

No. 597

AN ACT

To regulate the sale and distribution of commercial feeds in the Commonwealth of Pennsylvania; conferring powers and imposing duties on the Department of Agriculture; and prescribing penalties.

Commercial feeds.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Department of Agriculture.

Section 1. This act shall be administered by the Department of Agriculture of the Commonwealth of Pennsylvania.

Definitions.

Section 2. Definitions.—When used in this act,

(a) The term “person” includes individual, partnership, corporation, firm, association and agent.

(b) The term “distribute” means to offer for sale, sell, barter or otherwise supply commercial feeds.

(c) The term “sell” or “sale” includes exchange.

(d) The term “commercial feed” means all materials which are distributed for use as feed for animals, including poultry, other than man, including all ingredients entering into commercial feed, except:

(1) Unmixed whole seeds or grains and meals made directly from the entire seeds.

(2) Unground hay.

(3) Whole or ground straw, stover, silage, cobs and hulls when not mixed with other materials.

(e) The term “brand” means the term, design or trademark and other specific designation under which an individual commercial feed is distributed and sold.

(f) The term “label” or “tag” means a display of written, printed or graphic matter attached to or upon the container in which a commercial feed is distributed.

(g) The term “ton” means a net weight of two thousand (2,000) pounds avoirdupois.

(h) The term “percent” or “percentage” means percentage by weight.

(i) The term “official sample” means any sample taken by the Secretary of Agriculture or his agent.

Registration with Department of Agriculture required.

Section 3. Registration.—(a) Each brand of commercial feed shall be registered by the manufacturer or importer with the Department of Agriculture before being offered for sale, sold or otherwise distributed. The application for registration shall be submitted to the Secretary of Agriculture on forms which he shall supply,

and shall be accompanied by a fee of five dollars *(\$5) per brand and by a label or tag or other printed matter describing the product. Upon approval by the Secretary of Agriculture, a copy of the registration shall be furnished to the applicant. All registrations shall expire on the thirty-first day of December of each year. The applications shall include the following information:

Contents of application.

(1) The name and principal address of the person guaranteeing the commercial feed.

(2) The name or the brand under which the commercial feed is to be sold.

(3) The guaranteed analysis listing the minimum percentages of crude protein and crude fat and the maximum percentage of crude fiber, except in case of products sold solely as mineral or vitamin supplements or combination thereof, in which case they need not show guarantees for protein, fat and fiber.

In the case of mineral feeds, there shall be stated the maximum percentage of calcium (Ca), minimum percentage of phosphorous (P) and maximum percentage of salt (NaCl).

Other nutritional substances or elements determinable by laboratory methods may be guaranteed by permission of the Secretary of Agriculture. When any such other items are guaranteed, they shall be subject to inspection and analysis in accordance with methods and regulations prescribed by the Secretary of Agriculture.

When the Secretary of Agriculture after holding a hearing finds that any claim for the presence of a specific nutritional substance including minerals, vitamins or amino acids may be misleading, unless specifically guaranteed as to the minimum quantity present or unless a specific minimum quantity of such substance is so present, he may define the guarantee requirement or minimum quantity requirement that shall be present and include such definition or definitions in a definition of standards in the manner provided in section nine.

(4) The name of each ingredient used in the commercial feed. This statement shall show the official name of each ingredient which has been so defined by the Association of American Feed Control Officials or the common name of any ingredient not so defined.

(b) A distributor shall not be required to register any brand of commercial feed which is already registered under this act by another person.

(c) Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted, provided satisfactory evidence is submitted

* "\$5.00" in original.

showing that such changes would not impair the feeding value of the product for the purpose for which it is designed.

Refusal and cancellation of registration.

(d) The Secretary of Agriculture is empowered to refuse registration of any application not in compliance with all of the provisions of this act, and to cancel any registration when it is subsequently found to be in violation of any provision of this act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of the act or regulations thereunder: Provided, however, That no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the Secretary of Agriculture.

Section 4. Labeling.—(a) Any commercial feed offered for sale or sold or otherwise distributed in bags, barrels or other containers, shall have placed thereon or affixed thereto, a label or tag upon which there appears, in printed form in the English language, the net weight and the information required by clauses (1), (2), (3) and (4) of subsection (a) of section three.

(b) If commercial feed is distributed in bulk, a written or printed statement of the net weight and the information required by clauses (1), (2), (3) and (4) of subsection (a) of section three shall accompany delivery and be furnished to the purchaser.

Section 5. Feed Control Fees.—(a) In addition to initial annual registration fee of five dollars *(\$5) per brand, each manufacturer or importer of commercial feeds shall pay, annually, to the Secretary of Agriculture for all commercial feeds offered for sale, sold or otherwise distributed in this Commonwealth, a feed control fee of two cents (\$.02) per ton per brand of feed on all feeds distributed after December 31, 1955: Provided, That sales of commercial feeds (ingredients) to manufacturers or exchanges between them are hereby exempted from the feed control fee if the commercial feeds so sold are to be used solely in the manufacture of feeds which are registered, and a declaration to this effect appears on the label. Registration and control fees and fines, when collected, shall be placed in a fund to be administered by the Secretary of Agriculture and to be used solely for the payment of the costs of inspection, sampling, analysis and other expenses necessary for the administration of this act and other acts specified by the General Assembly. Said funds shall be known as The Feed and Fertilizer Fund.

*“(\$5.00)” in original

The Secretary of Agriculture is hereby authorized and empowered, whenever he shall determine that the feed control fee provided in section five is yielding more than is required for feed control purposes to which the feed control fee is devoted, to reduce the feed control fee for such period as he may deem necessary. In the event that at any time after reduction of the feed control fee sufficient revenues are not being produced by the reduced fee, the Secretary of Agriculture is empowered to restore, in full or in part, the feed control fee to such a rate as will, in his judgment, produce sufficient funds for control and enforcement of this act.

Power of
Secretary of
Agriculture to
fix feed control
fees.

(b) Payment of the feed control fee shall be evidenced by a statement, under oath in due form of law, of commercial feed distributed, together with documents showing that fees corresponding to the tonnage were received by the Secretary of Agriculture. Every manufacturer or importer of commercial feed in this Commonwealth shall

(1) File, not later than the last day of January of each year, an annual statement, under oath, setting forth the number of net tons of commercial feeds distributed in the Commonwealth during the preceding twelve (12) month period which ended the thirty-first day of December and, upon filing such statement, shall pay the feed control fee at the rate stated in subsection (a) of this section.

(2) Keep such records as may be necessary or required by the Secretary of Agriculture to indicate accurately the tonnage of commercial feed distributed in this Commonwealth. The Secretary of Agriculture shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the feed control fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

Section 6. Adulteration.—No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated,

(a) When any poisonous deleterious or non-nutritive ingredient is present in sufficient amount to render it injurious to animal health;

(b) When any valuable constituent has been, in whole or part, omitted or abstracted therefrom, or any less valuable substance substituted therefor;

(c) When its composition or quality falls below or differs from that which it is purported to be or is represented to possess;

(d) When it contains added hulls, screenings, straw, cobs or other high fiber material, unless the name of each such material is clearly and prominently stated on the label.

Section 7. Misbranding.—No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded,

(a) When its labeling is false or misleading in any particular;

(b) When it is distributed under the name of another feed;

(c) When its container is not labeled as required in section four of this act and in regulations prescribed under this act;

(d) When it purports to be or is represented as a commercial feed for which a definition of identity and standard of quality has been prescribed by a regulation issued by the Secretary of Agriculture unless it conforms to such definition and standard;

(e) When any word, statement or other information required by or under authority of this act 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 as to render it likely to be read and understood by the ordinary individual under customary condition of purchase and use.

Section 8. Inspection; Sampling; Analysis.—(a) It shall be the duty of the Secretary of Agriculture who may act through his authorized agent to sample, inspect, make analyses of, and test commercial feeds distributed within this Commonwealth, at such time and place and to such an extent as he may deem necessary, to determine whether such commercial feeds are in compliance with the provisions of this act. The Secretary of Agriculture, individually or through his agent, is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial feeds subject to the provisions of this act and the rules and regulations pertaining thereto.

(b) The methods of sampling and analysis shall be those adopted by the Secretary of Agriculture.

(c) The Secretary of Agriculture in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in subsection (i) of section two, and obtained and analyzed as provided for in subsection (b) of this section.

(d) When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the Secretary of Agriculture to the distributor and to the manufacturer or importer.

Section 9. Regulations; Standards; Definitions.—The Secretary of Agriculture is hereby charged with the enforcement of the act and, after due publicity and due public hearing, is empowered to adopt and promulgate such regulations, standards and definitions as may be necessary to carry into effect the full intent and meaning of this act.

Section 10. Detained Commercial Feeds; Withdrawal From Sale.—(a) When the Secretary of Agriculture or his authorized agent has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of this act or of any of the prescribed regulations under this act, he may issue and enforce a written or printed “withdrawal from sale” order, warning the distributor not to dispose of the feed in any manner until written permission is given by the Secretary of Agriculture or the court. The Secretary of Agriculture shall release the commercial feed so withdrawn, when the provisions and regulations have been complied with, and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within thirty (30) days, the Secretary of Agriculture may begin proceedings for condemnation.

(b) Condemnation and Confiscation.—Any lot of commercial feed not in compliance with the provisions of this act shall be subject to seizure on complaint of the Secretary of Agriculture to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this act and orders the condemnation of said commercial feed, it shall 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 shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed to bring it into compliance with this act.

Section 11. Penalties.—Any person who shall violate any of the provisions of this act or any rule, regulation or order made pursuant to this act, shall, for the first or

Penalties

second offense, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than fifty dollars *(\$50) nor more than one hundred dollars **(\$100) and costs of prosecution and, in default of payment of such fine and costs, shall be sentenced to undergo imprisonment in the county jail for not more than thirty (30) days, and for a third or subsequent offense, if three offenses including the last offense are committed within one year, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars ***(\$500) nor more than one thousand dollars ****(\$1000), or to undergo imprisonment not exceeding one (1) year, or both, in the discretion of the court.

Section 12. Publications.—The Secretary of Agriculture shall publish, annually, in such forms as he may deem proper, information concerning the sales of commercial feeds together with such data on their production and use as he may consider advisable and a report of the results of the analyses of official samples of commercial feeds sold within the Commonwealth as compared with the analyses guaranteed in the registration and on the label: Provided, however, That the information concerning production and use of commercial feeds shall not disclose the operations of any person.

Repeal.

Section 13. Repealer.—The act, approved the third day of May, one thousand nine hundred nine (Pamphlet Laws 395), entitled “An act regulating the sale of concentrated commercial feeding-stuffs, also of condimental stock and poultry-food, and patented, proprietary or trade-mark stock and poultry-food, possessing nutritive value combined with medicinal properties; defining concentrated commercial feeding-stuffs; prohibiting the adulteration of any feeding-stuff, sold, offered, or exposed for sale, in this State, with oat hulls, ground corn cobs, flax plant refuse, elevator chaff, cotton-seed hulls, ground corn stalks, rice hulls, peanut hulls, weed seeds, or other similar adulterants; providing for the collection of samples and analysis thereof by the Department of Agriculture, and the publication of information concerning the same; providing also for the expenses of the enforcement of the law, fixing penalties for its violation, and repealing act number two hundred and eleven (Pamphlet Laws, one thousand nine hundred and seven, page two hundred and seventy-three), entitled ‘An act regulating the sale of wheat, rye, corn- and buckwheat-bran and

* “\$50.00” in original.

** “\$100.00” in original.

*** “(\$500.00)” in original.

**** “(\$1000.00)” in original.

middlings, or any admixture thereof', et cetera, approved the twenty-eighth day of May, one thousand nine hundred and seven'', is hereby repealed.

Section 14. This act shall become effective the first day of January, one thousand nine hundred fifty-seven. Effective date.

APPROVED—The 29th day of May, A. D. 1956.

GEORGE M. LEADER

No. 598

AN ACT

Regulating the sale and distribution of mixed fertilizers and fertilizer materials; imposing powers and duties on the Secretary of Agriculture and prescribing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the "Pennsylvania Fertilizer Law of 1956." Pennsylvania
Fertilizer Law
of 1956.

Section 2. Definitions.—As used in this act: Definitions.

(1) "Fertilizer material" means any substance containing nitrogen, phosphoric acid, potash or any recognized plant nutrient, element or compound which is used or sold for its plant nutrient content, or claimed plant nutrients, or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(2) "Mixed fertilizers" includes any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

(3) "Commercial fertilizer" includes mixed fertilizer or fertilizer materials.

(4) "Speciality fertilizer" includes any fertilizer distributed primarily for use on crops grown for noncommercial purposes such as home gardens and lawns, and may include fertilizers used for research or experimental purposes.

(5) "Bulk fertilizer" includes commercial fertilizer delivered to the purchaser in the solid or liquid state, in a nonpackaged form to which a label cannot be attached.

(6) "Brand" includes any term, design or trade mark used in connection with one or several grades of fertilizer.

(7) "Grade" means the minimum percentage of total nitrogen, available phosphoric acid, and soluble potash stated in the order given in this definition, and, when applied to mixed fertilizers, shall be in whole numbers only.