-8.~~ The commissioner shall forward the results of all analyses of official samples must be forwarded by the commissioner any sample analysis to the person named on the label and to the purchaser. When the inspection and analysis of an official sample
- ~~9.~~ If an analysis indicates that a commercial feed has been adulterated or misbranded, the registrant person named on the label may request a portion of the sample concerned, within thirty days following receipt of the analysis, request that the commissioner provide to the person a portion of the sample.
- ~~8-10.~~ In determining for administrative purposes whether a commercial feed is deficient in any component, the commissioner must be guided by the official sample obtained and analyzed as provided for in this chapter.

SECTION 14. AMENDMENT. Section 19-13.1-11 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-11. Detained commercial feeds.

- ~~1.~~ When If the agriculture commissioner has reasonable cause to believe any a lot of commercial feed is being distributed in violation of this chapter or of any of the prescribed regulations under rules implementing this chapter, the commissioner may issue and enforce a written or printed a "withdrawal from distribution" order, warning prohibiting the distributor not to dispose from disposing of the lot of feed in any manner until written permission is given by the

commissioner or ~~they~~ a court. The commissioner shall release the lot of commercial feed ~~so withdrawn when the provisions and rules have been complied with~~ when there has been compliance with this chapter and the rules implementing this chapter. If compliance is not obtained within thirty days, the commissioner may begin, or upon request of the distributor shall begin, proceedings for condemnation.

2. Any lot of commercial feed not in compliance with ~~the provisions and regulations~~ this chapter or rules implementing this chapter is subject to seizure on complaint of the commissioner to a court of competent jurisdiction ~~in the area in which the commercial feed is located~~. If the court finds the commercial feed to be in violation of this chapter or rules implementing this chapter and orders the condemnation of the commercial feed, it must be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; ~~provided, that in no instance may the~~ A court may not order disposition of the commercial feed ~~be ordered by the court without first giving the claimant an opportunity to apply to the court for its release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter~~ and rules implementing this chapter.

SECTION 15. AMENDMENT. Section 19-13.1-12 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-12. Penalties.

1. Any person convicted of violating this chapter or the rules ~~issued thereunder or~~ implementing this chapter and any person that impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the agriculture commissioner from performing the commissioner's duties in connection with ~~the provisions of~~ this chapter is guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the person performing the analysis, or that person's authorized agent, must be accepted as prima facie evidence of the composition.
2. This chapter does not require the commissioner to seek prosecution or ~~the institution of seizure proceedings~~ take any other legal action based on minor violations of the chapter ~~when~~ if the commissioner deems that the public interest will be best served by a suitable ~~notice of written~~ warning in writing.
3. Each state's attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for prosecution, the commissioner shall provide an opportunity ~~shall be given for~~ the distributor to present the distributor's view to the commissioner.
4. The commissioner may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule ~~adopted under the~~ implementing this chapter ~~notwithstanding the existence of other remedies at law~~. The An injunction is to be issued without bond.
5. Any person adversely affected by an act, order, or ruling made pursuant to this chapter may within forty-five days thereafter bring action in the district court for Burleigh County for new trial of the issues bearing upon such act, order, or ruling, and upon such trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

SECTION 16. AMENDMENT. Section 19-13.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-13. Publications.

1. ~~The agriculture commissioner may publish, in such forms as the commissioner may determine proper, information concerning the sales of regarding commercial feeds, together with such data on including their production, sales, and use as the commissioner may consider advisable, and a report of the results of, and publish a comparison of the analyses of official samples of commercial feeds sold within their this state. However, the information concerning with the analyses guaranteed in their registration and on their label.~~
2. Information regarding the production and use of commercial feeds may not disclose the operations of any person.

SECTION 17. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Certificates - Fees.

The agriculture commissioner may:

1. Implement a program to inspect, audit, and certify commercial feed manufacturing and distribution facilities, at the request of an owner;
2. Issue commercial feed export certificates; and
3. Establish a schedule of fees for the services provided under this section.

SECTION 18. REPEAL. Sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1326.

House Vote: Yeas 94 Nays 0 Absent 0

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State