

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 3000

By Delegate W. Clark

[By Request of the Department of Agriculture]

[Introduced February 27, 2025; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §19-14-2, §19-14-5, §19-14-10, and §19-14-14, of the Code of West
2 Virginia, 1931, as amended; and to amend the code by adding a new article, designated
3 §19-14-17; relating to commercial feed law; providing updated definitions; removing the
4 sunset date from the Spay and Neuter program funding; clarifying changes to feed
5 adulteration; authorizing rules; authorizing regulations under the Federal Food, Drug, and
6 Cosmetic Act; clarifying prohibited acts; updating the West Virginia Commercial Feed Law;
7 and providing a constitutionality clause

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, unless such materials
8 are specifically exempted, for animals, other than humans, except: (1) Unmixed or unprocessed
9 whole seeds when such whole or unprocessed seeds are not chemically changed or adulterated;
10 (2) unprocessed hay, straw, stover, silage, cobs, husks, hulls, and raw meat when not mixed with
11 other materials and when not adulterated; (3) individual chemical compounds or substances
12 when such commodities, compounds or substances are not inter-mixed with when not mixed with
13 other materials, are not adulterated within the meaning of §19-14-10 of this code. The term
14 commercial feed shall include the categories of feed ingredients, customer-formula feeds, pet
15 foods and specialty pet foods.

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

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

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

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

(h) "Distributor" means any person who distributes a commercial feed.

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

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

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

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

(m) "Label" means a display of written, printed, or graphic matter printed upon or otherwise affixed to the container in which commercial feed is distributed; or printed upon or otherwise

affixed to the invoice, delivery slip, or other shipping document which accompanies bulk shipments of commercial feed or customer-formula feed. All such labels shall be legible and in English.

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

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

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

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

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

(s) "Percent" or "percentage" means percentage by weights.

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

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

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

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

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

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

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

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

(bb) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(cc) "Ton" means a net weight of two thousand pounds avoirdupois.

§19-14-10.

Adulteration.

Commercial feed or feed ingredients is adulterated:

(1) If it bears or contains any poisonous or deleterious substance, which may render it injurious to human or animal health; unless the substance is not an added substance, in which case such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to human or animal health;

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is: (A) A pesticide chemical in or on a raw commodity; or (B) a food additive;

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of

such pesticide chemical remaining in or such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act;

(5) If it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act;

(6) If it is, or it bears or contains, any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act;

(7) If it consists, in whole or part, of any filth, putrid, or decomposed substance, or if it is otherwise unfit for feed;

(8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(9) If it is, in whole or in part, the product of a diseased animal, or of an animal that has died other than by slaughter that is unsafe within the meaning of Section 404~~2~~(a)(1) or (a)(2) of the Federal Food, Drug, and Cosmetic Act;

(10) If the container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(12) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom or any less valuable substance substituted therefor;

(13) If its composition or quality falls below or differs from that which it is purported or

45 represented to possess by its labeling; or

46 (14) If it contains a drug, and the methods used in the facilities or controls used for its
47 manufacture, processing, or packaging do not conform to current good manufacturing practice
48 regulations promulgated by the commissioner to assure that the drug meets the requirements of
49 this law as to safety and has the identity and strength and meets the quality and purity
50 characteristics which it purports or is represented to possess. In promulgating such regulations,
51 the commissioner may adopt the current good manufacturing practice regulations for Type A
52 medicated Articles and Type B and Type C Medicated Feeds established under authority of the
53 Federal Food, Drug, and Cosmetic Act.

54 (15) If it contains viable weed seeds in amounts exceeding the limits which the
55 commissioner shall establish by legislative rule.

§19-14-14. Prohibited acts.

1 It shall be unlawful:

2 (a) To manufacture or distribute any commercial feed that is adulterated or misbranded.

3 (b) To adulterate or misbrand any commercial feed.

4 (c) To distribute, use, remove, or dispose of commercial feed in violation of an embargo
5 order, or condemnation and confiscation order provided for under this article.

6 (d) To manufacture, distribute, or use any commercial feed containing a drug or drugs that
7 cause or may cause residue of the drug or drugs in the edible tissues, milk, or eggs of the animals
8 fed such feed in excess of the acceptable residue levels set by the commissioner by rules.

9 (e) To fail or refuse to register pet foods or specialty pet foods.

10 (f) To fail or refuse to obtain permits required under this article.

11 (g) To fail to make an accurate statement of tonnage.

12 (h) To fail to pay inspection fees as required under this article.

13 (i) To distribute or knowingly use any commercial feed that has not had an accurate
14 statement of tonnage reported to the commissioner in the previous reporting period.

(j) To use or imply the name West Virginia Department of Agriculture, or reference any inspection or sample findings made by the West Virginia Department of Agriculture on labels or labeling of commercial feed.

(k) To interfere with the commissioner's official duties.

(l) To distribute raw milk for use as commercial feed for any species, unless:

(1) It has been decharacterized using a sufficient quantity of food coloring as designated by the commissioner;

(2) It has been decharacterized using food coloring approved by the U.S. Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the U.S. Department of Agriculture;

(3) It has been decharacterized and the nutritive value of the milk has not been adversely affected by the decharacterization;

(4) The packaging of the raw milk does not resemble that used for the packaging of milk for human consumption;

(5) It is not stored at retail with, or in the vicinity of, milk or milk products intended for human consumption; and

(6) It does not otherwise violate this section.

(m) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of §19-14-10 of this code.

§19-14-17.

Constitutionality.

If any clause, sentence, paragraph, or part of this law shall for any reason be judged invalid by any court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgement shall be rendered.

NOTE: The purpose of this bill is to make technical changes, provide updated definitions,

remove the sunset date from the Spay and Neuter program funding, changes to feed adulteration, and adding a constitutionality clause.

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