

SENATE BILL No. 334

AN ACT concerning agriculture; relating to commercial feeding stuffs; amending K.S.A. 2000 Supp. 2-1008 and 2-1011 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2000 Supp. 2-1008 is hereby amended to read as follows: 2-1008. (a) ~~The state board of agriculture, the secretary of the board~~ and the duly authorized representatives thereof shall have free access to all places of business, mills, buildings and vessels, of whatsoever kind, used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs and may open any parcel containing, or supposed to contain, any commercial feeding stuffs and may take therefrom, in the manner prescribed in K.S.A. 2-1009 and amendments thereto, samples for analysis and shall pay the retail price of the sample or samples procured. Before entering the premises, the representatives of the ~~state board~~ department of agriculture shall make application to party or parties in charge of any manufacturer, importer, jobber, firm, association, corporation or person who sells, offers, or exposes for sale or distributes in this state any commercial feeding stuffs.

(b) ~~The state board of agriculture, the secretary of the board~~ or a duly authorized representative thereof, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of commercial feeding stuffs which the secretary or the duly authorized representative of the secretary determines to be misbranded; ~~or adulterated or containing~~ *contains or may contain* any substance injurious to *public health* or the health of livestock, poultry or pets or which are sold, offered or exposed for sale in violation of any of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such commercial feeding stuffs, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

Sec. 2. K.S.A. 2000 Supp. 2-1011 is hereby amended to read as follows: 2-1011. (1) It shall be deemed a violation of this act for any manufacturer, importer, jobber, firm, association, corporation or person to sell, offer or expose for sale, or distribute in this state any commercial feeding stuffs:

(A) Unless the manufacturer, importer, jobber, firm, association, corporation or person has been issued a license for each manufacturing or distribution facility pursuant to K.S.A. 2000 Supp. 2-1014, *and amendments thereto*; (B) which is not labeled as required by law; (C) which bears a false or misleading statement on the label or the advertising accompanying the commercial feeding stuffs; (D) which is adulterated or contains any substance or substances which may render the commercial feeding stuffs injurious to *public health* or the health of livestock, poultry and pets.

(2) It shall be deemed a violation of this act for any manufacturer, importer, jobber, firm, association, corporation or person to: (A) Mutilate, destroy, obliterate or remove the label or any part thereof, or do any act which may result in the misbranding or false labeling of such commercial feeding stuffs; (B) fail or neglect to file the tonnage report and pay the inspection fee due thereon as required; (C) file a false report of the tonnage of feeding stuffs sold for any period; (D) impede, obstruct, hinder or otherwise prevent or attempt to prevent ~~said~~ *the* secretary or the secretary's authorized agents in the performance of any duty in connection with the enforcement of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

(3) *Any manufacturer, importer, jobber, firm, association, corporation or person who shall violate any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or the rules and regulations adopted, may incur a civil penalty in an amount not more than \$1,000 per violation, and in the case of a continuing violation every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.*

*Any civil penalty assessed pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.*

~~(4) Any manufacturer, importer, jobber, firm, association, corporation or person who shall violate any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or the rules and regulations adopted, in a willful or wanton manner shall be guilty of a class A, nonperson misdemeanor, and upon conviction thereof shall be fined not more than \$100 for the first violation and not less than \$100 nor more than \$500 for each subsequent violation.~~

~~(5) Any commercial feeding stuffs misbranded or adulterated or containing or suspected of containing any substance or substances injurious to public health or the health of livestock, poultry or pets or which is offered or exposed for sale in violation of any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto shall be subject to seizure and may be condemned, disposed of or sold as the court may direct. The proceeds from any such sale, and all penalties recovered shall be deposited with the state treasurer in the commercial feeding stuffs fee fund. The court may in its discretion release the feeding stuffs so seized when the requirements of the law have been complied with, and upon payment of all costs and expenses incurred by the state in any proceedings connected with such seizure. The seizure proceedings as provided in K.S.A. 41-805 and amendments thereto, shall be followed: in place until such time that the final disposition of the affected feeding stuffs has been determined by sampling and analysis. Within 30 days of seizure in place, upon verification that the suspected feeding stuffs are misbranded, adulterated or contain a substance or substances that may be injurious to public health or the health of livestock, poultry or pets, the secretary shall issue an order establishing measures to prevent further contamination or the threat to public or animal health. The opportunity for hearing pursuant to the Kansas administrative procedure act shall be provided upon issuance of the order. The secretary may order the destruction of contaminated feeding stuffs if no alternative assures that further contamination or health hazards are averted, and may be imposed in addition to any other penalty established by law. The district courts of the state of Kansas shall have jurisdiction to restrain violations of this act by injunction.~~

Sec. 3. K.S.A. 2000 Supp. 2-1008 and 2-1011 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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*President of the Senate.*

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*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*