

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1743

By: Representative Wooldridge

By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS FEED LAW OF 1997; AND
FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS FEED LAW OF 1997.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 2-37-102 is amended to read as follows:
2-37-102. Enforcing agency.

This chapter shall be administered by the ~~State Plant Board~~ Department of Agriculture.

SECTION 2. Arkansas Code § 2-37-103(a), concerning the definition of "board" under the Arkansas Feed Law of 1997, is repealed.

~~(a) "Board" means the State Plant Board.~~

SECTION 3. Arkansas Code § 2-37-103(o), concerning the definition of "official sample" under the Arkansas Feed Law of 1997, is amended to read as follows:

(o) "Official sample" means a sample of feed taken by the ~~board~~ Department of Agriculture or its agent in accordance with the provisions of § 2-37-111(c), (e), or (f).

SECTION 4. Arkansas Code § 2-37-104 is amended to read as follows:
2-37-104. Registration and licensing.

(a)(1) Any person:



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- (A) Who manufactures a commercial feed within this state;
- (B) Who distributes a commercial feed in or into the

state; or

(C) Whose name appears on the label of a commercial feed as guarantor,

shall obtain a license for each facility which distributes in or into the state authorizing him or her to manufacture or distribute commercial feed before he or she engages in such activity.

(2) Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the sum due for tonnage inspection fee due under this chapter is not required to obtain a license.

(b)(1)(A) A person who is required to obtain a license shall submit an application on a form provided or approved by the State Plant Board Department of Agriculture.

(B) The sum accompanied by a license fee of ten dollars (\$10.00) shall be paid to the board department for each facility for which a license shall be issued.

(C) The department The board shall remit such license fees the sum to the Treasurer of State for deposit into the State Treasury to the credit of the Plant Board Fund for the sole use of the board in order to carry out the State Plant Board's functions, powers, and duties.

(2) A license shall expire on the last day of December of the year for which it is issued; provided that any license shall be valid through ninety (90) days of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the board department on or before December 31st of the year for which the current license was issued.

(3) A new applicant who fails to obtain a license within fifteen (15) working days after notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a the sum of thirty-dollars late fee (\$30.00) in addition to the sum paid for the license fee.

(c) The form and content of the commercial feed license application shall be established by rules adopted by the board.

(d) The ~~board~~ department may, at any time, request from a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this chapter.

(e)(1) The ~~board~~ department is empowered to refuse to issue a license to any person not in compliance with the provisions of this chapter.

(2) The board may suspend or revoke any license issued to any person found not in compliance with any provision of this chapter.

(3) The board may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this chapter.

(4) No license shall be conditioned, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the board in order to comply with the requirements of this chapter.

(f)(1) In order to be exempt from the provisions of this chapter, integrated operators, as defined in § 2-37-103, shall submit an application for exemption on a form provided or approved by the ~~board accompanied by an application fee~~ department.

(2) The sum of ten dollars (\$10.00) shall be paid for each facility for which an exemption shall be issued.

(3) The board shall remit ~~such application fees~~ the sum paid under subdivision (f)(2) of this section to the Treasurer of State for deposit into the State Treasury to the credit of the Plant Board Fund ~~to be used solely by the board to carry out the board's functions, powers, and duties.~~

(g) A grower's production of unmanipulated poultry litter is exempt from the provisions of this chapter.

SECTION 5. Arkansas Code § 2-37-108(g), concerning the prohibited act of failing to pay inspection fees and file reports under the Arkansas Feed Law of 1997, is amended to read as follows:

(g) Failure to pay sums for inspection ~~fees~~ and file reports as required by § 2-37-109.

SECTION 6. Arkansas Code § 2-37-109 is amended to read as follows:
2-37-109. Inspection ~~fees~~ and reports.

(a) ~~An inspection fee at the rate~~ The sum of thirty cents (\$.30) per ton shall be paid on commercial feeds distributed in this state by the person whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the ~~inspection fee~~ cost, subject to the following:

(1) ~~No fee~~ A sum shall not be paid on a commercial feed if the payment has been made by a previous distributor.

(2) ~~No fee~~ A sum shall not be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(3)(A) ~~No fee~~ A sum shall not be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds.

(B) If the ~~fee~~ sum has already been paid, credit shall be given for such payment.

(4)(A) On commercial feed distributed in quantities of ~~twenty-five (25)~~ thirty-four (34) tons or less, a minimum ~~fee~~ sum of ten dollars (\$10.00) per quarterly report shall be paid.

(B) A tonnage report and minimum ~~fee~~ sum is due for each reporting period, even though no distribution of commercial feeds occurred in the state during that period.

(b) Each person who is liable for the payment of such ~~fee~~ sum shall:

(1) File, not later than the last day in January, April, July, and October of each year, a quarterly statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding three (3) months; ~~and upon.~~ After filing such statement shall pay the inspection fee the quarterly statement, the Department of Agriculture shall invoice the responsible party at the rate stated in subsection (a) of this section. Inspection ~~fees~~ costs which are due and owing and have not been remitted to the ~~State Plant Board~~ department within fifteen (15) days following the date due shall have a penalty ~~fee~~ of fifteen percent (15%) or twenty-five dollars (\$25.00), whichever is the higher, added to the amount due when payment is finally made. The assessment of this penalty ~~fee~~ shall not prevent the board from taking other actions as provided in this chapter.

(2) Keep such records as may be necessary or required by the ~~board~~ department to indicate accurately the tonnage of commercial feed

distributed in this state, and the ~~board~~ department shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection ~~fee~~ costs or comply as provided herein shall constitute sufficient cause for the cancellation of the license of a distributor. However, no license shall be canceled or revoked before the distributor has been given an opportunity to be heard before the board and to pay the ~~fees~~ sums owed under this section.

(c) ~~Fees~~ Sums collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this chapter and shall be deposited into the State Treasury to the credit of the ~~State~~ Plant Board Fund.

SECTION 7. Arkansas Code §§ 2-37-111 through 2-37-114 are amended to read as follows:

2-37-111. Inspection, sampling, and analysis.

(a) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees designated by the ~~State Plant Board~~ Department of Agriculture, upon presenting appropriate credentials, and notice to the owner, operator, or agent in charge, are authorized:

(1) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and

(2) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling herein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under § 2-37-107(15).

(b) Notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection the person in charge

of the facility or vehicle shall be so notified.

(c) If the owner of any factory, warehouse, or establishment described in subsection (a), or his or her agent, refuses to admit the ~~board~~ department or its agent to inspect in accordance with subsections (a) and (b), the ~~board~~ department is authorized to obtain from any state court a warrant directing such owner or his or her agent to submit premises described in such warrant to inspection.

(d) For the enforcement of this chapter, the ~~board~~ department or its designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

(e) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the ~~board~~ department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty (30) days following the receipt of the analysis the ~~board~~ department shall furnish to the registrant or licensee a portion of the sample concerned.

(g) The ~~board~~ department, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in § 2-37-103(o) and obtained and analyzed as provided for in subsections (d) and (e) of this section.

2-37-112. Detained commercial feeds.

(a) Withdrawal from Distribution Orders.

(1) (A) When the ~~State Plant Board~~ Department of Agriculture or its authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or any of the prescribed rules under this chapter, the ~~board~~ department may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the ~~board~~

department or the court.

(B) The ~~board~~ department shall release the lot of commercial feed so withdrawn when the provisions and rules have been complied with.

(C) If compliance is not obtained the ~~board~~ department may begin, or upon request of the distributor or registrant, shall begin proceedings for condemnation.

(2) A withdrawal from distribution order issued under this section expires thirty (30) days after the day it was first issued unless condemnation proceedings have begun in a court of competent jurisdiction.

(b) Condemnation and Confiscation.

(1) Any lot of commercial feed not in compliance with the provisions and rules shall be subject to seizure on complaint of the ~~board~~ State Plant Board to a court of competent jurisdiction in the area in which the commercial feed is located.

(2)(A) In the event the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state.

(B) However, in no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or re-label the commercial feed to bring it into compliance with this chapter.

(3) If the court orders the sale of the feed, the proceeds from the sale shall be remitted to the Treasurer of State to be credited to the General Revenue Fund Account of the State Apportionment Fund.

2-37-113. Penalties.

(a) A person convicted of violating any of the provisions of this chapter or who shall impede, hinder, or otherwise prevent, or attempt to prevent, the ~~State Plant Board~~ Department of Agriculture or its authorized agent in performance of his or her duty in connection with the provisions of this chapter, shall be adjudged guilty of a violation punishable by a fine of not more than fifty dollars (\$50.00) for the first violation, and not more than two hundred dollars (\$200) for each subsequent violation, and the

proceeds from such fines shall be remitted into the State Treasury to the credit of the General Revenue Fund Account of the State Apportionment Fund.

(b) Nothing in this chapter shall be construed as requiring the ~~board~~ department or its representative to:

- (1) Report for prosecution;
- (2) Institute seizure proceedings; or
- (3) Issue a withdrawal from distribution order, as a result of minor violations of this chapter, or when the ~~board~~ department believes the public interest will best be served by suitable notice of warning in writing.

(c) In all prosecutions for violations of this chapter, the certificate of the analyst, or other officer making the analysis or examination, when sworn to or subscribed by the analyst or officer, shall be prima facie evidence of the facts therein certified.

(d) The ~~board~~ State Plant Board is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under this chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(e) A person adversely affected by an act, order, or ruling of the board made under the provisions of this chapter may within forty-five (45) days thereafter bring action in the Pulaski County Circuit Court for judicial review of the actions. The form of the proceeding may be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

(f) A person who uses to his or her own advantage, or reveals to other than the board or officers of the board or other officers of state agencies, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a Class C misdemeanor; provided, that this prohibition shall not be deemed as prohibiting the board or its authorized agent, from exchanging information of a regulatory nature with authorized officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

2-37-114. Cooperation with other entities.

The ~~State Plant Board~~ Department of Agriculture may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the United States Government, and private associations in order to carry out the purpose and provisions of this chapter.