

1 **§19-14-1. Title.**

2 This article shall be known as the "West Virginia Commercial
3 Feed Law". ~~of 1991~~

4 **§19-14-2. Definitions.**

5 (a) "Brand name" means any word, name, symbol or device, or
6 any combination thereof, identifying the commercial feed of a
7 distributor or manufacturer and distinguishing it from all others.

8 (b) ~~"Bulk" refers to commercial feed distributed in
9 nonpackaged form and accompanied by an invoice or delivery slip~~
10 means any lot of commercial feed that is not in a closed container
11 at the time it passes into the possession of the consumer in any
12 stage of distribution.

13 (c) "Commercial feed" means all materials distributed for use
14 as feed or for mixing in feed for animals, other than man, except:
15 (1) Unmixed or unprocessed whole seeds when ~~such~~ whole or
16 unprocessed seeds are not chemically changed or adulterated; (2)
17 unground hay, straw, stover, silage, cobs, husks, hulls and raw
18 meat when not mixed with other materials and when not adulterated;
19 or (3) individual chemical compounds when not mixed with other
20 materials. ~~The term commercial feed shall include~~ "Commercial
21 feed" includes the categories of feed ingredients, customer-formula
22 feeds, pet foods and specialty pet foods.

23 (d) "Commissioner" refers to the Commissioner of Agriculture

1 of the State of West Virginia or a duly authorized employee.

2 (e) "Container" means a bag, box, barrel, bottle, package,
3 carton, object, apparatus, device or appliance in which commercial
4 feed is placed, stored or packed for handling, transporting or
5 distributing.

6 ~~(e)~~ (f) "Contract feeder" means a person who, as an
7 independent contractor, feeds commercial feed to animals pursuant
8 to a contract and the commercial feed is supplied, furnished or
9 provided to the independent contractor and ~~such~~ the contractor's
10 remuneration is determined all or in part by feed consumption,
11 mortality, profits, or the amount or quality of the product.

12 ~~(f) "Customer formula feed" means a commercial feed which is~~
13 ~~manufactured according to the specific instructions of the final~~
14 ~~purchaser.~~

15 (g) "Customer-formula feed" means commercial feed that
16 consists of a mixture of commercial feed or ingredients, or both,
17 in which each batch is manufactured according to the specific
18 instructions of the final purchaser.

19 ~~(g)~~ (h) "Distribute" means to offer for sale, sell, expose for
20 sale, exchange or barter commercial feed, or to supply, furnish or
21 provide commercial feed to a contract feeder.

22 ~~(h)~~ (I) "Distributor" means any person who sells, exposes for
23 sale, offers for sale, exchanges, barter, gives, parcels out,

1 allots, shares or dispenses a commercial feed.

2 ~~(i) "Domesticated animal" means any species of animal living~~
3 ~~and bred in a tame condition.~~

4 (j) "Drug" means any substance intended for use in the
5 diagnosis, cure, mitigation, treatment or prevention of disease in
6 animals, other than man; and substances, other than nutritive
7 components, intended to affect the structure or ~~any~~ function of the
8 animal body.

9 (k) "Feed ingredient" means each constituent material ~~making~~
10 ~~up~~ composing commercial feed. ~~including individual chemical~~
11 ~~compounds labeled for use as a feed ingredient.~~

12 (l) "Label" means a display of written, printed or graphic
13 matter affixed to the container in which commercial feed is
14 distributed; or affixed to the invoice, delivery slip or other
15 shipping document which accompanies ~~bulk shipments of~~ commercial
16 feed or customer-formula feed. All ~~such~~ labels shall be legible
17 and in English.

18 (m) "Labeling" means all written, printed or graphic matter,
19 or advertising referencing ~~such~~ commercial feed.

20 (n) "Manufacture" means to grind, mix, blend, package, pack,
21 repack, repack or process a commercial feed for distribution.

22 (o) "Medicated feed" means any commercial feed ~~which~~ that
23 contains one or more drugs.

1 (p) "Mineral feed" means a commercial feed designed or
2 intended to supply primarily mineral elements or inorganic
3 nutrients.

4 (q) "Official sample" means any sample of commercial feed
5 taken by the commissioner in accordance with the provisions of this
6 article and rules promulgated hereunder.

7 (r) "Percent" or "percentage" means percentage by weights.

8 (s) "Person" means an individual, partnership, association,
9 fiduciary, firm, company, corporation or any organized group of
10 persons whether incorporated or not.

11 (t) "Pet" or "pets" means ~~any domesticated species of animal~~
12 ~~normally maintained in or near the household of the owner~~
13 ~~including, but not limited to, dogs, cats and specialty pets~~ a dog
14 or cat.

15 (u) "Pet food" means ~~any~~ commercial feed manufactured and
16 distributed for consumption by pets.

17 (v) "Principal display panel" means the part of a label that
18 is intended to be shown and examined when the product is on display
19 for retail sale.

20 (w) "Process" means any treatment that changes a feed
21 ingredient so that it can no longer be restored to its previous
22 form.

23 (x) "Product name" means the name of the commercial feed ~~which~~

1 ~~identifies it, such as: Species of animal, age group of animal,~~
2 ~~characterizing ingredients, specific use, or other descriptive~~
3 ~~terms~~ that identifies it as to kind, class or specific use and
4 distinguishes it from all other products bearing the same brand
5 name.

6 (y) "Registrant" means any person who registers commercial
7 feed for distribution or use in this state.

8 (z) "Repack" or "repackaging" means to pack and label a
9 previously manufactured and packaged commercial feed prior to a
10 specific request of a customer.

11 (aa) "Small Producer" means any person who exclusively
12 processes dog or cat treats, snacks or biscuits in the amount of
13 one thousand pounds or less annually.

14 ~~(aa)~~ (bb) "Specialty pet" or "specialty pets" means any
15 domesticated pet normally maintained in a cage or tank including,
16 but not limited to, gerbils, hamsters, birds, tropical fish,
17 goldfish, snakes and turtles.

18 ~~(bb)~~ (cc) "Specialty pet food" means any commercial feed
19 intended for consumption by specialty pets.

20 ~~(cc)~~ (dd) "Ton" means a net weight of two thousand pounds
21 avoirdupois.

22 **§19-14-5. Permits; registration.**

23 (a) ~~Permits~~ Commercial feed permits and registrations shall

1 not be transferrable with respect to persons or locations.

2 (b) A person must apply for a permit or registration at least
3 fifteen days prior to the expiration of the current permit or
4 registration ~~expires,~~ or at least fifteen days prior to the date
5 that the person intends to engage in business or market products in
6 this state or be subject to a penalty. ~~All applications shall be~~
7 ~~accompanied by the fee established in this section. A penalty of~~
8 ~~\$2 shall be added to the fee for all permits or registrations that~~
9 ~~are not applied for or renewed within the time limit.~~ Forms, fees
10 and penalties shall be set forth in rules.

11 (c) Persons manufacturing commercial feed or customer-formula
12 feed in this state must obtain a commercial feed manufacturing
13 permit, except all persons manufacturing feed for only ~~his/her~~ his
14 or her animals on ~~his/her~~ his or her premises. ~~Application forms~~
15 ~~shall be provided by the commissioner and include such information~~
16 ~~as established by rules.~~ A separate permit shall be obtained for
17 each manufacturing facility or location in this state. Each
18 commercial feed manufacturing permit application shall be
19 accompanied by an application fee. ~~of \$15~~ Each permit issued shall
20 expire on December 31, next following the date of issue.

21 (d) Each person ~~first~~ distributing commercial feed into West
22 Virginia trade channels must obtain a commercial feed distributor
23 permit, except: (1) Persons distributing pet food exclusively; (2)

1 Persons holding a valid commercial feed manufacturing permit; ~~and~~
2 or (3) Persons distributing only those feeds that they register.
3 ~~Application forms shall be provided by the commissioner and include~~
4 ~~such information as established by rules.~~ Each commercial feed
5 distributor permit application shall be accompanied by an
6 application fee. ~~of \$10~~ Each permit issued shall expire on
7 December 31st ~~next~~ following the date of issue.

8 (e) All commercial feed distributed or used in this state,
9 except customer-formula feed, must be registered. Commercial feed
10 that can be uniquely identified by its brand name, product name,
11 physical form or other descriptive term shall be registered as a
12 separate product. Commercial feed that is packaged ~~in such weights~~
13 by weight as to apply to several categories shall be registered in
14 each applicable category. ~~Application forms shall be provided by~~
15 ~~the commissioner and include such information as established by~~
16 ~~rules.~~ Registration categories are as follows:

17 (1) Commercial feed, other than pet food, in packages over ten
18 pounds or bulk shall be registered ~~permanently~~ annually. A
19 registration fee ~~of \$10 per product~~ shall accompany each
20 application for registration, except that there will be no fee for
21 ~~a revision of a~~ revising commercial feed already on file that
22 involves a change in the net weight, a change in the list of
23 ingredients, ~~and/or~~ or a change in the guarantee for vitamins or

1 minerals. The registration shall expire on December 31st following
2 the date of issue.

3 (2) ~~On the thirty-first day of August, 1991, permanent~~
4 ~~registrations for pet food in packages over ten pounds are void and~~
5 ~~application for registration and payment of fees will be required.~~
6 Pet food, including specialty pet foods, in packages over ten
7 pounds or bulk shall be registered annually. ~~A registration fee of~~
8 ~~\$50 per product shall accompany each application for registration.~~
9 The registration shall expire on August 31st ~~next~~ following the
10 date of issue.

11 (3) Commercial feed ~~excluding specialty pet food in packages~~
12 ~~of one pound or less,~~ in packages of ten pounds ~~and under~~ or less
13 shall be registered annually, excluding specialty pet food in
14 packages of one pound or less. A registration fee ~~of \$40~~ per
15 product shall accompany each application. ~~for registration~~ The
16 registration shall expire on December 31st ~~next~~ following the date
17 of issue.

18 (4) Specialty pet food in packages of one pound or less shall
19 be registered annually. A registration fee ~~of \$20~~ per product
20 shall accompany each application. ~~for registration~~ The
21 registration shall expire on December 31st ~~next~~ following the date
22 of issue.

23 (5) A small producer as defined herein shall register

1 annually. A registration fee shall accompany each application.
2 The registration shall expire on December 31st following the date
3 of issue.

4 (f) A person is not required to register any brand name or
5 product name of commercial feed ~~which~~ that is already registered by
6 another person.

7 (g) Alteration of commercial feed that changes the label
8 requires a new application for ~~a~~ commercial feed registration be
9 ~~made~~ submitted and approved before distribution.

10 **§19-14-9. Tonnage reports; inspection fees.**

11 (a) Each person holding a commercial feed manufacturing
12 permit, a commercial feed distributor permit and every registrant,
13 except those persons exempted in subsection (b) of this section,
14 shall report the number of tons of commercial feed distributed and
15 pay an inspection fee on all feed distributed, except no inspection
16 fee shall be due on:

17 (1) Commercial feed, if the payment was made by a previous
18 distributor;

19 (2) Customer-formula feeds or commercial feeds manufactured in
20 this state, if the inspection fee was paid on the commercial feed
21 or all the feed ingredients used as ingredients therein. For the
22 purpose of this exemption, the sale of the feed ingredients used in
23 customer-formula feeds are considered to have taken place before

1 the processing of these items;

2 (3) Commercial feeds or commercial feeds manufactured in this
3 state which are subsequently used as ingredients in the continuing
4 manufacture of commercial feeds in which the end product is
5 registered;

6 (4) Commercial feed supplied to a poultry contract feeder;

7 (5) Commercial feed in packages of ten pounds or less;

8 (6) Pet food or specialty pet food; or

9 (7) Commercial feed, ~~where~~ when the inspection fee was paid
10 during a previous quarter and is offered for sale in the current
11 quarter.

12 (b) Each person holding a commercial feed manufacturing
13 permit, a commercial feed distributor permit or a registrant shall
14 file a semiannual statement under oath before January 31 and July
15 31 of each year, except those persons ~~(1)~~ exclusively distributing
16 or manufacturing pet food or specialty pet food, or ~~(2)~~ exclusively
17 distributing or manufacturing commercial feed in packages of ten
18 pounds or less. ~~shall file a semiannual statement under oath before~~
19 ~~the 31st of January and July of each year~~ The statement shall
20 include the number of net tons of commercial feeds and feed
21 ingredients manufactured or first distributed in this state during
22 the preceding six-month period.

23 (c) Each ~~report~~ statement shall be accompanied by an

1 inspection fee ~~at the rate of 35¢ per ton on commercial feed and~~
2 ~~feed ingredients with the minimum inspection fee being \$10 each~~
3 ~~statement. The minimum fee is waived if the total amount of the~~
4 ~~calculated inspection fee due is \$2 or less. Such fees become~~
5 ~~effective on July 1, 1991. Inspection fees which are due and~~
6 ~~payable and not remitted to the commissioner within fifteen days~~
7 ~~following the due date shall be assessed a penalty. of ten percent~~
8 ~~of the amount due, except that semiannual reports with no fees due~~
9 ~~received fifteen days after the due date shall be assessed a~~
10 ~~penalty of \$10~~ The assessment of this penalty ~~fee~~ shall not
11 prevent the commissioner from taking other actions as provided in
12 this chapter. Fees and penalties are set forth in rules.

13 ~~(c)~~ (d) All persons must keep accurate records, as may be
14 necessary or required by the commissioner, to indicate the tonnage
15 of commercial feed distributed in this state.

16 **§19-14-16. Commissioner to promulgate rules.**

17 (a) The commissioner may propose emergency or legislative
18 rules for approval in accordance with the provisions of article
19 three, chapter twenty-nine-a of this code to effectuate the
20 provisions of this article.

21 (b) The rules may adopt by reference federal regulations, and
22 terms, definitions and publications adopted by the Association of
23 American Feed Control Officials, Incorporated.

(NOTE: The purpose of this bill is update the commercial feed laws and have the fees set forth in rules.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§19-14-16 is new; therefore, strike-throughs and underscoring have been omitted.)