

1 HOUSE BILL NO. 607

2 INTRODUCED BY J. BACHMEIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COMMERCIAL FEED FOR PETS;
5 ~~ALLOWING THE MANUFACTURE AND SALE OF PET TREAT PRODUCTS; REQUIRING REGISTRATION~~
6 ~~FOR MANUFACTURERS OF PET TREAT PRODUCTS; RESTRICTING THE SALE OF PET TREAT~~
7 ~~PRODUCTS MANUFACTURED IN THE STATE; AND~~ DEFINING PET TREAT PRODUCTS; ALLOWING
8 LICENSING, LABELING, AND REGISTRATION EXEMPTIONS FOR CERTAIN PET TREATS; AMENDING
9 SECTIONS 80-9-101, 80-9-201, 80-9-202, AND 80-9-206, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 80-9-101, MCA, is amended to read:
14 **"80-9-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
15 apply:

16 (1) "AOAC international" means the association of official analytical chemists.
17 (2) "Brand name" means any word, name, symbol, or device or any combination of them identifying the
18 commercial feed of a licensee or registrant and distinguishing it from that of others.

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

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

28 (4) "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to
29 animals pursuant to a contract under which the commercial feed is supplied, furnished, or otherwise provided to
30 that person and under which that person's remuneration is determined completely or in part by feed consumption,

1 mortality, profits, or amount or quality of product.

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

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

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

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

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

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

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

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

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

20 (14) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic
21 nutrients.

22 (15) (a) "Noncommercial feed" means all materials or combinations of materials that are used as feed
23 or for mixing in feed and that are not intended for distribution, unless the materials are specifically excluded by
24 law.

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

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

3 (17) "Percent" or "percentage" means percentage by weights.

4 (18) "Person" means an individual, partnership, corporation, or association.

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

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

7 ~~(21) (a) "Pet treat" means any commercial feed for a dog or cat that is manufactured in this state and that~~
8 ~~is not intended to provide complete and balanced nutrition and is fed intermittently for training, reward, enjoyment,~~
9 ~~or other purposes.~~

10 ~~_____ (b) A pet treat may not contain as an ingredient:~~

11 ~~_____ (i) raw or processed meat as defined in 81-9-217;~~

12 ~~_____ (ii) raw or processed meat or byproduct from any species of wildlife or fish; or~~

13 ~~_____ (iii) any medication or drug~~ INTENDED FOR PETS AND SPECIALTY PETS THAT IS NOT INTENDED TO PROVIDE
14 COMPLETE AND BALANCED NUTRITION AND IS FED INTERMITTENTLY FOR TRAINING, REWARD, ENJOYMENT, OR OTHER
15 PURPOSES. PET TREATS ARE CLASSIFIED AS A TYPE OF PET FOOD AND SPECIALTY PET FOOD BY THE DEPARTMENT.

16 ~~(B) A PET TREAT INTENDED FOR A CAT OR A DOG THAT IS MANUFACTURED IN THIS STATE AND DOES NOT CONTAIN~~
17 ~~ANY MEDICATION OR DRUG OR MEAT, POULTRY, FISH, OR THEIR BYPRODUCT AS AN INGREDIENT QUALIFIES FOR CERTAIN~~
18 ~~LICENSING EXEMPTIONS AND LIMITED LABELING AND REGISTRATION REQUIREMENTS UNDER THIS CHAPTER.~~

19 ~~(21)(22)~~ "Product name" means the name of the commercial feed that identifies it as to kind, class, or
20 specific use.

21 ~~(22)(23)~~ "Quantity statement" means the net weight or mass; net volume, either liquid or dry; or count.

22 ~~(23)(24)~~ "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank,
23 including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish,
24 snakes, and turtles.

25 ~~(24)(25)~~ "Specialty pet food" means any commercial feed prepared and distributed for consumption by
26 specialty pets.

27 ~~(25)(26)~~ "Supplier" means a person who distributes commercial feed into Montana.

28 ~~(26)(27)~~ "Ton" means a net weight of 2,000 pounds avoirdupois."
29

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (4) (a) A license granted under this section remains in force until the end of the calendar year for which
24 it is issued or until canceled by the licensee or by the department for cause. The department may collect a \$25
25 late penalty fee for a license renewal application received after January 1 of any year. A license is
26 nontransferable, and license fees are nonrefundable.

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

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

29 (ii) manufactures pet treats AS DEFINED IN [SECTION 1(21)(B)] whose total annual sales do not exceed
30 ~~\$10,000~~ \$25,000.

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

4 (a) a list of feed products;

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

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

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

10 (6) (a) A person may not manufacture for distribution or distribute in this state a pet food ~~or~~ specialty
 11 pet food, or pet treat that has not been registered under this section by the manufacturer or the guarantor. Except
 12 as otherwise provided in ~~this subsection (6)(a)~~ subsection (6)(b), the application for registration must be
 13 accompanied by a nonrefundable fee of:

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

15 (ii) \$25 for each set of up to 20 individual pet treat products THAT MEET THE DEFINITION PROVIDED IN
 16 [SECTION 1(21)(B)].

17 (b) The department may by rule adjust the registration fee to maintain adequate funding for the
 18 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
 19 specialty pet food distributor and not less than \$25 a year or more than an additional \$10 a year added to the
 20 original assessed amount calculated in subsection (6)(a)(ii) for a pet treat manufacturer PET TREATS AS DEFINED
 21 IN [SECTION 1(21)(B)].

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

24 (7) An applicant for registration of a pet food, ~~or~~ specialty pet food, or pet treats shall file with the
 25 department the following information:

26 (a) the applicant's name and address; ~~and~~ AND

27 (b) a complete standard list of all products being registered; ~~and~~.

28 ~~(c) for pet treats, a list of ingredients used in each product.~~

29 (8) The department may refuse registration of a pet food, ~~or~~ specialty pet food, or pet treats that is not
 30 in compliance with this chapter and may cancel any registration subsequently found to not be in compliance with

1 this chapter. A registration may not be refused or canceled unless the registrant has been given an opportunity
2 to be heard before the department and to amend the application in order to comply with this chapter."

3

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

5 **"80-9-202. Labeling.** (1) A commercial feed, except a customer formula feed, must be accompanied
6 by a label containing:

7 (a) the quantity statement;

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

9 (c) ~~except for pet treats,~~ the guaranteed analysis stated in terms the department by rule determines are
10 required to advise the user of the composition of the feed or to support claims made in the labeling. The
11 substances or elements guaranteed must be determinable by laboratory methods such as the methods published
12 by AOAC international. PET TREATS AS DEFINED IN [SECTION 1(21)(B)] ARE EXEMPT FROM THE GUARANTEED ANALYSIS
13 REQUIREMENT OF THIS SUBSECTION (1)(C).

14 (d) the common or usual name of each ingredient used in the manufacture of the commercial feed. The
15 department by rule may permit the use of a collective term for a group of ingredients that perform a similar
16 function, or it may exempt commercial feeds or any group of them from this requirement of an ingredient
17 statement if it finds that the statement is not required in the interest of consumers.

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

20 (f) adequate directions for use for all commercial feeds containing drugs. The department may by rule
21 require directions for the use of other commercial feeds when necessary for their safe and effective use.

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

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

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

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

28 (c) the date of delivery;

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

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

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

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

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

8 (ii) the established name of each active drug ingredient and the level of each drug used in the final
9 mixture, expressed in accordance with the association of American feed control officials model feed regulations,
10 as published in that organization's official publication and adopted by department rule."
11

12 **Section 4.** Section 80-9-206, MCA, is amended to read:

13 **"80-9-206. Inspection fees -- filing of annual statement.** (1) An inspection fee must be paid on all
14 commercial feeds, including customer formula feeds, except pet foods, ~~and~~ specialty pet foods, and pet treats,
15 distributed in this state as follows:

16 (a) (i) For commercial feed distributed into this state, the supplier has primary responsibility for paying
17 inspection fees. However, the manufacturer is responsible for inspection fees if the supplier has not paid them.

18 (ii) For commercial feed distributed in this state, the manufacturer or guarantor are responsible for paying
19 inspection fees.

20 (b) Except as otherwise provided in this subsection (1)(b), the inspection fee is 18 cents a ton. Inspection
21 fees must be paid on each commercial feed, including customer formula feeds and feed ingredients that are
22 defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However,
23 premixes prepared and used within a feed plant or transferred from one plant to another within the same
24 organization are exempt. The department may by rule adjust the inspection fee to maintain adequate funding for
25 the administration of this part. The fee may not be less than 18 cents a ton or more than 25 cents a ton.

26 (c) A person producing a commercial feed with a feed mixing plant at a feed lot or a poultry, swine, or
27 dairy operation may not be required to pay inspection fees on the commercial feeds produced and used in the
28 feeding operation at the site but is responsible for inspection fees on any commercial feed that person produces
29 and distributes other than in that person's feeding operations at the site.

30 (d) Fees must be paid only if they total more than \$5 in an annual reporting period.

1 (2) Each in-state guarantor or manufacturer who distributes commercial feed in this state and each
2 supplier who distributes commercial feed into this state shall:

3 (a) file, not later than January 31 of each year, an annual statement setting forth the number of tons of
4 commercial feeds distributed in this state during the preceding calendar year and, upon filing the statement, shall
5 pay the inspection fee. Inspection fees that have not been remitted to the department on or before January 31
6 have a penalty fee of 10% or a minimum of \$25, whichever is more, added to the amount due. The assessment
7 of this penalty fee does not prevent the department from taking other action as provided in this chapter.

8 (b) keep those records that are necessary or are required by the department to indicate accurately the
9 tonnage of commercial feed distributed in this state. The department may examine the records to verify
10 statements of tonnage.

11 (c) make accurate and prompt reports as required. Failure to do so is sufficient cause for the department
12 to cancel or refuse to reissue a license.

13 (3) A pet food or specialty pet food manufacturer, guarantor, or supplier or other person distributing pet
14 food or specialty pet food is exempt from the reporting requirements of subsection (2)."

15
16 ~~NEW SECTION. Section 5. Pet treat product -- labeling -- restrictions. (1) A person who~~
17 ~~manufactures pet treats shall provide a label for each product that meets the requirements of 80-9-202. The label~~
18 ~~must be posted in close proximity to where the pet treat is sold or provided to a customer upon purchase.~~

19 ~~(2) Pet treat products regulated under this chapter must be manufactured in the state and may not be~~
20 ~~sold outside of the state.~~

21
22 ~~NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an~~
23 ~~integral part of Title 80, chapter 9, part 2, and the provisions of Title 80, chapter 9, part 2, apply to [section 5].~~

24
25 NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON JULY 1, 2019.

26 - END -