

CHAPTER 173

AGRICULTURE

HOUSE BILL 99-1132

BY REPRESENTATIVES Young, Webster, Coleman, Hoppe, Larson, McKay, Spradley, and Taylor;
also SENATORS Hillman, Powers, and Wattenberg.

AN ACT

CONCERNING THE REGULATION OF COLORADO COMMERCIAL FEED.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 60 of title 35, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 60
Commercial Feeding Stuffs

35-60-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO COMMERCIAL FEED LAW".

35-60-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BRAND NAME" MEANS ANY WORD, NAME, SYMBOL, DEVICE, OR ANY COMBINATION THEREOF THAT IDENTIFIES THE COMMERCIAL FEED OF A DISTRIBUTOR OR LABELER AND DISTINGUISHES IT FROM THAT OF OTHER DISTRIBUTORS OR LABELERS.

(2) "COMMERCIAL FEED" MEANS ALL MATERIALS OR COMBINATION OF MATERIALS THAT ARE DISTRIBUTED OR INTENDED FOR DISTRIBUTION FOR USE AS FEED OR FOR MIXING IN FEED, UNLESS SUCH MATERIALS ARE SPECIFICALLY EXEMPTED. "COMMERCIAL FEED" DOES NOT INCLUDE UNMIXED WHOLE SEEDS OR GRAINS, AS IDENTIFIED IN THE UNITED STATES GRAIN STANDARDS, AND PHYSICALLY ALTERED ENTIRE UNMIXED SEEDS, WHEN SUCH WHOLE OR PHYSICALLY ALTERED SEEDS ARE NOT CHEMICALLY CHANGED OR ARE NOT ADULTERATED AS DESCRIBED IN SECTION

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

35-60-107. THE COMMISSIONER BY RULE MAY EXEMPT FROM THIS DEFINITION, OR FROM SPECIFIC PROVISIONS OF THIS ARTICLE, COMMODITIES SUCH AS HAY, STRAW, STOVER, SILAGE, COBS, HUSKS, HULLS, MEAT, AND OTHER PORTIONS OF ANIMAL CARCASSES IN THEIR RAW OR NATURAL STATE THAT HAVE NOT BEEN FURTHER PROCESSED, EXCEPT BY DENATURING, WHEN SUCH COMMODITIES ARE NOT INTERMIXED WITH OTHER MATERIALS AND ARE NOT ADULTERATED AS DESCRIBED IN SECTION 35-60-107.

(3) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE OR THE COMMISSIONER'S AUTHORIZED AGENT.

(4) "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.

(5) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE AND INCLUDES THE STATE AGRICULTURAL COMMISSION, THE COMMISSIONER OF AGRICULTURE, AND ALL AGENTS AND EMPLOYEES OF THE DEPARTMENT.

(6) "DISTRIBUTE" MEANS TO SELL, OFFER TO SELL, EXCHANGE, OR BARTER COMMERCIAL FEED OR TO SUPPLY, FURNISH, OR OTHERWISE PROVIDE COMMERCIAL FEED TO A CONTRACT FEEDER. "DISTRIBUTE" DOES NOT INCLUDE SALES OF COMMERCIAL FEED BY A CONTRACT FINISHER AS A PART OF A CUSTOM FEEDING AGREEMENT.

(7) "DISTRIBUTOR" MEANS ANY PERSON WHO DISTRIBUTES COMMERCIAL FEED IN THIS STATE.

(8) "DRUG" MEANS EITHER OF THE FOLLOWING:

(a) ANY ARTICLE INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN ANIMALS OTHER THAN HUMANS; OR

(b) ANY ARTICLE, OTHER THAN A FEED, INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF AN ANIMAL'S BODY.

(9) "FEED" MEANS ANY SUBSTANCE THAT IS INTENDED FOR USE AS FOOD FOR ANIMALS OTHER THAN HUMANS. "FEED" INCLUDES COMMERCIAL FEED AND FEED INGREDIENTS.

(10) "FEED INGREDIENT" MEANS A CONSTITUENT MATERIAL USED IN THE MANUFACTURE OF A COMMERCIAL FEED THAT BECOMES PART OF THE COMMERCIAL FEED.

(11) "LABEL" MEANS A DISPLAY OF WRITTEN, PRINTED, OR GRAPHIC MATTER UPON OR AFFIXED TO THE IMMEDIATE CONTAINER OF ANY COMMERCIAL FEED OR ON THE INVOICE OR DELIVERY SLIP WITH WHICH A COMMERCIAL FEED IS DISTRIBUTED.

(12) "LABELING" MEANS ALL LABELS AND OTHER WRITTEN, PRINTED, OR GRAPHIC MATTER UPON A COMMERCIAL FEED OR ANY OF ITS CONTAINERS OR WRAPPERS OR

ACCOMPANYING SUCH COMMERCIAL FEED.

(13) "MANUFACTURE" MEANS TO GRIND, MIX, BLEND, OR FURTHER PROCESS A COMMERCIAL FEED FOR DISTRIBUTION.

(14) "NOXIOUS WEED SEED" MEANS THE SEED PRODUCED FROM PLANTS THAT HAVE BEEN DESIGNATED BY THE COMMISSIONER AS BEING NOXIOUS DUE TO SUCH PLANTS NEGATIVE EFFECTS ON NATURAL AND AGRICULTURAL ECOSYSTEMS.

(15) "OFFICIAL SAMPLE" MEANS A SAMPLE OF FEED TAKEN BY THE COMMISSIONER IN ACCORDANCE WITH THE PROVISIONS OF SECTION 35-60-110.

(16) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, COOPERATIVE, BUSINESS TRUST, BUSINESS ASSOCIATION, OR ENTITY.

(17) "PRODUCT NAME" MEANS THE NAME OF THE COMMERCIAL FEED THAT IDENTIFIES IT AS TO KIND, CLASS, OR SPECIFIC USE AND DISTINGUISHES IT FROM ALL OTHER PRODUCTS BEARING THE SAME BRAND NAME.

(18) "QUANTITY STATEMENT" MEANS THE DECLARATION OF THE NET WEIGHT OR MASS, NET VOLUME OF LIQUID OR DRY MATERIAL, OR COUNT.

(19) "TON" MEANS A NET WEIGHT OF TWO THOUSAND POUNDS.

35-60-103. Commercial feed registration. (1) NO PERSON SHALL MANUFACTURE COMMERCIAL FEED WITHIN THE STATE OR ALLOW HIS OR HER NAME TO APPEAR ON THE LABEL OF A COMMERCIAL FEED AS GUARANTOR, WITHOUT FIRST REGISTERING WITH THE DEPARTMENT. SUCH REGISTRATION SHALL EXPIRE ON THE LAST DAY OF APRIL OF EACH YEAR AND MAY BE RENEWED ANNUALLY; EXCEPT THAT A REGISTRATION THAT OCCURS BETWEEN JANUARY 1, 2000, AND APRIL 29, 2000, SHALL EXPIRE ON APRIL 30, 2001.

(2) NOTHING IN THIS ARTICLE SHALL REQUIRE A PERSON TO REGISTER WITH THE DEPARTMENT TO DO THE FOLLOWING:

(a) DISTRIBUTE PACKAGED COMMERCIAL FEED IN ITS ORIGINAL PACKAGE IF THAT FEED WAS PACKAGED AND LABELED BY A REGISTERED MANUFACTURER OR DISTRIBUTOR WHOSE NAME AND ADDRESS APPEARS ON THE PACKAGE LABEL;

(b) DISTRIBUTE BULK COMMERCIAL FEED THAT IS:

(I) DISTRIBUTED IN THE SAME FORM, BUT NOT NECESSARILY THE SAME QUANTITIES, IN WHICH IT WAS RECEIVED FROM A REGISTERED MANUFACTURER OR DISTRIBUTOR; AND

(II) LABELED WITH THE INFORMATION, EXCEPT THE QUANTITY STATEMENT, THAT WAS PROVIDED BY THE REGISTERED MANUFACTURER OR DISTRIBUTOR FROM WHOM THE BULK COMMERCIAL FEED WAS RECEIVED.

(c) MANUFACTURE OR DISTRIBUTE A CUSTOMER-FORMULA FEED; EXCEPT THAT THE

MANUFACTURER OF SUCH CUSTOMER-FORMULA FEED SHALL:

(I) DISTRIBUTE SUCH CUSTOMER-FORMULA FEED ONLY TO THE RETAIL PURCHASER FOR WHOM THE FEED WAS FORMULATED;

(II) OBTAIN ALL COMMERCIAL FEEDS USED AS INGREDIENTS IN SUCH CUSTOMER-FORMULA FEED FROM REGISTERED MANUFACTURERS OR DISTRIBUTORS; AND

(d) MANUFACTURE OR DISTRIBUTE COMMERCIAL FEED AS AN EMPLOYEE OF A PERSON REGISTERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

35-60-104. Registration fees. (1) A PERSON REGISTERING WITH THE DEPARTMENT PURSUANT TO SECTION 35-60-103 (1) SHALL SUBMIT A FORM PROVIDED BY THE DEPARTMENT THAT INCLUDES THE FOLLOWING INFORMATION:

(a) THE NAME AND BUSINESS ADDRESS OF THE REGISTRANT;

(b) THE ADDRESS OF EACH BUSINESS LOCATION IN THIS STATE WHERE THE REGISTRANT ENGAGES IN ACTIVITIES FOR WHICH REGISTRATION IS REQUIRED UNDER SECTION 35-60-103;

(c) THE REGISTRATION FEE REQUIRED UNDER SUBSECTION (2) OF THIS SECTION;

(d) A STATEMENT THAT THE INSPECTION FEES AND FEED TONNAGE REPORT REQUIRED UNDER SECTION 35-60-105 HAVE BEEN PAID AND ARE CURRENT. A FEED MANUFACTURER IS NOT REQUIRED TO PAY INSPECTION FEES ON GRAIN USED IN A CUSTOMER-FORMULA FEED.

(e) OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(2) (a) A PERSON REQUIRED TO BE REGISTERED PURSUANT TO SECTION 35-60-103 (1) SHALL PAY AN ANNUAL REGISTRATION FEE OF TEN DOLLARS.

(b) ANY PERSON WHO FAILS TO REGISTER WITHIN FIFTEEN BUSINESS DAYS AFTER NOTIFICATION OF THE REQUIREMENT TO REGISTER, OR ANY REGISTRANT WHO FAILS TO COMPLY WITH THE REGISTRATION RENEWAL REQUIREMENTS, SHALL PAY A TEN-DOLLAR LATE FEE IN ADDITION TO THE REGISTRATION FEE.

(c) REGISTRATION FEES COLLECTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) ARE NONREFUNDABLE AND SHALL NOT BE PRORATED FOR ANY PART OF A YEAR.

(d) ALL FEES COLLECTED BY THE DEPARTMENT UNDER PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(e) REGISTRATION PURSUANT TO SECTION 35-60-103 (1) IS NOT TRANSFERRABLE BETWEEN PERSONS OR BUSINESS LOCATIONS.

(3) THE COMMISSIONER MAY AT ANY TIME REQUEST, AND THE REGISTRANT SHALL PROVIDE, COPIES OF LABELS AND LABELING TO DETERMINE COMPLIANCE WITH THE

PROVISIONS OF THIS ARTICLE.

(4) THE COMMISSIONER, AFTER AN ADMINISTRATIVE HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., MAY DENY REGISTRATION, PLACE A REGISTRANT ON PROBATION, OR RESTRICT, SUSPEND, REVOKE, OR REFUSE TO RENEW THE REGISTRATION OF A PERSON WHO HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE OF THE COMMISSIONER PROMULGATED PURSUANT TO THIS ARTICLE. THE COMMISSIONER MAY PLACE CONDITIONS THAT LIMIT PRODUCTION OR DISTRIBUTION OF A PARTICULAR COMMERCIAL FEED ON THE REGISTRATION OF ANY PERSON FOUND TO HAVE VIOLATED ANY PROVISION OF THIS ARTICLE. SUCH RESTRICTION, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW A REGISTRATION, OR THE PLACEMENT OF CONDITION ON A REGISTRATION, MAY BE IN ADDITION TO OR IN LIEU OF, PENALTIES OR FINES IMPOSED BY SECTION 35-60-113.

35-60-105. Inspection fees - reports. (1) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, AN INSPECTION FEE OF FIFTEEN CENTS PER TON SHALL BE PAID ON COMMERCIAL FEEDS DISTRIBUTED IN THIS STATE BY THE PERSON WHOSE NAME APPEARS ON THE LABEL AS THE MANUFACTURER, GUARANTOR, OR DISTRIBUTOR SUBJECT TO THE FOLLOWING CONDITIONS:

(a) NO FEE SHALL BE PAID ON A COMMERCIAL FEED IF THE PAYMENT HAS ALREADY BEEN MADE BY A PREVIOUS DISTRIBUTOR.

(b) NO FEE SHALL BE PAID ON CUSTOMER-FORMULA FEEDS IF THE INSPECTION FEE HAS BEEN PAID ON THE COMMERCIAL FEEDS THAT ARE USED AS INGREDIENTS IN THE CUSTOMER-FORMULA FEEDS.

(c) AN ANNUAL INSPECTION FEE OF TEN DOLLARS PER PRODUCT SHALL BE PAID IN LIEU OF THE INSPECTION FEE ON COMMERCIAL FEED THAT IS DISTRIBUTED IN THE STATE ONLY IN PACKAGES OF TEN POUNDS OR LESS. PRODUCTS SOLD IN PACKAGES OF TEN POUNDS OR LESS ARE NOT SUBJECT TO THE TWENTY-FIVE DOLLAR PER YEAR MINIMUM SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION (1).

(d) THE MINIMUM TOTAL INSPECTION FEE PAID SHALL BE TWENTY-FIVE DOLLARS PER YEAR.

(2) IN THE CASE OF A COMMERCIAL FEED THAT IS DISTRIBUTED IN THE STATE BOTH IN PACKAGES OF TEN POUNDS OR LESS, AND IN PACKAGES WEIGHING OVER TEN POUNDS, THE FIFTEEN CENT PER TON INSPECTION FEE SHALL BE PAID ON THE COMMERCIAL FEEDS DISTRIBUTED IN PACKAGE WEIGHTS OVER TEN POUNDS WITH A MINIMUM INSPECTION FEE OF TWENTY-FIVE DOLLARS. THE ANNUAL FLAT FEE OF TEN DOLLARS PER PRODUCT SHALL BE PAID ON THE PRODUCTS SOLD IN PACKAGES OF TEN POUNDS OR LESS.

(3) EACH PERSON WHO IS REQUIRED TO PAY THE INSPECTION FEE SET FORTH IN SUBSECTION (1) OF THIS SECTION SHALL:

(a) FILE WITH THE DEPARTMENT, NOT LATER THAN THE LAST DAY OF JANUARY OF EACH YEAR, AN ANNUAL STATEMENT THAT SETS FORTH THE NUMBER OF NET TONS OF COMMERCIAL FEEDS DISTRIBUTED IN THE STATE DURING THE PRECEDING CALENDAR YEAR. INSPECTION FEES THAT ARE DUE IN ACCORDANCE WITH SUBSECTION (1) OF THIS

SECTION SHALL BE PAID WHEN THE ANNUAL STATEMENT IS FILED. INSPECTION FEES THAT HAVE NOT BEEN REMITTED TO THE DEPARTMENT WITHIN FIFTEEN CALENDAR DAYS FOLLOWING THE DUE DATE SHALL BE ASSESSED A PENALTY FEE OF TEN PERCENT OF THE AMOUNT DUE OR A MINIMUM OF TEN DOLLARS, WHICHEVER AMOUNT IS GREATER, WHICH SHALL BE ADDED TO THE INSPECTION FEES THAT ARE DUE AND OWED. THE ASSESSMENT OF A PENALTY FEE IS IN ADDITION TO AND NOT A SUBSTITUTE FOR ANY OTHER PENALTIES OR REMEDIES AVAILABLE TO THE COMMISSIONER UNDER THIS ARTICLE.

(b) MAINTAIN RECORDS AS MAY BE REQUIRED BY THE COMMISSIONER TO ACCURATELY REFLECT THE TONNAGE OF COMMERCIAL FEED DISTRIBUTED IN THIS STATE, AND THE COMMISSIONER SHALL HAVE THE RIGHT TO EXAMINE SUCH RECORDS TO VERIFY STATEMENTS OF TONNAGE.

(4) (a) A DISTRIBUTOR WHO IS SUBJECT TO THE INSPECTION FEES FOR SMALL PACKAGES OF TEN POUNDS OR LESS SHALL FILE WITH THE COMMISSIONER, ALONG WITH THE ANNUAL STATEMENT REQUIRED BY PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, A LIST OF ALL SMALL PACKAGE ITEMS WEIGHING TEN POUNDS OR LESS THAT ARE DISTRIBUTED IN THIS STATE. NEW PRODUCTS ADDED DURING THE YEAR MUST BE SUBMITTED TO THE COMMISSIONER AS A SUPPLEMENT TO THIS LIST BEFORE DISTRIBUTION.

(b) IF THE LIST REQUIRED IN PARAGRAPH (a) OF THIS SUBSECTION (4) IS NOT RECEIVED WITH THE ANNUAL STATEMENT OR WITHIN FIFTEEN DAYS AFTER ITS DUE DATE, A PENALTY FEE OF TEN DOLLARS PER PRODUCT SHALL BE ADDED TO THE AMOUNT DUE. THE ASSESSMENT OF A PENALTY FEE IS IN ADDITION TO AND NOT A SUBSTITUTE FOR ANY OTHER PENALTIES OR REMEDIES AVAILABLE TO THE COMMISSIONER UNDER THIS ARTICLE.

(5) A PERSON OTHER THAN THE MANUFACTURER, GUARANTOR, OR DISTRIBUTOR MAY ASSUME LIABILITY FOR PAYMENT OF THE INSPECTION FEE PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(6) ALL FEES COLLECTED UNDER THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

35-60-106. Labeling - general requirements - commercial and customer-formula feeds. (1) **Commercial feed label contents.** A COMMERCIAL FEED OR INDEPENDENT FEED FORMULA SHALL BE LABELED WITH THE INFORMATION REQUIRED IN THIS SUBSECTION (1). SUCH INFORMATION SHALL APPEAR ON THE LABEL IN THE FOLLOWING ORDER:

- (a) THE PRODUCT NAME OF THE COMMERCIAL FEED AND ITS BRAND NAME, IF ANY;
- (b) IF THE COMMERCIAL FEED CONTAINS ANY DRUG, THE INFORMATION REQUIRED BY THE COMMISSIONER AS ESTABLISHED BY RULE;
- (c) THE STATEMENT OF PURPOSE AS ESTABLISHED BY THE COMMISSIONER BY RULE;
- (d) THE GUARANTEED ANALYSIS STATED IN TERMS ESTABLISHED BY THE COMMISSIONER BY RULE. THE GUARANTEED ANALYSIS SHALL ADVISE THE USER OF

THE COMPOSITION OF THE FEED AND SUPPORT CLAIMS MADE IN THE LABELING. IN ALL CASES THE SUBSTANCES OR ELEMENTS SHALL BE DETERMINABLE BY LABORATORY METHODS AS PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS OR BY OTHER METHODS ACCEPTABLE TO THE COMMISSIONER.

(e) THE INGREDIENT STATEMENT AS ESTABLISHED BY THE COMMISSIONER BY RULE. THE COMMON OR USUAL NAME OF EACH INGREDIENT USED IN THE MANUFACTURE OF THE COMMERCIAL FEED SHALL BE LISTED; EXCEPT THAT THE COMMISSIONER, BY RULE, MAY PERMIT THE USE OF A COLLECTIVE TERM FOR A GROUP OF INGREDIENTS THAT PERFORM A SIMILAR FUNCTION. THE COMMISSIONER MAY EXEMPT SUCH COMMERCIAL FEED OR ANY GROUP THEREOF FROM THE REQUIREMENT OF INCLUDING AN INGREDIENT STATEMENT ON THE LABEL IF THE COMMISSIONER FINDS THAT SUCH STATEMENT IS NOT NECESSARY TO PROTECT CONSUMERS.

(f) THE USE DIRECTIONS AND PRECAUTIONARY STATEMENTS DETERMINED BY THE COMMISSIONER BY RULE AS ARE NECESSARY FOR THE SAFE AND EFFECTIVE USE OF THE COMMERCIAL FEED;

(g) THE DATE OF MANUFACTURE, PROCESSING, PACKAGING, OR REPACKAGING, OR A CODE THAT PERMITS THE DETERMINATION OF THE DATE;

(h) THE NAME AND ADDRESS OF THE REGISTERED MANUFACTURER OR DISTRIBUTOR OF THE COMMERCIAL FEED;

(i) A QUANTITY STATEMENT; AND

(j) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER AS ESTABLISHED BY RULE.

(2) **Customer-formula feed label contents.** THE MANUFACTURER OF A CUSTOMER-FORMULA FEED SHALL PROVIDE THE PURCHASER OF THAT FEED WITH ALL OF THE FOLLOWING INFORMATION, IN WRITING, WHEN THE MANUFACTURER DELIVERS THE CUSTOMER-FORMULA FEED TO THE PURCHASER:

(a) THE NAME AND ADDRESS OF THE MANUFACTURER;

(b) THE NAME AND ADDRESS OF THE PURCHASER;

(c) THE DATE ON WHICH THE MANUFACTURER SOLD OR DELIVERED THE CUSTOMER-FORMULA FEED TO THE PURCHASER;

(d) THE NAME OF THE CUSTOMER-FORMULA FEED;

(e) THE NAME AND NET QUANTITY OF EVERY COMMERCIAL FEED AND EVERY OTHER INGREDIENT USED TO MANUFACTURE THE CUSTOMER-FORMULA FEED;

(f) THE USE DIRECTIONS AND PRECAUTIONARY STATEMENTS DETERMINED BY THE COMMISSIONER BY RULE AS ARE NECESSARY FOR THE SAFE AND EFFECTIVE USE OF THE CUSTOMER-FORMULA FEED. IF ANY COMMERCIAL FEED USED IN THE MANUFACTURE OF THE CUSTOMER-FORMULA FEED IS LABELED WITH USE DIRECTIONS OR PRECAUTIONARY STATEMENTS, THE MANUFACTURER OF THE CUSTOMER-FORMULA

FEED SHALL PROVIDE THOSE USE DIRECTIONS AND PRECAUTIONARY STATEMENTS TO THE PURCHASER.

(g) IF THE COMMERCIAL FEED CONTAINS ANY DRUG, THE INFORMATION REQUIRED BY THE COMMISSIONER AS ESTABLISHED BY RULE. THE INFORMATION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(I) THE PURPOSE OF THE MEDICATION; AND

(II) THE ESTABLISHED NAME OF EACH ACTIVE DRUG INGREDIENT AND THE LEVEL OF EACH DRUG USED IN THE FINAL MIXTURE EXPRESSED IN ACCORDANCE WITH ESTABLISHED REGULATION.

(h) A QUANTITY STATEMENT.

35-60-107. Adulteration and misbranding. (1) NO PERSON MAY SELL OR DISTRIBUTE IN THIS STATE A FEED THAT IS ADULTERATED OR MISBRANDED.

(2) A FEED IS ADULTERATED IF ANY OF THE FOLLOWING APPLY:

(a) THE FEED BEARS OR CONTAINS ANY POISONOUS OR DELETERIOUS SUBSTANCE THAT MAY RENDER THE FEED HARMFUL TO PUBLIC HEALTH; EXCEPT THAT, IF THE POISONOUS OR DELETERIOUS SUBSTANCE IS NOT AN ADDED SUBSTANCE, A COMMERCIAL FEED SHALL NOT BE CONSIDERED ADULTERATED UNDER THIS SUBSECTION (2) IF THE QUANTITY OF SUCH SUBSTANCE IN THE COMMERCIAL FEED DOES NOT ORDINARILY RENDER IT HARMFUL TO PUBLIC HEALTH.

(b) THE FEED BEARS OR CONTAINS ANY ADDED POISONOUS, DELETERIOUS, OR NON-NUTRITIVE SUBSTANCE THAT IS UNSAFE WITHIN THE MEANING OF SECTION 406 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", AS AMENDED. THIS PARAGRAPH (b) IS NOT APPLICABLE TO:

(I) A PESTICIDE USED ACCORDING TO LABEL DIRECTIONS ON A RAW AGRICULTURAL COMMODITY CONTAINED IN THE FEED; OR

(II) A FOOD ADDITIVE THAT COMPLIES WITH 40 CFR 180.

(c) THE FEED IS A RAW AGRICULTURAL COMMODITY AND IT BEARS OR CONTAINS PESTICIDE RESIDUE THAT IS UNSAFE WITHIN THE MEANING OF SECTION 408 (a) OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", UNLESS ALL OF THE FOLLOWING APPLY:

(I) THE PESTICIDE CHEMICAL WAS APPLIED TO THE RAW AGRICULTURAL COMMODITY ACCORDING TO AN EXEMPTION OR TOLERANCE UNDER SECTION 408 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT";

(II) THE RAW AGRICULTURAL COMMODITY HAS BEEN PROCESSED BY CANNING, COOKING, FREEZING, DEHYDRATING, MILLING, OR OTHER PROCESSING PROCEDURE;

(III) THE PESTICIDE RESIDUE HAS BEEN REMOVED FROM THE RAW AGRICULTURAL COMMODITY TO THE GREATEST EXTENT POSSIBLE WITH GOOD MANUFACTURING

PRACTICES; AND

(IV) THE PESTICIDE RESIDUE CONCENTRATION OF THE FEED DOES NOT EXCEED THE TOLERANCE PRESCRIBED FOR THAT PESTICIDE IN THE RAW AGRICULTURAL COMMODITY.

(d) THE FEED, IF FED TO AN ANIMAL, WILL LIKELY CAUSE ANY EDIBLE PRODUCT OF THAT ANIMAL TO CONTAIN A PESTICIDE RESIDUE THAT IS UNSAFE WITHIN THE MEANING OF SECTION 408 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT".

(e) THE FEED CONTAINS ANY FOOD ADDITIVE THAT IS UNSAFE WITHIN THE MEANING OF SECTION 409 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT".

(f) THE FEED CONTAINS ANY COLOR ADDITIVE THAT IS UNSAFE WITHIN THE MEANING OF SECTION 721 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT".

(g) THE FEED CONTAINS ANY NEW ANIMAL DRUG THAT IS UNSAFE WITHIN THE MEANING OF SECTION 512 OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT".

(h) THE FEED CONTAINS ANY FILTHY, PUTRID, OR DECOMPOSED SUBSTANCE, OR IF IT IS OTHERWISE UNFIT FOR FEED.

(i) THE FEED IS MANUFACTURED, PACKAGED, OR HELD UNDER UNSANITARY CONDITIONS THAT MAY CONTAMINATE IT WITH FILTH OR MAKE IT HARMFUL TO PUBLIC HEALTH.

(j) THE FEED IS, IN WHOLE OR IN PART, THE PRODUCT OF A DISEASED ANIMAL OR OF AN ANIMAL THAT HAS DIED BY A METHOD OTHER THAN SLAUGHTER AND SUCH METHOD IS UNSAFE WITHIN THE MEANING OF SECTION 402 (a)(1) OR (2) OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT".

(k) THE FEED CONTAINER IS COMPOSED, IN WHOLE OR IN PART, OF ANY POISONOUS OR DELETERIOUS SUBSTANCE THAT MAY RENDER THE CONTENTS HARMFUL TO PUBLIC HEALTH.

(l) 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".

(m) A VALUABLE CONSTITUENT OF THE FEED FALLS BELOW OR DIFFERS FROM THAT WHICH IS REPRESENTED ON THE FEED LABELING.

(n) THE FEED CONTAINS A DRUG AND THE METHODS USED IN OR THE FACILITIES OR CONTROLS USED FOR ITS MANUFACTURE, PROCESSING, OR PACKAGING DO NOT CONFORM TO RULES PROMULGATED BY THE COMMISSIONER CONCERNING GOOD MANUFACTURING PRACTICE TO ASSURE THAT THE DRUG MEETS THE REQUIREMENTS OF THIS ARTICLE AS TO SAFETY AND HAS THE IDENTITY, STRENGTH, AND MEETS THE QUALITY AND PURITY CHARACTERISTICS THAT IT PURPORTS OR IS REPRESENTED TO POSSESS. IN PROMULGATING SUCH RULE, THE COMMISSIONER SHALL ADOPT THE CURRENT GOOD MANUFACTURING PRACTICE REGULATIONS FOR TYPE A MEDICATED

ARTICLES AND TYPES B AND C MEDICATED FEEDS ESTABLISHED UNDER AUTHORITY OF THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", UNLESS THE COMMISSIONER DETERMINES THAT SUCH REGULATIONS ARE NOT APPROPRIATE TO THE CONDITIONS THAT EXIST IN THIS STATE.

(o) THE FEED CONTAINS ANY GERMINATIVE NOXIOUS WEED SEEDS IN AMOUNTS EXCEEDING THE LIMITS THAT THE COMMISSIONER SHALL ESTABLISH BY RULE.

(3) A FEED IS MISBRANDED IF ANY OF THE FOLLOWING CIRCUMSTANCES OCCUR:

(a) THE FEED LABELING IS FALSE, DECEPTIVE, OR MISLEADING IN ANY PARTICULAR;

(b) THE FEED IS SOLD OR DISTRIBUTED UNDER THE NAME OF ANOTHER FEED;

(c) THE FEED LABELING VIOLATES ANY PROVISION OF THIS ARTICLE;

(d) THE FEED PURPORTS TO BE OR IS REPRESENTED AS CONTAINING A COMMERCIAL FEED, OR IF IT PURPORTS TO CONTAIN OR IS REPRESENTED AS CONTAINING A COMMERCIAL FEED INGREDIENT THAT DOES NOT CONFORM TO THE DEFINITION OF THAT COMMERCIAL FEED OR COMMERCIAL FEED INGREDIENT PRESCRIBED BY RULE OF THE COMMISSIONER; OR

(e) ANY WORD, STATEMENT, OR OTHER INFORMATION REQUIRED BY OR UNDER AUTHORITY OF THIS ARTICLE TO APPEAR ON THE FEED LABEL OR LABELING IS NOT PROMINENTLY AND CONSPICUOUSLY PLACED ON THE LABEL AND IN SUCH TERMS AS TO RENDER IT LIKELY TO BE READ AND UNDERSTOOD BY THE ORDINARY INDIVIDUAL UNDER CUSTOMARY CONDITIONS OF PURCHASE AND USE.

35-60-108. Prohibited acts. (1) THE FOLLOWING ACTS AND THE CAUSING THEREOF ARE PROHIBITED:

(a) THE MANUFACTURE OR DISTRIBUTION OF ANY COMMERCIAL FEED THAT IS ADULTERATED OR MISBRANDED;

(b) THE ADULTERATION OR MISBRANDING OF ANY COMMERCIAL FEED;

(c) THE DISTRIBUTION OF AGRICULTURAL COMMODITIES SUCH AS WHOLE SEED, HAY, STRAW, STOVER, SILAGE, COBS, HUSKS, AND HULLS, THAT ARE ADULTERATED;

(d) THE REMOVAL OR DISPOSAL OF A COMMERCIAL FEED IN VIOLATION OF SECTION 35-60-111;

(e) THE FAILURE OR REFUSAL TO REGISTER IN ACCORDANCE WITH SECTION 35-60-104;

(f) THE VIOLATION OF SECTION 35-60-112 (6);

(g) FAILURE TO PAY INSPECTION FEES AND FILE REPORTS IN ACCORDANCE WITH SECTION 35-60-105.

35-60-109. Authority of the commissioner - rules. (1) THE COMMISSIONER IS

AUTHORIZED TO PROMULGATE, AMEND, AND REPEAL, IN ACCORDANCE WITH THE PROVISIONS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., SUCH RULES AS ARE SPECIFICALLY REQUIRED BY THIS ARTICLE AND SUCH OTHER REASONABLE RULES AS MAY BE NECESSARY FOR THE EFFICIENT ENFORCEMENT OF THIS ARTICLE. IN THE INTEREST OF UNIFORMITY, THE COMMISSIONER SHALL BY RULE ADOPT, UNLESS THE COMMISSIONER DETERMINES THAT THEY ARE INCONSISTENT WITH THE PROVISION OF THIS ARTICLE OR ARE NOT APPROPRIATE TO CONDITIONS THAT EXIST IN THIS STATE, THE FOLLOWING:

(a) THE OFFICIAL DEFINITIONS OF FEED INGREDIENTS AND OFFICIAL FEED TERMS ADOPTED BY THE ASSOCIATION OF AMERICAN FEED CONTROL OFFICIALS AS PUBLISHED IN THE OFFICIAL PUBLICATION OF SUCH ASSOCIATION; AND

(b) THE REGULATIONS PROMULGATED PURSUANT TO THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT"; EXCEPT THAT, IF THE COMMISSIONER DETERMINES THAT ANY OF SUCH DEFINITIONS, TERMS, AND REGULATIONS ARE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE OR ARE NOT APPROPRIATE TO CONDITIONS IN THIS STATE, THE COMMISSIONER SHALL NOT ADOPT THEM.

(2) BEFORE THE COMMISSIONER ISSUES, AMENDS, OR REPEALS ANY RULE AUTHORIZED BY THIS ARTICLE, THE COMMISSIONER SHALL PROVIDE THE NOTICE AS REQUIRED BY SECTION 24-4-103, C.R.S. AFTER CONSIDERATION OF ALL VIEWS PRESENTED BY INTERESTED PERSONS, THE COMMISSIONER SHALL TAKE APPROPRIATE ACTION TO ISSUE THE PROPOSED RULE, REGULATION, OR REPEAL OF AN EXISTING RULE; EXCEPT THAT, IF THE COMMISSIONER ADOPTS THE OFFICIAL DEFINITIONS OF FEED INGREDIENTS OR OFFICIAL FEED TERMS AS ADOPTED BY THE ASSOCIATION OF AMERICAN FEED CONTROL OFFICIALS, OR RULES PROMULGATED PURSUANT TO THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", SUCH ADDITIONAL NOTIFICATION SHALL NOT BE REQUIRED.

35-60-110. Enforcement - inspection - sampling - analysis. (1) FOR THE PURPOSE OF ENFORCING THIS ARTICLE AND THE RULES PROMULGATED PURSUANT THERETO, INCLUDING THE DETERMINATION OF WHETHER OR NOT AN OPERATION MAY BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE, THE COMMISSIONER, UPON PRESENTING APPROPRIATE CREDENTIALS TO THE OWNER, OPERATOR, OR AGENT IN CHARGE, IS AUTHORIZED TO:

(a) ENTER, DURING NORMAL BUSINESS HOURS, ANY FACTORY, WAREHOUSE, OR ESTABLISHMENT, PUBLIC OR PRIVATE, WITHIN THE STATE IN WHICH COMMERCIAL FEEDS ARE MANUFACTURED, PROCESSED, PACKED, SOLD, OR HELD FOR DISTRIBUTION AND TO INSPECT SUCH FACTORY, WAREHOUSE, ESTABLISHMENT, AND ALL PERTINENT EQUIPMENT, FINISHED AND UNFINISHED MATERIALS, CONTAINERS, AND LABELING THEREIN. THE INSPECTION MAY INCLUDE OBTAINING SAMPLES AND THE VERIFICATION OF RECORDS AND PRODUCTION AND CONTROL PROCEDURES AS MAY BE NECESSARY TO DETERMINE COMPLIANCE WITH THE GOOD MANUFACTURING PRACTICES AS ESTABLISHED UNDER SECTION 35-60-107 (2) (n).

(b) ENTER AND INSPECT ANY VEHICLE BEING USED TO TRANSPORT OR HOLD COMMERCIAL FEEDS, INCLUDING INSPECTION OF ALL PERTINENT EQUIPMENT, FINISHED AND UNFINISHED MATERIALS, CONTAINERS, AND LABELING THEREIN.

(2) IF THE COMMISSIONER HAS OBTAINED A SAMPLE IN THE COURSE OF AN INSPECTION, UPON COMPLETION OF THE INSPECTION AND PRIOR TO LEAVING THE PREMISES, THE COMMISSIONER SHALL GIVE TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE PREMISES, A RECEIPT DESCRIBING THE SAMPLES OBTAINED.

(3) IF THE OWNER, OR THE OWNER'S AGENT, OF ANY FACTORY, WAREHOUSE, ESTABLISHMENT, OR VEHICLE DESCRIBED IN SUBSECTION (1) OF THIS SECTION REFUSES TO ADMIT THE COMMISSIONER TO INSPECT SUCH PREMISES, PROPERTY, OR VEHICLE, THE COMMISSIONER IS AUTHORIZED TO OBTAIN FROM THE DISTRICT OR COUNTY COURT FOR THE DISTRICT OR COUNTY IN WHICH SUCH PREMISES, PROPERTY, OR VEHICLE IS LOCATED, A WARRANT TO ENTER AND INSPECT SUCH PREMISES, PROPERTY, OR VEHICLE AND TO SAMPLE SUCH COMMERCIAL FEEDS, FEED INGREDIENTS, OR RAW AGRICULTURAL COMMODITIES ACCORDING TO THE PROVISIONS OF THIS SECTION PRIOR TO ENTRY, INSPECTION, AND SAMPLING. THE DISTRICT AND COUNTY COURTS OF THIS STATE ARE EMPOWERED TO ISSUE SUCH WARRANTS UPON A PROPER SHOWING OF THE NEED FOR SUCH ENTRY, INSPECTION, AND SAMPLING. ANY INFORMATION CONCERNING ANY METHODS, RECORDS, FORMULATIONS, OR PROCESSES THAT ARE ENTITLED TO PROTECTION AS TRADE SECRETS AND THAT ARE OBTAINED IN THE COURSE OF THE INSPECTION OR SAMPLING SHALL BE KEPT CONFIDENTIAL.

(4) SAMPLING AND ANALYSIS PERFORMED PURSUANT TO THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH METHODS PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS OR OTHER GENERALLY RECOGNIZED METHODS.

(5) THE COMMISSIONER, IN DETERMINING WHETHER A COMMERCIAL FEED IS IN VIOLATION IN ANY COMPONENT, SHALL BE GUIDED BY THE OFFICIAL SAMPLE AS DEFINED IN SECTION 35-60-102 (15) AND OBTAINED AND ANALYZED IN ACCORDANCE WITH SUBSECTIONS (1) AND (2) OF THIS SECTION.

(6) THE RESULTS OF ALL ANALYSES OF OFFICIAL SAMPLES REVEALING VIOLATIONS SHALL BE FORWARDED BY THE COMMISSIONER TO THE PERSON NAMED ON THE LABEL AND TO THE PURCHASER. WHEN THE INSPECTION AND ANALYSIS OF AN OFFICIAL SAMPLE INDICATED A COMMERCIAL FEED HAS BEEN ADULTERATED OR MISBRANDED, AND, UPON, REQUEST WITHIN THIRTY DAYS FOLLOWING THE RECEIPT OF THE ANALYSIS, THE COMMISSIONER SHALL FURNISH TO THE MANUFACTURER A PORTION OF THE SAMPLE CONCERNED.

35-60-111. Detained commercial feeds. (1) **"Stop sale" or "withdrawal from distribution"**. WHEN THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE ANY LOT OF COMMERCIAL FEED IS BEING DISTRIBUTED IN VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE OR ANY RULES PROMULGATED PURSUANT THERETO, THE COMMISSIONER MAY ISSUE AND ENFORCE A WRITTEN OR PRINTED "STOP SALE" OR "WITHDRAWAL FROM DISTRIBUTION" ORDER, WARNING THE DISTRIBUTOR NOT TO DISPOSE OF THE LOT OF COMMERCIAL FEED IN ANY MANNER UNTIL WRITTEN PERMISSION IS GIVEN BY THE COMMISSIONER OR THE COURT. THE COMMISSIONER SHALL RELEASE THE LOT OF COMMERCIAL FEED SO WITHDRAWN WHEN SUCH PROVISIONS AND REGULATIONS HAVE BEEN COMPLIED WITH. IF THE DISTRIBUTOR DOES NOT COME INTO COMPLIANCE WITHIN THIRTY DAYS, THE COMMISSIONER MAY BEGIN, OR UPON REQUEST OF THE DISTRIBUTOR OR MANUFACTURER SHALL BEGIN, PROCEEDINGS FOR CONDEMNATION.

(2) **"Condemnation and confiscation"**. ANY LOT OF COMMERCIAL FEED NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE OR RULES PROMULGATED PURSUANT THERETO SHALL BE SUBJECT TO SEIZURE ON COMPLAINT OF THE COMMISSIONER TO A COURT OF COMPETENT JURISDICTION IN THE DISTRICT OR COUNTY WHERE THE COMMERCIAL FEED IS LOCATED. IN THE EVENT THE COURT FINDS THE COMMERCIAL FEED TO BE IN NONCOMPLIANCE OF THIS ARTICLE OR RULES PROMULGATED PURSUANT THERETO 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 THIS STATE; EXCEPT THAT SUCH DISPOSAL OF THE COMMERCIAL FEED SHALL NOT BE ORDERED BY THE COURT WITHOUT FIRST GIVING THE DISTRIBUTOR OR OTHER CLAIMANT AN OPPORTUNITY TO APPLY TO THE COURT FOR RELEASE OF THE COMMERCIAL FEED OR FOR PERMISSION TO PROCESS OR RE-LABEL THE COMMERCIAL FEED TO BRING IT INTO COMPLIANCE WITH THIS ARTICLE OR RULES PROMULGATED PURSUANT THERETO.

35-60-112. Penalties. (1) ANY PERSON VIOLATING ANY OF THE PROVISIONS OF THIS ARTICLE OR WHO IMPEDES, HINDERS, OR OTHERWISE PREVENTS, OR ATTEMPTS TO PREVENT, THE COMMISSIONER OR DULY AUTHORIZED AGENT, IN THE PERFORMANCE OF HIS OR HER DUTY IN CONNECTION WITH THIS ARTICLE, IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE FINED NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS, OR, UPON A SUBSEQUENT CONVICTION, NOT LESS THAN TWO HUNDRED DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THE COMMISSIONER OR AGENT TO:

(a) REPORT FOR PROSECUTION;

(b) INSTITUTE SEIZURE PROCEEDINGS;

(c) ISSUE A "STOP SALE" OR "WITHDRAWAL FROM DISTRIBUTION" ORDER AS A RESULT OF MINOR VIOLATIONS OF THIS ARTICLE OR RULES PROMULGATED PURSUANT THERETO.

(3) IT SHALL BE THE DUTY OF EACH DISTRICT ATTORNEY TO WHOM ANY VIOLATION IS REPORTED TO 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 ALLOW AN OPPORTUNITY FOR THE DISTRIBUTOR TO PRESENT HIS OR HER VIEW TO THE COMMISSIONER.

(4) THE COMMISSIONER MAY APPLY TO THE COURT FOR, AND THE COURT MAY ISSUE, AN ORDER FOR A TEMPORARY RESTRAINING ORDER OR INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING OR CONTINUING TO VIOLATE ANY OF THE PROVISIONS OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT THERETO, NOTWITHSTANDING THE EXISTENCE OF OTHER REMEDIES AT LAW. SUCH TEMPORARY RESTRAINING ORDER OR INJUNCTION SHALL BE ISSUED WITHOUT THE POSTING OF A BOND.

(5) ANY PERSON WHO IS ADVERSELY AFFECTED BY ACTS OF THE COMMISSIONER OR

RULES PROMULGATED PURSUANT TO THIS ARTICLE MAY APPEAL PURSUANT TO THE PROCEDURES OF ARTICLE 4 OF TITLE 24, C.R.S.

(6) ANY PERSON WHO USES TO HIS OR HER OWN ADVANTAGE, OR REVEALS TO STATE OFFICIALS OTHER THAN THE COMMISSIONER, OR TO THE COURTS WHEN RELEVANT IN ANY JUDICIAL PROCEEDING, ANY INFORMATION ACQUIRED UNDER THE AUTHORITY OF THIS ARTICLE, CONCERNING ANY METHODS, RECORDS, FORMULATIONS, OR PROCESSES THAT ARE TRADE SECRETS AND ENTITLED TO PROTECTION UNDER THE LAW, IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT LESS THAN ONE HUNDRED DOLLARS, OR IMPRISONED IN THE COUNTY JAIL FOR NOT LESS THAN THIRTY DAYS, OR BOTH; EXCEPT THAT NOTHING IN THIS SUBSECTION (6) SHALL BE CONSTRUED TO PROHIBIT THE COMMISSIONER FROM EXCHANGING INFORMATION OF A REGULATORY NATURE WITH DULY APPOINTED OFFICIALS OF THE UNITED STATES OR OTHER STATE GOVERNMENTS WHO ARE SIMILARLY PROHIBITED BY LAW FROM REVEALING THIS INFORMATION.

35-60-113. Civil penalties. (1) (a) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT THERETO MAY BE SUBJECT TO A CIVIL PENALTY AS DETERMINED BY THE COMMISSIONER. SUCH CIVIL PENALTY IS IN ADDITION TO AND NOT A SUBSTITUTION FOR OTHER PENALTIES OR REMEDIES SET FORTH IN THIS ARTICLE.

(b) BEFORE IMPOSING ANY CIVIL PENALTY, THE COMMISSIONER SHALL CONSIDER THE SEVERITY OF THE VIOLATION, THE AMOUNT OF HARM CAUSED BY SUCH VIOLATION, AND THE PRESENCE OR ABSENCE OF A PATTERN OF SIMILAR VIOLATIONS BY THE DISTRIBUTOR.

(c) THE MAXIMUM CIVIL PENALTY IMPOSED BY THE COMMISSIONER SHALL NOT EXCEED SEVEN HUNDRED FIFTY DOLLARS PER DAY PER VIOLATION.

(2) BEFORE THE COMMISSIONER IMPOSES ANY CIVIL PENALTY, THE PERSON CHARGED SHALL BE PROVIDED WITH A NOTICE OF THE VIOLATION AND AN OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(3) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY OR IF ANY PERSON FAILS TO PAY ALL OR ANY PORTION OF A CIVIL PENALTY, THE COMMISSIONER MAY RECOVER THE AMOUNT OF THE PENALTY, PLUS COSTS AND ATTORNEY FEES, BY ACTION IN A COURT OF COMPETENT JURISDICTION.

(4) ALL MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

35-60-114. Cooperation with other entities. THE COMMISSIONER MAY COOPERATE AND ENTER INTO AGREEMENTS WITH GOVERNMENTAL AGENCIES OF THIS STATE, OTHER STATES, AGENCIES OF THE FEDERAL GOVERNMENT, AND PRIVATE ASSOCIATIONS IN ORDER TO CARRY OUT THE PURPOSE AND PROVISIONS OF THIS ARTICLE.

35-60-115. Publications. THE COMMISSIONER SHALL PUBLISH AT LEAST ANNUALLY, IN SUCH FORM AS HE OR SHE MAY DEEM PROPER AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-1-136, C.R.S., INFORMATION CONCERNING THE

SALES OF COMMERCIAL FEEDS, TOGETHER WITH SUCH DATA ON THEIR PRODUCTION AND USE AS THE COMMISSIONER MAY CONSIDER ADVISABLE, AND A REPORT OF THE RESULTS OF THE ANALYSES OF OFFICIAL SAMPLES OF COMMERCIAL FEEDS SOLD WITHIN THE STATE AS COMPARED WITH THE ANALYSES ON THE LABEL, BUT THE INFORMATION CONCERNING PRODUCTION AND USE OF COMMERCIAL FEEDS SHALL NOT DISCLOSE THE OPERATIONS OF ANY PERSON.

SECTION 2. Effective date - applicability. (1) This act shall take effect January 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all commercial feed transactions that occur on or after the applicable effective date of this act.

Approved: May 14, 1999