

HOUSE BILL NO. 1326

Introduced by

Representatives Pollert, D. Johnson, Haak

Senators Klein, Wanzek, Heckaman

1 A BILL for an Act to create and enact six new sections to chapter 19-13.1 and sections
2 19-13.1-06.1 and 19-13.1-06.2 of the North Dakota Century Code, relating to the manufacturing
3 and distribution of commercial feed; to amend and reenact sections 19-13.1-02, 19-13.1-04,
4 19-13.1-06, 19-13.1-07, 19-13.1-08, 19-13.1-09, 19-13.1-11, 19-13.1-12, and 19-13.1-13 of the
5 North Dakota Century Code, relating to the manufacturing and distribution of commercial feed;
6 to repeal sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North Dakota Century Code,
7 relating to rules, enforcement, and registration and licensing requirements applicable to
8 commercial feed; and to provide a penalty.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 19-13.1-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **19-13.1-02. Definitions of words and terms.**

13 ~~When used in~~ In this chapter, unless the context otherwise requires:

- 14 1. "Brand name" means any word, name, symbol, or device, ~~or any~~ singly or in
15 combination thereof, identifying the, that identifies commercial feed ~~of a distributor and~~
16 ~~distinguishing it and distinguishes it~~ from that of all others.
- 17 2. "Commercial feed" means ~~all materials, except whole seeds unmixed or physically~~
18 ~~altered entire unmixed seeds when not adulterated within the meaning of section~~
19 ~~19-13.1-07, which are distributed for use as feed or for mixing in feed. The~~
20 ~~commissioner, by rule, may exempt from this definition, or from specific provisions of~~
21 ~~this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and~~
22 ~~individual chemical compounds or substances when such commodities, compounds,~~
23 ~~or substances are not intermixed or mixed with other materials and are not adulterated~~
24 within the meaning of section 19-13.1-07 any materials, singly or in combination, that

- 1 are distributed, or which are intended to be distributed, for use as feed or for mixing in
2 feed, except for:
- 3 a. Unmixed whole seeds and unmixed physically altered seeds, provided they are
4 not chemically changed or adulterated;
- 5 b. Commodities such as hay, straw, stover, silage, cobs, husks, and hulls, provided
6 the commodities are:
- 7 (1) Not intermixed or mixed with other materials;
8 (2) Not adulterated; and
9 (3) Specifically exempted by the agriculture commissioner;
- 10 c. Individual chemical compounds or substances, provided they are:
- 11 (1) Not intermixed or mixed with other materials;
12 (2) Not adulterated; and
13 (3) Specifically exempted by the agriculture commissioner; and
- 14 d. Unprocessed grain screenings or unprocessed mixed grain screenings, provided:
- 15 (1) The distributor does not make oral or written reference to the nutritional
16 value of the screenings;
17 (2) The screenings are not adulterated; and
18 (3) The screenings are specifically exempted by the agriculture commissioner.
- 19 3. ~~"Contract feeder" means a person who, as an independent contractor, that feeds~~
20 ~~commercial feed to animals pursuant to a contract whereby such~~under which the
21 ~~commercial feed is supplied, furnished, or otherwise provided to such~~the person and
22 ~~whereby such~~the person's remuneration is determined all in whole or in part by feed
23 ~~consumption, mortality, profits, or the amount or quality of the product.~~
- 24 4. ~~"Customer-formula feed" means a mixture of commercial feeds or feed ingredients-~~
25 ~~each batch of which is mixed~~commercial feed that is manufactured according to the
26 ~~specific instructions of the final purchaser or contract feeder.~~
- 27 5. ~~"Distribute" means to offer;~~
- 28 a. ~~Offer~~ for sale, sell, exchange, or barter commercial feed or customer-formula
29 ~~feed; or to supply~~
- 30 b. ~~Supply, furnish, or otherwise provide commercial feed or customer-formula feed~~
31 ~~to a contract feeder. "Distributor" means any person who distributes.~~

- 1 6. "Drug" means any:
- 2 a. Any article intended for use in the diagnosis, cure, mitigation, treatment, or
3 prevention of diseases in animals other than mandisease in an animal other than
4 a human; and articles
- 5 b. Any article, other than feed, that is intended to affect the structure or ~~any~~ function
6 of the ~~animal~~an animal's body.
- 7 7. "Feed ingredient" means each of the constituent materials making up a commercial
8 feed.
- 9 8. "Label" means ~~a display of written, printed, or graphic matter upon or affixed to the~~
10 container in which a commercial feed is distributed or on the invoice or delivery slip
11 with which a commercial feed or customer-formula feed is distributed.
- 12 9. "Labeling" means ~~all labels and other written, printed, or graphic matter upon a~~
13 ~~commercial feed or any of its containers or wrapper or accompanying such~~
14 ~~commercial feed~~any printed or stamped information on or attached to a commercial
15 feed container or its wrapper and written information accompanying the distribution of
16 a commercial feed or customer-formula feed.
- 17 ~~10:9.~~ "Manufacture" means to grind, mix, or blend, or further process a commercial feed for
18 distribution.
- 19 11. "Mineral feed" means ~~a substance or mixture of substances designed or intended to~~
20 ~~supply primarily mineral elements or inorganic nutrients.~~
- 21 ~~12:10.~~ "Official sample" means any sample of feed taken by the ~~commissioner and~~
22 ~~designated as "official" by the~~agriculture commissioner in accordance with section
23 19-13.1-09.
- 24 13. "Percent" or "percentage" means percentage by weight.
- 25 14. "Person" includes ~~individual, partnership, corporation, limited liability company, and~~
26 ~~association.~~
- 27 15. "Pet" means ~~any domesticated animal normally maintained in or near the household of~~
28 ~~the owner.~~
- 29 ~~16:11.~~ "Pet food" means any commercial feed prepared and distributed for consumption by
30 ~~pets~~dogs or cats.

1 ~~17~~12. "Product name" means ~~the name of the commercial feed which~~ a term that identifies its
2 commercial feed as to its kind, class, or specific use and which distinguishes that feed
3 from all other products bearing the same brand name.

4 ~~18.~~ "Retail" means ~~to sell to the consumer or final purchaser.~~

5 ~~19.~~ "Sell" or "sale" includes ~~exchange.~~

6 ~~20-13.~~ "Specialty pet food" means ~~any~~ a commercial feed prepared and distributed for
7 consumption by any animal normally maintained in confinement, including~~canaries,~~
8 finches, gerbils, goldfish, hamsters, mynahs, psittacine birds, fish, snakes, turtles, and
9 zoo animals~~any other domesticated animal normally maintained in a cage or a tank.~~

10 ~~21.~~ "Ton" means ~~a net weight of two thousand pounds avoirdupois [907.18 kilograms].~~

11 **SECTION 2.** A new section to chapter 19-13.1 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Manufacturer's license - Retailer's license.**

14 1. a. A person shall obtain a commercial feed manufacturer's license for each facility at
15 which the person manufactures commercial feed if the person distributes the
16 feed within this state.

17 b. A person shall obtain a commercial feed manufacturer's license if the person's
18 name appears on the label of a commercial feed as a guarantor.

19 c. This subsection does not apply to a person that manufactures or guarantees pet
20 food or specialty pet food.

21 2. A person shall obtain a commercial feed retailer's license for each facility at which the
22 person sells commercial feed other than pet food or specialty pet food. This
23 subsection does not apply to a person licensed as a commercial feed manufacturer.

24 3. In order to obtain an initial license required by this section, a person shall submit an
25 application form at the time and in the manner required by the agriculture
26 commissioner and:

27 a. If the person is applying for a manufacturer's license, a fee in the amount of one
28 hundred twenty dollars for a manufacturer's license; or

29 b. If the person is applying for a retailer's license, a fee in the amount of sixty
30 dollars.

- 1 4. In order to renew a license required by this section, a person shall submit an
2 application form at the time and in the manner required by the commissioner and:
3 a. If the person is applying for a manufacturer's license renewal, a fee in the amount
4 of one hundred dollars; or
5 b. If the person is applying for a retailer's license renewal, a fee in the amount of
6 fifty dollars.
7 5. A license issued under this section is valid during the period beginning on January first
8 of an even-numbered year and ending on December thirty-first of the ensuing
9 odd-numbered year.
10 6. If a person fails to renew a license within thirty-one days of its expiration, that person
11 must apply for an initial license.

12 **SECTION 3.** A new section to chapter 19-13.1 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Product registration.**

15 Each commercial feed manufacturer required to be licensed under this chapter shall
16 register all feeds distributed in this state with the agriculture commissioner, at the time and in
17 the manner required by the commissioner. This section does not apply to customer-formula
18 feeds.

19 **SECTION 4.** A new section to chapter 19-13.1 of the North Dakota Century Code is created
20 and enacted as follows:

21 **License - Registration - Hearing.**

- 22 1. a. The agriculture commissioner may refuse to issue a license to an applicant that is
23 not in compliance with this chapter.
24 b. The commissioner may revoke a license if the licensee is not in compliance with
25 this chapter.
26 c. The commissioner may refuse to register any feed and may cancel the
27 registration of any feed if the registrant is not in compliance with this chapter.
28 2. Before the commissioner may act under this section, the commissioner shall provide
29 the affected person with an opportunity for an informal hearing.

30 **SECTION 5.** A new section to chapter 19-13.1 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Pet food - Specialty pet food - Registration - Penalty.**

- 2 1. Before being distributed in this state, each pet food product and each specialty pet
3 food product must be registered. This requirement does not apply to a distributor,
4 provided the pet food or specialty pet food is registered by another person.
5 2. In order to register pet food and specialty pet food, a person shall submit:
6 a. An application form at the time and in the manner required by the agriculture
7 commissioner; and
8 b. A fee in the amount of one hundred twenty dollars.
9 3. In order to renew a registration required by this section, a person shall submit:
10 a. An application form at the time and in the manner required by the commissioner;
11 and
12 b. A fee in the amount of one hundred dollars.
13 4. A registration issued under this section is valid during the period beginning on January
14 first of an even-numbered year and ending on December thirty-first of the ensuing
15 odd-numbered year.
16 5. If a person fails to renew a registration within thirty-one days of its expiration, that
17 person must apply for an initial registration.
18 6. Upon approving an application for an initial registration or a renewed registration, the
19 commissioner shall furnish a certificate of registration to the applicant. A certificate of
20 registration is not transferable.
21 7. Any person violating this section is subject to a penalty of twenty-five dollars for each
22 product that must be registered.

23 **SECTION 6. AMENDMENT.** Section 19-13.1-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **19-13.1-04. LabelingCommercial feed - Label - Content.**

26 Any~~Except as provided in section 7 of this Act, any commercial feed that is distributed in~~
27 ~~this state must be accompanied by a legible label bearing the information prescribed by rule-~~
28 labeled. The label must include:

- 29 1. The product's name, including any brand name under which the product is distributed;
30 2. The product's weight, volume, or quantity, as appropriate;
31 3. A guaranteed analysis expressed on an "as is" basis;

- 1 4. Unless waived by the agriculture commissioner in the interest of consumers, the
- 2 commonly accepted name of each ingredient or, if permitted by the commissioner, a
- 3 collective term for a group of ingredients that perform a similar function;
- 4 5. The name and principal mailing address of the manufacturer or the distributor;
- 5 6. Directions for use of any commercial feed containing drugs; and
- 6 7. Any precautionary statements recommended by the commissioner to ensure the safe
- 7 and effective use of the feed.

8 **SECTION 7.** A new section to chapter 19-13.1 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Customer-formula feed - Label - Content.**

11 Any customer-formula feed that is distributed in this state must be labeled.

- 12 1. The label must include:
 - 13 a. The name and address of the manufacturer;
 - 14 b. The name and address of the purchaser;
 - 15 c. The date of delivery;
 - 16 d. The product's name;
 - 17 e. The weight, volume, or quantity, as appropriate, of each ingredient, including
 - 18 commercial feed; and
 - 19 f. Any precautionary statement recommended by the agriculture commissioner to
 - 20 ensure the safe and effective use of the feed.
- 21 2. If the feed contains drugs, the label must also include:
 - 22 a. The purpose of each drug;
 - 23 b. The weight, volume, or quantity, as appropriate, of each drug; and
 - 24 c. The name of each active ingredient.

25 **SECTION 8. AMENDMENT.** Section 19-13.1-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **19-13.1-06. Inspection feesfee.**

28 ~~There must be paid to the commissioner for all commercial feeds and customer-formula-~~
29 ~~feeds, except pet foods and specialty pet foods, distributed in this state an~~

- 30 1. ~~An inspection fee at the rate of twenty cents per ton [907.18 kilograms] with a~~
31 ~~minimum of ten dollars. However, customer-formula feeds are exempted if the~~

1 inspection fee is paid on the commercial feeds that they contain and distribution of
2 commercial feeds to manufacturers is exempted if the commercial feeds so distributed
3 are used solely in manufacture of feeds that are registered. Every person, except as
4 hereinafter provided, who distributes commercial feed in this state shall:

5 1. File, not later than the thirty-first day of January of each year, an annual statement
6 under oath setting forth the number of net tons [kilograms] of commercial feeds
7 distributed in this state during the preceding year; and upon filing such statement shall
8 pay the inspection fee. If the statement is not received by January thirty-first, a penalty
9 of ten percent of the amount owed, with a minimum of ten dollars and a maximum of
10 two hundred fifty dollars, may be assessed. The person whose name appears on the
11 label as the manufacturer, guarantor, or distributor shall assume the liability for
12 reporting and paying the inspection fee.

13 2. Keep such records as may be necessary or required by the commissioner to indicate
14 accurately the tonnage of commercial feed distributed in this state and the
15 commissioner has the right to examine such records to verify statements of tonnage.

16 Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as
17 provided herein constitutes sufficient cause for the cancellation of all licenses on file for the
18 distributor is imposed on all commercial feed distributed in this state. The minimum fee payable
19 under this section is ten dollars.

20 2. Subsection 1 does not apply if:

- 21 a. The fee was paid earlier in the year by another person;
- 22 b. The commercial feed is to be used in the manufacturing of a registered
23 commercial feed;
- 24 c. The feed is a customer-formula feed and the fee has been paid on the
25 commercial feeds used as ingredients; or
- 26 d. The manufacturer produces only customer-formula feed.

27 **SECTION 9.** Section 19-13.1-06.1 of the North Dakota Century Code is created and
28 enacted as follows:

29 **19-13.1-06.1. Inspection fee - Responsibility for payment - Penalty.**

30 1. The person responsible for payment of the inspection fee is:

- 31 a. The manufacturer listed on the label;

- 1 b. The guarantor listed on the label; or
- 2 c. The distributor listed on the label.
- 3 2. Before the close of business on each February fifteenth, the person responsible for
- 4 the payment of the inspection fee shall provide to the agriculture commissioner:
- 5 a. A sworn statement indicating the number of net tons [kilograms] of commercial
- 6 feed, by class, that the person distributed in this state during the immediately
- 7 preceding calendar year; and
- 8 b. The inspection fees due in accordance with this chapter.
- 9 3. If the person responsible for the payment of the inspection fee fails to submit the
- 10 assessments as required by this section, the commissioner may impose a penalty
- 11 equal to ten percent of the amount due, plus interest at the rate of six percent per
- 12 annum from the due date. If imposed, a penalty under this section may not be less
- 13 than ten dollars nor more than two hundred and fifty dollars.

14 **SECTION 10.** Section 19-13.1-06.2 of the North Dakota Century Code is created and
15 enacted as follows:

16 **19-13.1-06.2. Inspection fee - Records.**

- 17 1. The person responsible for payment of the inspection fee shall maintain, for a period
- 18 of three years, records of all transactions necessary to verify the statement of tonnage
- 19 required by section 19-13.1-06.1.
- 20 2. The person shall make the records required by this section available to the agriculture
- 21 commissioner for examination upon request.
- 22 3. If the commissioner determines that the records required by this section were not
- 23 maintained accurately, the commissioner may cancel all licenses on file for the
- 24 distributor.

25 **SECTION 11. AMENDMENT.** Section 19-13.1-07 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **19-13.1-07. Adulteration.**

28 ~~No~~A person may not distribute an ~~adulterated feed.~~ ~~Any~~ commercial feed or
29 ~~customer-formula feed~~ that is adulterated:.

- 30 1. a. ~~If it bears~~Commercial feed is adulterated if it contains any poisonous or deleterious
31 substance that may render ~~it~~the feed injurious to health. ~~If~~However, if the substance is

1 not an added substance, the commercial feed ~~is not~~may be considered adulterated
2 under this subsection only if the quantity of the substance in the commercial feed does
3 ~~not ordinarily~~is present in sufficient quantity to render it injurious to health;.

4 ~~b.2.~~ If it bears orCommercial feed is adulterated if it contains any added substance that is
5 poisonous, added deleterious, or added nonnutritive substance that is, and unsafe
6 within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, as
7 amended [Pub. L. 75-717; 52 Stat. 1049; 21 U.S.C. 346] ~~other than one which is a~~.
8 This subsection does not apply to any pesticide chemical in or on a raw agricultural
9 commodity or to a food additive;.

10 ~~e.3.~~ If it is, or it bears orCommercial feed is adulterated if it contains, any food additive that
11 is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic
12 Act, as amended [Pub. L. 85-929; 72 Stat. 1785; 21 U.S.C. 348];.

13 ~~d.4.~~ a. IfCommercial feed is adulterated if it is a raw agricultural commodity and it bears
14 ~~or~~ contains a pesticide chemical that is unsafe within the meaning of section
15 408a of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-791;
16 68 Stat. 511; 21 U.S.C. 346a]. ~~Except that when,~~

17 b. However, if a pesticide chemical has been used in or on a raw agricultural
18 commodity in conformity with an exemption granted or a tolerance prescribed
19 under section 408 of the Federal Food, Drug, and Cosmetic Act, as amended
20 [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a] and if the raw agricultural
21 commodity has been subjected to ~~processing~~a process such as canning,
22 cooking, dehydration, freezing, ~~dehydrating~~, or milling, ~~the residue of the~~any
23 pesticide chemical~~residue~~ remaining in or on the processed feed may not be
24 deemed unsafe ~~if the,~~ provided:

25 (1) The residue in or on the raw agricultural commodity has been removed to
26 the extent possible in good manufacturing practice; and the

27 (2) The concentration of the residue in the processed feed is not greater than
28 the tolerance prescribed for the raw agricultural commodity ~~unless,~~

29 c. The exception set forth in subdivision b does not apply if the feeding of such
30 processed feed ~~will result or is likely to~~may result in a pesticide residue in the
31 edible product of the animal, ~~which~~ evidencing a pesticide residue that is unsafe

- 1 within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act,
2 as amended [~~Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a~~];
- 3 ~~e.5.~~ If it is, or it bears or Commercial feed is adulterated if it contains, any color additive that
4 is unsafe within the meaning of section 721 of the Federal Food, Drug, and Cosmetic
5 Act, as amended [~~Pub. L. 102-571; 106 Stat. 4498; 21 U.S.C. 379e~~]; ~~or.~~
- 6 ~~f.6.~~ If it is, or it bears or Commercial feed is adulterated if it contains, any new animal drug
7 ~~which~~that is unsafe within the meaning of section 512 of the Federal Food, Drug, and
8 Cosmetic Act, as amended [~~Pub. L. 90-399; 82 Stat. 343; 21 U.S.C. 360b~~];
- 9 ~~2.7.~~ In addition to the foregoing subsections, commercial feed is adulterated if:
- 10 ~~a.~~ a. If anyAny valuable constituent has been omitted, in whole or in part ~~emitted or~~
11 ~~abstracted therefrom or any~~removed from the feed an, thereby providing a
12 lower nutritive value in the finished product;
- 13 ~~3.~~ ~~b.~~ b. If itsThe composition or quality of the feed falls below or differs from that which it
14 ~~is purported or is represented to possess by its labeling~~is stated on its label;
- 15 ~~4.~~ ~~c.~~ c. If itThe feed contains added hulls, screenings, straw, cobs, or other high fiber
16 material, ~~unless the name of each such~~each material is stated on the label;
- 17 ~~5.~~ ~~d.~~ d. If itThe feed contains viable weed seeds in amounts exceeding the limits
18 ~~which~~that the commissioner ~~shall establish~~establishes by rule;
- 19 ~~6.~~ ~~e.~~ e. If itThe feed contains a drug and the methods used in or the facilities or controls
20 used for its manufacturing, processing, or packaging do not conform to current
21 good manufacturing practice rules adopted by the commissioner ~~to assure that~~
22 ~~the drug meets the requirement of this chapter as to safety and has the identity~~
23 ~~and strength and meets the quality and purity characteristics that it purports or is~~
24 ~~represented to possess;~~
- 25 ~~7.~~ ~~f.~~ f. If itThe feed consists in whole or in part of any filthy, putrid, or decomposed
26 substance, or if ~~it~~the feed is otherwise unfit for ~~feed~~its intended use;
- 27 ~~8.~~ ~~g.~~ g. If itThe feed has been prepared, packed, or held under unsanitary conditions,
28 ~~whereby it~~that may have caused it to become contaminated with filth; or ~~whereby~~
29 ~~it may have been rendered injurious to health;~~
- 30 ~~9.~~ ~~h.~~ h. If itThe feed is; deemed unsafe under section 402(a)(1) or (2) of the Federal
31 Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 342] because the feed is,

1 in whole or in part, the product of a diseased animal or of an animal that has died
2 otherwise than by slaughter which is unsafe within the meaning of section 402(a)
3 (1) or (2) of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L.
4 75-717; 52 Stat. 1046; 21 U.S.C. 342];

5 40. i. If ~~its~~The feed's container is composed, in whole or in part, of any poisonous or
6 deleterious substance that may render the contents injurious to health;

7 j. The feed has been packaged in bags or totes that previously contained pesticide
8 products, treated seeds, or other hazardous materials; or

9 41. k. If ~~it~~The feed has been intentionally subjected to radiation, unless the use of the
10 radiation was in conformity with the regulation or exemption in effect pursuant to
11 section 409 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L.
12 85-929; 72 Stat. 1785; 21 U.S.C. 348].

13 **SECTION 12. AMENDMENT.** Section 19-13.1-08 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **19-13.1-08. Misbranding.**

16 ~~No~~A person may ~~not~~ distribute any commercial feed that is misbranded feed. ~~A commercial~~
17 ~~feed or customer-formula feed is~~Commercial feed is misbranded if:

18 1. ~~If its labeling~~Its label is false or misleading in ~~any particular;~~

19 2. ~~If it~~It is distributed under the name of another commercial feed;

20 3. ~~If it~~It is not labeled as ~~required in section 19-13.1-04 and in rules prescribed under~~in
21 accordance with this chapter;

22 4. ~~If it~~It purports to be or is represented as being a commercial feed, or if it purports to
23 contain or is represented as containing a commercial feed ingredient, unless the
24 commercial feed or feed ingredient conforms to the definition of identity, if any,
25 prescribed by rules of the agriculture commissioner; ~~in the adopting of the rules the~~
26 ~~commissioner shall give due regard to commonly accepted definitions such as those~~
27 ~~issued by the association of American feed control officials;~~ or

28 5. ~~If any word, statement, or other~~Any information required by ~~or under~~ authority of this
29 chapter ~~to appear on the label or labeling~~ is not prominently placed ~~thereon,~~ with such
30 conspicuousness, ~~as compared with other words, statements, designs, or devices in~~
31 ~~the labeling, and in such terms~~so as to render it likely ~~to be read and~~

1 ~~understood~~readable and comprehensible by the ~~ordinary~~an individual under
2 customary conditions of purchase and use.

3 **SECTION 13. AMENDMENT.** Section 19-13.1-09 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **19-13.1-09. Inspection, sampling, analysis.**

6 1. a. ~~For the purpose of enforcement of~~purposes of enforcing this chapter, ~~and in order~~
7 ~~to determine whether its provisions have been complied with, including whether~~
8 ~~or not any operations may be subject to such provisions,~~designated officers
9 ~~or~~and employees ~~duly designated by~~of the agriculture commissioner, ~~upon~~
10 ~~presenting appropriate credentials, and a written notice to the owner, operator, or~~
11 ~~agent in charge, are authorized to~~ may enter and inspect, during normal business
12 hours, any factory, warehouse, or establishment ~~within the~~in this state, in which
13 commercial feeds are manufactured, processed, packed, or held for distribution,
14 ~~or to~~provided the individuals first present their credentials and written notice to
15 the owner or manager.

16 b. For purposes of enforcing this chapter, designated officers and employees of the
17 commissioner may enter and inspect any vehicle being used to transport or hold
18 such feeds; ~~and to inspect~~commercial feed, provided the individuals first present
19 their credentials and written notice to the owner, manager, or driver.

20 2. Any inspection authorized under this section must take place at reasonable times and,
21 within reasonable limits, and in a reasonable manner, ~~the factory, warehouse,~~
22 ~~establishment, or vehicle and all pertinent equipment, finished and unfinished~~
23 ~~materials, containers, and labeling therein. The inspection may include the verification~~
24 ~~of only such records and production and control procedures, as may be necessary to~~
25 ~~determine compliance with the good manufacturing practice rules established under~~
26 ~~subsection 6 of section 19-13.1-07~~this chapter and rules implemented under this
27 chapter.

28 2-3. A separate notice must be given for each ~~such~~authorized inspection, ~~but a.~~ However, a
29 separate notice is not required for each entry made during the period covered by the
30 inspection. Each inspection must be commenced and completed with reasonable

1 promptness. Upon completion of the inspection, the ~~person~~individual in charge of the
2 facility or the individual in charge of the vehicle must be so notified.

3 ~~3.4.~~ If the officer or employee making an inspection of a factory, warehouse, or other
4 establishment has obtained a sample in the course of the inspection, upon completion
5 of the inspection and prior to leaving the premises, the officer or employee shall give
6 to the owner, ~~operator, or agent in charge~~ or manager a receipt describing the
7 samples obtained.

8 ~~4.5.~~ If the owner, or agent of the owner, of any factory, warehouse, or establishment
9 described in subsection 1 refuses to admit the officer or agent to inspect in
10 accordance with If an officer or employee of the commissioner is denied entry as
11 authorized by this section, the commissioner is ~~authorized to~~may obtain a warrant
12 from any state court directing the owner or the owner's agent manager to submit the
13 premises described in the warrant to inspection.

14 ~~5.6.~~ Any ~~agent~~officer or employee of the commissioner is authorized to enter upon any
15 public or private premises, including any vehicle of transport, during regular business
16 hours to have access to, and to any structure or vehicle in accordance with this
17 section, may obtain samples, and to examine records relating to distribution of
18 commercial feeds to enforce this chapter.

19 ~~6.7.~~ Sampling under this section must be conducted in accordance with generally
20 recognized methods and any analysis of the samples taken must be conducted in
21 accordance with methods published by the association of official analytical chemists or
22 in accordance with other generally recognized laboratory methods.

23 ~~7.8.~~ The commissioner shall forward the results of all analyses of official samples must be
24 forwarded by the commissioner any sample analysis to the person named on the label
25 and to the purchaser. ~~When the inspection and analysis of an official sample~~

26 9. If an analysis indicates that a commercial feed has been adulterated or misbranded,
27 the registrant person named on the label may request a portion of the sample
28 concerned, within thirty days following receipt of the analysis, request that the
29 commissioner provide to the person a portion of the sample.

1 ~~8-10.~~ In determining for administrative purposes whether a commercial feed is deficient in
2 any component, the commissioner must be guided by the official sample obtained and
3 analyzed as provided for in this chapter.

4 **SECTION 14. AMENDMENT.** Section 19-13.1-11 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **19-13.1-11. Detained commercial feeds.**

7 1. ~~When~~ If the agriculture commissioner has reasonable cause to believe ~~any~~ a lot of
8 commercial feed is being distributed in violation of this chapter or of any of the
9 ~~prescribed regulations under~~ rules implementing this chapter, the commissioner may
10 issue and enforce a written or printed a "withdrawal from distribution" order,
11 ~~warning~~ prohibiting the distributor ~~not to dispose~~ from disposing of the lot of feed in any
12 manner until written permission is given by the commissioner or ~~they~~ a court. The
13 commissioner shall release the lot of commercial feed ~~so withdrawn when the~~
14 ~~provisions and rules have been complied with~~ when there has been compliance with
15 this chapter and the rules implementing this chapter. If compliance is not obtained
16 within thirty days, the commissioner may begin, or upon request of the distributor shall
17 begin, proceedings for condemnation.

18 2. Any lot of commercial feed not in compliance with ~~the provisions and regulations~~ this
19 chapter or rules implementing this chapter is subject to seizure on complaint of the
20 commissioner to a court of competent jurisdiction ~~in the area in which the commercial~~
21 ~~feed is located~~. If the court finds the commercial feed to be in violation of this chapter
22 or rules implementing this chapter and orders the condemnation of the commercial
23 feed, it must be disposed of in any manner consistent with the quality of the
24 commercial feed and the laws of the state; ~~provided, that in no instance may the~~ A
25 court may not order disposition of the commercial feed ~~be ordered by the court~~ without
26 first giving the claimant an opportunity to apply ~~to the court~~ for its release of the
27 ~~commercial feed~~ or for permission to process or relabel the commercial feed to bring it
28 into compliance with this chapter and rules implementing this chapter.

29 **SECTION 15. AMENDMENT.** Section 19-13.1-12 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **19-13.1-12. Penalties.**

- 2 1. Any person convicted of violating this chapter or the rules ~~issued thereunder or~~
3 ~~who implementing this chapter and any person that~~ impedes, obstructs, hinders, or
4 otherwise prevents or attempts to prevent the agriculture commissioner from
5 performing the commissioner's duties in connection with ~~the provisions of this chapter~~
6 is guilty of a class A misdemeanor. In all prosecutions under this chapter involving the
7 composition of a lot of commercial feed, a certified copy of the official analysis signed
8 by the person performing the analysis, or that person's authorized agent, must be
9 accepted as prima facie evidence of the composition.
- 10 2. This chapter does not require the commissioner to seek prosecution or ~~the institution~~
11 ~~of seizure proceeding~~ take any other legal action based on minor violations of the
12 chapter ~~when~~ if the commissioner deems that the public interest will be best served by
13 a suitable ~~notice of~~ written warning ~~in writing~~.
- 14 3. Each state's attorney to whom any violation is reported shall cause appropriate
15 proceedings to be instituted and prosecuted in a court of competent jurisdiction without
16 delay. Before the commissioner reports a violation for prosecution, the commissioner
17 shall provide an opportunity ~~shall be given~~ for the distributor to present the distributor's
18 view to the commissioner.
- 19 4. The commissioner may apply for and the court may grant a temporary or permanent
20 injunction restraining any person from violating or continuing to violate this chapter or
21 any rule ~~adopted under the~~ implementing this chapter ~~notwithstanding the existence of~~
22 ~~other remedies at law. The~~ An injunction is to be issued without bond.
- 23 5. Any person adversely affected by an act, order, or ruling made pursuant to this chapter
24 may within forty-five days thereafter bring action in the district court for Burleigh
25 County for new trial of the issues bearing upon such act, order, or ruling, and upon
26 such trial the court may issue and enforce such orders, judgments, or decrees as the
27 court may deem proper, just, and equitable.

28 **SECTION 16. AMENDMENT.** Section 19-13.1-13 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **19-13.1-13. Publications.**

2 1. The agriculture commissioner may publish, ~~in such forms as the commissioner may~~
3 determine ~~proper~~, information concerning the sales ~~of~~regarding commercial feeds,
4 together with such data ~~on~~including their production, sales, and use as the
5 commissioner may consider advisable, ~~and a report of the results of, and publish a~~
6 comparison of the analyses of official samples of commercial feeds sold ~~within the~~in
7 this state. However, the information concerning with the analyses guaranteed in their
8 registration and on their label.

9 2. Information regarding the production and use of commercial feeds may not disclose
10 the operations of any person.

11 **SECTION 17.** A new section to chapter 19-13.1 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Certificates - Fees.**

14 The agriculture commissioner may:

- 15 1. Implement a program to inspect, audit, and certify commercial feed manufacturing and
16 distribution facilities, at the request of an owner;
17 2. Issue commercial feed export certificates; and
18 3. Establish a schedule of fees for the services provided under this section.

19 **SECTION 18. REPEAL.** Sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North
20 Dakota Century Code are repealed.