

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 352

H. P. 254

House of Representatives, January 31, 1957.

Referred to Committee on Agriculture. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Brockway of Milo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Creating the Maine Commercial Feed Law.

Be it enacted by the People of the State of Maine, as follows:

Sec 1. R. S., c. 32, §§ 236-A - 236-K, additional. Chapter 32 of the Revised Statutes is hereby amended by adding thereto 11 new sections to be numbered 236-A to 236-K, inclusive, to read as follows:

‘Maine Commercial Feed Law.

Sec. 236-A. Title. Sections 236-A to 236-K, inclusive, shall be known as the “Maine Commercial Feed Law.”

Sec. 236-B. Enforcing official. Sections 236-A to 236-K, inclusive, shall be administered by the Commissioner of Agriculture, hereinafter referred to as the “Commissioner.”

Sec. 236-C. Definitions. As used in sections 236-A to 236-K, inclusive, the following words and phrases shall have the following meanings:

“Brand” means the term, design or trademark and other specific designation under which an individual commercial feed is distributed in this State.

“Commercial feed” means all materials which are distributed for use as feed for animals other than man except:

- I. Unmixed or unprocessed whole seeds;
- II. Unground hay;
- III. Whole or ground straw, stover, silage, cobs and hulls when not mixed with other materials.

“Distribute” means to offer for sale, sell, barter or otherwise supply commercial feeds.

“Distributor” means one who registers a commercial feed or feeds under the provisions of sections 236-A to 236-K, inclusive, or who offers for sale, sells, barter or otherwise supplies commercial feeds.

“Label” means a display of written, printed or graphic matter upon the container in which a commercial feed is distributed.

“Official sample” means any sample of commercial feed taken by the Commissioner.

“Per cent” or “percentage” means percentage by weight.

“Person” includes individual, partnership, corporation, firm, association and agent.

“Sell” or “sale” includes exchange.

“Ton” means a net weight of 2,000 pounds avoirdupois.

Sec. 236-D. Registration.

I. Each brand of commercial feed shall be registered before being offered for sale, sold or otherwise distributed in this State. The application for registration shall be submitted to the Commissioner on forms furnished by the Commissioner, and shall be accompanied by a fee of \$15 per brand, and the registration fee for brands guarantying the presence of drugs shall be \$25, 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 expire on December 31st of each year unless sooner cancelled.

The applications shall include the following information:

- A. The name and principal address of the person guarantying the commercial feed;
- B. The name or brand under which the commercial feed is to be sold;
- C. The guaranteed analysis, 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 nutritional substances or elements, determinable by laboratory methods, may be guaranteed by permission of the Commissioner. When any such other 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 and vitamin supplements and guaranteed as specified in this section need not show guarantees for protein, fat and fiber;
- D. The common or usual name of each ingredient used in the manufacture of the commercial feed.

II. A distributor shall not be required to register any brand of commercial feed which is already registered by another person.

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

IV. The Commissioner is empowered to refuse registration of any application not in compliance with all provisions of sections 236-A to 236-K, inclusive, and to cancel any registration when it is subsequently found to be in violation of any provision of sections 236-A to 236-K, inclusive, or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of sections 236-A to 236-K, inclusive, or regulations thereunder. No registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the Commissioner.

Sec. 236-E. Labeling. Any commercial feed offered for sale or sold or otherwise distributed in this State in bags, barrels or other containers shall have placed on or affixed to the container in written or printed form the net weight and the information required by paragraphs A, B, C and D of subsection I of section 236-D.

If distributed in bulk, a written or printed statement of the net weight and the information required by paragraphs A, B, C and D of subsection I of section 236-D shall accompany delivery and be furnished to the purchaser.

Sec. 236-F. Adulteration. No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

I. If any poisonous, deleterious or non-nutritive ingredient has been added in sufficient amount to render it injurious to animal health;

II. If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor;

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

IV. If it contains added hulls, screenings, straw, cobs or other high fiber material unless the name of each such material is clearly and prominently stated on the label;

V. If it contains more than 1% of weed seeds considered injurious to livestock or more than 15 viable weed seeds in the aggregate per ounce.

Sec. 236-G. Misbranding. No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

I. If its labeling is false or misleading in any particular;

II. If it is distributed under the name of another feed;

III. If its container is not labeled as required in section 236-E and in regulations prescribed under the provisions of sections 236-A to 236-K, inclusive;

IV. If it purports to be, or is represented as, a commercial feed for which a definition of identity and standard of quality has been prescribed by regulation unless it conforms to such definition and standard;

V. If any word, statement or other information required by or under authority of sections 236-A to 236-K, inclusive, 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;

VI. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the Commissioner determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

VII. If it is a brand of commercial feed which is not registered with the Commissioner and the prescribed fee paid in accordance with section 236-D.

Sec. 236-H. Inspection, sampling and analysis. It shall be the duty of the Commissioner to inspect and sample for analysis in accordance with section 208, commercial feeds distributed within this State at such time and place to such an extent as he may deem necessary to determine whether such commercial feeds are in compliance with the provisions of sections 236-A to 236-K, inclusive. The Commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial feeds subject to the provisions of sections 236-A to 236-K, inclusive, and the rules and regulations pertaining thereto.

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

The Commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in section 236-C and obtained and analyzed as provided for in the first 2 paragraphs of this section.

When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the Commissioner to the distributor or manufacturer. Upon request within 30 days, the Commissioner shall furnish to the registrant a portion of the sample concerned.

Sec. 236-I. Regulations, standards and definitions. The Commissioner is charged with the enforcement of the provisions of sections 236-A to 236-K, inclusive, and after due public hearing is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of sections 236-A to 236-K, inclusive. The Commissioner is empowered to adopt regulations establishing definitions and standards for commercial feeds and such other regulations as may be necessary for the enforcement of any provision of sections 236-A to 236-K, inclusive.

Sec. 236-J. Detained commercial feeds.

I. "Withdrawal from sale" orders. When the Commissioner has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of sections 236-A to 236-K, inclusive, or of any of the prescribed regulations under sections 236-A to 236-K, inclusive, he may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the feed in any manner until written permission is given by the Commissioner or the court. The Commissioner shall release the commercial feed so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the Commissioner may begin proceedings for condemnation.

II. Condemnation and confiscation. Any lot of commercial feed not in compliance with the provisions of sections 236-A to 236-K, inclusive, 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 said commercial feed to be in violation of the provisions of sections 236-A to 236-K, inclusive, and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State. In no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with the provisions of sections 236-A to 236-K, inclusive.

Sec. 236-K. Penalties. Any person, firm or corporation violating any of the provisions of sections 236-A to 236-K, inclusive, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

Nothing in sections 236-A to 236-K, inclusive, shall be construed as requiring the Commissioner to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the provisions of sections 236-A to 236-K, inclusive, when he believes that the public interests will be best served by a suitable notice of warning in writing.'

Sec. 2. R. S., c. 32, § 4, amended. Section 4 of chapter 32 of the Revised Statutes is hereby amended to read as follows:

'**Sec. 4. Hearing in case of violation.** When the Commissioner becomes cognizant of the violation of any provision of sections 3 to 9, inclusive, 32 to 38, inclusive, 142 to 145, inclusive, 180 to 236, inclusive, 236-A to 236-K, inclusive, 237 to 247, inclusive, 256 to 272, inclusive, and 274 to 285, inclusive, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident

of the State, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said Commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.'

Sec. 3. R. S., c. 32, § 181, amended. The 1st paragraph of section 181 of chapter 32 of the Revised Statutes is hereby repealed, as follows:

~~'The term "commercial feeding stuff" as used herein shall be held to include all articles of food used for feeding livestock and poultry, except hays and straws, the whole seeds and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flaxseed and broom corn.'~~

Sec. 4. R. S., c. 32, §§ 182, 183, repealed. Sections 182 and 183 of chapter 32 of the Revised Statutes are hereby repealed.

Sec. 5. R. S., c. 32, § 188, amended. Section 188 of chapter 32 of the Revised Statutes is hereby amended to read as follows:

'Sec. 188. Registration refused when name or trade-mark misleading. The Commissioner may refuse to register ~~any commercial feeding stuff or commercial fertilizer~~ bearing a name, brand or trade-mark which is misleading or deceptive or which would tend to mislead or deceive as to materials of which it is composed ~~and in the case of commercial feeding stuff when the specific names of each and all of the ingredients used in its manufacture are not stated.~~ He may also cancel the registration of ~~any feeding stuff or commercial fertilizer~~ that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in violation of any of the provisions of this chapter. The registration of each brand of ~~commercial feeding stuff or commercial fertilizer~~ shall terminate on the 31st day of December of each year.'

Sec. 6. R. S., c. 32, § 189, sub-§ I, repealed. Subsection I of section 189 of chapter 32 of the Revised Statutes is hereby repealed.

Sec. 7. R. S., c. 32, § 189, sub-§§ II, III and IV, renumbered. Subsections II, III and IV of section 189 of chapter 32 of the Revised Statutes are hereby renumbered to read subsections I, II and III, consecutively.

Sec. 8. R. S., c. 32, § 190, sub-§ I, repealed. Subsection I of section 190 of chapter 32 of the Revised Statutes is hereby repealed.

Sec. 9. R. S., c. 32, § 190, sub-§§ II and III, renumbered. Subsections II and III of section 190 of chapter 32 of the Revised Statutes are hereby renumbered to read subsections I and II, consecutively.