

1 HOUSE BILL NO. 396

2 INTRODUCED BY J. KASSMIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "COMMERCIAL FEED" TO
5 INCLUDE THE USE OF HEMP SEED PRODUCTS; AMENDING SECTIONS 80-9-101, 80-9-201, AND 80-9-
6 202, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

11 **"80-9-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
12 apply:

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

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

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

19 (b) The term includes the addition of hemp seed or a substance derived from hemp seed for use as
20 feed or for mixing in feed for a pet, specialty pet, or for livestock.

21 ~~(b)~~(c) The term does not include unmixed whole seeds and physically altered entire unmixed seeds
22 when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department
23 may by rule exclude from this definition or from specific provisions of this chapter commodities such as hay,
24 straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those
25 commodities, compounds, or substances are not intermixed with other materials and are not adulterated within
26 the meaning of 80-9-204.

27 (4) "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to
28 animals pursuant to a contract under which the commercial feed is supplied, furnished, or otherwise provided to

1 that person and under which that person's remuneration is determined completely or in part by feed
2 consumption, mortality, profits, or amount or quality of product.

3 (5) "Customer formula feed" means commercial feed that consists of a mixture of commercial feeds or
4 feed ingredients, each batch of which is manufactured according to the specific instructions of the final
5 purchaser.

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

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

11 (8) "Facility" means something that is built, installed, or established to serve a particular purpose.

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

14 (10) "Guarantor" means a person whose name and principal mailing address appear on the label and
15 who guarantees the information contained on the label as required by 80-9-202. The person may or may not
16 also be the manufacturer.

17 (11) "Hemp" means all parts and varieties of the plant Cannabis sativa L. containing no greater than
18 0.3% tetrahydrocannabinol.

19 ~~(11)~~(12) "Label" means a display of written, printed, or graphic matter upon or affixed to the container
20 in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is
21 distributed.

22 ~~(12)~~(13) "Labeling" means all labels and other written, printed, or graphic matter upon a commercial
23 feed, any of its containers, or its wrapper or accompanying the commercial feed.

24 ~~(13)~~(14) "Manufacture" means to grind, mix, blend, or further process a commercial feed.

25 ~~(14)~~(15) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or
26 inorganic nutrients.

27 ~~(15)~~(16) (a) "Noncommercial feed" means all materials or combinations of materials that are used as
28 feed or for mixing in feed and that are not intended for distribution, unless the materials are specifically

1 excluded by law.

2 (b) The term does not include unmixed whole seeds and physically altered entire unmixed seeds
3 when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department
4 may by rule exclude from this definition or from specific provisions of this chapter commodities such as hay,
5 straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those
6 commodities, compounds, or substances are not intermixed with other materials and are not adulterated within
7 the meaning of 80-9-204.

8 ~~(16)~~(17) "Official sample" means a sample of feed taken by the department in accordance with the
9 provisions of 80-9-301.

10 ~~(17)~~(18) "Percent" or "percentage" means percentage by weights.

11 ~~(18)~~(19) "Person" means an individual, partnership, corporation, or association.

12 ~~(19)~~(20) "Pet" means any domesticated animal normally maintained in or near the household of its
13 owner.

14 ~~(20)~~(21) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

15 ~~(21)~~(22) (a) "Pet treat" means any commercial feed intended for pets and specialty pets that is not
16 intended to provide complete and balanced nutrition and is fed intermittently for training, reward, enjoyment, or
17 other purposes. Pet treats are classified as a type of pet food and specialty pet food by the department.

18 (b) A pet treat intended for a cat or a dog that is manufactured in this state and does not contain any
19 medication or drug or meat, poultry, fish, or their byproduct as an ingredient qualifies for certain licensing
20 exemptions and limited labeling and registration requirements under this chapter.

21 ~~(22)~~(23) "Product name" means the name of the commercial feed that identifies it as to kind, class, or
22 specific use.

23 ~~(23)~~(24) "Quantity statement" means the net weight or mass; net volume, either liquid or dry; or count.

24 ~~(24)~~(25) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank,
25 including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish,
26 snakes, and turtles.

27 ~~(25)~~(26) "Specialty pet food" means any commercial feed prepared and distributed for consumption by
28 specialty pets.

1 ~~(26)~~(27) "Supplier" means a person who distributes commercial feed into Montana.

2 ~~(27)~~(28) "Ton" means a net weight of 2,000 pounds avoirdupois."

3

4 **Section 2.** Section 80-9-201, MCA, is amended to read:

5 **"80-9-201. Licenses and registration.** (1) Except as provided in subsection (4)(b), a license is
6 required of a facility or person:

7 (a) who manufactures commercial feed in this state;

8 (b) who distributes commercial feed in or into this state; or

9 (c) whose name appears on the label of a commercial feed as guarantor.

10 (2) (a) A separate license is required for each facility that manufactures commercial feed within this
11 state or for each facility that distributes commercial feed in or into this state. A facility or person that
12 manufactures, distributes, or is a guarantor for commercial feed must be licensed once annually pursuant to
13 this section.

14 (b) (i) Except as otherwise provided in this subsection (2)(b)(i), all new applicants shall pay a
15 nonrefundable fee of \$100 each calendar year for a license for each facility. The department may by rule adjust
16 the license fee to maintain adequate funding for the administration of this part. The fee may not be less than
17 \$100 a year or more than \$110 a year.

18 (ii) Except as otherwise provided in this subsection (2)(b)(ii), license renewals received by the
19 department prior to January 1 of each year must be accompanied by a nonrefundable renewal fee of \$75 for
20 each license. The department may by rule adjust the license fee to maintain adequate funding for the
21 administration of this part. The fee may not be less than \$75 a year or more than \$85 a year.

22 (3) Applicants for licensure shall file with the department information on forms provided by the
23 department, including the following:

24 (a) the applicant's name and place of business;

25 (b) the mailing address and physical location of the facility to be licensed;

26 (c) an indication of whether the facility to be licensed manufactures feed, distributes feed, or both; and

27 (d) an indication of whether or not the person applying for licensure is a guarantor.

28 (4) (a) A license granted under this section remains in force until the end of the calendar year for

1 which it is issued or until canceled by the licensee or by the department for cause. The department may collect
2 a \$25 late penalty fee for a license renewal application received after January 1 of any year. A license is
3 nontransferable, and license fees are nonrefundable.

4 (b) A license is not required for a person who:

5 (i) distributes only pet food or specialty pet food; or

6 (ii) manufactures pet treats as defined in ~~80-9-101(21)(b)~~ 80-9-101(22)(b) whose total annual sales do
7 not exceed \$25,000.

8 (5) A person who manufactures for distribution or who distributes commercial feed in this state shall,
9 upon written request by the department, submit the following information regarding products distributed in this
10 state:

11 (a) a list of feed products;

12 (b) all labeling, promotional material, and claims for any feed product;

13 (c) analytical methods for ingredients claimed or listed on a label, if the methods are not available
14 from AOAC international; and

15 (d) replicated data performed by a reputable investigator whose work is recognized as acceptable by
16 the department, verifying any claims for effectiveness of a feed product.

17 (6) (a) A person may not manufacture for distribution or distribute in this state a pet food, specialty
18 pet food, or pet treat that has not been registered under this section by the manufacturer or the guarantor.

19 Except as otherwise provided in subsection (6)(b), the application for registration must be accompanied by a
20 nonrefundable fee of:

21 (i) \$50 for each pet food or specialty pet food; or

22 (ii) \$25 for each set of up to 20 individual pet treat products that meet the definition provided in ~~80-9-~~
23 ~~101(21)(b)~~ 80-9-101(22)(b).

24 (b) The department may by rule adjust the registration fee to maintain adequate funding for the
25 administration of this part. The fee may not be less than \$50 a year or more than \$60 a year for a pet food or
26 specialty pet food and not less than \$25 a year or more than an additional \$10 a year added to the original
27 assessed amount calculated in subsection (6)(a)(ii) for pet treats as defined in ~~80-9-101(21)(b)~~ 80-9-
28 101(22)(b).

1 (c) The registration of pet food, specialty pet food, and pet treats is for a period of 1 year starting
2 January 1 and ending December 31 of each year.

3 (7) An applicant for registration of pet food, specialty pet food, or pet treats shall file with the
4 department the following information:

5 (a) the applicant's name and address; and

6 (b) a complete standard list of all products being registered.

7 (8) The department may refuse registration of pet food, specialty pet food, or pet treats that is not in
8 compliance with this chapter and may cancel any registration subsequently found to not be in compliance with
9 this chapter. A registration may not be refused or canceled unless the registrant has been given an opportunity
10 to be heard before the department and to amend the application in order to comply with this chapter."
11

12 **Section 3.** Section 80-9-202, MCA, is amended to read:

13 **"80-9-202. Labeling.** (1) A commercial feed, except a customer formula feed, must be accompanied
14 by a label containing:

15 (a) the quantity statement;

16 (b) the product name and any brand name under which the commercial feed is distributed;

17 (c) the guaranteed analysis stated in terms the department by rule determines are required to advise
18 the user of the composition of the feed or to support claims made in the labeling. The substances or elements
19 guaranteed must be determinable by laboratory methods such as the methods published by AOAC
20 international. Pet treats as defined in ~~80-9-101(21)(b)~~ 80-9-101(22)(b) are exempt from the guaranteed analysis
21 requirement of this subsection (1)(c).

22 (d) the common or usual name of each ingredient used in the manufacture of the commercial feed.

23 The department by rule may permit the use of a collective term for a group of ingredients that perform a similar
24 function, or it may exempt commercial feeds or any group of them from this requirement of an ingredient
25 statement if it finds that the statement is not required in the interest of consumers.

26 (e) the name and principal mailing address of the manufacturer, the person responsible for
27 distributing the commercial feed, or the guarantor;

28 (f) adequate directions for use for all commercial feeds containing drugs. The department may by rule

1 require directions for the use of other commercial feeds when necessary for their safe and effective use.

2 (g) precautionary statements that the department by rule determines are necessary for safe and
3 effective use of the commercial feed.

4 (2) A customer formula feed must be accompanied by a label, invoice, delivery slip, or other shipping
5 document containing:

6 (a) the name and address of the manufacturer or guarantor;

7 (b) the name and address of the purchaser;

8 (c) the date of delivery;

9 (d) the specific agreed to composition of the feed or a list of the ingredients, but not necessarily the
10 percentage of each ingredient;

11 (e) adequate directions for use for all customer formula feed containing drugs. The department may
12 by rule require directions for the use of other customer formula feeds when necessary for their safe and
13 effective use.

14 (f) precautionary statements that the department by rule determines are necessary for safe and
15 effective use of the feeds;

16 (g) in cases when a drug-containing product is used in a customer formula feed:

17 (i) the purpose of the drug in the form of a claim statement; and

18 (ii) the established name of each active drug ingredient and the level of each drug used in the final
19 mixture, expressed in accordance with the association of American feed control officials model feed regulations,
20 as published in that organization's official publication and adopted by department rule."

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22 NEW SECTION. **Section 4. Contingent effective date.** [Section 1] is effective on the date that the
23 director of the Montana department of agriculture certifies to the code commissioner that the food and drug
24 administration has approved hemp seed or any substance derived from hemp seed as an approved additive or
25 defined ingredient in animal food or medicated feed.

26 - END -