

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5171

By Delegate Dillon

[Introduced January 25, 2024; Referred to the
Committee on Agriculture and Natural Resources
then the Judiciary]

1 A BILL to amend and reenact §19-14-2 and §19-14-5 of the Code of West Virginia, 1931, as
 2 amended, all relating to the West Virginia commercial feed law; providing that a person
 3 engaged in selling products or commodities produced exclusively on their own farm is not a
 4 distributor and is exempt from obtaining a Commercial Feed Distributor Permit.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.

§19-14-2. Definitions.

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

4 (b) "Bulk" refers to commercial feed or feed ingredients distributed in nonpackaged form
 5 where a label cannot be attached and accompanied by an invoice or delivery slip.

6 (c) "Commercial feed" means all materials or combinations of materials which are
 7 distributed, or intended for distribution, for use as feed or for mixing in feed for animals, other than
 8 humans, except: (1) Unmixed or unprocessed whole seeds when such whole or unprocessed
 9 seeds are not chemically changed or adulterated; (2) unprocessed hay, straw, stover, silage, cobs,
 10 husks, hulls, and raw meat when not mixed with other materials and when not adulterated; (3)
 11 individual chemical compounds when not mixed with other materials. The term commercial feed
 12 shall include the categories of feed ingredients, customer-formula feeds, pet foods and specialty
 13 pet foods.

14 (d) "Commissioner" refers to the commissioner of agriculture of the State of West Virginia
 15 or a duly authorized employee of the commissioner.

16 (e) "Contract feeder" means a person who, as an independent contractor, feeds
 17 commercial feed to animals pursuant to a contract and the commercial feed is supplied, furnished,
 18 or provided to the independent contractor and such contractor's remuneration is determined all or
 19 in part by feed consumption, mortality, profits, or the amount or quality of the product.

20 (f) "Customer-formula feed" means a commercial feed that consists of a mixture of
21 commercial feed and/or feed ingredients, each batch of which is manufactured according to the
22 specific instructions of the final purchaser.

23 (g) "Distribute" means to offer for sale, sell, exchange, or barter commercial feed; or to
24 supply, furnish, or provide commercial feed to a contract feeder.

25 (h) "Distributor" means any person who distributes a commercial feed: Provided, That
26 persons engaged in selling products or commodities produced exclusively on their own farm are
27 not distributors.

28 (i) "Drug" means any substance intended for use in the diagnosis, cure, mitigation,
29 treatment, or prevention of disease in animals, other than humans; and any substance intended to
30 affect the structure or any function of the animal body.

31 (j) "Feed" means any material consumed, or intended to be consumed, by animals other
32 than humans, or any element of that material that contributes nutrition, taste, or aroma, or
33 otherwise has a technical effect on the consumed material. The term "feed" includes raw
34 materials, ingredients, and finished product.

35 (k) "Feed ingredient" means each constituent material making up feed, including individual
36 chemical compounds labeled for use as a feed ingredient.

37 (l) "Guarantor" means any person whose name appears on a label and who is therefore
38 responsible for the product and its labeling.

39 (m) "Label" means a display of written, printed, or graphic matter printed upon or otherwise
40 affixed to the container in which commercial feed is distributed; or printed upon or otherwise
41 affixed to the invoice, delivery slip, or other shipping document which accompanies bulk shipments
42 of commercial feed or customer-formula feed. All such labels shall be legible and in English.

43 (n) "Labeling" means and includes all labels as well as all other written, printed, or graphic
44 matter found: (1) upon a commercial feed or any of its containers or wrappers, or (2)
45 accompanying such commercial feed.

46 (ⓐ) "Manufacture" means to grind, mix, blend, package, pack, repackage, repack, or
47 otherwise process a commercial feed for distribution.

48 (ⓑ) "Medicated feed" means any feed which contains one or more drugs. Antibiotics
49 included in a feed growth promotion and/or efficiency level are drug additives and feeds containing
50 such antibiotics are included in the definition of "medicated feed".

51 (ⓒ) "Mineral feed" means a commercial feed designed or intended to supply primarily
52 mineral elements or inorganic nutrients.

53 (ⓓ) "Official sample" means any sample of feed taken by the commissioner in accordance
54 with the provisions of this article and rules promulgated hereunder.

55 (ⓔ) "Percent" or "percentage" means percentage by weights.

56 (ⓕ) "Person" means an individual, partnership, association, fiduciary, firm, company,
57 corporation, or any organized group of persons whether incorporated or not.

58 (ⓖ) "Pet" means dog (*Canis familiaris*) or cat (*Felis catus*).

59 (ⓗ) "Pet food" means any commercial feed manufactured and distributed for consumption
60 by pets.

61 (ⓘ) "Process" means a method used to prepare, treat, convert, or transform materials into
62 feed or feed ingredients. The word "processed" can be used to further describe an ingredient
63 name, so long as the ingredient is not nutritionally altered from the original form of the ingredient.

64 (ⓙ) "Product name" means the name of the commercial feed which identifies it as to kind,
65 class, or specific use and distinguishes it from all other products bearing the same brand name.

66 (ⓚ) "Quantity statement" means the net weight (mass), liquid measure, or count.

67 (ⓛ) "Repack" or "repackaging" means to pack and label a previously manufactured feed.

68 (Ⓜ) "Specialty pet" means any animal normally maintained in a household, such as
69 rodents, ornamental birds, fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits
70 not raised for food or fur.

71 (Ⓝ) "Specialty pet food" means any commercial feed prepared and distributed for

72 consumption by specialty pets.

73 ~~(ee)~~ "Ton" means a net weight of two thousand pounds avoirdupois.

§19-14-5. Permits; registration.

1 (a) Permits and registrations shall not be transferrable with respect to persons or locations.

2 (b) A person must apply for a permit or registration at least 30 days prior to the expiration of
3 the current permit or registration; or at least 30 days prior to the date that the person intends to
4 engage in the business of selling or marketing commercial feed products in this state. All
5 applications shall be accompanied by the required fee. A penalty shall be added to the fee for all
6 permits or registrations that are not applied for or renewed within the time limit.

7 (c) Persons manufacturing commercial feed or customer-formula feed in this state must
8 obtain a Commercial Feed Manufacturing Permit from the commissioner, except for persons
9 manufacturing feed for only his/her animals on his/her premises, or those producing pet food.
10 Application forms shall be provided by the commissioner and include such information as
11 established by rules. A separate permit shall be obtained for each manufacturing facility or location
12 in this state. Each Commercial Feed Manufacturing Permit application shall be accompanied by
13 the required application fee. Each permit issued shall expire on December 31, next following the
14 date of issue.

15 (d) Each person distributing commercial feed in West Virginia must obtain a Commercial
16 Feed Distributor Permit from the commissioner, except: (1) Persons distributing pet food
17 exclusively, (2) persons holding a valid Commercial Feed Manufacturing Permit issued by the
18 commissioner, ~~and~~ (3) persons holding a Commercial Feed Guarantor Permit issued by the
19 commissioner, and (4) persons engaged in selling products or commodities produced exclusively
20 on their own farms. Application forms shall be provided by the commissioner and include such
21 information as established by rules. Each Commercial Feed Distributor Permit application shall be
22 accompanied by the required application fee. Each permit issued shall expire on December 31,
23 next following the date of issue.

24 (e) Each person whose name appears on the label of a commercial feed or customer-
25 formula feed as guarantor must obtain a Commercial Feed Guarantor Permit from the
26 commissioner for each manufacturing facility or location that distributes feed in or into the state,
27 except those facilities or locations for which a Commercial Feed Manufacturing Permit has already
28 been issued by the commissioner. Application forms shall be provided by the commissioner and
29 include such information as established by rules. Each Commercial Feed Guarantor Permit
30 application shall be accompanied by the required application fee. Each permit issued shall expire
31 on December 31, next following the date of issue.

32 (f) Pet food in packages over 10 pounds or bulk shall be registered annually. Each
33 application for registration shall be accompanied by the required registration fee. Each registration
34 shall expire on August 31 next following the date of issue: *Provided*, That until June 30, 2027, an
35 additional registration fee of \$50 per product shall accompany each application for registration and
36 the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance
37 Fund for spay and neutering services performed within this state by licensed veterinarians.

38 (g) Pet food packaged in packages of 10 pounds and under shall be registered annually.
39 Each application for registration shall be accompanied by the required registration fee. Each
40 registration shall expire on December 31, next following the date of issue: *Provided*, That until
41 June 1, 2027, an additional registration fee of \$35 per product shall accompany each application
42 for registration and the additional registration fee shall be deposited into the West Virginia Spay
43 Neuter Assistance Fund for spay and neutering services performed within this state by licensed
44 veterinarians.

45 (h) Specialty pet food shall be registered annually. Each application for registration shall be
46 accompanied by the required registration fee. Each registration shall expire on December 31, next
47 following the date of issue.

48 (i) A person is not required to register any brand name or product name of commercial feed
49 which is already registered by another person.

50 (j) Alteration of a pet food or specialty pet food that changes the label requires a new
51 application for registration be made and approved before distribution.

NOTE: The purpose of this bill is to; provide that persons engaged in selling products or commodities produced exclusively on their own farm are not distributors and are exempt from obtaining a Commercial Feed Distributor Permit West Virginia.

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