

Enrolled Senate Bill 18

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CHAPTER

AN ACT

Relating to State Department of Agriculture regulation of the food supply chain; creating new provisions; and amending ORS 633.006.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Consistent with the terms of the federal FDA Food Safety Modernization Act (P.L. 111-353) or interstate food safety systems authorized under the federal Act, the State Department of Agriculture may administer and enforce duties, functions and powers that include, but are not limited to:

- (a) Conducting inspections to ensure that a farm or a food facility is complying with department rules adopted under this section;**
- (b) Providing food facilities with documentation of licenses, inspection reports or other evidence of state oversight that federal guidelines developed under or in relation to the federal Act require as assurance that a food facility is in compliance with state, local or other nonfederal food safety laws;**
- (c) Entering into intergovernmental agreements, contracts, memoranda of understanding or other arrangements for the administration and enforcement of the interstate food safety systems;**
- (d) Facilitating partnerships of state agencies with federal, local and private sector entities to help coordinate and enhance the protection of agriculture and food systems;**
- (e) Providing for the regular and timely exchange of information relating to the security of agriculture and food systems, including but not limited to information for food tracing;**
- (f) Assisting in the development and adoption of science-based minimum standards for the safe production and harvesting of agricultural products;**
- (g) Coordinating with federal, local and private sector entities to develop and employ best practices for preparedness and response plans for agriculture and food defense;**
- (h) Protecting the economy and public health from the effects of:**
 - (A) Animal or plant disease outbreaks;**
 - (B) Food contamination; and**
 - (C) Natural disasters affecting agriculture and food;**
- (i) Imposing reasonable fees for services; and**
- (j) Assessing civil penalties or other sanctions to the extent authorized under the federal Act or an interstate food safety system.**

(2) The department may adopt rules for the purpose of carrying out any department duties, functions and powers authorized under this section. The rules may include, but need not be limited to, the adoption by reference, in modified or unmodified form, of any statutes, regulations, guidelines or other provisions, or of any standards, practices or requirements, used by the federal government with regard to the federal Act or by the federal government or other parties with regard to interstate food safety systems authorized under the federal Act.

(3) The authority granted to the department under this section is in addition to, and not in lieu of, any other lawful authority granted to the department under state or federal law to administer and enforce standards, practices or requirements related to food safety.

SECTION 2. ORS 633.006 is amended to read:

633.006. As used in ORS 633.006 to 633.089, unless the context requires otherwise:

(1) “Animal feed manufacturing plant” means:

(a) Any business, establishment, building, plant or place where commercial feed for animals is manufactured, mixed, processed or packed.

(b) Vehicles used in transporting commercial feed or [*components or ingredients thereof*] **feed ingredients**, machinery, equipment, utensils, implements, or other items, articles or materials used in the business or operation.

(c) The ground upon which the operation or business is carried out and other ground not adjacent thereto that is a part of the business or operation under the same entity or ownership.

(2) “Brand” means any word, name, symbol or device or any combination thereof identifying and distinguishing the commercial feed of a distributor from the feed of other distributors.

(3) “Bulk” is the sale, offering or exposing for sale or delivery of commercial feeds, in:

(a) Open containers, closed or open tote boxes, closed or open tanks, closed or open trailers, all of which may be further described or defined by the State Department of Agriculture; or

(b) Other types of containers, vehicles or conveyances defined or recognized by the department.

(4) “Commercial feed”:

(a) **Except as provided in paragraph (b) of this subsection**, means any material that is distributed for use as feed, or as a feed ingredient for mixing in feed for animals, or any feed additive concentrate, feed additive supplement, feed additive premix, or premix[.].

(b) **Except as used in ORS 633.045, 633.055, 633.065, 633.067, 633.077 and 633.088, does not include:**

[(a)] (A) Unmixed seeds, whole or processed, that are made directly from the entire seed and are not used to manufacture wild bird feed.

[(b)] (B) Hay, straw, stover, cobs, husks, screenings and hulls, when unground or unmixed with other materials.

[(c)] (C) Feed for dogs, cats, birds or fish maintained as household pets.

[(d)] (D) Silage, or materials containing at least 60 percent water.

[(e)] (E) Individual chemical compounds not mixed with other materials. This exemption, however, does not cover or extend to phosphate, urea or ammonium compounds that are recommended for animal feeding purposes.

(5) “Contract feeder” means an independent contractor or other person who feeds commercial feed to another person’s animals pursuant to an oral or written agreement whereby the commercial feed is distributed to the contractor or other person by any distributor and whereby the contractor or other person’s remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of animals produced. “Contract feeder” does not include a bona fide employee of a manufacturer or distributor of commercial feed.

(6) “Custom mixed feed” means any [*mixture of materials, substances or ingredients described or set forth under the definition of*] commercial feed, each lot of which is mixed according to the specific instructions of, or prescribed for the specific use of, the final consumer.

(7) “Department” means the State Department of Agriculture.

(8) "Distribute" means to offer for sale, sell or barter commercial feed or to supply, furnish or otherwise provide commercial feed to a contract feeder.

(9) "Distributor" means a person who distributes commercial feed.

(10) "Drug" means any substance:

(a) Intended or represented for the cure, mitigation, treatment or prevention of disease of animals;

(b) Intended to affect the structure of any function of the body of an animal; or

(c) So defined by rule of the department.

(11) "Feed" means raw materials, ingredients and final products:

(a) Consumed by, or intended for consumption by, animals but not by humans; and

(b) Contributing to nutrition, affecting aroma or taste or having a technical effect on the consumed material.

[(11)] **(12)** "Feed ingredient" means each of the constituent materials making up a commercial feed.

[(12)] **(13)** "Final consumer" means a person that feeds animals that are under the control or ownership of that person.

[(13)] **(14)** "Ground" means a condition resulting from crushing, rolling, chopping or grinding.

[(14)] **(15)** "Label" means a display of written, printed or graphic matter placed on or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

[(15)] **(16)** "Manufacture" means to grind, chop, crush, roll, cube, flake, extrude, cook, pelletize, mix or otherwise process feed ingredients.

[(16)] **(17)** "Mineral feed" means a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.

[(17)] **(18)** "Official sample" means any sample of feed taken by the department and designated as "official" by the department.

[(18)] **(19)** "Percent" or "percentage" means percentage by weight.

[(19)] **(20)** "Sell" or "sale" includes exchange.

[(20)] **(21)** "Wild bird feed" means a commercial feed marketed for noncaptive undomesticated avians.

Passed by Senate March 22, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 31, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State