CHAPTER 580

COMMERCIAL FEED AND FEEDSTUFF

580.011 Title.—This chapter shall be known as the "Florida Commercial Feed Law."

History.—s. 1, ch. 29755, 1955; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; s. 16, ch. 94-282.

580.031 Definitions of words and terms.—As used in this chapter, the term:

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

(2) "Commercial feed" means all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans, except:

(a) Unmixed whole seeds, including physically altered entire unmixed seeds, when such seeds are not chemically changed or are not adulterated within the meaning of s. 580.071.

(b) Unground hay, straw, stover, silage, cobs, husks, and hulls, and individual chemical compounds or substances, when such commodities, compounds, or substances are unmixed with other substances and are not adulterated within the meaning of s. 580.071.

(c) Feed mixed by the consumer for the consumer's own use made entirely or in part from products raised on the consumer's farm, except as is provided by rules of the department.

(d) Any material or combination of materials that is distributed for use as feed for domestic pets such as but not limited to: dogs, cats, gerbils, hamsters, birds, fish, reptiles, and amphibians.

(3) "Consumer" or "customer" means the person who purchases or receives commercial feed or feedstuff for feeding to animals.

(4) "Cooperative" means any corporation organized under the provisions of chapter 618 or chapter 619 for the mutual benefit of its members who are producers of milk, and which sells, distributes, or provides feed for dairy cows or feed ingredients for such feed only to its members.

(5) "Customer-formula feed" means a commercial feed consisting of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final customer, is distributed only to that customer, and is not redistributed.

(6) "Department" means the Department of Agriculture and Consumer Services.

(7) "Distribute" means to offer for sale, sell, barter, or exchange commercial feed or feedstuff or to supply, furnish, or otherwise provide commercial feed or feedstuff for use by any consumer or customer in the state.

(8) "Distributor" means any person who distributes commercial feed or feedstuff. It does not include persons who sell brand name feed at retail on behalf of a registrant who manufactures such feed.

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

(10) "Feedstuff" means edible materials, other than commercial feed, which are distributed for animal consumption and which contribute energy or nutrients, or both, to an animal diet. The term includes ingredients as defined in this section. The term does not include any material or combination of materials that is distributed for use as feed for domestic pets such as but not limited to: dogs, cats, gerbils, hamsters, birds, fish, reptiles, and amphibians.

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

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

(13) "Ingredient" means each of the constituent materials used to make a commercial feed.

(14) "Integrated poultry operation" means a business enterprise that owns all stages of poultry production and manufactures and distributes commercial feed or feedstuff for consumption by animals owned by the business enterprise. An integrated poultry operation does not sell feed commercially.

(15) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a product is distributed, or on the invoice accompanying the product.

(16) "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying commercial feed or feedstuff.

(17) "Manufacture" means the grinding, mixing, or blending, or further processing, of a commercial feed for distribution.

(18) "Medicated feed" means a commercial feed or customer-formula feed that contains a drug.

(19) "Member of a cooperative" means, in the case of a stock association, the owner of at least one share of voting stock, and, in the case of a nonstock association, a person who has been issued a membership certificate upon the payment of a membership fee of at least $1,000, or who has an outstanding obligation of not less than $1,000 owed to the member by the cooperative in accordance with the bylaws of the cooperative, and who is entitled to voting powers within the cooperative.

(20) "Percent" or "percentage" means percentage by weight.

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

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

(23) "Registrant" means any person issued a master registration by the department.

(24) "Ton" means a net weight of 2,000 pounds avoirdupois.

Except as provided by law or rule, all terms used in connection with commercial feed or feedstuff have the meanings ascribed to them by the Association of American Feed Control Officials.

History.—s. 3, ch. 29755, 1955; s. 2, ch. 61-440; s. 1, ch. 69-62; ss. 14, 35, ch. 69-106; s. 1, ch. 75-140; s. 1, ch. 79-66; s. 1, ch. 86-112; s. 52, ch. 91-220; ss. 28, 33, ch. 92-143; ss. 1, 6, 7, ch. 93-90; ss. 1, 16, ch. 94-282.

580.036 Powers and duties.—

(1) The department shall administer and enforce the provisions of this chapter. It shall have full authority to inspect, sample, and analyze any commercial feed or feedstuff distributed in this state and to assess any penalties provided for violation of this chapter.

(2) The department is authorized to adopt rules as necessary for the enforcement of this chapter. These rules shall be consistent with the rules and standards of the United States Food and Drug Administration and the United States Department of Agriculture, when applicable, and shall include:

(a) Establishing definitions and reasonable standards for commercial feed or feedstuff and permissible tolerances for pesticide chemicals, chemical additives, nonnutritive ingredients, or drugs in or on commercial feed or feedstuff in such amounts as will ensure the safety of livestock and poultry and the products thereof used for human consumption.

(b) Adopting standards for the manufacture and distribution of medicated feed.

(c) Establishing definitions and reasonable standards for the certification of laboratories for the conduct of testing and analyses as required in this chapter.

(d) Establishing product labeling requirements for distributors.

(e) Limiting the use of drugs in commercial feed and prescribing feeding directions to be used to ensure safe usage of medicated feed.

(f) Establishing standards for evaluating quality-assurance/quality-control plans, including testing protocols, for exemptions to certified laboratory testing requirements.

(3) The department is empowered to take appropriate action against any person who violates or fails to comply with the provisions of this chapter. The department may request copies of labels and labeling and any other documents deemed necessary to ascertain whether such violation or noncompliance has occurred.

History.—s. 2, ch. 94-282.

580.041 Master registration; fee; refusal or cancellation of registration.—

(1)(a) Each distributor of commercial feed must annually obtain a master registration before his brands are distributed in this state. The department shall furnish the registration forms requiring the distributor to state that the distributor will comply with all provisions of this chapter and applicable rules. The registration form shall identify the manufacturer's or guarantor's name and place of business and the location of each manufacturing facility in the state and shall be signed by the owner; by a partner, if a partnership; or by an authorized officer or agent, if a corporation. All registrations expire on June 30 of each year.

(b) The registration form shall be accompanied by a fee that shall be based on tons of feed distributed in this state during the previous year. If a distributor has been in business less than 1 year, the tonnage shall be estimated by the distributor for the first year and based on actual tonnage thereafter. These fees shall be as follows:

SALES IN TONS	FEE
Zero, up to and including 25	$25
More than 25, up to and including 50	$50
More than 50, up to and including 100	$100
More than 100, up to and including 300	$300
More than 300, up to and including 600	$500
More than 600, up to and including 1,000	$750
More than 1,000, up to and including 2,000	$1,000
More than 2,000, up to and including 5,000	$1,500
More than 5,000	$2,500

(c) Registration shall be conditioned on the distributor's compliance with all provisions of this chapter and rules thereof, including:

1. Submitting samples of manufactured feed for testing by laboratories that have been certified by the department or obtaining an exemption from the certified laboratory testing requirement, as provided by this chapter and rules thereof.

2. Maintaining a bookkeeping system and records that will allow the department to verify the accuracy of the reported tonnage.

3. Allowing the department to examine pertinent records at reasonable times.

(d) The department shall mail a copy of the master registration to the registrant to signify that administrative requirements have been met.

(2) Failure of any distributor to comply with registration shall be considered prima facie evidence of an attempt to violate this chapter, and the department shall have full authority to assess penalties where violations are found for any commercial feed or feedstuff distributed in the state prior to registration.

(3) The department may refuse, suspend, or cancel the master registration of any distributor or registrant who violates or fails to comply with the provisions of this chapter.

History.—s. 4, ch. 29755, 1955; s. 3, ch. 61-440; ss. 2, 3, ch. 69-62; ss. 14, 35, ch. 69-106; s. 6, ch. 78-95; s. 2, ch. 86-112; s. 1, ch. 91-178; s. 33, ch. 92-143; ss. 3, 6, 7, ch. 93-90; ss. 3, 16, ch. 94-282.

580.051 Labels; requirements; penalty.—

(1) Any commercial feed distributed in this state, except a customer-formula feed and feed distributed through an integrated poultry operation or by a cooperative to its members, shall be accompanied by a legible label bearing the following information:

(a) An accurate statement of the net weight.

(b) The name and principal address of the registrant.

(c) The brand name and product name, if any, under which the commercial feed is distributed. The word "medicated" shall be incorporated as part of the brand or product name if the commercial feed contains a drug.

1. The department may require feeding directions and precautionary statements to be placed on the label for the safe and effective use of medicated and other feed as deemed necessary.

2. Labels on medicated feed shall include all of the following:

a. Any feeding directions prescribed by the department to ensure safe usage.

b. The stated purpose of the medication contained in the feed as stated in the claim statement.

c. The established name of each active drug ingredient.

d. The level of each drug used in the final mixture expressed in metric units as well as the required avoirdupois.

(d) The date of manufacture or expiration date of commercial feed sold at retail as the department may by rule require.

(e) The guaranteed analysis stated in terms that advise the consumer of the composition of the feed or feedstuff or support claims made in the labeling. In all cases, the elements or compounds listed in the analysis must be determinable by laboratory methods approved by the department.

1. The guaranteed analysis, listing the minimum percentage of crude protein, minimum percentage of crude fat, and maximum percentage of crude fiber and, when more than 10 percent mineral ingredients are present, the minimum or maximum percentages of mineral elements or compounds as provided by rule.

2. Vitamin ingredients, when guaranteed, shall be shown in amounts and terms provided by rule. For mineral feed, the list shall include the following: maximum or minimum percentages of calcium (Ca), phosphorus (P), salt (NaCl), iron (Fe), copper (Cu), cobalt (Co), magnesium (Mg), manganese (Mn), potassium (K), selenium (Se), zinc (Zn), and fluorine (F) if ingredients used as sources of any of these constituents are declared. All mixtures that contain mineral or vitamin ingredients generally regarded as dietary factors essential for the normal nutrition of animals and that are sold or represented for the primary purpose of supplying these minerals or vitamins as additions to rations in which these same mineral or vitamin factors may be deficient shall be classified as mineral or vitamin supplements. Products sold solely as mineral or vitamin supplements and guaranteed as specified in this section need not show guarantees for protein, fat, and fiber.

3. Other nutritional substances or elements determinable by laboratory methods may be guaranteed by permission of, or shall be guaranteed at the request of, the department as may be provided by rule.

(f) The common or usual name of each ingredient used in the manufacture of the commercial feed; however, for all commercial feed except horse feed, the department by rule may permit the use of collective terms for a group of ingredients which perform a similar nutritional function.

(2) Customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following:

(a) The name and address of the manufacturer.

(b) The name and address of the customer ordering the feed.

(c) The date of delivery.

(d) The product name and net weight of each commercial feed and each other ingredient used in the mixture.

(e) Adequate directions and precautionary statements for the safe and effective use of all customer-formula feed that is medicated.

(3) When a commercial feed is distributed in this state in bags or other containers, a label shall be placed on or affixed to each container; when a commercial feed is distributed in bulk, a label shall accompany delivery and be furnished to the customer at time of delivery.

(4) The amount of $100 shall be paid to the department as penalty for the distribution of any commercial feed that is not accompanied with the label required under this chapter. The proceeds from any such penalty payments shall be deposited by the department in the General Inspection Trust Fund.

History.—s. 5, ch. 29755, 1955; s. 4, ch. 61-440; s. 2, ch. 61-119; s. 4, ch. 69-62; ss. 14, 35, ch. 69-106; s. 2, ch. 75-140; s. 3, ch. 86-112; s. 1, ch. 87-81; s. 4, ch. 90-323; s. 2, ch. 91-178; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 4, 16, ch. 94-282.

580.065 Laboratory certifications; application; fees; requirements; reporting; refusal or cancellation of certification.—

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

1. Nutrient.
2. Mycotoxins.
3. Microbiological organisms.
4. Pesticide residues.
5. Drug residues.

(b) The department shall be guided by the methods published by the Association of Official Analytical Chemists, the United States Environmental Protection Agency, the United States Food and Drug Administra-

tion, or other generally recognized authorities in developing the standards for these laboratory certifications.

(2)(a) Any laboratory wanting to be certified by the department in any of the testing categories must complete and return an application with a $100 application fee and a $300 fee for each of the desired certifications. A single application may be used to apply for more than one certification. The department shall furnish the application forms, which must require the distributor to state that the laboratory will comply with all provisions of this chapter and applicable rules. The registration form shall identify the laboratory's name, the name of the owner or owners of the business, the location of the laboratory, and other information as required by rule of the department. The form shall be signed by the owner, a partner, if a partnership, or an authorized officer or agent, if a corporation.

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

(c) Each laboratory that is certified in any area of testing must renew each certification annually. Renewal must be submitted on a form provided by the department at least 30 days prior to the expiration date of the current certificate. The laboratory must complete and return the renewal form with the appropriate fee for the desired annual certification as indicated on the form. Failure to timely renew certification shall result in the expiration of the certification on the date stated on the certificate. Any renewal received after the expiration date on the certificate shall be accompanied by a $50 late charge. Any renewal received 30 days or more beyond the expiration date on the certificate shall be returned to the laboratory, and the laboratory shall apply to the department as if it were the initial application for certification.

(d) Certification shall be conditioned on the laboratory's compliance with all provisions of this chapter and rules thereof, including:

1. Submitting quarterly reports to the department containing the results of the commercial feed and feedstuff analyses for that quarter, including, but not limited to, the results of each sample submitted for analysis by each registrant, the registration number of the registrant submitting the samples, the number of violative samples, and any additional information the department may require by rule.

2. Reporting immediately to the department each sample that is found to be in violation of the standards in this chapter and in the rules thereof.

3. Participating in the quarterly check-sample program administered by the department.

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

(e) Failure to submit reports as required in this subsection may result in the suspension or revocation of one or more of the laboratory's testing certifications.

(3) The department shall operate a check-sample program for all testing certifications. If 30 percent or more of a laboratory's check-sample results are outside the acceptable variation established by rule for each check-sample test, the laboratory must pay a $100 fine and shall be placed on probation for the next quarter. The laboratory shall be required to process additional check samples during the probationary period. If 20 percent or more of the results of the laboratory's check samples are outside the acceptable variation level during the probationary period, that test category certification shall be revoked and the laboratory may not apply again for the same certification for 1 year after the date of the revocation.

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

History.—s. 5, ch. 94-282.

580.071 Adulteration.—No person shall distribute an adulterated commercial feed or feedstuff. A commercial feed or feedstuff shall be deemed to be adulterated:

(1)(a) If it bears or contains any poisonous, deleterious, or nonnutritive substance that may render it injurious to animal or human health. However, if the substance is not an additive, the feed shall not be considered adulterated if the quantity of the substance does not ordinarily render it injurious to animal or human health;

(b) If it bears or contains any food additive or added poisonous, deleterious, or nonnutritive substance that is unsafe within the meaning of s. 406 of the Federal Food, Drug, and Cosmetic Act, other than a pesticide chemical in or on a raw agricultural commodity;

(c) If it is, or it bears or contains, any food additive or color additive that is unsafe within the meaning of s. 409 or s. 512 of the Federal Food, Drug, and Cosmetic Act, respectively;

(d) If it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of s. 408(a) of the Federal Food, Drug, and Cosmetic Act; however, where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under s. 408 of the Federal Food, Drug, and Cosmetic Act and that raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the processed feed will result, or is likely to result, in pesticide residue in the edible product of the animal which is unsafe within the meaning of s. 408(a) of the Federal Food, Drug, and Cosmetic Act; or

(e) If it is, or it bears or contains, any new animal drug that is unsafe within the meaning of s. 512 of the Federal Food, Drug, and Cosmetic Act.

(2) If it contains viable weed seeds in amounts exceeding the limits that the department establishes.

(3) If it contains a drug and the methods, facilities, and controls used in its manufacture, processing, or packaging do not conform to current good management practices to ensure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess.

(4) If any valuable constituent has been in whole or in part omitted or removed, or any less valuable substance has been substituted.

(5) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

History.—s. 7, ch. 29755, 1955; s. 6, ch. 61-440; s. 1, ch. 67-526; s. 6, ch. 69-62; ss. 14, 35, ch. 69-106; s. 2, ch. 79-66; s. 5, ch. 86-112; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 6, 16, ch. 94-282.

580.081 Misbranding.—No person shall distribute misbranded commercial feed or feedstuff. A commercial feed or feedstuff shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular.

(2) If it is distributed under the name of another commercial feed or feedstuff.

(3) If it is not labeled as required by this chapter or the rules promulgated hereunder.

(4) If it does not conform to the definition of identity and standard of quality as prescribed by rule.

(5) If any word, statement, or other information required by this chapter to appear on the label or labeling is not prominently and conspicuously placed thereon in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(6) If it is not appropriate for its intended or purported use.

(7) If a nutrient test, conducted by a laboratory certified in nutrient testing, on a sample of commercial feed or feedstuff from a given registrant shows the presence of any ingredient not listed on the label or the absence of any ingredient shown on the label. In such case, the department may impose a penalty in accordance with s. 580.121(1).

History.—s. 8, ch. 29755, 1955; s. 7, ch. 61-440; s. 3, ch. 79-66; s. 6, ch. 86-112; s. 1, ch. 88-210; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 7, 16, ch. 94-282.

580.091 Inspection; sampling; analysis; exemption.—

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

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

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

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

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

(c) Integrated poultry operations and cooperatives shall not be required to submit their feed samples for nutrient analysis. However, poultry and dairy feed sold by enterprises other than integrated poultry operations or cooperatives shall be subject to nutrient analysis as required by the department.

(d) It is the intent of the Legislature that the department not require sampling and analysis any more rigorous than the level of sampling and analysis reflected in the Feed Laboratory Quarterly Reports or official department records.

(e) Notwithstanding provisions to the contrary in this subsection, if the department finds that circumstances exist which threaten the health of commercial livestock or the public, the department may require more frequent analysis of feed. In such case, the department must notify affected registrants of the need for additional analysis and the estimated time period for which the analysis will be required to protect animal or public health.

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

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

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

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

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

(5) A registrant may apply for an exemption from the certified laboratory testing requirements by submitting its quality-assurance/quality-control plan, including laboratory testing protocols, to the department for review and approval or disapproval. The department shall furnish the form for requesting the exemption,

which form shall require the registrant to comply with all applicable provisions of this chapter and related rules.

(a) Upon approval of a registrant's quality-assurance/quality-control plan, the department shall conduct an evaluation of the registrant's facility to verify compliance with the plan and the testing protocols submitted. The department shall send the registrant a letter of exemption if it finds that adequate measures are in place to assure compliance with the material submitted and with this chapter.

(b) The registrant's laboratory facility shall be subject to evaluation every 3 years. Application for renewal must be submitted on a form provided by the department at least 30 days prior to the expiration date of the current approval letter. Any renewal application received after the expiration date on the approval letter shall be accompanied by a $50 late charge. Failure to timely renew certification shall result in the expiration of the approval and imposition of the requirement to have all feed samples tested by a department-certified laboratory.

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

(d) Registrants with approved programs must comply with all applicable provisions of this chapter and rules, including:

1. Maintaining records of all laboratory test results for 3 years or as required by federal regulation, whichever is longer.

2. Allowing department personnel access to records and laboratory facilities during reasonable hours for inspection purposes.

3. Providing to the department the results of any check-sample program the registrant may be using.

History.—s. 9, ch. 29755, 1955; s. 8, ch. 61-440; ss. 14, 35, ch. 69-106; s. 4, ch. 79-66; s. 7, ch. 86-112; s. 2, ch. 87-81; s. 2, ch. 89-245; ss. 30, 33, ch. 92-143; ss. 5, 6, 7, ch. 93-90; ss. 8, 16, ch. 94-282.

580.111 Detained commercial feed and feedstuff.

(1) STOP-SALE, STOP-USE, REMOVAL, OR HOLD ORDERS.—When the department has cause to believe any lot of commercial feed or feedstuff is being distributed in violation of this chapter or of any of the prescribed rules under this chapter, it may issue and enforce a written or printed stop-sale, stop-use, removal, or hold order, warning the possessor not to dispose of the commercial feed or feedstuff in any manner until written permission is given by the department or a court of competent jurisdiction. The department shall release the commercial feed or feedstuff so withdrawn when the provisions and rules have been complied with and all costs and expenses incurred in the withdrawal have been paid. The department may permit any lot of commercial feed or feedstuff under stop-sale, stop-use, removal, or hold order to be sold to a consumer who shall sign a statement at the time of purchase professing knowledge of the violation. If compliance is not obtained within 30 days, the department may begin proceedings for condemnation.

(2) CONDEMNATION AND CONFISCATION.—Any lot of commercial feed or feedstuff not in compliance with this chapter or rules promulgated hereunder shall be subject to seizure on complaint of the department to the circuit court of the circuit in which the commercial feed or feedstuff is located. In the event the court finds the commercial feed or feedstuff to be in violation of this chapter or rules promulgated hereunder and orders the condemnation of the commercial feed or feedstuff, it shall be disposed of in the manner provided by the circuit court in the order of condemnation. In no instance shall the disposition of the commercial feed or feedstuff be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or feedstuff or to apply for permission to process or relabel the commercial feed or feedstuff to bring it into compliance with this chapter.

History.—s. 11, ch. 29755, 1955; s. 10, ch. 61-440; s. 8, ch. 69-62; ss. 14, 35, ch. 69-106; s. 6, ch. 79-66; s. 9, ch. 86-112; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 9, 16, ch. 94-282.

580.112 Certain acts prohibited.—The following acts, or the causing thereof knowingly, within the state are prohibited:

(1) The distribution of any commercial feed or feedstuff that is adulterated or misbranded.

(2) The adulteration or misbranding of any commercial feed or feedstuff.

(3) The distribution of commercial feed or feedstuff that has not been sampled or analyzed by a department-certified laboratory, as required in s. 580.091.

(4) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls which are adulterated.

(5) The dissemination of any false advertisement with reference to the distribution of any commercial feed or feedstuff.

(6) The refusal to permit entry, inspection, or collection of samples of commercial feed or feedstuff by authorized department personnel.

(7) The removal or disposal of a lot of commercial feed or feedstuff that has had a stop-sale, stop-use, removal, or hold order issued, prior to release by the department or the court.

(8) The use of any label that does not comply with the provisions of this chapter.

(9) The forging, counterfeiting, simulating, or false representing of any label.

(10) Placing or permitting to be placed any false advertisement or misleading statement on a label.

(11) The redistribution of a customer-formula commercial feed.

(12) The using or placing of fasteners that may be injurious to animals on any commercial feed or feedstuff or bags of any commercial feed or feedstuff, except those distributed exclusively for poultry.

(13) The failure or refusal to register, pay inspection fees, or file reports, or perform any other affirmative act required by this chapter or rule promulgated hereunder.

History.—s. 13, ch. 61-440; s. 7, ch. 79-66; s. 10, ch. 86-112; s. 53, ch. 91-220; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 10, 16, ch. 94-282.

580.121 Penalties; duties of law enforcement officers; injunctive relief.—

(1) The department may impose one or more of the following penalties against any person who violates any provision of this chapter:

(a) Issuance of a warning letter.

(b) Imposition of an administrative fine, by the department, of not more than $1,000 per occurrence.

(c) Revocation or suspension of the master registration, laboratory certification, or quality-assurance/quality-control plan approval.

(d) Probation for up to 6 months.

However, the severity of the penalty imposed shall be commensurate with the degree of risk to human or animal safety or the level of financial harm to the consumer that is created by the violation.

(2) In cases where the department has determined a pattern of noncompliance with the provisions of this chapter, penalties may be imposed in accordance with subsection (1). Such penalties are in addition to any penalty or penalties that might be imposed under any other portion of this chapter.

(3)(a) Any person who violates any provision of this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In all prosecutions under this chapter involving the composition of a lot of commercial feed or feedstuff, a certified copy of the certified laboratory analysis signed by the authorized agent of the laboratory or, when available, the analysis reported by the department shall be accepted by the court as prima facie evidence of the composition. Each state or county law enforcement officer shall make an arrest for violation of this chapter when such officer is notified of such violation by the department.

(4) Nothing in this chapter shall be construed as requiring the department to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when it believes that the public interests will be best served by the imposition of one or more of the penalties set forth in this section.

(5) The department is hereby authorized to apply for, and the court may grant upon sufficient evidence, a temporary or permanent injunction, without bond, restraining any person from violating or continuing to violate any of the provisions of this chapter, notwithstanding the existence of other remedies at law.

(6) The receipts from any penalty payments under this section shall be deposited into the General Inspection Trust Fund.

History.—s. 12, ch. 29755, 1955; s. 11, ch. 61-440; ss. 14, 35, ch. 69-106; s. 597, ch. 71-136; s. 8, ch. 79-66; s. 11, ch. 86-112; s. 2, ch. 88-210; s. 149, ch. 91-224; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 11, 16, ch. 94-282.

580.131 Penalty payable to consumer.—Any consumer who purchases without notice a commercial feed or feedstuff that has been distributed in violation of this chapter shall in any legal action that may be instituted recover penalties as follows:

(1) If a certified laboratory analysis shows that any feed bearing a guarantee of 20 percent protein, or less, falls more than 1 percent protein below the guarantee, or if the analysis shows that any feed bearing a guarantee of more than 20 percent protein falls more than 2 percent protein below the guarantee, $4 per ton for each percent protein deficiency shall be assessed against the manufacturer or distributor.

(2) If a certified laboratory analysis shows that any feed is deficient in fat by more than five-tenths percent fat, $4 per ton for each percent fat deficiency shall be assessed against the manufacturer or distributor.

(3) If a certified laboratory analysis shows that any feed bearing a maximum guarantee of not more than 20 percent fiber exceeds this guarantee by more than 1 percent fiber, or if the analysis shows that any feed bearing a maximum guarantee of more than 20 percent fiber exceeds this guarantee by more than 2 percent fiber, $4 per ton for each percent fiber excess shall be assessed against the manufacturer or distributor.

(4) If a certified laboratory analysis shows that any commercial feed is deficient or excessive in the required drug, mineral, or nutritive guarantees other than protein, fat, or fiber, a penalty of $4 per ton shall be assessed against the manufacturer or distributor for each deficiency or excessive level found.

(5) If a certified laboratory analysis shows that any commercial feed or feedstuff is found to be adulterated as provided in s. 580.071, a penalty of $4 per ton shall be assessed against the manufacturer or distributor for each violation found.

(6) If any feed is found by the department to be short in weight, 4 times the invoice value of the actual shortage shall be assessed against the manufacturer or distributor, but in no instance shall the penalty be less than $25. The department by rule may establish variations for short weight.

(7) In no case shall any penalty as specified in this section be less than $10, regardless of the monetary value of the violation.

History.—s. 13, ch. 29755, 1955; s. 2, ch. 61-119; ss. 14, 35, ch. 69-106; s. 9, ch. 79-66; s. 12, ch. 86-112; s. 3, ch. 87-81; s. 3, ch. 88-210; s. 4, ch. 91-178; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 12, 16, ch. 94-282.

580.141 Reports.—The department shall submit to the President of the Senate and the Speaker of the House of Representatives by October 1 of each year a report concerning the production, distribution, and regulation of commercial feed and feedstuff in the state. The report shall include, but not be limited to, information concerning the number of laboratories certified by the department, the results of the analyses reported by certified laboratories, the number of registrants exempt from the certified laboratory testing requirements, the number and subject matter of consumer complaints concerning commercial feed, the total amount of fees and penalties by type collected by the department, and the costs, including indirect costs, incurred by the department from the operation of the feed regulatory program. The information concerning production and use of commercial feed and feedstuff shall not disclose the operations of any individual person doing business in the state.

History.—s. 14, ch. 29755, 1955; s. 12, ch. 61-440; ss. 14, 35, ch. 69-106; s. 10, ch. 79-66; s. 13, ch. 86-112; s. 7, ch. 92-4; s. 33, ch. 92-143; ss. 6, 7, ch. 93-90; ss. 13, 16, ch. 94-282.

580.151 Commercial Feed Technical Council.—

(1) COMPOSITION.—

(a) The Commercial Feed Technical Council is created in the department and shall be composed of 13 members to be appointed by the Commissioner of Agriculture of which there shall be 3 representatives of commercial feed manufacturers; 2 representatives of the poultry industry; 1 representative from a dairy feed

cooperative; 1 representative from the dairy industry, who purchases feed commercially; 1 representative of the beef industry; 1 representative of the horse industry; 1 representative of the swine industry; 1 representative of the aquaculture industry; 1 representative of the Institute of Food and Agricultural Sciences of the University of Florida; and 1 representative of the department, who shall serve as secretary of the council.

(b) For initial appointments, three members shall be appointed for 4-year terms, three members shall be appointed for 3-year terms, two members shall be appointed for 2-year terms, and two members and the department representative shall be appointed for 1-year terms. Thereafter, all members shall be appointed for 4-year terms, except the department representative who shall be appointed each year.

(2) POWERS AND DUTIES; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Commercial Feed Technical Council, and per diem and reimbursement of expenses of council members, shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

History.—ss. 14, 15, ch. 86-112; s. 4, ch. 87-81; s. 5, ch. 91-429; ss. 31, 33, ch. 92-143; ss. 6, 7, ch. 93-90; s. 43, ch. 93-169; ss. 14, 16, ch. 94-282; s. 25, ch. 94-335.