

## HOUSE BILL NO. 455

INTRODUCED BY LAKE, BRANAE, HAINES, HAWK, HURWITZ, MENDENHALL, MORGAN, RIPLEY,  
SCHRUMPF

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION AND REGULATION OF NONCOMMERCIAL FEEDS; CLARIFYING THAT THE DEPARTMENT OF AGRICULTURE HAS ACCESS TO PREMISES IN ADDITION TO COMMERCIAL ESTABLISHMENTS TO CONDUCT FEED INSPECTIONS FOR THE PURPOSE OF PROTECTING HUMAN AND ANIMAL HEALTH AND SAFETY; AMENDING SECTIONS 80-9-101 AND 80-9-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-9-101, MCA, is amended to read:

**"80-9-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "AOAC international" means the association of official analytical chemists.

(2) "Brand name" means any word, name, symbol, or device or any combination of them identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(3) (a) "Commercial feed" means all materials or combinations of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless the materials are specifically ~~exempted~~ excluded by law.

~~(b) Unmixed~~ The term does not include unmixed whole seeds and physically altered entire unmixed seeds; when those seeds are not chemically changed or adulterated within the meaning of 80-9-204, ~~are exempt~~. The department may by rule ~~exempt~~ exclude 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 those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

(4) "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract ~~whereby~~ under which the commercial feed is supplied, furnished, or otherwise provided to that person and ~~whereby~~ under which that person's remuneration is determined completely or in part by feed consumption, mortality, profits, or amount or quality of product.

(5) "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.

(6) "Distribute" means to offer for sale, sell, exchange, or barter commercial feed or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(7) "Distributor" means a person who distributes commercial feed.

(8) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals, other than humans, and articles other than feed intended to affect the structure or function of the animal body.

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

(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.

(11) "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed, any of its containers, its wrapper, or accompanying the commercial feed.

(12) "Manufacture" means to grind, mix, blend, or further process a commercial feed.

(13) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(14) (a) "Noncommercial feed" means all materials or combinations of materials that are used as feed or for mixing in feed and that are not intended for distribution, unless the materials are specifically excluded by law.

(b) The term does not include unmixed whole seeds and physically altered entire unmixed seeds when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department may by rule exclude 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 those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

~~(14)~~(15) "Official sample" means a sample of feed taken by the department in accordance with the provisions of 80-9-301.

~~(15)~~(16) "Percent" or "percentage" means percentage by weights.

~~(16)~~(17) "Person" means an individual, partnership, corporation, or association.

~~(17)~~(18) "Pet" means any domesticated animal normally maintained in or near the household of its owner.

~~(18)~~(19) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

~~(19)~~(20) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.

~~(20)~~(21) "Quantity statement" means the net weight or mass; net volume, either liquid or dry; or count.

~~(24)~~(22) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

~~(22)~~(23) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

~~(23)~~(24) "Ton" means a net weight of 2,000 pounds avoirdupois."

**Section 2.** Section 80-9-301, MCA, is amended to read:

**"80-9-301. Enforcement -- inspection -- notice -- sampling and analysis.** (1) To enforce this chapter, the department upon presenting appropriate credentials may enter, at reasonable times or under emergency conditions, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, distributed, or held or enter any vehicle being used to transport or hold commercial feeds. The department may inspect at reasonable times and within reasonable limits and in reasonable manner any factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling found in ~~them~~ a factory, warehouse, establishment, or vehicle. The inspection may include the verification of only those records and production and control procedures necessary to determine compliance with the good manufacturing practice rules adopted under 80-9-204(14).

(2) The department may enter premises to inspect, sample, and analyze noncommercial feeds and ingredients. THE DEPARTMENT SHALL PROVIDE AT LEAST 2 HOURS' NOTICE PRIOR TO THE INSPECTION AND MUST BE ACCOMPANIED BY THE OWNER OR THE OWNER'S REPRESENTATIVE. However, the department's authority is limited to determining whether the feeds and ingredients are adulterated for commercial feed purposes as provided in 80-9-204. The department may issue orders or condemn noncommercial feeds in the same manner as provided for commercial feeds in 80-9-302.

~~(2)~~(3) Each inspection must be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle must be notified of the completion.

~~(3)~~(4) If the officer or employee making the 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 the owner, operator, or agent in charge a receipt describing the sample obtained.

~~(4)~~(5) To enforce this chapter the department may enter upon any public or private premises, including any vehicle of transport, during regular business hours to obtain samples and examine records relating to distribution of commercial feeds.

~~(5)~~(6) Sampling and analysis must be conducted in accordance with methods published by AOAC international or with other generally recognized methods.

~~(6)~~(7) The results of all analyses of official samples must be forwarded by the department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the department shall upon request within 30 days following receipt of the analysis furnish the registrant a portion of the official sample.

~~(7)~~(8) The department, in determining for administrative purposes whether a commercial feed is deficient in any component, must be guided by the official sample as defined in 80-9-101~~(14)~~(15) and obtained and analyzed as provided for in subsections ~~(3)~~ (4) through ~~(5)~~ (6) of this section.

~~(8)~~(9) All official analyses must be performed cooperatively by the department and the agricultural experiment station at Montana state university-Bozeman. However, the department may arrange with other laboratories for specific analyses conducted as part of an official analysis."

**NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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