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CHAPTER 27.

 SOUTH CAROLINA COMMERCIAL FEED ACT

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 46‑27‑10.** Short title.

This chapter shall be known and cited as the “South Carolina Commercial Feed Act.”

**SECTION 46‑27‑20.** Definitions.

(1) The term “commercial feed” means all materials distributed for use as feed or for mixing in feed except (a) whole hays, straw, cottonseed hulls, corn stover and ground corn cob and shuck; (b) raw and unprocessed fresh or frozen fish, beef, horse meat, poultry and by‑products of these items, together with and including limestone and granite or similar substance, when they are not mixed with other materials; (c) unmixed whole seeds or grains of cereals when not mixed with other materials and when not in such damaged condition as to be unfit for feed purposes as determined by inspection.

(2) The term “pet” means any domesticated animal normally maintained in or near the household of the owner.

(3) The term “pet food” means any commercial feed prepared and distributed for consumption by pets.

**SECTION 46‑27‑30.** Unmixed crushed or ground ear corn is a commercial feed.

Crushed or ground ear corn when sold by itself is a commercial feed and the sale thereof within this State shall be governed by the provisions of Articles 1 to 9 of this chapter and the regulations prescribed by the Commissioner of Agriculture.

**SECTION 46‑27‑40.** Certain sales unlawful.

It shall be unlawful for any manufacturer, importer, jobber, agent or dealer to (1) sell or offer or expose for sale or distribution in this State any commercial feed without complying with the requirements of Articles 1 to 9 of this chapter or (2) sell or offer or expose for sale or distribution any commercial feed which contains substantially a smaller percentage of crude protein, crude fat or carbohydrates or a larger percentage of crude fiber than certified to be contained.

**SECTION 46‑27‑50.** Seeds shall not be treated with poisons if destined for manufacture into commercial feed.

It shall be unlawful for any person to offer for sale any seeds which have been treated with poisons if destined to be manufactured into commercial feeds.

**SECTION 46‑27‑60.** Standard weights of bags and packages.

All commercial feeds shall be packed in standard weight bags or packages of twenty‑five, fifty, seventy‑five, one hundred, one hundred twenty‑five, one hundred fifty, one hundred seventy‑five or two hundred pounds. The Commissioner may prescribe other standard bag or package weights if they are in the consumer’s interest or if they are to promote uniformity or are consistent with good trade practices.

**SECTION 46‑27‑70.** Rules and regulations of Commissioner.

The Commissioner shall from time to time prescribe and publish regulations for carrying out the provisions of Articles 1 to 9 of this chapter.

**SECTION 46‑27‑80.** Rules and regulations as to grading.

The Commissioner may prescribe regulations governing the grading of any and all commercial feeds.

ARTICLE 3.

 REGISTRATION

**SECTION 46‑27‑210.** Statement and sample shall be filed.

Each manufacturer, importer, jobber, agent or seller before selling or offering or exposing for sale in this State any commercial feed shall, for each and every feed bearing a distinct name or trademark, file for registration with the Commissioner a copy of the statement required in Section 46‑27‑310 and accompany the statement, on request, by a sealed container of at least one pound of the commercial feed. The sample shall correspond within reasonable limits to the feed which it represents in the percentages of crude protein, crude fat and crude fiber which it contains.

**SECTION 46‑27‑220.** If manufacturer files statement, seller need not.

Whenever a manufacturer, importer or jobber of any commercial feed shall have filed a statement, as required by Section 46‑27‑210, no agent or seller of such manufacturer, importer or jobber shall be required to file such statement.

**SECTION 46‑27‑230.** Refusal or cancellation of registration.

The Commissioner may refuse the registration of any commercial feed under a name which would be misleading as to the materials of which it is composed or when the names of all ingredients of which it is composed are not stated. Should any commercial feed be registered and it is afterward discovered that it does not comply with the provisions of Articles 1 to 9 of this chapter, the Commissioner shall notify the registrant of the noncompliance. The notice shall apprise the registrant that he may request a hearing within thirty days of receipt of the notice. If such request for a hearing is made within the time allowed, the Commissioner shall schedule a hearing within thirty days after receipt of the request and shall allow the registrant to refute the allegations of noncompliance. If, after the hearing, the Commissioner is still convinced that the commercial feed does not comply with the provisions of Articles 1 to 9 of this chapter he may cancel such registration.

ARTICLE 5.

 LABELING

**SECTION 46‑27‑310.** Labeling of commercial feeds.

Every lot or parcel of commercial feed sold or offered or exposed for sale within this State shall have affixed thereto or printed thereon in a conspicuous place on the outside a legible and plainly printed statement in the English language clearly and truly certifying:

(1) The weight of the package;

(2) The name, brand or trademark under which the article is sold;

(3) The name and address of the manufacturer, jobber or importer;

(4) The name of each and all ingredients of which the article is composed; provided, that the Commissioner by regulation may permit the use of a collective term for a group of ingredients which perform a similar function or he may exempt such commercial feeds or any group thereof from this requirement of an ingredient statement if he finds that such statement is not required in the interest of consumers;

(5) A statement of the minimum percentage of crude protein, the minimum percentage of crude fat and the maximum percentage of crude fiber.

**SECTION 46‑27‑320.** Labels shall not be fastened to bag by metal holders.

No tags, cards or descriptive matter shall be fastened by metal holders to bags containing commercial feed, including sacked cottonseed meal and hulls.

**SECTION 46‑27‑330.** Cards for sales in bulk.

Whenever any commercial feed is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping it for sale shall keep cards of proper size upon which the statement required by Section 46‑27‑310 shall be plainly printed; and if the commercial feed is sold at retail in bulk or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber or importer shall furnish the purchaser with one of the cards upon which is printed the statement required by Section 46‑27‑310.

**SECTION 46‑27‑340.** How percentages are determined.

The percentages of crude protein, crude fat and crude fiber required to be stated under the provisions of Section 46‑27‑310 shall be determined by the methods in use at the time by the Association of Official Analytical Chemists of the United States.

ARTICLE 7.

 SAMPLES AND ANALYSES

**SECTION 46‑27‑410.** Commissioner may inspect and take samples.

The Commissioner, together with his deputies, agents and assistants shall have access to all places of business, mills and storage facilities used in the manufacture, importation or sale of any commercial feed and may open any package containing or supposed to contain any commercial feed during the normal operating hours of business and upon tender and payment of the selling price of samples, take therefrom, in the manner prescribed in this article, samples for analysis.

**SECTION 46‑27‑420.** Analysis of samples; how samples are taken.

The Commissioner shall annually cause to be analyzed at least one sample so taken of every commercial feed that is found, sold or offered or exposed for sale in this State under the provisions of Articles 1 to 9 of this chapter. The samples, not less than one pound in weight, shall be taken from not less than ten bags or packages, or if there be less than ten bags or packages, then from each bag or package, if it be in bag or package form, or if such commercial feed be in bulk, then from ten different places of the lot.

**SECTION 46‑27‑430.** Publication of results of analyses.

The Commissioner may publish from time to time in reports or bulletins the results of the analyses of such samples, together with such additional information as circumstances advise; provided, however, that if such a sample as analyzed by the Commissioner differs from the statement prescribed in Section 46‑27‑310, then at least thirty days before publishing the results of such analysis the Commissioner shall give written notice of such results to the manufacturer, importer, agent or jobber of such stock, if the name and address of such manufacturer, jobber or importer be known; provided, further, that if the analysis of any such sample does not differ substantially from the statement prescribed by Section 46‑27‑310, appearing upon the goods, the manufacturer may be considered as having complied with the requirements of Articles 1 to 9 of this chapter.

**SECTION 46‑27‑440.** Obstructing inspection of feed.

Any manufacturer, importer, jobber or dealer who refuses to comply with the requirements of the provisions of Articles 1 to 9 of this chapter or any manufacturer, importer, jobber or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of such articles shall be guilty of a violation of the provisions of such articles.

**SECTION 46‑27‑450.** Analysts, chemists and inspectors.

The Commissioner shall appoint such analysts, chemists and inspectors as may be required to carry out the provisions of Articles 1 to 9 of this chapter.

**SECTION 46‑27‑460.** Certificate of analyst as prima facie evidence.

In all prosecutions in the courts of this State arising under the provisions of Articles 1 to 9 of this chapter and the regulations made in accordance therewith, the certificate of the analyst or other officer making the analysis or examination when duly sworn to and subscribed by such analyst or officer shall be prima facie evidence of the facts therein certified.

ARTICLE 9.

 ENFORCEMENT

**SECTION 46‑27‑610.** Commissioner may suspend sales of feed.

If at any time the Commissioner or his duly authorized representative shall have reason to believe that any commercial feed offered or exposed for sale in this State does not comply with the requirements of Articles 1 to 9 of this chapter, as to the ingredients or substances of such commercial feed, he shall by written order suspend the sale of it until he shall have satisfied himself that such commercial feed is made up or compounded as required by such articles. If he shall find that such commercial feed does not comply with such articles, then he is authorized to proceed with regard to it as provided in Sections 46‑27‑620 to 46‑27‑640.

**SECTION 46‑27‑620.** Forfeiture for violation of Section 46‑27‑40.

If any manufacturer, importer, jobber, agent or dealer shall be guilty of a violation of Section 46‑27‑40, the lot of commercial feed in question shall be seized and condemned, sold or destroyed by the Commissioner, or his duly authorized representative, and the proceeds from such sales shall be covered into the State Treasury for the use of the Department of Agriculture.

**SECTION 46‑27‑630.** How sales shall be made.

Such seizure and sale shall be made by the Commissioner or under the direction of any officer of his appointment. The sale shall be made at the courthouse door of the county in which the seizure is made; provided that whenever, for sufficient reasons appearing to the Commissioner or his representative, another place of sale is more convenient and more desirable, such place of sale may be selected. The sale shall be advertised for thirty days in a newspaper published in the county in which the seizure is made or if no newspaper is published in such county, then it shall be advertised in a newspaper published in the nearest county having a newspaper. The advertisement shall state the brand or name of the goods, the quantity, why seized and offered for sale and the time and place of sale.

**SECTION 46‑27‑640.** When seized feed may be released.

The Commissioner, however, may in his discretion release the commercial feeds so withdrawn when the requirements of the provisions of Articles 1 to 9 of this chapter have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.

**SECTION 46‑27‑650.** Commissioner to notify dealer and solicitor of violations; prosecution.

Whenever the Commissioner, or his duly authorized representative, becomes cognizant of any violation of the provisions of Articles 1 to 9 of this chapter, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known, and after thirty days he shall notify the circuit solicitor who shall cause such person so violating any such provision to be prosecuted in the manner prescribed by law.

**SECTION 46‑27‑660.** Penalty.

Any manufacturer, importer, jobber, agent or dealer who shall be convicted of violating any of the provisions of Articles 1 to 9 of this chapter or the regulations adopted by the Commissioner shall be fined not exceeding two hundred fifty dollars for the first offense nor more than five hundred dollars for each subsequent offense.

**SECTION 46‑27‑670.** Use of fines.

The proceeds from such fines shall be covered into the State Treasury for use of the Department of Agriculture.

**SECTION 46‑27‑680.** Schedule of penalties; payment.

If the analysis of an official sample shows a deviation from permitted analytical variation established by the Commissioner, the registrant or other responsible person shall be penalized according to the following schedule:

Component Deviating Method of Penalty Assessment

Crude protein Two times the relative percentage [FN1] of deviation

 from the guarantee multiplied by the retail value

 of the commerical feed.

Crude fat Ten percent of the retail value of the lot of

 commercial feed.

Crude fiber Ten percent of the retail value of commercial feed.

Penalties for multiple deficiencies within a sample shall be additive; provided, that in no case shall the penalty exceed the retail value of the product. The minimum penalty under any of the foregoing provisions shall be twenty‑five dollars or the retail value of the product, whichever is smaller, regardless of the value of the deficiency.

Within sixty days from the date of written notice by the Commissioner or his duly designated agent to the manufacturer, guarantor, dealer or agent, all penalties assessed and collected under this section shall be paid to the purchaser of the lot of commercial feed or pet food represented by the sample analyzed. When such penalties are paid, receipts shall be taken and promptly forwarded to the Commissioner. If the consumers cannot be found, the amount of the penalty assessed shall be paid to the Commissioner who shall deposit it in the Department of Agriculture fund, of which the State Treasurer is custodian, for the express purpose of enforcement of this article.

[FN1] Example: A feed guaranteed 16.0% protein and assaying only 14.0% will be considered as 2.0% / 16.0% or 12.5% deficient in protein. The penalty will be computed as 2 × 0.125 × retail value of the feed or 0.25 × retail value of the feed.

**SECTION 46‑27‑690.** “Permitted analytical variation” defined.

The term “permitted analytical variation”, as stated in Section 46‑27‑680, means allowance for the inherent variability in sampling and laboratory analysis in guaranteed components. Manufacturing variations and their effect on the guaranteed components are not included in such values.

ARTICLE 11.

 STOCK OR POULTRY PREPARATIONS

**SECTION 46‑27‑810.** Declaration of purpose.

This article is designed to fully cover all preparations commonly known as condimental, patented, proprietary or trademarked stock or poultry tonic, stock or poultry regulators, stock or poultry conditioners, stock or poultry remedies and all similar preparations used for tonic, regulative, remedial or conditional purposes, and to protect the public from deception and fraud in the sale of these specific products.

**SECTION 46‑27‑820.** Prerequisites to sale of patent stock or poultry preparations.

Before any condimental, patented, proprietary or trademarked preparation called a “stock or poultry tonic”, “stock or poultry regulator”, “stock or poultry conditioner”, or “stock or poultry remedy”, or any similar preparation, regardless of how it may be called or the specific name or title under which it is sold, which is represented as containing tonic, remedial or other medicinal properties, is sold or offered or exposed for sale in the State, the manufacturer, importer, dealer, agent or person who causes it to be sold or offered or exposed for sale, by sample or otherwise, within this State, shall file with the Commissioner:

(1) A statement that he desires to offer such preparation for sale in this State;

(2) A certificate, the execution of which shall be sworn to before a notary public or other proper official for registration, stating

(a) the name of the manufacturer,

(b) the location of the principal office of the manufacturer,

(c) the name, brand or trademark under which the preparation will be sold;

(3) A guaranty that

(a) the preparation is not injurious to the health of domestic animals and does not conflict with the drug requirements of Articles 1 and 3 of Chapter 53 of Title 44,

(b) the name or trademark under which the article is sold will not mislead or deceive the purchaser in any way,

(c) any statement, design or device on the label or package regarding the substances contained therein shall be true and correct and any claim made for the feeding, condimental, tonic or medicinal value shall not be false or misleading in any particular;

(4) A labeled package of each brand of goods, showing the claims made for it.

**SECTION 46‑27‑830.** Change of labeling and claims.

The labeling and claims filed pursuant to Section 46‑27‑820 shall not be changed during a fiscal year for which registration has been made without the consent of the Commissioner.

**SECTION 46‑27‑840.** Registration fee.

For the expense incurred in registering, inspecting and analyzing the preparations referred to in Section 46‑27‑820, a registration fee of ten dollars for each separate brand or, in lieu thereof, a maximum fee of fifty dollars per annum covering all brands made by a single manufacturer shall be paid by the manufacturer or seller of such preparations to the Commissioner during the month of January in each year.

**SECTION 46‑27‑850.** Penalty.

Any person who shall offer or expose for sale any package, sample or quantity of any preparation referred to in Section 46‑27‑820 which has not been registered or which, though registered, is subsequently found by an analysis or examination made by or under the direction of the Commissioner to contain harmful or injurious substances or to be labeled with false or misleading statements regarding its contents or curative properties shall be guilty of a misdemeanor and upon conviction shall be fined fifty dollars for the first offense and one hundred dollars for each subsequent offense.

**SECTION 46‑27‑860.** Commissioner shall enforce article.

Whenever the Commissioner becomes cognizant of any violation of any of the provisions of this article, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known. Any party so notified shall be given an opportunity to be heard under such regulations as may be prescribed by the Commissioner. If it appears that any of the provisions of this article have been violated, the Commissioner shall certify the facts to the solicitor in the district in which the sample was obtained and furnish that officer with a copy of the result of the analysis or other examination of the article, duly authenticated by the analyst or other officer making such examination under the oath of such officer. In all prosecutions arising under this article the certificate of the analyst or other officer making the analysis or examination, when duly sworn to by such officer, shall be prima facie evidence of the facts therein certified.

**SECTION 46‑27‑870.** Solicitors shall prosecute violations.

Every solicitor to whom the Commissioner shall report any violation of this article shall cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases prescribed.

**SECTION 46‑27‑880.** Fines and other moneys paid to general fund of state.

All money, including fines received under the provisions of this article, shall be paid to the general fund of the State. Payment to the general fund shall be made in conformance to procedures established by the Budget and Control Board.