

AGRICULTURE CODE

TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

SUBTITLE B. LIVESTOCK

CHAPTER 141. COMMERCIAL FEED

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 141.001. DEFINITIONS. In this chapter:

(1) "Animal" means an animate being that is not human and has the power of voluntary action.

(2) "Board" means the board of regents of The Texas A&M University System.

(3) "Broker" means a person who is employed on a commission basis to sell property for another person. The term does not include a person who:

(A) has possession or absolute control over the property that is to be sold;

(B) receives a salary; or

(C) acts for one party to the exclusion of all others.

(4) "Bulk" means any lot of commercial feed that is not in a closed container at the time it passes to the possession of the consumer and includes that feed at any stage of distribution.

(5) "Container" means a bag, box, barrel, bottle, package, carton, object, apparatus, device, or appliance in which commercial feed is packed, stored, or placed for handling, transporting, or distributing.

(6) "Cotton plant by-products" means the residue from the ginning of cotton.

(7) "Customer-formula feed" means a mixture of commercial feed or feed material all or part of which is furnished by the person who processes, mixes, mills, or otherwise prepares the mixture and which is mixed according to the specific instructions of the purchaser. The term includes a special formula feed or a made-to-order feed.

(8) "Director" means the director of the Texas Agricultural Experiment Station.

(9) "Distribute" means sell, offer for sale, barter, exchange, or otherwise supply.

(10) "Feed facility" means a site where feed, a component of feed, or feed ingredients are mixed, custom blended, ground, unground, manufactured, milled, bagged, salvaged, or processed.

(11) "Ingredient" means a constituent material of commercial feed.

(12) "Label" means a display of written, printed, or graphic matter on or affixed to or wrapped with a container or on an invoice or delivery slip.

(13) "Licensee" means a person who obtains a license to operate a feed facility under this chapter.

(14) "Official sample" means a sample of feed taken by the service and designated as official by the service.

(15) "Product" means the name of the commercial feed that identifies it as to kind, class, or specific use and includes the brand, term, trademark, or other specific designation under which commercial feed is distributed in this state.

(16) "Purchaser" means a person who buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mix or custom-mill service.

(17) "Service" means the Texas Feed and Fertilizer Control Service.

(18) "Ton" means a net weight of 2,000 pounds avoirdupois or 1,000 kilograms metric.

(19) "Weight" means net weight of a container of commercial feed expressed in either the avoirdupois or metric system.

Acts 1981, 67th Leg., p. 1323, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1858, ch. 349, art. 2, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 107, Sec. 1, eff. May 17, 1985; Acts 1995, 74th Leg., ch. 314, Sec. 1, eff. Jan. 1, 1996.

Sec. 141.002. COMMERCIAL FEED. (a) Except as otherwise provided by this section, a material is a commercial feed subject to this chapter if it is a simple, mixed, compounded, ground,

unground, organic, or inorganic material used as a feed for an animal, including a vitamin, mineral, antibiotic, antioxidant, medicine, drug, chemical, or other material used as an ingredient or component of a mixture of materials used as a feed for an animal.

(b) Except as specifically provided by this chapter, a customer-formula feed is a commercial feed subject to this chapter.

(c) The following are not commercial feeds subject to this chapter:

(1) unground hay not containing toxins or chemical adulterants;

(2) whole grain or whole seed not containing toxins or chemical adulterants;

(3) unadulterated cotton plant by-products or any unadulterated hulls;

(4) a feed product produced and sold by a farmer;

(5) a feed mixed and used by a person who contracts with the owner of animals to care for and feed the animals;

(6) an individual mineral substance not mixed with another material;

(7) a material furnished by a purchaser for use in a customer-formula feed that was produced by the purchaser or acquired by the purchaser from a source other than the person whose services are engaged in the milling, mixing, or processing of a customer-formula feed; or

(8) a feed or feed ingredient handled by a broker.

(d) Regardless of whether a claim is made as to the prophylactic, therapeutic, or other purpose of the material, a mineral, vitamin, antibiotic, antioxidant, medicine, drug, or other material may be added to a commercial feed only if and in the manner authorized by the rules of the service. If a guarantee or claim is made for the material, the material is subject to inspection and analysis in accordance with the rules of the service.

(e) Whole seed and whole grain offered for retail sale for wildlife feed are commercial feeds subject to this chapter.

Acts 1981, 67th Leg., p. 1324, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1983, 68th Leg., p. 1860, ch. 394, art. 2, Sec. 2,

eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 107, Sec. 2, eff. May 17, 1985; Acts 1995, 74th Leg., ch. 314, Sec. 2, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1274, Sec. 1, eff. Sept. 1, 1999.

Sec. 141.003. ADMINISTRATION. (a) The Texas Feed and Fertilizer Control Service is under the direction of the director of the Texas Agricultural Experiment Station, who is responsible for exercising the powers and performing the duties assigned to the service by this chapter.

(b) The service may employ personnel necessary to perform its duties.

(c) The director may appoint a state chemist whose responsibilities may include the making of chemical analyses and tests required by this chapter.

Acts 1981, 67th Leg., p. 1324, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1861, ch. 349, art. 2, Sec. 3, eff. Sept. 1, 1983.

Sec. 141.004. RULES; MINIMUM STANDARDS. Following notice and public hearing, the service may adopt rules as necessary for the enforcement of this chapter, including rules defining and establishing minimum standards for commercial feed. To the extent practicable, rules that define and establish minimum standards for commercial feed must be in harmony with the official standards of the Association of American Feed Control Officials.

Acts 1981, 67th Leg., p. 1324, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1861, ch. 349, art. 2, Sec. 3, eff. Sept. 1, 1983.

Sec. 141.005. PUBLICATIONS. (a) At least annually, the service shall publish:

(1) information concerning the sales of commercial feeds, together with data on commercial feed production and use as the service considers advisable;

(2) the results of the analyses of official samples of commercial feed distributed in this state as compared to the analyses guaranteed in the registration and on the label; and

(3) a financial statement showing the receipt and expenditure of funds by the service under this chapter.

(b) The service may publish other information relating to feed as the service considers necessary or desirable to the public interest. The service shall prescribe the form of publications under this section.

(c) A publication under this section may not disclose the scope of operations of any person.

Acts 1981, 67th Leg., p. 1325, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1983, 68th Leg., p. 1861, ch. 349, art. 2, Sec. 3, eff. Sept. 1, 1983.

Sec. 141.006. CUSTOM PROCESSING. This chapter does not apply to the mixing, milling, or processing of a material produced by a purchaser of commercial feed or acquired by the purchaser from a source other than the person who mixes, mills, or processes the material.

Acts 1981, 67th Leg., p. 1325, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 141.007. AFLATOXIN CONTROL. The service shall establish by rule aflatoxin contamination levels considered safe for whole seed and whole grain offered for retail sale for wildlife feed.

Added by Acts 1999, 76th Leg., ch. 1274, Sec. 2, eff. Sept. 1, 1999.

Sec. 141.008. HEMP IN COMMERCIAL FEED. The service may adopt rules authorizing, defining, and controlling the use of hemp and hemp products in commercial feed.

Added by Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 3, eff. June 10, 2019.

SUBCHAPTER B. LICENSE

Sec. 141.021. LICENSE REQUIRED. (a) A person may not manufacture or distribute commercial feed in this state without a valid current license issued by the service for each feed facility that manufactures or distributes commercial feed. A person making

only retail sales of commercial feed bearing the label of a licensed manufacturer, guarantor, or distributor is not required to obtain a license.

(b) An application for a license shall be submitted on a form prescribed and provided by the service and accompanied by a license fee not to exceed \$75 for each facility, as provided by department rule.

(c) A licensee or license applicant shall provide the service copies of labels and labeling and other information that the service by rule requires.

(d) A person applying for a license after the 30th day following receipt of notice to obtain a license and a licensee applying late for a license renewal shall pay a \$75 late fee in addition to the license fee.

Acts 1981, 67th Leg., p. 1325, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1862, ch. 349, art. 2, Sec. 4, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 4, eff. Jan. 1, 1996.

Sec. 141.023. TERM OF LICENSE. A license issued under this chapter is permanent unless:

(1) the service revokes, suspends, annuls, or amends the license;

(2) the licensee withdraws or cancels the license;

(3) the licensee's report to the service indicates no activity for one year; or

(4) the service requires a new license.

Acts 1981, 67th Leg., p. 1326, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1862, ch. 349, art. 2, Sec. 4, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 5, eff. Jan. 1, 1996.

Sec. 141.025. REFUSAL OR REVOCATION OF LICENSE. Following notice and a hearing, the service may revoke, suspend, annul, or amend an existing license or may refuse to issue a license if it finds that the licensee or applicant has:

(1) been convicted of a crime for which a license may

be revoked, suspended, annulled, amended, or refused under Chapter 53, Occupations Code;

(2) refused or after notice failed to comply with this chapter and rules adopted under this chapter; or

(3) used fraudulent or deceptive practices in attempting evasion of this chapter or a rule adopted under this chapter.

Added by Acts 1983, 68th Leg., p. 1862, ch. 349, art. 2, Sec. 4, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 6, eff. Jan. 1, 1996. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.723, eff. Sept. 1, 2001.

SUBCHAPTER C. LABELING

Sec. 141.051. LABELING OF COMMERCIAL FEED. (a) Except as provided by Subsection (d) of this section, each container of commercial feed distributed in this state, other than customer-formula feed, must have a label with the following information:

(1) the name and principal address of the person responsible for manufacture and distribution;

(2) the brand or name under which the feed is to be distributed;

(3) the quantity of the feed in the container, in either net weight, net volume contents, or net fluid content according to rules adopted by the service;

(4) the guaranteed analysis of nutrients in the feed, listing a maximum or minimum quantity determinable by laboratory methods of protein, fat, fiber, and other components of commercial feed;

(5) the common or usual name of each ingredient used in the feed;

(6) the name and percentage of any hulls, shells, screenings, straw, stalks, corncobs, or other low grade feeding materials or fillers in the feed, if any;

(7) an appropriate warning statement and directions for use relating to each medicine, drug, mineral, vitamin,

antibiotic, or antioxidant in the feed; and

(8) other information that the service may by rule require.

(b) The manufacturer or other person distributing the feed shall affix the label required by this section to the outside of the container or cause it to be printed on the side of the container in the manner prescribed by the service. The information must be grouped together and plainly printed in English in the size of type prescribed by the service.

(c) If the labeling information is shown on the container rather than printed on the label, the information must be plainly printed in a conspicuous place in the size of type prescribed by the service.

(d) A person distributing in this state commercial feed in a container that holds an amount exceeding 110 pounds dry weight or 55 gallons liquid need not label the container in accordance with this section, but shall furnish the purchaser with a statement of the information in accordance with Section [141.052](#) of this chapter.

Acts 1981, 67th Leg., p. 1326, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1865, ch. 349, art. 2, Sec. 5, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 7, eff. Jan. 1, 1996.

Sec. 141.052. LABELING OF BULK COMMERCIAL FEED. At the time of delivery of bulk commercial feed distributed in this state, other than customer-formula feed, the manufacturer or other person distributing the feed shall furnish the purchaser with a written or printed statement showing the information required by Section [141.051](#)(a) of this code.

Acts 1981, 67th Leg., p. 1326, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1865, ch. 349, art. 2, Sec. 5, eff. Sept. 1, 1983.

Sec. 141.053. LABELING OF CUSTOMER-FORMULA FEED. (a) Except as provided by Subsection (b) of this section, a person distributing customer-formula feed in this state shall furnish to the purchaser at the time of delivery a label showing:

- (1) the name and address of the mixer, miller, or processor;
- (2) the name and address of the purchaser;
- (3) the date of sale;
- (4) the name or brand and the number of pounds of each registered commercial feed used in the mixture; and
- (5) the name and number of pounds of each other ingredient added to the mixture, including any ingredient supplied by the purchaser.

(b) If all ingredients for a customer-formula feed are furnished by the mixer, miller, or processor, the service may permit a customer-formula feed to be identified by means of an identifying name, number, or similar designation rather than by listing the ingredients under Subsections (a)(4) and (a)(5) of this section. The service may adopt rules and prescribe forms for identification of a customer-formula feed under this subsection. Acts 1981, 67th Leg., p. 1327, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg. p. 1865, ch. 349, art. 2, Sec. 5, eff. Sept. 1, 1983.

Sec. 141.054. GENERAL LABEL RESTRICTIONS. Except as authorized by this chapter or a rule of the service, the label of a commercial feed may not:

- (1) advertise, name, promote or otherwise draw attention to one or more components or ingredients in the product unless the percentage and common name of the component or ingredient is clearly and prominently declared;
- (2) contain the name of another manufacturer or person or a product of another manufacturer or person; or
- (3) contain a false, deceptive, or misleading statement.

Acts 1981, 67th Leg., p. 1327, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1865, ch. 349, art. 2, Sec. 5, eff. Sept. 1, 1983.

Sec. 141.055. REQUEST FOR LABEL REVIEW. (a) The service shall:

(1) by rule adopt procedures that allow a licensee to submit a product label to the service for review;

(2) review each product label submitted by a licensee to determine compliance with the labeling requirements of this subchapter;

(3) make a detailed report to the licensee regarding changes to the label required for compliance with the service's rules; and

(4) provide the licensee with the advice that the service considers necessary to enable the licensee to comply with the service's labeling rules.

(b) The service may not charge a fee for a review, a report, or advice under this section.

Added by Acts 1995, 74th Leg., ch. 314, Sec. 8, eff. Jan. 1, 1996.

SUBCHAPTER D. INSPECTION FEE

Sec. 141.071. INSPECTION FEE. (a) For each state fiscal year, a person who manufactures or distributes commercial feed or a component of commercial feed in this state, including a person who mixes, mills, or processes customer-formula feed, shall pay to the service an inspection fee prescribed by this section.

(b) Except as otherwise provided by this section, the inspection fee is 15 cents per ton of commercial feed. With the approval of the board, the director may reduce or increase the inspection in increments of 1 cent up to a maximum of 2 cents per fiscal year, except that the board and director shall reduce the inspection fee by 1 cent increments when the balance of the Texas feed control fund exceeds one-half the projected operating expenses of the service for the next fiscal year.

(c) A person distributing in this state a commercial feed product packaged in individual containers of five pounds or less shall pay, for each distinct commercial feed product so distributed, a flat rate inspection fee of \$50 for each fiscal year or part of a fiscal year in which the distribution is made.

(d) A licensee paying an inspection fee under Subsection (b) of this section shall pay in advance a minimum annual inspection fee

of \$100 per fiscal year. All advance inspection fees collected under this section shall be credited towards the first tonnage inspection fee owed by the licensee accruing in that fiscal year.

(e) A person is not required to pay an inspection fee on a portion of a customer-formula feed that is produced by the purchaser or acquired by the purchaser from a source other than the person who mixes, mills, or processes the mixture.

(f) The service by rule may provide that a person is not required to pay an inspection fee on commercial feed that the person manufactures or distributes solely for investigational, experimental, or laboratory use by qualified persons, if the investigation or experiment is conducted in the public interest.

Acts 1981, 67th Leg., p. 1327, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1868, ch. 349, art. 2, Sec. 6, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 9, eff. Jan. 1, 1996.

Sec. 141.072. QUARTERLY TONNAGE REPORTING AND INSPECTION FEE PAYMENT. (a) The person responsible for paying the inspection fee for a feed facility generating \$100 or more during a license year in tonnage fees shall file with the service a quarterly sworn report either stating that no tonnage of commercial feed was distributed during the preceding quarter or setting forth the tonnage of all commercial feed that the feed facility manufactured or distributed in this state during the preceding quarter. Each quarterly tonnage report must be accompanied by payment of the inspection fee due based on the tonnage reported for that quarter.

(b) The person responsible for paying the inspection fee for a feed facility producing less than \$100 a license year in tonnage fees shall file with the service an annual sworn report either stating that no tonnage of commercial feed was distributed during the preceding license year or stating the tonnage of all commercial feed the facility manufactured and distributed in this state during the preceding license year. Each annual tonnage report must be accompanied by payment of the inspection fee due based on the tonnage reported for that year.

(c) A quarterly tonnage report and inspection fee payment is

due on or before the 31st day following the last day of November, February, May, and August for persons reporting quarterly. An annual tonnage report and inspection fee payment is due on or before the 31st day following the last day of August for persons reporting annually.

(d) The service may prescribe and furnish forms as necessary under this section.

Acts 1981, 67th Leg., p. 1328, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.073 and amended by Acts 1983, 68th Leg., p. 1868, ch. 349, art. 2, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 314, Sec. 10, eff. Jan. 1, 1996.

Sec. 141.073. PENALTY FOR LATE FILING OR PAYMENT. (a) If a person paying the inspection fee on the basis of tonnage reporting does not file a quarterly report or pay the fee before the 31st day following the last day of a quarter, the person shall pay a penalty equal to 15 percent of the inspection fee due or \$50, whichever is greater.

(b) The penalty together with any delinquent inspection fee is due before the 61st day following the last day of the quarter. The service shall cancel the license of a licensee who fails to pay the penalty and delinquent inspection fee within that time period after notice.

Acts 1981, 67th Leg., p. 1328, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.074 and amended by Acts 1983, 68th Leg., p. 1868, ch. 349, art. 2, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 314, Sec. 11, eff. Jan. 1, 1996.

Sec. 141.074. RECORDS; ADDITIONAL REPORTS; AUDITS. (a) For the purpose of determining the accurate tonnage of commercial feed distributed in this state or identify or verify tonnage reports, the service may require each licensee to maintain records or file additional reports.

(b) The service is entitled to examine at reasonable times the records maintained under this section.

(c) Unless otherwise authorized by the service, a licensee shall preserve and maintain the records under this section in

usable condition for at least two years. The service may require a licensee to retain the records for a period longer than two years if the service determines it to be in the public interest.

(d) If a licensee is located outside this state, the licensee shall maintain records required under this section in this state or pay all costs incurred in the auditing of the records at another location. The service shall promptly furnish to the licensee an itemized statement of any costs incurred in an out-of-state audit and the licensee shall pay the costs before the 31st day following the date of the statement.

(e) A record or report maintained or filed under this section is confidential and not subject to required disclosure under Chapter 552, Government Code.

Acts 1981, 67th Leg., p. 1329, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.075 and amended by Acts 1983, 68th Leg., p. 1868, ch. 349, art. 2, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 314, Sec. 12, eff. Jan. 1, 1996.

Amended by:

Acts 2005, 79th Leg., Ch. 967 (H.B. 1733), Sec. 1, eff. June 18, 2005.

Sec. 141.075. DISPOSITION AND USE OF FEES. (a) The service shall deposit fees collected under this subchapter in the same manner that other local institutional fees of The Texas A&M University System are collected. The fees shall be set apart as a special fund known as the Texas feed control fund.

(b) The Texas feed control fund shall be used, with the approval and consent of the board, for administering this chapter, including paying the cost of:

- (1) equipment and facilities;
- (2) inspection, sampling, and analysis;
- (3) licensing;
- (4) salaries; and
- (5) publication of bulletins and reports.

(c) Fees collected under this subchapter that, in the judgment of the board, are not needed for the administration of this chapter may be used for research relative to the value of commercial

feed.

Acts 1981, 67th Leg., p. 1329, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.077 and amended by Acts 1983, 68th Leg., p. 1868, ch. 349, art. 2, Sec. 7, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 314, Sec. 13, eff. Jan. 1, 1996.

SUBCHAPTER E. INSPECTION, SAMPLING, AND ANALYSIS

Sec. 141.101. INSPECTION AND SAMPLING; ENTRY POWER. In order to determine if feed is in compliance with this chapter, the service is entitled to:

(1) enter during regular business hours and inspect any place of business, mill, plant building, or vehicle and to open any container, bin, vat or parcel that is used in the manufacture, transportation, importation, sale, or storage of commercial feed or is suspected of containing a commercial feed; and

(2) take samples from feed found during that inspection.

Acts 1981, 67th Leg., p. 1330, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1873, ch. 349, art. 2, Sec. 7, eff. Sept. 1, 1983.

Sec. 141.102. PROCEDURE FOR SAMPLING AND ANALYSIS. The service by rule shall prescribe the procedures for sampling and analysis of commercial feed. The procedures must, to the extent practicable, be in accordance with the official methods of the Association of Official Analytical Chemists or other methods that the service determines authentic by research and investigation.

Acts 1981, 67th Leg., p. 1330, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1873, ch. 349, art. 2, Sec. 7, eff. Sept. 1, 1983.

Sec. 141.103. IDENTIFICATION OF SAMPLE. (a) Each sample taken shall be sealed with a label placed on the container of the sample showing:

- (1) the serial number of the sample;
- (2) the date on which the sample was taken; and

(3) the signature of the person who took the sample.

(b) Each sample shall be sent to the service. In addition, a report shall be sent to the service stating:

(1) the name or brand of the commercial feed or material sampled;

(2) the serial number of the sample;

(3) the manufacturer or guarantor of the lot sampled, if known;

(4) the name of the person in possession of the lot sampled;

(5) the date and place of taking the sample; and

(6) the name of the person who took the sample.

(c) For the purpose of properly identifying a sample with the lot sampled, the service is entitled to examine and copy any invoice, transportation record, or other record pertaining to the lot.

Acts 1981, 67th Leg., p. 1330, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1873, ch. 349, art. 2, Sec. 7, eff. Sept. 1, 1983.

Sec. 141.104. INDEPENDENT ANALYSIS OF SAMPLE. (a) If the service finds through chemical analysis or another method that a commercial feed is in violation of a provision of this chapter, the service shall notify the manufacturer or other person who caused the feed to be distributed. The notice must be in writing and give full details of the service's findings.

(b) A person who receives a notice under this section may request that the service submit portions of the sample analyzed to other chemists for independent analysis. After receiving a request, the service shall submit two portions of the sample analyzed to two qualified chemists selected by the service. If requested, the service shall also submit one portion of the sample to the person requesting independent analysis. A request under this subsection must be filed with the service before the 16th day following the day on which the notice is given under Subsection (a) of this section.

(c) Each of the chemists selected by the service shall

analyze the portion of the sample and certify findings to the service under oath. The findings shall be prepared in duplicate and the service shall forward one copy of each chemist's findings to the person who requested the independent analysis.

(d) The three chemical analyses obtained under this section may be considered in determining whether a violation of this chapter has occurred.

(e) Except as provided by this subsection, the person requesting independent analysis shall pay the cost of the analysis. If, as a result of the independent analysis, the service determines that a violation has not occurred, the service shall pay the cost of the analysis.

Acts 1981, 67th Leg., p. 1331, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.105 and amended by Acts 1983, 68th Leg., p. 1873, ch. 349, art. 2, Sec. 7, eff. Sept. 1, 1983.

SUBCHAPTER F. ENFORCEMENT; REMEDIES

Sec. 141.121. STOP-SALE ORDER. (a) If the service has reasonable cause to believe that a commercial feed is being distributed in violation of a provision of this chapter, the service shall affix to the container of the feed a written notice containing:

- (1) an order to stop the sale of the feed; and
- (2) a warning to all persons not to dispose of the feed in any manner until the service or a court gives permission or until the stop-sale order expires.

(b) If the service finds that the commercial feed is in compliance with this chapter, the service shall immediately remove the stop-sale order.

(c) A stop-sale order expires at the end of the 30th day following the day on which it was affixed unless, prior to that time, the service has instituted proceedings under Section [141.122](#) of this code to condemn the feed.

Acts 1981, 67th Leg., p. 1331, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 14, eff.

Jan. 1, 1996.

Sec. 141.122. CONDEMNATION OF FEED. (a) If, after examination and analysis, the service finds that a commercial feed subject to a stop-sale order is in violation of a provision of this chapter, the service shall petition the district or county court in whose jurisdiction the feed is located for an order for the condemnation and confiscation of the feed. If the court determines that the feed is in violation of this chapter, the feed shall be disposed of by sale or destruction in accordance with the order of the court.

(b) If a condemned commercial feed is sold under Subsection (a) of this section, the proceeds of the sale, less court costs and charges, shall be paid into the state treasury.

(c) If the court finds that a violation of this chapter may be corrected by proper processing or labeling, the court may order that the feed be delivered to the licensee of the feed for processing or labeling under the supervision of the service. Before entering that order, the court shall:

- (1) enter the decree;
- (2) require that all costs, fees, and expenses be paid; and
- (3) require the licensee of the feed to post good and sufficient bond conditioned on the proper labeling and processing of the feed.

(d) The licensee of the feed shall pay all costs incurred by the service in the supervision of labeling or processing under Subsection (c) of this section. The court shall return the bond to the licensee when the service notifies the court that the commercial feed is no longer in violation of this chapter and that the licensee has paid the expenses of supervision.

Acts 1981, 67th Leg., p. 1332, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 15, eff. Jan. 1, 1996.

Sec. 141.123. WARNINGS. If the service determines that a

violation of this chapter is of a minor nature and that the public interest will be served and protected by the issuance of a written warning, the service may issue the warning instead of proceeding to condemn the feed, reporting the violation for prosecution, or taking other administrative action.

Acts 1981, 67th Leg., p. 1332, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983.

Sec. 141.124. INJUNCTION. (a) The service may sue in the name of the director to enjoin a violation of this chapter.

(b) The service may request a prosecuting attorney or the attorney general to sue to enjoin a violation or threatened violation of this chapter.

Added by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983.

Sec. 141.125. SUIT TO RECOVER FEES. The service may sue to recover an inspection fee or a penalty due under Subchapter D of this chapter. Venue for a suit under this section is in Brazos County.

Acts 1981, 67th Leg., p. 1332, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Agriculture Code Sec. 141.124 and amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983.

Sec. 141.126. PROSECUTIONS. Each district attorney, criminal district attorney, or county attorney to whom the service reports a violation of this chapter shall cause appropriate proceedings to be instituted and prosecuted in the proper court without delay in the manner provided by law.

Acts 1981, 67th Leg., p. 1332, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.125 and amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983.

Sec. 141.127. VENUE FOR CIVIL AND CRIMINAL ACTIONS. Except as provided by Section [141.125](#) of this code, venue for a civil

action or criminal prosecution under this chapter is in the county in which the commercial feed is located at the time the alleged violation is discovered by or made known to the service.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 141.126 and amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983.

Sec. 141.128. APPEAL OF ADMINISTRATIVE ORDER OR RULING.

(a) A person at interest who is aggrieved by an order or ruling of the service may appeal the order or ruling in the manner provided for contested cases by Chapter 2001, Government Code.

(b) An appeal under this section is by trial de novo.

Renumbered from Sec. 141.127 and amended by Acts 1983, 68th Leg., p. 1876, ch. 349, art. 2, Sec. 8, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

SUBCHAPTER G. PENALTIES

Sec. 141.141. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9, eff. Sept. 1, 1983.

Sec. 141.142. DISTRIBUTION OF CUSTOMER-FORMULA FEED IN VIOLATION OF CHAPTER. (a) A person commits an offense if the person engages, conspires to engage, or causes another person to engage in the preparation, manufacture, or distribution of customer-formula feed in violation of this chapter.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9,
eff. Sept. 1, 1983.

Sec. 141.143. DISTRIBUTION OF COMMERCIAL FEED WITHOUT LICENSE, LABELING, OR PAYMENT OF INSPECTION FEE. (a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed:

(1) in violation of Subchapter B of this chapter;

(2) that is not labeled in accordance with Subchapter C of this chapter; or

(3) for which an inspection fee has not been paid in accordance with Subchapter D of this chapter.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9,
eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 16, eff.
Jan. 1, 1996.

Sec. 141.144. REFUSAL OF INSPECTION OR SAMPLING. (a) A person commits an offense if the person refuses, conspires to refuse, or causes another person to refuse to permit entry, inspection, sampling, or the examination and copying of invoices or transportation records under Subchapter E of this chapter.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9,
eff. Sept. 1, 1983.

Sec. 141.145. REFUSAL TO PAY INSPECTION FEE OR SUBMIT RECORDS. (a) A person commits an offense if the person refuses,

conspires to refuse, or causes another person to refuse to make records available, furnish reports, permit the examination of records, or pay an inspection fee in accordance with Subchapter D of this chapter.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1333, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9, eff. Sept. 1, 1983.

Sec. 141.146. DISPOSAL OF FEED SUBJECT TO A STOP-SALE ORDER. (a) A person commits an offense if the person disposes of feed subject to a stop-sale order in violation of Section [141.121](#) of this code.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1334, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9, eff. Sept. 1, 1983.

Sec. 141.147. DISTRIBUTION OF MISBRANDED FEED. (a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed that:

- (1) carries a false or misleading statement on, attached to, or accompanying the container;
- (2) is not labeled in accordance with Subchapter C of this chapter;
- (3) has a label that is false in any particular;
- (4) has a container that is made, formed, or filled in a manner that is misleading;
- (5) purports to be or is represented as a commercial feed for which a definition of identity and a minimum standard have

been prescribed by rule, but does not conform to the definition and standard; or

(6) makes a false or misleading statement concerning its agricultural value on the container or in any advertising matter accompanying or associated with it.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1334, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9, eff. Sept. 1, 1983.

Sec. 141.148. DISTRIBUTION OF ADULTERATED FEED. (a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed:

(1) that is of a composition, quantity, or quality that is below or is different from that which it is represented to possess by its label;

(2) that is moldy, sour, heated, or otherwise damaged, because of which it is injurious to animals;

(3) from which an ingredient has been omitted or extracted in whole or in part;

(4) that is inferior or is damaged and the inferiority or damage has been concealed;

(5) to which a substance has been added or with which a substance has been mixed or packed so as to deceptively increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(6) that contains or bears a poisonous or deleterious substance that may render it injurious to animals under ordinary conditions of use;

(7) that contains a low-grade feeding material or filler but is not labeled in accordance with Section [141.054](#) of this code;

(8) that consists in whole or in part of a diseased, filthy, putrid, or decomposed substance, unless the substance has

been rendered harmless by sterilization or other effective process;

(9) that is otherwise unfit for feeding to animals; or

(10) that has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under 21 U.S.C. Section 348.

(b) An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Acts 1981, 67th Leg., p. 1334, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1983, 68th Leg., p. 1879, ch. 349, art. 2, Sec. 9, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 314, Sec. 17, eff. Jan. 1, 1996.

Sec. 141.149. RULES; PENALTY. (a) The service shall adopt rules that conform to but are not more strict than current good manufacturing practices as established under 21 U.S.C. Section 360b for the use of drugs in the manufacture, processing, and packaging of commercial feed unless the service determines that those practices are not appropriate to conditions existing in this state.

(b) A person commits an offense if the person violates a rule adopted under Subsection (a). An offense under this section is a Class C misdemeanor unless it is shown that the person has previously been convicted of an offense under this subchapter, in which event it is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 314, Sec. 18, eff. Jan. 1, 1996.