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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1640

March 5, 2007

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

March 21, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to agriculture; changing certain feed law provisions; expanding
1.3 applicability of certain penalties; amending Minnesota Statutes 2006, sections
1.4 17.982, subdivision 1; 17.983, subdivision 1; 25.33, subdivisions 3, 4, 5, 6, 10,
1.5 18, by adding a subdivision; 25.341, subdivision 1; 25.35; 25.39, subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2006, section 17.982, subdivision 1, is amended to read:

1.8 Subdivision 1. **Criminal penalties.** A person who violates a provision of chapter
1.9 25, 28A, 29, 31, 31A, 31B, or 34 for which a penalty has not been prescribed is guilty
1.10 of a misdemeanor.

1.11 Sec. 2. Minnesota Statutes 2006, section 17.983, subdivision 1, is amended to read:

1.12 Subdivision 1. **Administrative penalties; citation.** If a person has violated a
1.13 provision of chapter 25, 28A, 29, 31, 31A, 31B, 32, or 34, the commissioner may issue a
1.14 written citation to the person by personal service or by certified mail. The citation must
1.15 describe the nature of the violation and the statute or rule alleged to have been violated;
1.16 state the time for correction, if applicable; and the amount of any proposed fine. The
1.17 citation must advise the person to notify the commissioner in writing within 30 days if the
1.18 person wishes to appeal the citation. If the person fails to appeal the citation, the citation
1.19 is the final order and not subject to further review.

1.20 Sec. 3. Minnesota Statutes 2006, section 25.33, subdivision 3, is amended to read:

1.21 Subd. 3. **Distribute.** "Distribute" means to offer for sale, sell, exchange, or barter;
1.22 ~~commercial~~ feed; or to supply, furnish, or otherwise provide ~~commercial~~ feed to a contract
1.23 feeder.

2.1 Sec. 4. Minnesota Statutes 2006, section 25.33, subdivision 4, is amended to read:

2.2 Subd. 4. **Distributor.** "Distributor" means any person who distributes ~~commercial~~
2.3 feed in this state.

2.4 Sec. 5. Minnesota Statutes 2006, section 25.33, subdivision 5, is amended to read:

2.5 Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations of
2.6 materials that are distributed or intended to be distributed for use as feed or for mixing in
2.7 feed, including feed for aquatic animals, unless the materials are specifically exempted.
2.8 Unmixed whole seeds and physically altered entire unmixed seeds, if the whole or
2.9 physically altered seeds are not chemically changed, not labeled as feed or for use as feed,
2.10 or ~~are~~ not adulterated within the meaning of section 25.37, paragraph (a), are exempt. The
2.11 commissioner by rule may exempt from this definition, or from specific provisions of
2.12 sections 25.31 to 25.43, commodities such as hay, straw, stover, silage, cobs, husks, hulls,
2.13 and individual chemical compounds or substances if those commodities, compounds, or
2.14 substances are not intermixed with other materials, not labeled as feed or for use as feed,
2.15 and ~~are~~ not adulterated within the meaning of section 25.37, paragraph (a).

2.16 Sec. 6. Minnesota Statutes 2006, section 25.33, is amended by adding a subdivision to
2.17 read:

2.18 Subd. 5a. **Feed.** "Feed" means edible materials that are consumed by animals, other
2.19 than humans, and contribute energy or nutrients to the animal's diet.

2.20 Sec. 7. Minnesota Statutes 2006, section 25.33, subdivision 6, is amended to read:

2.21 Subd. 6. **Feed ingredient.** "Feed ingredient" means each of the constituent materials
2.22 making up a ~~commercial~~ feed.

2.23 Sec. 8. Minnesota Statutes 2006, section 25.33, subdivision 10, is amended to read:

2.24 Subd. 10. **Manufacture.** "Manufacture" means to grind, mix ~~or~~, blend, ~~or further~~
2.25 process, package, or label a ~~commercial~~ feed ~~for distribution~~.

2.26 Sec. 9. Minnesota Statutes 2006, section 25.33, subdivision 18, is amended to read:

2.27 Subd. 18. **Contract feeder.** "Contract feeder" means a person who as an
2.28 independent contractor, feeds ~~commercial feed to~~ animals, pursuant to a contract whereby
2.29 ~~such commercial~~ the feed is supplied, furnished, or otherwise provided to such person
2.30 and whereby such person's remuneration is determined all or in part by feed consumption,
2.31 mortality, profits, or amount or quality of product.

3.1 Sec. 10. Minnesota Statutes 2006, section 25.341, subdivision 1, is amended to read:

3.2 Subdivision 1. **Requirement.** Before a person may: (1) manufacture a commercial
3.3 feed in the state; (2) distribute a commercial feed in or into the state; or (3) have the
3.4 person's name appear on the label of a commercial feed as guarantor, the person must have
3.5 a commercial feed license for each manufacturing or distributing facility. A person who
3.6 makes only retail sales of commercial feed ~~bearing labeling or another approved indication~~
3.7 ~~that the commercial feed is from a licensed manufacturer, guarantor, or distributor who~~
3.8 ~~has assumed full responsibility for the tonnage inspection fee due under sections 25.31 to~~
3.9 ~~25.43, guaranteed by another,~~ is not required to obtain a license.

3.10 Sec. 11. Minnesota Statutes 2006, section 25.35, is amended to read:

3.11 **25.35 LABELING.**

3.12 (a) A commercial feed, except a customer formula feed, must be accompanied by a
3.13 label bearing the following information:

3.14 (1) the product name and the brand name, if any, under which the commercial feed
3.15 is distributed;

3.16 (2) the guaranteed analysis, stated in terms the commissioner requires by rule, to
3.17 advise the user of the composition of the feed or to support claims made in the labeling.
3.18 The substances or elements must be determinable by laboratory methods such as the
3.19 methods published by the AOAC International or other generally recognized methods;

3.20 (3) the common or usual name of each ingredient used in the manufacture of the
3.21 commercial feed. The commissioner may by rule permit the use of a collective term for a
3.22 group of ingredients which perform a similar function, or may exempt commercial feeds
3.23 or any group of commercial feeds from this requirement on finding that an ingredient
3.24 statement is not required in the interest of consumers;

3.25 (4) the name and principal mailing address of the manufacturer or the person
3.26 responsible for distributing the commercial feed;

3.27 (5) adequate directions for use for all commercial feeds containing drugs and for
3.28 such other feeds as the commissioner may require by rule as necessary for their safe
3.29 and effective use;

3.30 (6) precautionary statements which the commissioner determines by rule are
3.31 necessary for the safe and effective use of the commercial feed; and

3.32 (7) a quantity statement.

3.33 (b) A customer formula feed must be accompanied by a label, invoice, delivery slip,
3.34 or other shipping document bearing the following information:

3.35 (1) name and address of the manufacturer;

4.1 (2) name and address of the purchaser;

4.2 (3) date of delivery;

4.3 (4) the product name and either (i) the quantity of each commercial feed and each
4.4 other ingredient used in the mixture, or (ii) a guaranteed analysis and list of ingredients in
4.5 paragraph (a), clauses (2) and (3);

4.6 (5) adequate directions for use for all customer formula feeds containing drugs
4.7 and for other feeds the commissioner requires by rule as necessary for their safe and
4.8 effective use;

4.9 (6) precautionary statements the commissioner determines by rule are necessary for
4.10 the safe and effective use of the customer formula feed;

4.11 (7) if a product containing a drug is used:

4.12 (i) the purpose of the medication (claim statement); and

4.13 (ii) the established name of each active drug ingredient and the level of each drug
4.14 used in the final mixture expressed in a manner required by the commissioner by rule; ~~and~~

4.15 (8) for a customer formula feed for which the formula is developed by someone
4.16 other than the manufacturer, a disclaimer may be included on the label stating "THIS
4.17 FEED IS A CUSTOMER FORMULA FEED DEVELOPED BY SOMEONE OTHER
4.18 THAN THE MANUFACTURER. THE MANUFACTURER DOES NOT CLAIM,
4.19 REPRESENT, WARRANT, OR GUARANTEE, AND IS NOT RESPONSIBLE FOR
4.20 THE NUTRITIONAL ADEQUACY OF THIS FEED OR THE NUTRITIONAL
4.21 SUITABILITY OF THIS FEED FOR ITS INTENDED PURPOSE."; and

4.22 (9) a quantity statement.

4.23 (c) The manufacturer of a customer formula feed the formula of which is developed
4.24 by someone other than the manufacturer is not responsible or liable for the nutritional
4.25 adequacy or the nutritional suitability of the feed for its intended purpose if: (1) the
4.26 manufacturer does not make a claim of nutritional adequacy for the customer formula
4.27 feed and does not make a claim for nutritional suitability of the feed for its intended
4.28 purpose; and (2) the manufacturer includes the disclaimer in paragraph (b), clause (8).
4.29 A person other than the manufacturer who develops or recommends a formula for a
4.30 customer formula feed is responsible for providing to the manufacturer of the feed the
4.31 appropriate labeling information and for providing the appropriate use information to the
4.32 feed manufacturer.

4.33 Sec. 12. Minnesota Statutes 2006, section 25.39, subdivision 1, is amended to read:

5.1 Subdivision 1. **Amount of fee.** (a) An inspection fee at the rate of 16 cents per ton
5.2 must be paid to the commissioner on commercial feeds distributed in this state by the
5.3 person who first distributes the commercial feed, except that:

5.4 (1) no fee need be paid on:

5.5 (i) a commercial feed if the payment has been made by a previous distributor; or

5.6 (ii) any feed ingredient in a customer formula feeds if the inspection fee is paid on
5.7 the commercial feeds which are used as ingredients feed that has been directly furnished
5.8 by the final purchaser; or

5.9 (2) a Minnesota feed distributor who can substantiate that greater than 50 percent
5.10 of the distribution of commercial feed is to purchasers outside the state may purchase
5.11 commercial feeds without payment of the inspection fee under a tonnage fee exemption
5.12 permit issued by the commissioner. Such location specific permits shall be issued on a
5.13 calendar year basis to commercial feed distributors who submit a \$100 nonrefundable
5.14 application fee and comply with rules adopted by the commissioner relative to record
5.15 keeping, tonnage of commercial feed distributed in Minnesota, total of all commercial
5.16 feed tonnage distributed, and all other information which the commissioner may require
5.17 so as to ensure that proper inspection fee payment has been made.

5.18 (b) In the case of pet food distributed in the state only in packages of ten pounds
5.19 or less, a listing of each product and a current label for each product must be submitted
5.20 annually on forms provided by the commissioner and accompanied by an annual fee
5.21 of \$50 for each product in lieu of the inspection fee. This annual fee is due by July 1.
5.22 The inspection fee required by paragraph (a) applies to pet food distributed in packages
5.23 exceeding ten pounds.

5.24 (c) In the case of specialty pet food distributed in the state only in packages of
5.25 ten pounds or less, a listing of each product and a current label for each product must
5.26 be submitted annually on forms provided by the commissioner and accompanied by an
5.27 annual fee of \$25 for each product in lieu of the inspection fee. This annual fee is due
5.28 by July 1. The inspection fee required by paragraph (a) applies to specialty pet food
5.29 distributed in packages exceeding ten pounds.

5.30 (d) The minimum inspection fee is \$10 per annual reporting period.