House Bill 135

By: Representatives England of the 108th, McCall of the 30th, Roberts of the 154th, Burns of the 157th, Maddox of the 172nd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 13 of Title 2 of the Official Code of Georgia Annotated, relating to commercial feeds, so as to change certain provisions relating to definitions relative to said chapter; to provide for laboratory certifications, applications, fees, requirements, reporting, and refusal or cancellation of certification; to change certain provisions relating to inspections authorized, receipt for samples, warrant, methods of sampling and analysis generally; to provide for inspections, sampling, analysis, and exemption; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 13 of Title 2 of the Official Code of Georgia Annotated, relating to commercial feeds, is amended by revising Code Section 2-13-1, relating to definitions relative to said chapter, as follows:

"2-13-1.

As used in this chapter, the term:

(1) 'Brand name' means any word, name, symbol, or device or any combination thereof identifying the commercial feed of a distributor or licensee and distinguishing it from that of others.

(2) 'Commercial feed' means all materials except whole, unmixed seed, when not adulterated within the meaning of Code Section 2-13-10, which are distributed for use as feed or for mixing in feed, provided that the Commissioner, by regulation, may exempt from this definition or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls, raw meat, and individual chemical compounds or substances when such materials are not intermixed or mixed with other materials and are not adulterated within the meaning of Code Section 2-13-10.

(3) 'Customer-formula feed' means commercial feed which consists of a mixture of commercial feeds, feed ingredients, or both, each batch of which is manufactured according to the specific instructions of the final purchaser.

(4) 'Distribute' means to offer for sale, sell, exchange, or barter commercial feed.

(5) 'Distributor' means any person who distributes.

(6) 'Drug' means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and any article other than feed intended to affect the structure or any function of the animal body.

(7) 'Feed ingredient' means each of the constituent materials making up a commercial feed.

(7.1) 'Good management practices' means procedures for manufacture, distribution, transportation, sampling, inspection, and analysis of feed which are designed to prevent contamination of the feed by toxins, drugs, bacteria, or other harmful substances.

(7.2) 'Hazard analysis and critical control point program' means the identification of points in the manufacture, distribution, transportation, sampling, inspection, and analysis of feed at which there is a risk of contamination that could be harmful to humans and other animals and the identification of methods of preventing contamination at these points.

(8) 'Label' means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

(9) 'Labeling' means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrappers or accompanying such commercial feed.

(9.1) 'Licensee' means a person who obtains a commercial feed license.

(10) 'Manufacture' means to grind, mix or blend, or package or to process further a commercial feed for distribution.

(11) 'Mineral feed' means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(12) ~~'Official sample' means a sample of feed taken by the Commissioner or his agent in accordance with subsection (c), (e), or (f) of Code Section 2-13-13~~ Reserved.

(13) 'Owner' means a corporation or the stockholders thereof, a partnership, or an individual.

(14) 'Percent' or 'percentages' means percentages by weight.

(15) 'Person' includes an individual, a partnership, a corporation, and an association.

(16) 'Pet' means any domesticated animal normally maintained in or near the household of its owner.

(17) 'Pet food' means any commercial feed prepared and distributed for consumption by dogs or cats.

(18) 'Product name' means the name of the commercial feed which identifies it as to kind, class, or specific use.

(18.1) 'Quality assurance and quality control plan' means a system of activities designed to provide assurance that the commercial feed or feedstuff meets defined standards of quality and to provide control of the quality of the commercial feed or feedstuff.

~~(18.1)~~(18.2) 'Specialty pet' means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, birds, fish, and turtles.

~~(18.2)~~(18.3) 'Specialty pet food' means any commercial feed prepared and distributed for consumption by specialty pets, but not including feeds for ~~horses~~ equines, rabbits, and wild birds.

(19) 'Ton' means a net weight of 2,000 pounds avoirdupois.″

SECTION 2.

Said chapter is further amended by adding a new Code section to read as follows:

″2-13-8.1.

(a)(1) The Commissioner by rule or regulation shall establish the standards that a laboratory must meet to become certified in any of the following areas of testing:

(A) Nutrient;

(B) Mycotoxins;

(C) Microbiological organisms;

(D) Pesticide residues; or

(E) Drugs.

(2) The Commissioner shall be guided by the methods published by the Association of Official Analytical Chemists, the United States Environmental Protection Agency, the United States Food and Drug Administration, or other generally recognized authorities in developing the standards for these laboratory certifications.

(b)(1) Any laboratory wanting to be certified by the department in any of the testing categories shall complete and return an application with a $100.00 application fee and a $300.00 fee for each of the desired certifications. A single application may be used to apply for more than one certification. The department shall furnish the application forms, which must require the distributor to state that the laboratory will comply with all applicable provisions of this chapter and rules and regulations. The registration form shall identify the laboratory´s name, the name of the owner or owners of the business, the location of the laboratory, and other information as required by rule of the department.

The form shall be signed by the owner, if a natural person; a partner, if a partnership; or an authorized officer or agent, if a corporation.

(2) The department shall mail a certificate for each certification granted to the laboratory to signify that administrative requirements have been met.

(3) Each laboratory that is certified in any area of testing shall renew each certification annually. Renewal shall be submitted on a form provided by the department at least 30 days prior to the expiration date of the current certificate. The laboratory shall complete and return the renewal form with the appropriate fee for the desired annual certification as indicated on the form. Failure to timely renew certification shall result in the expiration of the certification on the date stated on the certificate. Any renewal received after the expiration date on the certificate shall be accompanied by a $50.00 late charge. Any renewal received 30 days or more beyond the expiration date on the certificate shall be returned to the laboratory, and the laboratory shall apply to the department as if it were the initial application for certification.

(4) Certification shall be conditioned on the laboratory´s compliance with all applicable provisions of this chapter and rules and regulations pursuant thereto, including:

(A) Submitting quarterly reports to the department containing the results of the commercial feed and feedstuff analyses for that quarter, including but not limited to the results of each sample submitted for analysis by each commercial feed licensee, the license number of the licensee submitting the samples, the number of violative samples, and any additional information the Commissioner may require by rule or regulation;

(B) Reporting immediately to the department each sample that is found to be in violation of the standards in this chapter and in the rules and regulations thereof;

(C) Participating in the quarterly check-sample program administered by the department, when required; and

(D) Maintaining a bookkeeping system and records that will allow the department to verify the accuracy of the reports required in this chapter and to examine such records at reasonable times.

Failure to submit reports as required in this paragraph may result in the suspension or revocation of one or more of the laboratory´s testing certifications.

(c) The department may operate a check-sample program for all testing certifications. If 30 percent or more of a laboratory´s check-sample results are outside the acceptable variation established by rule for each check-sample test, the laboratory shall pay a $100.00 fine and shall be placed on probation for the next quarter. The laboratory may be required to process additional check samples during the probationary period. If 20 percent or more of the results of the laboratory´s check samples are outside the acceptable variation level during the probationary period, that test category certification shall be revoked and the

laboratory may not apply again for the same certification for one year after the date of the revocation.

(d) The department may refuse, suspend, or revoke the certification of any laboratory that violates or fails to comply with applicable provisions of this chapter or rules or regulations adopted pursuant to this chapter."

SECTION 3.

Said chapter is further amended by revising Code Section 2-13-13, relating to inspections authorized, receipt for samples, warrant, methods of sampling and analysis generally, and forwarding of results, as follows:

"2-13-13.

~~(a) For the purpose of enforcing this chapter and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to enter, during normal business hours, any factory, warehouse, or establishment within this state in which commercial feeds are manufactured, processed, packed, or held for distribution and any vehicle being used to transport or hold such feeds and to inspect, at reasonable times, within reasonable limits, and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under paragraph (8) of Code Section 2-13-10. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.~~

~~(b) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge thereof a receipt describing the samples obtained.~~

~~(c) If the owner of any factory, warehouse, or establishment described in subsection (a) of this Code section or his agent refuses to admit the Commissioner or his agent to inspect the premises in accordance with subsection (a), the Commissioner is authorized to obtain from any court of this state a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.~~

~~(d) For the purpose of enforcing this chapter, the Commissioner or his duly designated agent is authorized to enter upon any public or private premises, including any vehicle of~~

~~transport, during regular business hours, to have access to, to obtain samples of, and to examine records relating to distribution of commercial feeds.~~

~~(e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or with other generally recognized methods.~~

~~(f) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates that a commercial feed has been adulterated or misbranded and upon request within ten days following receipt of the analysis, the Commissioner shall furnish to the licensee a portion of the sample concerned.~~

~~(g) The Commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in paragraph (12) of Code Section 2-13-1 and obtained and analyzed as provided for in subsections (c), (e), and (f) of this Code section.~~

(a)(1) The department may inspect, sample, or analyze commercial feed and feedstuff to ascertain compliance with this chapter and rules or regulations adopted pursuant to this chapter.

(2) The department is authorized to enter upon any public or business premises and any transport vehicle during regular business hours in order to have access to commercial feed or feedstuff and records relating to its origin, transport, manufacture, distribution, and sale.

(b)(1) Each commercial feed licensee shall have samples of its feed and feed ingredients tested by a laboratory that has been certified by the department or must be exempt from the certified laboratory testing requirements, as provided in this chapter, to ensure that all commercial feed and feedstuff comply with the provisions of this chapter. The sampling frequency and analysis requirements shall be determined by rule of the department for poultry, dairy cow, beef cattle, equine, swine, and other feed.

(2) Unless otherwise provided in this chapter, the department shall not require distributors of 300 tons or less of poultry, dairy cow, beef cattle, equine, swine, or other feed per year to submit more than one sample of each such feed per year for analysis.

(3) If a licensee distributes more than one type of commercial feed, the sampling requirement for mycotoxins shall be determined by the combined tonnage of feed distributed by that licensee and shall be the most stringent of the sampling requirements for the types of feed distributed.

(4) Notwithstanding provisions to the contrary in this subsection, if the department finds that circumstances exist which threaten the health of commercial livestock or the public, the department may require more frequent analysis of feed. In such case, the department

shall notify affected licensees of the need for additional analysis and the estimated time period for which the analysis will be required to protect animal or public health.

(5) The department shall work with licensees in the feed industry to develop a system of reporting commercial feed or feedstuff that has been rejected due to adulteration.

(c)(1) The department shall encourage the use of good management practices and hazard analysis critical control point programs in the manufacture, distribution, transportation, sampling, inspection, and analysis of commercial feed and feedstuff.

(2) If critical control points have been identified and good management practices have been implemented, the department shall conduct an on-site evaluation of the program to ensure the application of the established program. Licensees demonstrating adequate control of feed manufacture, distribution, transportation, and sampling processes and infrequent adulteration or other violations shall be subject to reduced sampling frequencies and analysis requirements that the department shall establish by rule.

(3) The department may require periodic reports to document the continued and appropriate use of good management practices and hazard analysis of critical control points. The department shall work with the industry in determining the appropriate level of such reporting.

(d) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists, the United States Environmental Protection Agency, the United States Food and Drug Administration, or other generally recognized authorities. In any instance where methods do not exist, the department shall adopt by rule the methods that are to be official in this state.

(e)(1) A licensee may apply for an exemption from the certified laboratory testing requirements by submitting its quality assurance and quality control plan, including laboratory testing protocols, to the department for review and approval or disapproval. The department shall furnish the form for requesting the exemption, which form shall require the licensee to comply with all applicable provisions of this chapter and related rules and regulations.

(2) Upon approval of a licensee´s quality assurance and quality control plan, the department shall send the licensee a letter of exemption if it finds that adequate measures are in place to assure compliance with the material submitted and with this chapter.

(3) The licensee´s quality assurance and quality control plan shall be subject to evaluation every three years. Application for renewal shall be submitted on a form provided by the department at least 30 days prior to the expiration date of the current approval letter. Any renewal application received after the expiration date on the approval letter shall be accompanied by a $50.00 late charge. Failure to timely renew

certification shall result in the expiration of the approval and imposition of the requirement to have all feed samples tested by a department-certified laboratory.

(4) The department shall charge a fee for any evaluation, in an amount to cover the direct and indirect costs associated with such evaluation and approval.

(5) Licensees with approved programs shall comply with all applicable provisions of this chapter and rules and regulations, including:

(A) Maintaining records of all laboratory test results for three years or as required by federal regulation, whichever is longer;

(B) Allowing department personnel access to records and laboratory facilities during reasonable hours for inspection purposes; and

(C) Providing to the department the results of any check-sample program the licensee may be using.″

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.