

CHAPTER 203—H.F.No. 3670

An act relating to agriculture; changing certain food law provisions; amending Minnesota Statutes 2004, sections 25.33, subdivision 11; 25.39, subdivisions 2, 3; 25.40; 25.41, subdivisions 1, 2, 4, 7, by adding a subdivision; 25.42, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 25.33, subdivision 11, is amended to read:

Subd. 11. **Brand name.** "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant license holder and distinguishing it from that of others.

Sec. 2. Minnesota Statutes 2004, section 25.39, subdivision 2, is amended to read:

Subd. 2. **Annual statement.** A person who is liable for the payment of a fee under this section shall file with the commissioner on forms furnished by the commissioner an annual statement setting forth the number of net tons of commercial feeds distributed in this state during the calendar year. The report is due by the 31st of each January. The inspection fee at the rate specified in subdivision 1 must accompany the statement. For each tonnage report not filed or payment of inspection fees not made on time, a penalty of ten percent of the amount due, with a minimum penalty of \$10, must be assessed against the registrant license holder, and the amount of fees due, plus penalty, is a debt and may be recovered in a civil action against the registrant license holder. The assessment of this penalty does not prevent the department from taking other actions as provided in this chapter.

Sec. 3. Minnesota Statutes 2004, section 25.39, subdivision 3, is amended to read:

Subd. 3. **Records.** Each person required to pay an inspection fee or to report in accordance with this section shall keep records ~~that are necessary or required, as determined by the commissioner to indicate, accurately detailing the tonnage of commercial feed distributed in this state, and the commissioner may examine those 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 is sufficient cause for the cancellation of the commercial feed license of the distributor.~~ Records upon which the tonnage is based must be maintained for six years and made available to the commissioner for inspection, copying, and audit. A person who is located outside of this state must maintain and make available records required by this section in this state or pay all costs incurred in auditing of the records at another location. Unless required for the enforcement of this chapter, the information in the records required by this subdivision is private or nonpublic.

Sec. 4. Minnesota Statutes 2004, section 25.40, is amended to read:

25.40 RULES.

Subdivision 1. **Adoption.** The commissioner may ~~promulgate such~~ adopt rules for commercial feeds, pet foods, and specialty pet foods as are authorized in sections 25.31 to 25.43 and such other reasonable rules as may be necessary for the efficient enforcement of sections 25.31 to 25.43. In the interest of uniformity the commissioner shall by rule adopt, unless the commissioner determines that they are inconsistent with

the provisions of sections 25.31 to 25.43 or are not appropriate to conditions which 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 and published in the official publication of that organization; and

(b) any rule promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act, provided, that the commissioner would have the authority under sections 25.31 to 25.43 to ~~promulgate such~~ adopt the rules.

Subd. 2. **Notice; public comment.** Before the issuance, amendment, or repeal of any rule authorized by sections 25.31 to 25.43, the commissioner shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current ~~registrants license holders~~, adequate notice and shall afford all interested persons an opportunity to present their views ~~thereon~~, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. The provisions of this subdivision notwithstanding, if the commissioner, pursuant to the authority of sections 25.31 to 25.43, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said association or by the secretary of health, education and welfare in the case of regulations promulgated pursuant to the federal Food, Drug, and Cosmetic Act, shall be adopted automatically under sections 25.31 to 25.43 without regard to the publication of the notice required by this subdivision unless the commissioner, by order specifically determines that said amendment or modification shall not be adopted.

Sec. 5. Minnesota Statutes 2004, section 25.41, subdivision 1, is amended to read:

Subdivision 1. **Authorization; limitation.** For the purpose of enforcement of sections 25.31 to 25.43, and associated rules, in order to determine whether ~~its~~ the provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized:

(1) to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and

(2) to inspect at reasonable times ~~and~~, within reasonable limits, and in a reasonable manner, such 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 related to the manufacture, distribution, storage, handling, or disposal of commercial feed as may be necessary to determine compliance with ~~the good manufacturing practice rules established under section 25.37, clause (1r)~~ this chapter.

Sec. 6. Minnesota Statutes 2004, section 25.41, subdivision 2, is amended to read:

Subd. 2. **Notification; promptness.** A separate notice shall be given for each ~~such~~ inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each ~~such~~ inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the ~~person~~ owner, operator, or agent in charge of the facility or vehicle shall be so notified.

Sec. 7. Minnesota Statutes 2004, section 25.41, subdivision 4, is amended to read:

Subd. 4. **Refusal to admit inspector.** If the owner, operator, or agent in charge of any factory, warehouse, or establishment described in subdivision 1, ~~or the owner's agent,~~ refuses to admit the commissioner or the commissioner's agent to inspect in accordance with subdivisions 1 and 2, the commissioner is authorized to obtain from the district court of the county in which the premises are located a warrant directing ~~such~~ the owner, operator, or agent in charge to submit the premises described in ~~such~~ the warrant to inspection.

Sec. 8. Minnesota Statutes 2004, section 25.41, subdivision 7, is amended to read:

Subd. 7. **Notice of analysis.** The results of all analyses of official samples 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 30 days following receipt of the analysis the commissioner shall furnish to the ~~registrant~~ license holder a portion of the sample concerned.

Sec. 9. Minnesota Statutes 2004, section 25.41, is amended by adding a subdivision to read:

Subd. 7a. **Manufacturer's report of investigation.** If the inspection and analysis of an official sample indicates that a commercial feed has been adulterated or misbranded, the person whose name appears on the label of the indicated commercial feed as guarantor shall provide a manufacturer's report of investigation to the commissioner within 30 days following the receipt of the official analysis.

Sec. 10. Minnesota Statutes 2004, section 25.42, subdivision 1, is amended to read:

Subdivision 1. **Withdrawal from distribution order.** When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of sections 25.31 to 25.43 or of any of the prescribed rules under sections 25.31 to 25.43, the commissioner or agent may issue and enforce a written or printed "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 said provisions and rules have been complied with. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor or ~~registrant~~ license holder shall begin, proceedings for condemnation.

Presented to the governor May 15, 2006

Signed by the governor May 16, 2006, 4:57 p.m.