

be payable more than 15 years from the date of the same. The proceeds of the sale of such certificates shall be paid into the permanent improvement revolving fund. Such certificates shall bear a rate of interest not exceeding six percent per annum. The council may, in its discretion, either sell such certificates direct to investors or may contract for the sale of all such certificates that may be issued during any calendar year. No sale of such certificates, by contract, shall be made except after advertising for bids at least one week prior to sale in the official newspaper of the city, and such sales shall be made to the highest responsible bidder. Bids may be asked on the basis of a rate of interest specified in the proposals and on the net interest basis on which the bidder will pay par for the same.

Sec. 5. This act shall become effective only after its approval by a majority of the governing body of the city of Duluth.

Approved April 3, 1959.

CHAPTER 170—S. F. No. 61

[Coded]

An act to regulate the sale and distribution of commercial feeds and customer-formula feeds; repealing Minnesota Statutes 1957, Sections 25.01 to 25.14.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [25.15] **Title.** This Act shall be known and cited as the "Commercial Feed Law".

Sec. 2. [25.16] **Enforcing official.** The Commercial Feed Law shall be administered by the Commissioner of the Department of Agriculture, Dairy and Food hereinafter referred to as the "commissioner".

Sec. 3. [25.17] **Definitions.** Subdivision 1. When used in the Commercial Feed Law the term:

Subd. 2. "person" includes individual, partnership, corporation and association.

Subd. 3. "distribute" means to offer for sale, sell, barter, or otherwise supply commercial feeds or customer-formula feeds. The term "distributor" means any person who distributes.

Subd. 4. "sell" or "sale" includes exchange.

Subd. 5. "commercial feed" means all materials which are distributed for use as feed for animals other than man except:

(1) Unmixed whole seeds 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.

Subd. 6. "feed ingredient" means each of the constituent materials making up a commercial feed.

Subd. 7. "customer-formula feed" means a mixture which contains commercial feeds, each batch of which mixture is formulated according to the specific instructions of the final purchaser.

Subd. 8. "brand" means the term, design, trademark, or other specific designation under which an individual commercial feed is distributed in this state.

Subd. 9. "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.

Subd. 10. "ton" means a net weight of two thousand pounds avoirdupois.

Subd. 11. "per cent" or "percentage" means percentage by weight.

Subd. 12. "official sample" means any sample of feed taken by the commissioner or his agent and designated as "official" by the commissioner.

Sec. 4. [25.18] **Registration.** Subdivision 1. Each commercial feed shall be registered before being distributed in this state; provided, however, that customer-formula feeds are exempt from registration. The application for registration shall be submitted on forms furnished by the commissioner, and if the commissioner so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the commissioner a copy of the registration shall be furnished to the applicant. All registrations except for those brands of commercial feed distributed in individual packages of only 10 pounds or less are considered permanent unless new registrations are called for by the commissioner or unless cancelled by the registrant. The

application shall include the information required by subparagraphs (2), (3), (4), and (5) of subdivision 1, of section 5.

Subd. 2. A distributor shall not be required to register any brand of commercial feed which is already registered under the Commercial Feed Law by another person.

Subd. 3. Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted provided there is satisfactory evidence that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

Subd. 4. The commissioner is empowered to refuse registration of any application not in compliance with the provisions of the Commercial Feed Law and to cancel any registration subsequently found not to be in compliance with any provision thereof; provided, however, that no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the commissioner and to amend his application in order to comply with the requirements of the Commercial Feed Law.

Sec. 5. [25.19] **Labeling.** Subdivision 1. Any commercial feed distributed in this state shall be accompanied by a legible label bearing the following information:

- (1) The net weight.
- (2) The name or brand under which the commercial feed is sold.
- (3) The guaranteed analysis of the commercial feed, listing the minimum percentage of crude protein, minimum percentage of crude fat, and maximum percentage of crude fiber. For mineral feeds the list shall include the following if added: Minimum and maximum percentage of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), and minimum and maximum percentages of salt (NaCl). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission of the commissioner. When items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the commissioner. Products sold solely as mineral or vitamin supplements or both mineral and vitamin supplements and guaranteed as specified in this section need not show guarantees for protein, fat and fiber.
- (4) The common or usual name of each ingredient

used in the manufacture of the commercial feed, except as the commissioner may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function.

(5) The name and principal address of the person responsible for distributing the commercial feed.

Subd. 2. When a commercial feed is distributed in this state in bags or other containers, the label shall be placed on or affixed to the container; when a commercial feed is distributed in bulk the label shall accompany delivery and be furnished to the purchaser at time of delivery.

Subd. 3. A customer-formula feed shall be labeled by invoice. The invoice shall accompany delivery and be supplied to the purchaser at the time of delivery, and shall bear the following information:

- (1) Name and address of the mixer.
- (2) Name and address of the purchaser.
- (3) Date of sale.
- (4) Brand name and number of pounds of each registered commercial feed used in the mixture and the name and number of pounds of each other feed ingredient added.

Subd. 4. If a commercial feed or a customer-formula feed contains a non-nutritive substance which is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or which is intended to affect the structure or any function of the animal body the commissioner may require the label or invoice to show the amount present, directions for use, and warnings against misuse of the feed.

Sec. 6. [25.20] **Inspection fees.** Subdivision 1. There shall be paid to the commissioner for all commercial feeds distributed in this state an inspection fee at the rate of sixteen cents per ton; provided, however, that customer-formula feeds are hereby exempted if the inspection fee is paid on the commercial feeds which they contain; provided, further that inspection fees already paid on commercial feeds sold to distributors or exchanged between them shall be deducted from the inspection fee due on the commercial feeds manufactured from such sales or exchanges; and provided, further, that any distributor shall pay an annual registration fee of \$25 for each brand of commercial feed distributed only in individual packages of 10 pounds or less, and the distributor of such brand shall not be required to pay the inspection fee on such packages of the brand so registered. Fees so col-

lected shall be paid into the state treasury. This registration fee shall expire one year from date of issuance.

Subd. 2. Every person, except as hereinafter provided, who distributes commercial feed in this state shall:

(1) File, not later than the last day of January, April, July, and October of each year, a quarterly statement under oath, setting forth the number of net tons of commercial feeds and the number of net pounds of each brand of commercial feed distributed in this state during the preceding calendar quarter; and upon filing such statement pay the inspection fee at the rate stated in subdivision 1 of this section. When more than one person is involved in the distribution of a commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor of the feed.

(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 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 inspection fee or comply with this section shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

Sec. 7. [25.21] **Adulteration.** No person shall distribute an adulterated feed. A commercial feed or customer-formula feed shall be deemed to be adulterated:

(1) If any material is present in sufficient amount to render it injurious to health when fed in accordance with directions for use on the label.

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

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

(4) If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is stated on the label.

Sec. 8. [25.22] **Misbranding.** No person shall distribute misbranded feed. A commercial feed or customer-formula feed shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular.
- (2) If it is distributed under the name of another feed.
- (3) If it is not labeled as required by Section 5 of the Commercial Feed Law or by regulations promulgated thereunder.
- (4) If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the commissioner: in the adopting of such regulations the commissioner shall give due regard to commonly accepted definitions such as those issued by the Association of American Feed Control Officials.
- (5) If any word, statement, or other information required by or under authority of the Commercial Feed Law 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 conditions of purchase and use.

Sec. 9. [25.23] **Weed seeds.** Subdivision 1. It shall be unlawful for any person to distribute a commercial feed which shall contain any weed seeds in illegal amounts in which the germ and life have not been destroyed. This section shall not be deemed to make unlawful any sale by a retail distributor who has not been able, by reasonable diligence, to ascertain, before such sale, the presence in any such concentrated commercial feeding stuff sold of such noxious seeds.

Subd. 2. It shall be unlawful for any person to distribute any screenings taken from any grain or seeds which contain any prohibited or primary noxious or poisonous weed seeds in illegal amounts the viability of which has not been destroyed. Nothing in this section shall be construed to restrict or prohibit the sale of screenings to each other by persons who mix or grind concentrated commercial feeding stuff for sale.

Sec. 10. [25.24] **Inspection, sampling, analysis.** Subdivision 1. It shall be the duty of the commissioner, who may act through his authorized agent, to sample, inspect, make analyses of, and test commercial feeds and customer-formula feeds distributed within this state at such time and

place to such an extent as he may deem necessary to determine whether such feeds are in compliance with the provisions of the Commercial Feed Law. The commissioner, individually or through his agent, is authorized to enter upon any public or private premises, except places of residence, including any vehicle of transport during regular business hours in order to have access to commercial feeds and customer-formula feeds and to records relating to their distribution.

Subd. 2. The methods of sampling and analysis shall be those adopted by the commissioner from sources such as the Journal of the Association of Official Agricultural Chemists.

Subd. 3. The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample obtained and analyzed as provided for in subdivision 2 of this section.

Subd. 4. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor and the purchaser. Upon request within 30 days the commissioner shall furnish to the distributor a portion of the sample concerned.

Sec. 11. [25.25] **Rules and regulations.** The commissioner is empowered to promulgate and adopt in the manner provided by law such reasonable rules and regulations as may be necessary to administer the provisions of the Commercial Feed Law.

Sec. 12. [25.26] **Detained commercial feeds.** Subdivision 1. **"Withdrawal from sale" orders.** If the commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of the Commercial Feed Law or any of the regulations prescribed thereunder, he may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the commissioner or a court. The commissioner shall release the lot of commercial feed so withdrawn when the Commercial Feed Law and regulations prescribed thereunder have been complied with. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor shall begin, proceedings for condemnation.

Subd. 2. **Condemnation and confiscation.** Any lot of

commercial feed not in compliance with the Commercial Feed Law or regulations prescribed thereunder shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the commercial feed to be in violation of the Commercial Feed Law or regulations prescribed thereunder and orders the condemnation of the 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 the commercial feed be ordered by the court without first giving the 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 the Commercial Feed Law.

Sec. 13. [25.27] **Penalties.** Subdivision 1. Any person convicted of violating any of the provisions of the Commercial Feed Law or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the commissioner or his duly authorized agent in the performance of his duty in connection with the provisions thereof, shall be adjudged guilty of a misdemeanor and shall be fined \$50 for the first violation, and \$100 for a subsequent violation. In all prosecutions under the Commercial Feed Law involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the commissioner, or his representative, shall be accepted as prima facie evidence of the composition.

Subd. 2. Nothing in the Commercial Feed Law shall be construed as requiring the commissioner or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the Commercial Feed Law when he believes that the public interests will be best served by a suitable notice of warning in writing.

Subd. 3. It shall be the duty of each county 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 such prosecution, an opportunity shall be given the distributor to present his view to the commissioner.

Subd. 4. The commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the Commercial Feed Law or any rule or regulation promulgated thereunder not-

withstanding the existence of other remedies at law. Said injunction to be issued without bond.

Sec. 14. [25.28] Hearings; review. Subdivision 1. Any person aggrieved by an act, order or ruling made under the provisions of the Commercial Feed Law by the commissioner without a hearing, may, within 30 days after notice thereof, request a hearing thereon. The commissioner shall hear the aggrieved person within 20 days after receipt of the request for a hearing and shall give not less than ten days' notice of the time and place of a hearing. Within 15 days after the hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending the hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

Subd. 2. Any order or decision of the commissioner made under the provisions of the Commercial Feed Law shall be subject to review by writ of certiorari in the manner provided by law at the instance of any person aggrieved thereby. The court shall determine whether the granting of the writ shall operate as a stay of the order or decision of the commissioner. The court may, in disposing of the issue before it, affirm, reverse or modify the order or decision of the commissioner in whole or in part.

Sec. 15. [25.29] Publications. The commissioner shall publish at least 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 state 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. The provisions of Minnesota Statutes, Section 16.026, as to publication of reports shall not apply to this section.

Sec. 16. Repealer. Minnesota Statutes 1957, Sections 25.01 through 25.14 are repealed.

Sec. 17. Effective date. This act is in effect on the first day of January, 1960.

Approved April 3, 1959.
