



Texas Commercial
FEED CONTROL ACT
of 1957



Article 3881e
Vernon's Civil Statutes



Effective September 1, 1957

TEXAS AGRICULTURAL EXPERIMENT STATION
R. D. Lewis, Director, College Station, Texas

CONTENTS

Administration	3
Adulteration	12
Appeal	21
Certain Exemptions from the Livestock Remedy Act	21
Constitutionality	21
Customer Formula Feed, Special Formula Feed, Made-to-order Feed or Custom Milled Feed	5
Definitions	3
Detained Commercial Feed	17
Inspection Fee	9
Inspection, Sampling and Analysis.....	14
Labeling	8
Misbranding	13
Penalties	19
Pending Court Cases	20
Publications	20
Registration	6
Repeal of Prior and Conflicting Laws	20
Rules and Regulations	16
Title	3
Unlawful Acts	18

Texas Commercial Feed Control

Act of 1957

Section 1. **TITLE.** This Act shall be known and may be cited as the "Texas Commercial Feed Control Act of 1957."

Sec. 2. **ADMINISTRATION.** The provisions of this act shall be administered by the Director of the Texas Agricultural Experiment Station of the State of Texas, hereinafter referred to as the "Director."

Sec. 3. **DEFINITIONS.** The words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meaning:

(a) The term "commercial feed" includes customer-formula feed as this term is used in this Act and means any material whether simple, mixed compounded, ground, unground, organic or inorganic, used as a feed for animals other than man, or any material including minerals, vitamins, antibiotics, antioxidants, medicines, drugs, chemicals and other substances, materials or elements, or parts thereof intended for use or used as an ingredient or component of a mixture of materials, used as a feed for animals other than man; but the term shall not be construed as including (1) unground hay, (2) planting seed, (3) cottonseed, (4) whole grain not containing chemical adulterants, (5) unadulterated cottonseed, peanut, or rice hulls, (6) feed products produced and sold by farmers, (7) individual mineral substances when not mixed with other material, or (8) materials furnished by the customer-buyer and which were produced by the customer-buyer or acquired by him from a source other than from the person whose services are engaged in the milling, mixing, or processing of a mixture prepared for and in accordance with the specific instruction of the customer-buyer.

(b) The term "sell" or "sale" includes exchange.

(c) The term "distribute" means to offer for sale, sell, barter, or otherwise supply commercial feeds.

(d) The term "Director" means the Director of the Texas Agricultural Experiment Station, and includes his duly appointed representatives.

(e) The term "person" means an individual of either sex, a firm, broker, jobber, partnership, corporation, company, legal entity, society, or association, and every agent, officer or employee of any thereof. The term imparts both the plural and the singular as the case may be.

(f) The term "container" means any bag, box, barrel, package, carton, object, apparatus, device, appliance or other container into which commercial feed is packed, stored, or placed for handling or transporting.

(g) The term "weight" means weight in the avoirdupois system.

(h) The term "feed ingredient" means each of the constituent materials making up a commercial feed.

(i) The term "customer-formula feed" means a mixture of commercial feeds or feed materials, each batch of which is mixed according to the specific instructions of the final purchaser.

(j) The term "brand" means the term, design, or trademark and other specific designation under which an individual commercial feed is distributed in this State.

(k) The terms "label" and "labeling" mean 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 in bulk or with which a customer-formula feed is distributed either in bulk or otherwise.

(l) The term "ton" means a net weight of two thousand pounds avoirdupois.

(m) The term "per cent" or "percentage" means percentage by weight.

(n) The term "official sample" means any sample of feed taken by the Director or his agent and designated as "official" by the Director.

(o) The terms "purchaser" and "customer-buyer" mean any person, firm, organization, agency, association, or group who

buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mix or custom-mill services.

(p) The term "custom-mix" or "custom-mill" means services only.

(q) The term "permit" means a document issued by the Director for the purpose of authorizing the payment of the inspection fee due on commercial feed when the tax is to be paid on the tonnage of feed sold rather than by the purchase of inspection tags (or certificates).

(r) The term "tag (or certificate)" means the tag (or certificate) supplied by the Director and is the method of paying the inspection fee other than by means of the permit.

(s) The term "animal" means any animate being which is not human, having the power of voluntary action.

Sec. 4. CUSTOMER-FORMULA FEED, SPECIAL-FORMULA FEED, MADE TO ORDER FEED AND CUSTOM-MIXED OR CUSTOM-MILLED FEEDS.

(a) The terms "customer-formula feed," "special-formula feed" and "made to order feed" are synonymous and mean a mixture of commercial feed and/or feed material, all or any part of which is furnished by the person or distributor who processes, mixes, mills, or otherwise prepares such mixture, and which is mixed according to the specific instructions of the purchaser. The term "customer-formula feed" as used in this Act includes "special-formula feed," "made to order feed" and any other terms coming within this definition. Any portion of such a mixture that was produced by the purchaser or acquired by him from a source other than from the person who mixes, mills, or processes the mixture is exempt from payment of the inspection fee, but the name and quantity of each item supplied by the purchaser must be shown and properly identified as such on the invoice furnished the purchaser and the portion of such mixture that is furnished by the person or distributor who processes, mixes, mills or otherwise prepares such mixture, shall likewise be shown on the invoice setting forth the information provided for in Section 6(c) of this Act.

(b) No manufacturer or other person shall mix, mill, process or engage in a practice in the mixing, milling, or preparation of a customer-formula feed unless and until he has complied with the provisions of Section 7 of this Act.

(c) Under Section 3(a) of this Act, the term "commercial feed" is defined to include customer-formula feed. This definition is hereby re-affirmed, and all of the provisions of this Act which apply to commercial feed also apply with equal force and effect upon "customer-formula feed" except where the language specifically exempts "customer-formula feed."

(d) The terms "custom-mixed," "custom-milled," or similar terms mean the service rendered a customer or purchaser in the milling, mixing or processing of materials produced by the customer or purchaser or acquired by him from a source other than from the person who mixes, mills, or processes the mixture, and are not subject to the provisions of this Act.

Sec. 5. REGISTRATION.

(a) Each brand of commercial feed, except customer-formula feed, shall be registered before being offered for sale, sold or otherwise distributed in this State. The application for registration shall be submitted to the Director on forms furnished by the Director, and if the Director so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the Director, a copy of the registration shall be furnished to the applicant if the registration forms are submitted in duplicate. All registrations are considered permanent unless new registrations are called for by the Director or unless cancelled by the registrant. The application shall include the following information:

(1) The name and principal address of the person responsible for distributing the commercial feed.

(2) The name or brand under which the commercial feed is to be sold, offered for sale, delivered or distributed.

- (3) The guaranteed analysis, listing:
- a. The minimum percentage of crude protein

- b. The minimum percentage of crude fat
- c. The maximum percentage of crude fiber

(4) When authorized by the Director, in accordance with rules and regulations which he is authorized to issue, the maximum or minimum or the maximum and minimum quantity determinable by laboratory methods of minerals, vitamins, antibiotics, antioxidants, medicines, drugs, chemicals, and other substances, materials, or elements or parts thereof regardless of whether the claim, if any, as to the use and purpose of any such item or items shall be prophylactic, therapeutic, or otherwise. All such items shall, when guaranteed or claimed, be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the Director.

(5) The common or usual name of each ingredient used in the manufacture of the commercial feed.

(b) A distributor shall not be required to register any brand of commercial feed which is already registered under this Act by another person.

(c) Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which it is designed.

(d) The Director is empowered to refuse registration of any application not in compliance with all provisions of this Act, and to cancel after thirty (30) days notice any registration when it is subsequently found to be in violation of any provision of this Act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this Act or regulations thereunder: Provided, however, that no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard.

(e) If the home office or principal place of business of the applicant for registration of a commercial feed is located outside the

State of Texas, the applicant must deposit with the Director an instrument in writing appointing a resident agent upon whom service may be had in actions filed by the State in the administration and enforcement of the provisions of this Act or by a claimant for the recovery of damages.

Sec. 6. LABELING.

(a) Manufacturers or other persons shall, before selling, delivering, or offering for sale any commercial feed in this State except customer-formula feed, have placed on or affixed to the container, on the outside thereof, in one group, in such size type, and in such place and order as may be prescribed by the Director, a plainly printed statement in the English language showing:

(1) The net weight of the commercial feed in the container, or a statement to the effect that the net weight is shown on the container, in which case the net weight must be plainly printed in a conspicuous place on the container in type the size of which may be prescribed by the Director.

(2) The information authorized by Section 5(a) (1), (2), (3), (4), and (5) of this Act.

(b) Manufacturers or other persons shall, at the time of delivery of a commercial feed sold in bulk, except customer-formula feed sold in bulk or otherwise, furnish the purchaser a printed or written statement showing the information authorized by Section 5(a) (1), (2), (3), (4), and (5) of this Act.

(c) A customer-formula feed shall be labeled by invoice to show the following:

(1) Name and address of the mixer, miller or processor.

(2) Name and address of the purchaser.

(3) Date of the sale.

(4) Name or brand and number of pounds of each registered commercial feed used in the mixture, and the name and number of pounds of each ingredient added, including the portion, if any, supplied by the purchaser, and shall be in compliance with the provisions of Section 5 (a) (4) of this Act; provided, however, that the Director may, only when all ingredients are furnished by the mixer, miller or processor, as an al-

ternate to the method required by the preceding language of this Section 6(c) (4), promulgate procedures and prescribed forms that will permit a customer-formula feed to be invoiced and labeled by means of an identifying name, number or similar designation in order to eliminate the necessity of itemizing the name and quantity of each separate item or ingredient contained in such a customer-formula feed.

(5) The invoice bearing the above information shall accompany delivery and be supplied to the purchaser at the time of delivery.

Sec. 7. INSPECTION FEE.

(a) For the purpose of administering the Texas Commercial Feed Control Act of 1957, including the cost of equipment and facilities and the cost of inspecting, analyzing, and examining commercial feed manufactured for sale, sold, offered or exposed for sale or otherwise distributed in this State, and the expense of experiments and research relative to the value thereof, persons engaged in the manufacture, sale, or distribution of commercial feeds or the components of commercial feeds shall pay to the Director, at his office in College Station, Texas, an inspection fee of Ten Cents (10¢) per ton on all such commercial feed. The inspection fee herein levied shall be deposited in the State Treasury and shall there be set apart as a special fund to be known as the Feed Control Fund, and shall be used with the approval and consent of the Board of Directors of the Agricultural and Mechanical College of Texas for the purposes stated in this Section 7(a) of this Act.

(b) The procedure for paying the inspection fee of Ten Cents (10¢) per ton shall, subject to the approval and consent of the Director, be either by the use of the tax tags (or certificates) or by means of the tonnage reporting system or by a combination of both such procedures, and shall, in addition to regulations which the Director is herewith authorized to issue, be in compliance with all the provisions of this Act.

(c) When the inspection fee is to be paid by the use of the tax tag (or certificate) on any commercial feed which is manufactured for sale, sold, or offered for sale, or

otherwise distributed in this State, the manufacturer or any other person who causes it to be manufactured for sale or who sells the same or offers it for sale or makes delivery or distribution of any such commercial feed within the State of Texas, shall affix to each container or package of such commercial feed, except customer-formula feed, and to the invoice of such customer-formula feed distributed in bulk or otherwise, and to the invoice of each lot of such other commercial feed distributed in bulk, a tag (or certificate), to be furnished by the Director, stating that all charges specified in this Article have been paid, and containing the information provided for in Section 6 of this Act. The Director is hereby authorized, empowered, and directed to prescribe the form and denomination of such tags and certificates; provided, however, that if at any time the actual cost to the Feed Control Service of tags (or certificates), including the printing and handling thereof, should be in excess of fifty per cent (50%) of the amount of the inspection fee as provided in this Section 7, the Director may, after giving reasonable notice in such manner as he deems desirable, charge all persons who cause commercial feed to be manufactured, sold, exposed, or offered for sale or otherwise distributed, for the actual total cost of such tags (or certificates) in addition to the inspection fee of Ten Cents (10¢) per ton, and provided further that on individual containers of five (5) pounds or less, a manufacturer or other person may for each State Fiscal Year (September 1st to August 31st, inclusive) or any fractional part thereof, pay in advance a fee of Twenty-five Dollars (\$25.00) for each brand of commercial feed manufactured for sale, sold, offered for sale or otherwise distributed in this State, and such manufacturer or other person shall not be required to affix official tags (or certificates) to such containers of the brands of commercial feed so registered.

(d) When the inspection fee is to be paid by means of the Tonnage Reporting System, the Director is authorized, at his discretion and under such rules and regulations as he may promulgate, to prescribe and furnish such forms and to require the filing of such reports, and shall issue permits bearing a number assigned by the Director on application therefor to any person

who manufactures, sells, offers for sale, or otherwise distributes or has available for distribution in this State, regardless of the manner, means or circumstances as to its entry, presence or existence within this State, any commercial feed. Each applicant for the issuance of a permit must deposit with the Director cash in the amount of One Thousand Dollars (\$1,000.00) or securities acceptable to and approved by the Director of a value of at least One Thousand Dollars (\$1,000.00), or must post with the Director a surety bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00), executed by a corporate surety company authorized to do business in Texas and approved by the Director, conditioned upon the faithful performance of the provisions of this Article; or must post with the Director a bond with at least two good and sufficient and solvent personal sureties, payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00) and approved by the Director, conditioned upon the faithful performance of the provisions of this Article. Each such bond shall be in such form and be effective for such period of time as the Director may prescribe. In addition to all other provisions of this Act, each person who is issued a permit to sell, offer for sale, or otherwise distribute commercial feed and pay the inspection fee in accordance with the tonnage reporting system shall:

(1) Maintain and furnish such records as the Director may require to reflect accurately the total tonnage of all feed handled, and the portion of such tonnage that is sold, offered for sale, or otherwise distributed as commercial feed and is subject to the inspection fee of Ten Cents (10¢) per ton. The Director or his duly authorized representative shall have permission to examine the records of the permittee at all reasonable times. All records shall be preserved and retained in usable condition, and shall be available for examination by the Director or his representative for a period of not less than two years unless otherwise authorized by the Director, and the Director may require the retention of such records for a period of more than two years in instances where it is deemed desirable to do so.

(2) File in the office of the Director at College Station, Texas, within thirty (30)

days after the close of each quarter year ending with the last day of November, February, May, and August, sworn reports covering the tonnage of all feed sold during the preceding quarter together with the payment of tax due for such quarter. A penalty of ten per cent (10%) of any tax which is not paid within the time allowed shall be added to the amount of the tax due, and the amount of the tax and the penalty shall constitute a debt, and shall be recoverable out of the bond hereinbefore referred to; provided that the Director may, if he deems it desirable to do so, require additional reports for the purpose of identification and verification of records.

(3) When located outside of the State of Texas and when distributing commercial feed in the State of Texas, maintain in the State of Texas the records and information required by this Section 7 (d) of this Act or pay all costs incurred in the auditing of records at a location outside of the State. The Director is authorized and directed to revoke the permit and cancel all registrations of any permittee who fails to comply with this requirement. Itemized statements of costs incurred in any such audits shall be furnished the permittee by the Director promptly upon completion of any such audit, and he must pay the same within thirty (30) days from the date of such statement.

(4) Affix to each container or package of such commercial feed, except customer-formula feed, and to the invoice of each lot of commercial feed, except customer-formula feed, sold or otherwise distributed in bulk, a printed statement setting forth the information provided for in Section 6(a) and (b) of this Act.

(5) Affix to the invoice of each customer-formula feed sold or otherwise distributed a statement setting forth the information provided for in Section 6(c) of this Act.

(e) Venue of all suits of recovery of taxes and penalties for non-payment of same shall be in Brazos County, Texas.

Sec. 8. ADULTERATION. A commercial feed shall be deemed to be adulterated:

(a) When its composition, quantity, or quality falls below or differs from that which

it is purported or represented to possess by its labeling;

(b) When it is moldy, sour, heated, or otherwise damaged whereby it is rendered injurious to animals;

(c) When any ingredient has been in whole or in part omitted or extracted therefrom;

(d) When any substance has been substituted wholly or in part therefor;

(e) When damage or inferiority has been concealed in any manner;

(f) When any substance has been added thereto or mixed or packed therewith so as to deceptively increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;

(g) When it bears or contains any poisonous or deleterious substance which may render it injurious to animals under ordinary conditions of use;

(h) When it bears or contains any added hulls, shells, screenings, straw, stalks, corn cobs, or any other low-grade feeding material or filler, unless the name and percentage of such material are clearly and prominently printed on the label and labeling thereof;

(i) When it consists in whole or in part of any diseased, filthy, putrid, or decomposed substance, unless such substance has been rendered harmless by sterilization or other effective processes;

(j) When it is otherwise unfit for feeding to animals.

Sec. 9. MISBRANDING. A commercial feed shall be deemed to be misbranded:

(a) When its container does not bear a tag (or certificate) as required by Section 7 (c) of this Act, unless it is in compliance with the provisions of Section 7(d) of this Act;

(b) When its container does not bear the labeling as required by Section 6 of this Act;

(c) When its labeling is false in any particular;

(d) When its container is so made, formed, or filled as to be misleading;

(e) When it purports to be or is represented as a commercial feed for which a definition of identity and a minimum standard have been prescribed by regulation, unless it conforms to such definitions and standards;

(f) When it is not subject to the provisions of this Section 9(e) of this act, unless its label bears the common or usual name of the commercial feed, if any there be, and in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient;

(g) When any medicines, drugs, or any of the other items named in Section 5(a) (4) of this Act are incorporated in such commercial feed, and the quantity of such item and warning statements and directions for use are not shown on the labeling in compliance with regulations issued by the Director.

Sec. 10. INSPECTION, SAMPLING, AND ANALYSIS.

(a) The Director shall have reasonable access during regular business hours to all places of business, mills, buildings, vehicles, containers, bins, and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feed, and shall have the power and authority to inspect each such place, mill, or vehicle, and to open any container, bin or parcel containing or supposed to contain any commercial feed, and to take samples therefrom in the manner prescribed by regulation by the Director as he deems necessary to determine whether such commercial feed is in compliance with the provisions of this Act.

(b) Each such sample shall be taken in the presence of the manufacturer or of any such other person, or in the presence of their representative, and shall be taken from a parcel, lot, or number of parcels in such a number and quantity as the Director may determine to be representative of the parcel, lot or number of parcels. When the person in possession of commercial feed re-

fuses to be present and to take part in the sampling of same, the Director may take such samples in the presence of two disinterested witnesses.

(c) In order that each sample may be properly identified with the lot of commercial feed sampled, the Director may examine and make copies of any invoice, transportation record, or other records pertaining thereto.

(d) In the case of bulk lots of feed, a composite sample shall be made up of portions taken at random from not less than four different positions in the bulk lot. The composite sample shall be thoroughly mixed and divided so that each division shall fairly represent the whole, and the said sample or any portion thereof shall be considered the official composite sample of said feed.

(e) Each such sample shall be sealed, with a label placed thereon which states the serial number of the sample and the date that it was taken, and which bears the signature of the person taking the sample, and shall be sent to the Director or his representative. A report stating the name or brand of the commercial feed or material sampled, the serial number, the manufacturer thereof, if known, the name of the person from whose possession the sample was taken, the date and place of taking the sample, and the name of the person taking the sample, and the name of the person witnessing the taking of the sample, shall also be sent to the Director or his representative.

(f) All analyses of samples shall be made according to the official methods adopted by the Association of Official Agricultural Chemists of North America, and such other methods as the Director may deem authentic by research and investigation.

(g) Each such sample shall be divided into not less than four (4) equal parts. If the Director causes one (1) or more portions of such sample to be analyzed, he shall retain not less than three (3) portions of such sample for the purposes stated in this Section 10 (h) of this Act.

(h) In the event the Director finds, through chemical analysis or any other method or procedure, that a commercial feed is

in violation of any provision of this Act, he shall so notify in writing the manufacturer or other person who caused the feed to be sold, offered for sale or otherwise distributed, giving full details. The manufacturer or the person who causes the feed to be sold, offered for sale or otherwise distributed may thereupon, within fifteen (15) days after said notice has been received, request, and the Director shall so direct if requested, that two (2) retained portions of the sample of such feed be submitted for analysis to two (2) qualified chemists selected by the Director, and the Director shall if so requested within the same fifteen (15) day period direct that one (1) retained portion of the sample be furnished such manufacturer or other person. Each of said chemists shall certify in duplicate, under oath, his findings to the Director, whereupon one such duplicate from each chemist shall be forwarded by the Director to the manufacturer or other person. The three (3) chemical analyses thus obtained may be considered in determining whether any violation of this Act has occurred. The manufacturer or other person requesting the analyses shall pay the cost of such analyses except that if it is thus determined that no violation has occurred, the Director shall pay such expense.

Sec. 11. RULES AND REGULATIONS.

The Director is hereby authorized to:

(a) Enforce the provisions of this Act and prescribe and enforce administrative rules and regulations promulgated under the authority of this Act.

(b) Prescribe, adopt, and publish regulations establishing definitions and minimum standards for commercial feed which, to the extent practicable in the discretion of the Director, shall be in harmony with the official pronouncements of the Association of American Feed Control Officials; provided however, that prior to the issuance of any rules and regulations, the Director shall hold public hearings on any such proposed rules and regulations, the public hearings to be held pursuant to not less than fifteen (15) days notice in writing. Each such notice shall set forth the time and place of the hearing and a copy of the proposed rules and regulations, and shall be mailed upon

request to such organizations which reasonably may be expected to be vitally affected by said proposed rules and regulations.

(c) Rule exempt from the inspection fee provision of this Act any commercial feed manufactured, sold, or delivered solely for investigational, experimental, or laboratory use by qualified persons, when such investigation or experiment is conducted in the public interest.

(d) Publish from time to time such information relative to feeds as he deems necessary or desirable to the public interest; provided, however, that the information concerning production and use of commercial feed shall not disclose the business or financial operations of any person.

Sec. 12. DETAINED COMMERCIAL FEEDS.

(a) Whenever the Director shall find a commercial feed which he has reasonable cause to believe is being sold or offered for sale in violation of any provision of this Act, he shall affix to the container of such feed a written notice stating that such feed has been detained and warning all persons not to dispose of such feed in any manner until permission is given by the Director, or by a court, or until the detainer expires as hereinafter provided. If the Director finds that detained feed is not in violation of any provision of this Act, he shall forthwith remove the detainer notice from such feed. The detainer notice shall expire and shall become a nullity at the expiration of ten (10) days after it is affixed to any feed unless prior to such time the Director has instituted proceedings to condemn such feed pursuant to the provisions of this Section 12(b) of this Act.

(b) If detained commercial feed is found, after examination and analysis, to be in violation of any provision of this Act, the Director shall petition the district or county court in whose jurisdiction the feed is located for an order for condemnation and confiscation of such feed. If it be determined by the court that the commercial feed violates any provision of this Act, such feed shall be disposed of by destruction or by sale in accordance with the judgment of the court, and if the feed is sold, the proceeds from such sale, less court costs and charges,

shall be paid into the State Treasury. Provided, however, that when the violation of this Act which is found by the court with respect to such feed can be corrected by proper processing or labeling, the court, after entry of the decree and after all costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such feed shall be properly processed or labeled, has been executed, shall make an order directing that such feed be delivered to the owner thereof for such processing or labeling under the supervision of the Director. The expense of such supervision shall be paid by the owner of the feed. The bond shall be returned to the owner when the Director notifies the court that the feed is no longer in violation of this Act, and that the supervision expense aforesaid has been paid.

Sec. 13. UNLAWFUL ACTS. It is hereby declared unlawful for any person to commit any of the following acts, or to conspire to commit any of such acts, or to cause any of such acts to be committed within the State of Texas:

(a) To engage in the preparation, manufacture, sale, exposure, or offer for sale or otherwise distribute a customer-formula feed in violation of any of the provisions of Section 4 or any other Section applicable to customer-formula feed.

(b) To sell, offer, expose, or distribute for sale any commercial feed, except customer-formula feed, without registering with the Director as provided for in Section 5 hereof.

(c) To sell, offer, expose, or distribute for sale any product used or intended for use as a feed for animals unless the provisions of Section 6 hereof have been conformed to with respect to such product.

(d) To sell, offer, expose, or distribute for sale any commercial feed unless the inspection fee is paid and all other provisions of Section 7 hereof have been conformed to with respect to such feed.

(e) To sell, offer, expose, or distribute for sale any commercial feed which is not labeled in accordance with the provisions of Section 6 hereof.

(f) To sell, offer, expose, or distribute for sale any commercial feed which is

adulterated within the meaning of Section 8 hereof.

(g) To sell, offer, expose, or distribute for sale any commercial feed which is misbranded within the meaning of Section 9 hereof.

(h) To refuse to permit entry or inspection, or to refuse to permit the acquisition of samples and the examining and the copying of invoices and transportation records, of a commercial feed, or otherwise fail to comply with the provisions of Section 10 hereof.

(i) To refuse to make records available, furnish reports, pay the inspection fee, permit the examination of records, or otherwise fail to comply with the provisions of Section 7(d) of this Act.

(j) To dispose of a detained commercial feed in violation of Section 12 hereof.

Sec. 14. PENALTIES.

(a) Any person who performs any act herein declared to be unlawful, or who causes such act to be performed or who conspires to perform such act, shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Before the Director reports a violation for such prosecution, an opportunity shall be given the distributor to present his views.

(b) Any person who violates any of the provisions of this Act shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred (\$200.00), and each separate violation shall constitute a separate offense.

(c) The venue for any and all criminal prosecution and civil suits instituted under the provisions of this Act shall be in the county in which the commercial feed is located at the time the alleged violation is discovered by or otherwise made known to the Director or his representative, except as provided for in Section 7(e) of this Act.

(d) If the Director deems any violation of this Act to be of a minor nature, and if he is of the opinion that the public interest will be served and protected by the issuance

of a written warning to the violator, he shall have discretion to forego the filing of any criminal or condemnation proceeding with respect to such violation, and to refrain from taking any further administrative action thereunto.

(e) It shall be the duty of each district attorney, criminal district attorney, or county attorney, to whom the Director or his duly appointed representative reports any violation of this Act, to cause appropriate proceedings to be instituted and prosecuted in the proper courts without delay in the manner provided by law.

(f) The Director is authorized to cancel all registrations and revoke the permits of and refuse to issue tags (or certificates) to any manufacturer or other person who fails to comply with any of the provisions of this Act or any rules or regulations issued under authority of this Act.

Sec. 15. PUBLICATIONS. The Director shall publish at least once a year, in such form as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold, offered for sale, or otherwise distributed within the State as compared with the analyses guaranteed in the registration and on the label; provided, however, that information concerning production and use of commercial feed shall not disclose the scope of operations of any person.

Sec. 16. PENDING COURT CASES. Any court cases which are pending on the effective date of this Act shall not be affected by the passage of this Act, but shall be acted upon in accordance with the provisions of Title 17, Revised Criminal Statutes, 1925, as amended, and Title 60, Revised Civil Statutes, 1925, as amended.

Sec. 17. REPEAL OF PRIOR AND CONFLICTING LAWS. Articles 1489 to 1498, inclusive, of the Penal Code of the State of Texas (1925) as amended by Chapter 333, Acts of the 53rd Legislature, Regular Session; Articles 3872 to 3881d, inclusive, of the Revised Civil Statutes of Tex-

as (1925) as amended by Chapter 14, Acts of the 40th Legislature, Regular Session (1927), Chapter 61, Acts of the 45th Legislature, 2nd Called Session (1937), Chapter 374, Acts of the 50th Legislature, Regular Session (1947), and Chapter 333, Acts of the 53rd Legislature, Regular Session (1953), are superseded by this Act and are hereby repealed. All other laws and parts of laws in conflict herewith are hereby repealed insofar as they are in conflict.

Sec. 18. CERTAIN EXEMPTIONS FROM LIVESTOCK REMEDY ACT. Any substance, material or product, or part or combinations thereof, which is regulated by the provisions of this Act is hereby expressly exempted from the provisions of Chapter 94, Senate Bill No. 75, Acts of the 49th Legislature, Regular Session (1945), codified in Vernon's Texas Civil Statutes, 1948, as Article 192-1, Texas Livestock Remedy Act.

Sec. 19. APPEAL. Any person at interest aggrieved by any order or ruling of the Director may appeal from such order or ruling to the district court in the county of his residence by filing a petition in such district court within twenty (20) days from the date of such ruling or order. The action shall be tried and determined as in other civil causes, but the burden of proof shall rest upon the person appealing to show the regulation, order, ruling, acts, or charges complained of are unreasonable and unjust to him and constitute a gross abuse of the discretion vested in the Director. Either party to the action may appeal the decision of the district court to the appellate court having jurisdiction of the cause.

Sec. 20. CONSTITUTIONALITY. If any provision of this Act is declared unconstitutional or if the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons or circumstances shall not be affected thereby, and the Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase hereof regardless of the fact that the Act might not validly be applicable to certain persons or circumstances.