

ALABAMA AGRICULTURAL COMPLIANCE LAWS



John McMillan
Commissioner



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CODE OF ALABAMA

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LIVESTOCK MARKETS



CODE OF ALABAMA 1975

§2-15-20 ~ §2-15-138

Section 2-15-20

Definitions.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) BOARD. The State Board of Agriculture and Industries of the State of Alabama.
- (2) BRAND. Any recorded identification mark applied to any position on the hide of livestock by means of heat, acid, or a chemical, except numbers used to keep production records or record of age. The word "brand" shall also mean and include tattoo marks on the hide or in the ear of livestock.
- (3) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.
- (4) DEPARTMENT. The Department of Agriculture and Industries of the State of Alabama.
- (5) LIVESTOCK. Cattle, swine, sheep, goats, equine or equidae, ratites, and poultry.
- (6) LIVESTOCK HIDE DEALER. Any dealer who buys hides of livestock.
- (7) LIVESTOCK MARKET. A place where a person assembles livestock for public sale, if the person is required to procure a license or permit from the state Department of Agriculture and Industries to operate the market.
- (8) PERSON. Any individual, partnership, corporation, or association.
(Acts 1975, No. 567, p. 1301, §1; Acts 1979, No. 79-667, p. 1174, §1; Acts 1994, No. 94-322, p. 562, §2; Act 2004-627, p. 1421, §1.)

Section 2-15-21

Registration of brands by livestock owners; fees; certificate of registration.

(a) Any livestock owner who uses a brand to identify his or her livestock must register such brand by applying to the department. The application shall be made on forms prescribed and furnished by the department, which application shall be accompanied by a fee established by the Alabama Board of Agriculture and Industries for the first position on the animal on which the brand appears and a fee established by the Board of Agriculture and Industries for each additional position of the animal on which the brand appears. A facsimile of the brand to be registered shall also be furnished by the applicant.

If the brand described in the application or one similar or closely resembling a registered brand has not been previously registered by another livestock owner and the brand complies with standards and requirements of brands acceptable for registration as prescribed by the board pursuant to regulations, then the department shall approve the application, register the brand in the name of the applicant, and issue to the applicant a certificate of registration. In the event the department denies registration of a brand for any reason, the registration fee established by the board shall be returned to the person making application for registration.

(b) When a livestock owner transfers a registered brand to another, the owner shall immediately notify the department of the transfer, giving the date of transfer, brand identity, and the name of the transferee. Upon receipt of the notice of transfer and a transfer fee established by the board, the department shall cause the transfer to be made in its register of brands. The brand shall not be used by the new owner until permission has been given by the department.

(c) The provisions of this article shall not be construed to require any owner of livestock to brand his or her livestock unless the owner voluntarily elects to do so in compliance with the registration requirements of this article.

(Acts 1975, No. 567, p. 1301, §2; Act 2004-516, p. 996, §1.)

Section 2-15-22

Admissibility of certificate of registration in civil actions or criminal proceedings as to title or right of possession.

In all civil actions or in any criminal proceedings when the title or right of possession of livestock is involved, a copy of the certificate of livestock brand registration verified by affidavit of the commissioner shall be received in evidence by the court as evidence of the registration of such brand in accordance with the requirements of this article.

(Acts 1975, No. 567, p. 1301, §3.)

Section 2-15-23

Renewal of brands; effect of failure to renew brand.

(a) There shall be a renewal period for recording livestock brands with the department which shall be once every three years, beginning with October 1, 2005. All brands recorded on or after October 1, 2005, shall be renewed or rerecorded on or before October 1, 2008, and each three-year period thereafter. At least 90 days prior to the renewal date for all registered brands, the department shall notify all persons having brands registered of the renewal date. On or before the renewal date of all brands, the registered owner thereof shall pay to the department a renewal fee established by the Board of Agriculture and Industries for the first position of the animal on which the brand appears, plus an additional fee established by the Alabama Board of Agriculture and Industries for each additional position on such animal as authorized and provided under subsection (b) of Section 2-15-28. Such additional information needed for renewal as the department may require shall also be furnished on forms provided by the department.

(b) If any livestock owner fails to renew any brand registered in his or her name, the brand shall be forfeited and shall be available to any other applicant for registration as provided under Section 2-15-21.

(Acts 1975, No. 567, p. 1301, §4; Act 2004-516, p. 996, §1.)

Section 2-15-24

Furnishing, etc., of forms for registration, reregistration and transfer of brands by department.

The department shall prescribe and furnish forms on which applications for registration, reregistration and transfer of livestock brands shall be made and shall furnish such forms to the sheriff and the county agricultural agent of each county of the state to be distributed on request to livestock owners desiring to make application for registration of brands and such applications may also be furnished to applicants by the department.

(Acts 1975, No. 567, p. 1301, §6.)

Section 2-15-25

Maintenance, publication, etc., of register of brands by department; department to determine ownership, etc., of lost, estrayed or stolen livestock and furnish said information to interested persons.

(a) The department shall maintain a complete register of all brands, showing the name and address of the owner, and shall publish and distribute copies of this register in booklet or pamphlet form and supplementary copies thereof to every livestock market and sheriff's office and other public officials in the state that may have an official need therefor. Copies of the register of brands may be furnished to other persons upon request at a price of \$5.00 per copy.

(b) The department shall also make use of its records of brand registrations in the performance of its duties to trace, locate and determine ownership of any lost, estrayed or stolen livestock and similar duties relating to livestock theft investigations and furnish such information to interested persons, upon receipt of notice giving details or description of the kind of livestock, color, weight, size, sex, age, marks, brands and other identifying information.

(Acts 1975, No. 567, p. 1301, §7.)

Section 2-15-26

Disposition of fees collected for registration, transfer, etc., of brands, etc.

All fees collected under this article for the registration, transfer and reregistration of brands together with amounts received for copies of brand registration books furnished upon request as authorized under Section 2-15-25 shall be deposited in the State Treasury to the credit of the Agricultural Fund.

(Acts 1975, No. 567, p. 1301, §2.)

Section 2-15-27

Records required to be maintained by operators of livestock markets, livestock hide dealers, etc.

(a) Every operator of a livestock market where livestock are received and sold shall keep a copy of the register of livestock brands in his place of business where it will be easily accessible for public inspection

during business hours.

(b) The operator of every livestock market where livestock are received and sold, together with those livestock dealers, slaughterers and butchers buying livestock for resale or for slaughter which livestock were not purchased at a livestock market, shall obtain and keep or cause to be kept a record for at least two years covering all livestock received, which shall show thereon the name and address of the owner, the number of animals received, the date of receipt and a description of such livestock together with the license number of the vehicle with the name and address of the driver thereof or the railroad waybill number or record of other method of transportation by which the livestock arrived. These records shall be retained by every such livestock market, dealer or slaughterer required to keep such records and shall be made easily accessible for public inspection for a period of two years after the livestock are received by such livestock market, dealer or slaughterer. Livestock dealers required to keep records under this subsection shall be those dealers required to be licensed under Article 6 of this chapter.

(c) Livestock hide dealers shall keep records of cattle hides received by them to facilitate the tracing of lost or stolen livestock. Livestock hide dealers shall keep a record of all such hides which shall include the name and address of the person from whom hides are purchased, a description of the hides, brands and any other identifying information appearing thereon. Livestock hide dealers shall keep such records for public inspection for a period of two years after receipt of such hides.

(Acts 1975, No. 567, p. 1301, §8.)

Section 2-15-28

Promulgation of rules and regulations by commissioner for implementation of article, etc., generally; designation by commissioner of positions on which animals may be branded.

(a) The commissioner, with the approval of the board, shall have authority to promulgate such rules and regulations as are reasonably necessary to carry out the evident intent and purposes of this article and which will facilitate the tracing and identification of lost, stolen or estrayed livestock and afford protection against the theft and unlawful dealing, handling or movement of livestock, including a system for brand registrations, transfer of brands, reregistrations and standards or requirements for brands acceptable for registration, which regulations will effectuate the purposes of this article. Such rules and regulations promulgated by the commissioner shall include information on the tracing and identification of lost, stolen or estrayed swine to be identified by brands, tattoos or other means.

(b) The commissioner, with the approval of the board, pursuant to rules and regulations, shall be authorized to designate positions on which livestock may be branded, not to exceed eight such positions.

(Acts 1975, No. 567, p. 1301, §§2, 9; Acts 1979, No. 79-667, p. 1174, §1.)

Section 2-15-29

Prohibited acts.

It shall be unlawful for:

- (1) Any person to use any brand for branding livestock unless the brand is registered with the department;
- (2) Any person to obliterate, alter or deface the brand of any livestock;
- (3) Any livestock market or livestock dealer to receive any livestock for sale or any livestock slaughterer to receive livestock for slaughter unless records of receipt and sale are kept in accordance with the requirements of this article;
- (4) Any livestock market, livestock dealer or livestock slaughterer to fail or refuse to keep a copy of the register of brands furnished by the department in a place easily accessible to interested parties for inspection at reasonable times as required by subsection (a) of Section 2-15-27;
- (5) Any livestock market or livestock dealer or livestock slaughterer to fail or refuse to keep a record for review and inspection at reasonable times as required by subsection (b) of Section 2-15-27; and
- (6) Any livestock hide dealer to fail or refuse to keep records required by subsection (c) of Section 2-15-27 for review and inspection as required by said subsection.

(Acts 1975, No. 567, p. 1301, §10.)

Section 2-15-30

Violations of provisions of article or rules and regulations promulgated thereunder deemed misdemeanors; disposition of fines collected for violations of article; revocation, etc., of permits or licenses of livestock markets or livestock dealers by commissioner upon violations of provisions of article.

(a) Any person who performs any act declared to be unlawful by this article or who fails to perform any duty imposed by the provisions and requirements of this article or who violates any rule or regulation promulgated hereunder shall be guilty of a misdemeanor and punishable as provided by law for such an offense.

(b) All amounts paid as fines for violations of this article when collected by the proper authority shall be transmitted to the department and deposited in the State Treasury to the credit of the Agricultural Fund.

(c) If any livestock market or livestock dealer violates any of the provisions or requirements of this article, such violations shall constitute grounds for the commissioner to revoke or cancel or refuse to issue or renew the permit or license issued by him which authorizes the operation of a livestock market or to engage in business as a livestock dealer pursuant to the law which regulates and governs the receipt, handling and sale of livestock at livestock markets or as a livestock dealer pursuant to Article 6 of this chapter.

(Acts 1975, No. 567, p. 1301, §11.)

Section 2-15-40

"Dealer" defined.

Every person engaged in the business of buying livestock as defined in Section 2-15-20 for resale or slaughter or who engages in the business of transporting, hauling or driving livestock as defined in Section 2-15-20 along any public road or highway of Alabama for resale, market or slaughter or who engages in the business of slaughtering such livestock shall be deemed to be a dealer for the purposes of this article.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §384; Acts 1979, No. 79-774, p. 1376, §1; Acts 1994, No. 94-322, p. 562, §3.)

Section 2-15-41

Dealer's permit required; permit fee and plates for vehicles used in hauling or transporting livestock; relation to Article 6 of chapter.

No dealer as defined in Section 2-15-40, except as provided in this section, may engage in any business described in Section 2-15-40 without a permit. Every dealer shall annually, on or before October 1, file an application with the commissioner for a permit to engage in the business. The application shall be made upon forms furnished by the Department of Agriculture and Industries and shall contain such information as may be required. The fee for every such permit, except as provided in this section, shall be established by the Board of Agriculture and Industries not to exceed thirty-seven dollars fifty cents (\$37.50), which shall be paid to the commissioner and deposited in the State Treasury to the credit of the Agricultural Fund. If such permit fee is not paid within 45 days from the date on which the fee is due, a delinquent penalty of 15 percent shall be added.

Every dealer who also engages in the business of transporting or hauling for hire cattle, sheep, goats, or hogs along any public road or highway of Alabama for resale, market, or slaughter shall pay an annual permit fee established by the Board of Agriculture and Industries not to exceed thirty-seven dollars fifty cents (\$37.50) for each vehicle used in hauling or transporting such livestock, and the commissioner, under rules and regulations promulgated by the Board of Agriculture and Industries, shall issue a suitable permit plate for proper identification of each vehicle used by dealers in hauling or transporting livestock for resale, market, or slaughter.

Any dealer, as defined in Section 2-15-40, who procures a license as a dealer pursuant to the requirements of Article 6 of this chapter and who otherwise complies with the provisions of Article 6 of this chapter shall not be required to obtain the annual permit nor pay the fee therefor as required under this section, but every such dealer shall comply with the other provisions and requirements of this article; provided, that any dealer who is required to procure a license by Article 6 of this chapter who also engages in the business of

transporting or hauling for hire cattle, sheep, goats, or hogs along any public road or highway in Alabama shall also be required to procure a permit and pay the fee therefor as required under this section.
(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §385; Acts 1953, No. 226, p. 292; Acts 1976, No. 363, p. 448, §1; Act 2004-516, p. 996, §1.)

Section 2-15-42

Forfeiture of dealer's permit.

Any dealer as defined in Section 2-15-40 who willfully violates any of the rules and regulations of the Commissioner of Agriculture and Industries lawfully made under the provisions of this article, shall forfeit the permit as such dealer in addition to any other penalty or punishment provided by law.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §391.)

Section 2-15-43

Dealers to obtain, etc., bills of sale upon purchase of livestock as defined in Section 2-15-20; dealers transporting livestock for hire upon public roads or highways to issue waybills or bills of lading; transporting of livestock without bill of sale, etc.; dealer, etc., to exhibit bill of sale, etc., upon demand by sheriff, etc.

All such dealers shall be required to obtain from the owner or seller, on purchase of any livestock as defined in Section 2-15-20, a bill of sale therefor, upon such forms as may be prescribed by the Commissioner of Agriculture and Industries and shall, on purchase, leave with such owner or seller a copy or duplicate of such bill of sale.

Dealers engaged in the business of transporting or hauling for hire livestock as defined in Section 2-15-20 along any public road or highway shall issue a waybill or bill of lading for all livestock hauled or transported by them containing such information as may be required by rules and regulations approved by the State Board of Agriculture and Industries.

It shall be unlawful for any dealer or his agent or employee to drive, haul or otherwise transport any such livestock along or upon any public road or highway in Alabama unless such dealer or his agent or employee shall have in his possession accompanying such hauling or shipment or transportation the original or a duplicate copy of the bill of sale, waybill or bill of lading as required by this section for any such livestock so being driven, hauled or transported, and the dealer or his agent or employee or other person in charge of such livestock shall on demand exhibit said accompanying bill of sale, waybill or bill of lading to any sheriff, deputy or other officer of the law.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §386; Acts 1976, No. 363, p. 448, §2; Acts 1994, No. 94-322, p. 562, §4.)

Section 2-15-45

Promulgation of rules and regulations as to conduct, management and operation of business of dealers.

Power is hereby conferred upon the Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries, to establish rules and regulations not inconsistent with law for the conduct, management and operation of any business as defined in this article, including the making, keeping and inspection of records to facilitate the tracing and identification of such livestock, the records to be kept and reports made and other like matters provided for to protect against stealing or unlawful dealing in or transportation of such livestock.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §389.)

Section 2-15-46

Violation of provisions of article deemed misdemeanor.

Any person violating any provisions of this article shall be guilty of a misdemeanor.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §390.)

Section 2-15-47

Applicability of provisions of article.

The provisions of this article shall not apply to the buying, transportation or resale of cattle, hogs, sheep or

goats when the buying, transportation or resale of such livestock is for the purpose of grazing, feeding or milking of such livestock by the person so buying, transporting or reselling such livestock.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §388.)

Section 2-15-48

Permits required by article cumulative; article not to prohibit adoption by municipalities of sanitary rules or regulations for conduct of dealer's business.

The payment of the permit fees provided for in this article shall be in addition to any license or licenses now or hereafter required to be paid to the State of Alabama or any county or any incorporated city or town for the privilege of conducting such business or businesses, and nothing contained in this article shall prohibit any incorporated city or town from adopting sanitary rules or regulations for the conduct of any such business within such city or town.

(Acts 1936, Ex. Sess., No. 190, p. 222; Code 1940, T. 2, §392.)

Section 2-15-60

Definitions.

When used in this division, the following terms shall have the following meanings, respectively, unless the context clearly indicates a different meaning:

(1) BOARD. The Board of Agriculture and Industries of the State of Alabama.

(2) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.

(3) DEPARTMENT. The Department of Agriculture and Industries of the State of Alabama.

(4) LIVESTOCK. Cattle, swine, sheep, goats, equine or equidae, ratites, and poultry.

(5) LIVESTOCK MARKET. A place, concentration or collection point, or other public or private place where a person shall assemble livestock for either public or private sale by him and such service or the cost or expense thereof is to be compensated for by the owner, on a commission basis or otherwise, or where such person purchases livestock for resale. The term shall not include:

a. Any place other than at a permanently established livestock market, used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale.

b. Any farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold and no other livestock is brought there for sale or offered for sale.

c. The premises of any butcher, packer, or processor who receives animals exclusively for immediate slaughter.

d. The premises of any person engaged in the raising of livestock for breeding purposes only who limits his sale to animals of his own production.

e. Any place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock when such breeder or association of breeders shall assume all responsibility of such sale and the title of livestock sold.

f. Any place, other than at a permanently established livestock market, used solely for livestock sales of 4-H clubs, Future Farmers of America and other youth organizations of like kind.

(6) PERSON. Any individual, partnership, corporation, association, or other legal entity or organization.

(Acts 1975, No. 386, p. 950, §1; Acts 1979, No. 79-774, p. 1376, §2; Acts 1994, No. 94-322, p. 562, §5; Act 2004-627, p. 1421, §1.)

Section 2-15-61

Permits required for operation of livestock markets; applications for permits; issuance; revocation; appeals from denial or revocation of permits.

(a) No person shall operate a livestock market in the State of Alabama without first having obtained from the commissioner, as required by this division, an annual permit therefor.

(b) The application for such a permit shall be made upon forms furnished by the department, which shall be verified by affidavit of the applicant which shall include the following information:

- (1) The name and address of the applicant or applicants and, if a corporation, its officers, and if a partnership, the names and addresses of its partners;
- (2) The place where applicant proposes to operate a livestock market;
- (3) A description of the property and facilities proposed to be used as a livestock market;
- (4) The kind of livestock the applicant proposes to handle at the livestock market;
- (5) A financial statement of the applicant showing the gross amount of business done by applicant during the preceding year, October 1 through September 30, and such statement shall show applicant's assets and liabilities; and

(6) Such other pertinent information as the commissioner may require relating to the bond and insurance, as required by this division, together with such information as may be required relating to the physical facilities of the livestock market and its record-keeping system for the identity of livestock received and handled.

(c) A permit shall be issued when the commissioner finds that:

- (1) The application is in due form;
- (2) The applicant has filed with the commissioner a bond as provided in this division;
- (3) The permit fee has been paid as provided in this division; and
- (4) The requirements of this division and all rules and regulations promulgated under the provisions of this division have been complied with.

(d) The permit issued under this division shall be revoked or shall not be issued or renewed when the commissioner finds that the livestock market is not complying with the provisions of this division or rules and regulations duly promulgated under this division or any such livestock market is or has not complied with any requirement of law for the control and eradication of any diseases of livestock or any law requiring the keeping of records relating to the identity of livestock for such purpose or for the tracing of lost, stolen or estrayed livestock or any rule or regulation promulgated under authority of such laws.

(e) Any livestock market refused or denied a permit provided for in this division or any livestock market having its permit revoked or cancelled by the commissioner shall be entitled to appeal such action of the commissioner to the board by filing a written notice or demand therefor with the commissioner within 10 days after notice of denial, revocation of or failure to renew a permit has been received by the livestock market, which appeal must be heard by the board at the next regular meeting or a special meeting called for this purpose; provided, that such appeal must be heard by the board on a date not later than 30 days following the date on which an appeal is filed. The filing of an appeal shall not suspend the action of the commissioner in the revocation or cancellation of a permit. The action of the board in refusing to grant or in revoking any permit may be reviewed by the circuit court of the county in which the livestock market is located, upon a complaint being filed in said circuit court, accompanied by a bond to be approved by the register or clerk within 15 days after notice to the applicant or to the holder of the permit of the board's decision. Such complaint shall be styled in the name of applicant or holder of the permit as plaintiff against the commissioner as defendant and shall set forth the action complained of and pray its reversal. It shall be the duty of the commissioner to serve an answer within 30 days after said complaint is served upon him. The case shall be heard de novo by the court and it shall be determined from the evidence whether the refusal or revocation of the permit is or is not justified under the provisions of this division, and a decision shall be accordingly entered, subject to the right of appeal, which shall lie from a final order or judgment of the circuit court in the same manner as in other civil cases. All appeal rights provided in this subsection shall not suspend the action of the commissioner in the revocation or refusal of a permit.

(Acts 1975, No. 386, p. 950, §2.)

Section 2-15-62

Livestock market permit fees; use and disclosure of information pertaining to amount or volume of business.

(a) Unless otherwise provided in this section, every person operating a livestock market in this state shall be required to pay annually, on or before October 1, a permit fee. The exact amount of such annual permit fee

for livestock markets, depending upon the annual gross business during the preceding 12-month period prior to October 1 established by the Board of Agriculture and Industries, within the range of the schedule set out below, shall be as follows:

(1) For an annual gross business of \$250,000.00 or less, the permit fee shall be not less than \$75.00 nor more than \$90.00;

(2) For an annual gross business of more than \$250,000.00 but less than \$500,000.00, the permit fee shall be not less than \$150.00 nor more than \$180.00;

(3) For an annual gross business of more than \$500,000.00 but less than \$1,000,000.00, the permit fee shall be not less than \$225.00 nor more than \$270.00;

(4) For an annual gross business of more than \$1,000,000.00 but less than \$2,500,000.00, the permit fee shall be not less than \$300.00 nor more than \$360.00;

(5) For an annual gross business of over \$2,500,000.00, the permit fee shall be not less than \$375.00 nor more than \$450.00.

The amount of permit for livestock markets which are beginning operations shall be the minimum established by the Board of Agriculture and Industries. The fee levied under this section for any permit issued on or after April 1 of any year shall be one half of the amount prescribed above for an annual permit fee unless the permit was actually required to be obtained prior to that date.

(b) All permit fees due under this section shall be delinquent 30 days from the date on which such permit fee was due and a delinquent penalty of 15 percent shall be added to the amount of the permit fee.

(c) All fees collected under this section shall be deposited in the State Treasury to the credit of the Agricultural Fund.

(d) The permit fee levied under this section shall be paid by all agricultural cooperative marketing associations operating livestock markets. The exemptions allowed such agricultural cooperative marketing associations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such cooperative associations from the payment of the permit fee levied by the provisions of this section.

(e) Any information received by the commissioner or the department relating to the amount or volume of business conducted by a livestock market for the purposes of Section 2-15-61 and this section shall be confidential and for official use only and shall not be divulged by the commissioner or department; provided, however, that such information may be used for agricultural statistical purposes and shall be disclosed in aggregate amounts only and not be publicly disclosed with respect to the name or names of individual livestock markets.

(Acts 1975, No. 386, p. 950, §3; Act 2004-516, p. 996, §1.)

Section 2-15-63

Bonds of livestock market operators.

Any person operating a livestock market in this state shall make and execute a bond in favor of the State of Alabama, which bond shall be made by a surety company qualified to do business in the State of Alabama and such bond shall be filed in the office of the commissioner. The minimum amount of such bond shall be \$5,000.00 or such greater sum not to exceed \$50,000.00. The exact amount of said bond shall be determined by dividing the gross amount of business done by such livestock market during the preceding 12 months or such part thereof as the livestock market was engaged in business by the number of days on which sales were made, and such bond shall be not less than the nearest multiple of \$1,000.00. Any bond accepted under the provisions of this section shall be not less than \$5,000.00 nor more than \$50,000.00. In the event the livestock market has not engaged in business during the year preceding the date of its application for a permit, the amount of the bond shall be determined by the commissioner upon the basis of anticipated business to be done during the year for which a permit is applied. The commissioner shall require a bond in an amount to be arrived at by dividing the gross amount of anticipated business by the number of days on which sales are to be held during the year for which the permit is applied.

Such bond shall be conditioned that the livestock market named therein as principal shall, upon the sale of

any livestock, promptly pay to the rightful owners all money received by it, less reasonable expenses and commissions.

Any person having a right of action against the livestock market named as principal in such bond may bring a civil action in his own name against the principal and surety of such bond for the recovery of any loss sustained by the owner of livestock for the violation of the conditions of said bond; provided, however, that the aggregate liability of the surety for all such losses shall in no event exceed the amount of said bond. The commissioner is hereby authorized to accept a bond made by any livestock market pursuant to the bonding provisions of the federal Packers and Stockyards Act of 1921, as amended, and any livestock market presenting such a bond shall be deemed to have complied with the bonding provisions of this section; provided, that the amount of such bond shall equal or be greater than the amount required under this section. The commissioner is authorized to be designated as trustee in any bond or principal-surety contract or he shall be authorized to designate the director or chief of the division of the department which handles the administration of this division to be designated and named as trustee in any bond accepted as authorized in this section which is made by any livestock market as required under the Packers and Stockyards Act of 1921, as amended.

(Acts 1975, No. 386, p. 950, §4.)

Section 2-15-64

Equipment and facilities required for markets; promulgation of rules and regulations by commissioner as to operation of markets generally.

(a) Every livestock market operating under this division shall have adequate and proper facilities for handling livestock, which shall include proper pens for holding and segregating animals properly protected from the weather; an adequate sanitary water supply; satisfactory scales, such scales to be approved by the division of weights and measures, Department of Agriculture and Industries or its successor in duties; concrete-floored pens for holding cattle to be tested, treated or sprayed; and adequately constructed and designated quarantine pens for segregating and testing livestock that might be affected with or exposed to a contagious or infectious disease. Necessary chutes for handling cattle must be provided. If feeder or breeder swine are handled, concrete or other impervious floored pens must be provided that will keep this kind of swine completely separated from slaughter swine at all times.

(b) Livestock markets shall also be required to have certain necessary and essential equipment and to comply with such other minimum standards of construction as may be required by rules and regulations promulgated by the commissioner, with the approval of the board, to carry out the evident intent and purposes of this section.

(c) The commissioner, with the approval of the board, is also authorized to promulgate such rules and regulations pertaining to the operation of livestock markets as may be reasonably necessary for the prevention, spread, eradication and control of contagious and infectious diseases among livestock which are received, kept, handled, sold, moved and delivered from livestock markets. Such regulations may require methods of receiving, keeping, handling, inspecting, testing, treating, dipping, vaccinating, inoculating, separating, segregating and quarantining livestock sold for stocker, feeder or breeding purposes as well as methods of receiving, handling, keeping, selling and moving livestock for slaughter purposes as well as rules and regulations governing the operation of scales on which livestock are weighed and testing for accuracy of such scales for the purpose of weights of livestock sold on the basis of weight.

(Acts 1975, No. 386, p. 950, §5.)

Section 2-15-65

Issuance and disposition of bills of sale by markets; information to be shown on bills of sale.

(a) Every livestock market shall, upon the sale of any livestock, issue a bill of sale in duplicate and, thereupon, deliver one copy of such bill of sale to the buyer and retain one on file for a period of at least 24 months in the office of the livestock market.

(b) The type of information to be shown on such bills of sale may be prescribed by rules and regulations

adopted by the board.

(Acts 1975, No. 386, p. 950, §7.)

Section 2-15-66

Livestock market operators selling livestock at auction not to permit purchase of livestock, etc., by owners, officers, employees, etc., of market.

(a) Livestock market operators who sell livestock at auction shall not permit their owners, officers, agents or employees to purchase livestock at auction from consignments for resale for their own speculative accounts nor purchase livestock for the accounts of others, nor shall they permit their owners, officers, agents or employees to enter into agreements with other parties whereby such owners, officers, agents or employees shall share, directly or indirectly, in profits realized from resale of livestock purchased at auction out of consignments on a speculative basis. This provision shall not prohibit the livestock market from purchasing livestock from consignment in order to protect the legitimate interests of consignors after having publicly offered the livestock for sale to the highest bidder.

(b) Livestock market operators shall not permit auctioneers, weighmasters, clerks, starters or other employees performing duties of comparable responsibility to purchase livestock out of consignment for any purpose for their own accounts or the accounts of others.

(Acts 1975, No. 386, p. 950, §6.)

Section 2-15-67

Commissioner to require markets to carry insurance on livestock accepted for sale.

The commissioner, with the approval of the board, shall require and is hereby authorized by appropriate rules and regulations to require livestock markets to carry insurance on all livestock accepted for sale in order that such livestock will be insured against injury or loss by fire or windstorm while such livestock are kept at a livestock market.

(Acts 1975, No. 386, p. 950, §8.)

Section 2-15-68

Rules and regulations for implementation of division.

The commissioner, with the approval of the board, is hereby authorized to promulgate rules and regulations as are reasonably necessary to carry out the evident intent and purposes of this division. Before any rules and regulations which are authorized to be promulgated by the commissioner under this division shall be approved by the board, the commissioner shall, at least 10 days before any such rule or regulation is submitted to the board for approval, notify all livestock markets in the State of Alabama of the date on which such regulation is to be submitted to the board for approval in order that livestock market operators may appear and be heard concerning the adoption of all rules and regulations to be promulgated and approved under the provisions of this division.

Following promulgation and approval of all rules and regulations as authorized under this division and within 30 days, the commissioner shall give notice of such rules and regulations so promulgated and approved and such rules and regulations shall not become effective until the expiration of such 30-day period.

(Acts 1975, No. 386, p. 950, §9.)

Section 2-15-69

Right of entry and inspection by commissioner, State Veterinarian, etc.; interference with performance of duties by commissioner, State Veterinarian, etc.

(a) The commissioner, the State Veterinarian or their duly authorized agent, including livestock market inspectors and livestock theft investigators of the department, are hereby authorized and may enter upon the premises of any livestock market or into any buildings on such premises at all reasonable hours for the purpose of examining and inspecting such premises, buildings or other structures located on such premises in enforcing the provisions of this division. The commissioner, the State Veterinarian or their duly authorized agents, including livestock markets inspectors and livestock theft investigators, shall also have access during business hours of the day to the livestock markets' records relating to the receipt, keeping, handling, sale and

delivery of livestock for examination and inspection in carrying out the provisions of this division or rules and regulations relating thereto.

(b) Any person who shall assault, resist, impede, oppose, prevent or interfere with the commissioner, the State Veterinarian or their authorized agents, including livestock markets inspectors and livestock theft investigators, in the execution of his or their duties shall be guilty of a misdemeanor and punishable under the penalty provisions of this division.

(Acts 1975, No. 386, p. 950, §10.)

Section 2-15-70

Operation of livestock market without permit, etc.; disposition of fines; injunctive proceedings to restrain operation of livestock market in violation of provisions of division.

(a) It shall be unlawful for any person to violate any of the provisions and requirements of this division or to fail or refuse to perform any duty or requirement imposed by the provisions of this division or to operate a livestock market without having a valid permit as required under the provisions of this division, and it shall also be unlawful for any person to operate a livestock market after the permit to so operate has been revoked under the provisions of this division. Each day's operation of a livestock market without a permit shall constitute a separate violation. Any person operating a livestock market without a permit shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00 and, within the discretion of the court, may be imprisoned for a period not to exceed six months.

(b) All amounts paid as fines for violations of this division, when collected by the proper authorities, shall be transmitted to the department and deposited in the State Treasury to the credit of the Agricultural Fund.

(c) In addition to the penalty provided under subsection (a) of this section, the circuit court or any judge thereof shall have jurisdiction, for cause shown, to grant a temporary restraining order or a permanent injunction or both restraining and enjoining any person from operating or continuing to operate a livestock market in violation of any of the requirements of this division or operating or continuing to operate a livestock market without having a valid permit as required by this division or after such a permit has been revoked; provided, that no permanent injunction shall be issued under this subsection until notice of such pending action is directed to the livestock market operator and he is afforded a hearing on such pending proceedings as now provided by law. Petitions for injunctive relief as authorized under this subsection shall be filed in the circuit court of the county in which the livestock market operating in violation of the provisions of this division is located. Any temporary restraining order or permanent injunction issued under this subsection shall be issued without a bond. Any action commenced under this subsection based upon facts furnished by the Commissioner of Agriculture and Industries or others having knowledge thereof may be brought in the name of the State of Alabama; provided, that such action shall be brought upon the relation of the Attorney General and with his approval, and such officer shall, upon his request, be assisted by the district attorney or deputy district attorney of the judicial circuit in which injunctive proceedings are filed.

(Acts 1975, No. 386, p. 950, §11.)

Section 2-15-71

Purchase, etc., of livestock on public road, etc., within 2,500 feet of public livestock market.

(a) It shall be unlawful for any person to buy or offer to buy livestock on any public street, road or highway within 2,500 feet of the premises of a public livestock market which has obtained a permit to engage in business pursuant to this division. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed by law.

(b) The Department of Agriculture and Industries is charged with the enforcement of this section.

(Acts 1969, No. 749, p. 1327.)

Section 2-15-80

Purpose of division.

The Alabama Livestock Dealers' Financial Responsibility Act requires, among other things, the prompt payment of the purchase price of livestock purchased by livestock dealers. Therefore, the intent and purpose

of this division is to enable the Commissioner of Agriculture and Industries to more effectively enforce the requirements of such act by requiring livestock markets to report to the Commissioner of Agriculture and Industries any dealer who purchases livestock without complying with the provisions of said act.

(Acts 1979, No. 79-821, p. 1532, §1.)

Section 2-15-81

Definitions.

When used in this division, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) PERSON. Any individual, partnership, corporation, association or other business unit.

(2) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.

(3) ALABAMA LIVESTOCK DEALERS' FINANCIAL RESPONSIBILITY ACT. An act of the Legislature of Alabama of 1969 now appearing as Sections 2-15-130 through 2-15-138.

(4) DEALER. Any person engaged in the business of buying livestock as a dealer as defined in Section 2-15-131(5).

(5) LIVESTOCK MARKET. Any person engaged in the operation of a livestock market as defined in Section 2-15-60(6).

(Acts 1979, No. 79-821, p. 1532, §2.)

Section 2-15-82

Livestock market reporting requirements; provision of list of licensed dealers by Commissioner of Agriculture and Industries.

Every livestock market in Alabama is hereby required to report to the commissioner the name and address of any dealer who fails or refuses to comply with the requirements of the Alabama Livestock Dealers' Financial Responsibility Act which requires every dealer in livestock to make full payment of the amount of each purchase of livestock to the person from whom the purchase was made not later than the close of the next business day following the date of such purchase. The commissioner shall furnish every livestock market with a complete list showing thereon the names and addresses of every dealer who has been issued a livestock dealer's license, with supplements thereto, as may be necessary to enable livestock markets to comply with the reporting requirements hereof.

(Acts 1979, No. 79-821, p. 1532, §3.)

Section 2-15-83

Inspection of records by commissioner, inspectors, etc.

The commissioner, duly authorized inspectors, employees and agents of the Department of Agriculture and Industries shall have power and authority during business hours to enter upon the premises of any livestock market and to have access to and inspect books, invoices and other like records of such markets relating to the receipt, keeping, sale and delivery of livestock for the purpose of enforcing the requirements of this division.

(Acts 1979, No. 79-821, p. 1532, §4.)

Section 2-15-84

Promulgation of rules and regulations by commissioner.

The commissioner with approval of the State Board of Agriculture and Industries is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the evident intent and purpose of this division including, but not limited to, the reporting requirements of livestock markets, the manner and method of payment required of dealers to comply with this division, the method of disseminating information by the commissioner to livestock markets of the nonpayment for livestock purchases by dealers, records required to be kept by livestock markets, together with the identification of dealers purchasing livestock and whether such dealers are purchasing for their own account or as agent for others with disclosure of such information to be made to the livestock market either prior to or subsequent to the time of purchase, as well as such other rules and regulations as may be reasonable and necessary to effectuate

the purpose of this division.

(Acts 1979, No. 79-821, p. 1532, §5.)

Section 2-15-85

Penalty for violation of division; procedure to deny or revoke permit and restrain or enjoin operation of livestock market.

A willful failure or refusal of any livestock market to comply with the provisions of Section 2-15-82 shall be valid grounds for denial or revocation of a permit to operate a livestock market in accordance with the requirements and procedure for such action as prescribed by Section 2-15-61. Any person who willfully fails or refuses to comply with the requirements of this division shall be subject to the penalty provisions of Section 2-15-70(a), and any person may be restrained and enjoined from operating or continuing to operate a livestock market in violation of this division in accordance with the procedure set forth in Section 2-15-70 (c).

(Acts 1979, No. 79-821, p. 1532, §6.)

Section 2-15-86

Construction of division.

The provisions of this division shall not be construed to repeal any other laws or parts of laws unless such laws or parts of laws are in direct conflict with the provisions of this division as it is intended that the provisions of this division are cumulative or supplemental to other requirements imposed by law upon livestock markets and livestock dealers.

(Acts 1979, No. 79-821, p. 1532, §7.)

Section 2-15-90

"Livestock market" defined.

The term "livestock market" as used in this division shall mean livestock markets which are subject to the requirements of Division 1 of this article.

(Acts 1959, No. 169, p. 693, §1.)

Section 2-15-91

Permit required for operation of scales at livestock market; livestock not to be sold by weight at livestock market unless weighed by permittee.

No person shall operate scales upon which livestock are weighed at livestock markets where the livestock are sold upon the basis of weight unless such person obtains a permit as required under the provisions of this division, nor shall any person who operates a livestock market sell livestock for himself or others at a livestock market upon the basis of weight unless such livestock is weighed by a person holding a permit as required under the provisions of this division.

(Acts 1959, No. 169, p. 693, §1.)

Section 2-15-92

Permit to be obtained from commissioner; duration; permit fee.

A permit to operate scales at livestock markets as required under Section 2-15-91 shall be obtained from the Commissioner of Agriculture and Industries and such permit shall expire on September 30 following the date of issuance.

A permit fee not to exceed \$20.00 established by the Board of Agriculture and Industries shall accompany each application for a permit, which fee shall be deposited into the Agricultural Fund of the State Treasury. Annual permits required under this division shall cover the 12-month period beginning October 1 and ending September 30.

(Acts 1959, No. 169, p. 693, §2; Acts 1975, No. 562, §1; Act 2004-516, p. 996, §1.)

Section 2-15-93

Bond of permittee.

Before the Commissioner of Agriculture and Industries is authorized to issue a permit as required under this division, the applicant for such a permit shall file with the Department of Agriculture and Industries a bond in

the amount of \$1,000.00 written by a surety company qualified to do business in the State of Alabama, which bond shall be payable to the State of Alabama and conditioned that the principal named therein shall faithfully and honestly perform his duties of accurately weighing livestock which are sold at livestock markets. Any person suffering a loss caused by the principal's failure to accurately weigh livestock shall have a right of action against the principal and surety of such bond; provided, that the aggregate liability of the surety for all such losses shall in no event exceed the amount of the bond.

(Acts 1959, No. 169, p. 693, §3.)

Section 2-15-94

Livestock markets to provide services of permittee or public weighmaster; sale by weight of livestock at markets failing to provide such services.

(a) Before the Commissioner of Agriculture and Industries is authorized to issue the permit to a person operating a livestock market which is required by the provisions of Division 1 of this article, such livestock markets shall be provided with the services of a person holding a permit under the requirements of this division or services of a public weighmaster as authorized under Section 2-15-91.

(b) The sale of livestock at such livestock markets upon the basis of weight and failure to have such services at each public sale shall be grounds for revoking the permit which authorizes the operation of a livestock market.

(Acts 1959, No. 169, p. 693, §4.)

Section 2-15-95

Public weighmasters exempt from provisions of division; livestock markets employing public weighmasters not required to employ permittees.

Any person who has been duly appointed as a public weighmaster in accordance with the requirements of Sections 8-16-50 through 8-16-59 and 8-16-106 shall be authorized to operate scales at livestock markets without having to comply with the provisions of this division, and livestock markets using the services of a public weighmaster for weighing livestock sold upon the basis of weight shall not be required to have such livestock weighed by a person holding a permit as required under the provisions of this division.

(Acts 1959, No. 169, p. 693, §5.)

Section 2-15-96

Operation of scales at livestock market without permit, giving of false weights, etc.; forfeiture of permit by person giving false weight of livestock for sales purposes.

(a) Any person who shall operate scales at a livestock market for the purpose of weighing livestock for the purpose of sale without having a permit as required under this division or any person holding such a permit who shall give or cause to be given false weights to be used in selling livestock or any person operating a livestock market who sells livestock upon the basis of weight without having such livestock weighed by a person holding a permit as required under provisions of this division or by a public weighmaster shall be guilty of a misdemeanor and punished as now prescribed by law for such offense.

(b) Any person who shall give or cause to be given a false weight of livestock for sales purposes shall forfeit his permit which shall be revoked or cancelled.

(Acts 1959, No. 169, p. 693, §6.)

Section 2-15-110

Inhumane handling or handling in violation of article prohibited.

In order to prevent injury to animals in livestock markets and in transit and to prevent unnecessary abuse and cruelty to animals with resultant loss of profit from the slaughter and sale of such animals, it shall be unlawful in this state to handle or transport such animals in any manner not consistent with humane methods of treatment to such extent as is reasonably possible or in a manner not in compliance with or in violation of the requirements of this article.

(Acts 1967, No. 214, p. 578, §1.)

Section 2-15-111

Conveyances used to transport livestock to proceed to destination without delay; notice to owner of livestock of breakdown.

(a) All trucks, vans or other conveyances used for the transportation of cattle, sheep, swine or other animals along public roads, streets or highways of Alabama shall, prior to the loading of such animals, be prepared to proceed to their destination without delay and, upon loading, shall proceed by the most direct and usually traveled route.

(b) In the event of a breakdown that would cause a delay of the arrival of the livestock at their destination for more than one hour, the owner of such livestock shall be notified as soon as possible of such breakdown.

(Acts 1967, No. 214, p. 578, §2.)

Section 2-15-112

Construction of conveyances used for transporting of livestock.

All such trucks, vans or other conveyances used for the transporting of the animals described in this article shall be so constructed that the roof of any deck of the conveyance will not touch the highest point of the back of any animal loaded thereon. Any such conveyance which is propelled or drawn by the use of diesel fuel shall have the exhaust so placed that the fumes will not blow directly into the area in which the animals are loaded either when the conveyance is in motion or when it is motionless.

(Acts 1967, No. 214, p. 578, §3.)

Section 2-15-113

Use of sticks, whips, chains, etc., in livestock markets; promulgation of rules and regulations by commissioner as to treatment of livestock in markets; inspections of markets for enforcement of section.

In addition to the authority granted to the Commissioner of the Department of Agriculture and Industries pursuant to Division 1 of Article 4 of this chapter, the said commissioner, with the approval of the State Board of Agriculture and Industries, shall be authorized to promulgate reasonable rules and regulations for the humane treatment of animals held in livestock markets and while being sold or offered for sale in such markets, including the number, kind and size of animals that may be held in pens or areas of stipulated dimensions, regulations for the feeding and care of such animals and for the maintenance of sanitary conditions of the premises.

Sticks, canes or whips shall not be used in such a manner so as to injure an animal. The use of chains, spikes, clubs or other injurious devices are hereby prohibited except under extreme circumstances where it is necessary to prevent injury to persons or other animals; and flappers, other noisemaking devices, electric prods of not more than six volts in strength and other contrivances which have been found to be equally effective shall be used wherever possible for such purposes.

The Commissioner of Agriculture and Industries shall provide for the regular inspection of such livestock markets for the purpose of enforcing the requirements of this section.

(Acts 1967, No. 214, p. 578, §4.)

Section 2-15-114

Penalties for violations of provisions of article, rules or regulations promulgated thereunder, etc.; liability of managers, etc., of transportation agencies or livestock markets permitting violations of article by employees, agents, etc.

(a) Any person who shall violate any of the provisions or requirements of this article, or who fails to perform any duty imposed by the provisions of this article or who violates any rule or regulation duly promulgated under this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 nor more than \$100.00 and, within the discretion of the court, may also be imprisoned for not more than six months.

(b) The manager, executive officer, owner or other person in charge of any transportation agency or livestock market who knowingly allows any employee, agent or servant to violate any of the provisions or requirements of this article or who knows that any employee, agent or servant is violating any provisions of this article and who does not take immediate steps to correct such violations shall be guilty of a

misdemeanor and upon conviction shall be punished as provided in subsection (a) of this section.

(Acts 1967, No. 214, p. 578, §5.)

Section 2-15-115

Short title.

This article shall be known and may be cited as the "Alabama Public Livestock Marketing Business Act."

(Acts 1991, No. 91-629, p. 1171, §1.)

Section 2-15-116

Purpose.

It is the legislative intent of this article to encourage, stimulate and stabilize the agricultural economy of this state in general, and the livestock economy in particular. This shall be accomplished by encouraging the development and productive operation by public livestock marketing businesses as a key industry of the state with all benefits of fully open, free, competitive factors, with respect to the sales and purchases of livestock.

(Acts 1991, No. 91-629, p. 1171, §2.)

Section 2-15-117

Charter required for conduct of public livestock business.

No person shall conduct the business of a public livestock market without obtaining a valid charter pursuant to the provisions of this article.

(Acts 1991, No. 91-629, p. 1171, §3.)

Section 2-15-118

Definitions.

The following definitions shall have the following meanings respectively ascribed to them unless the context clearly indicates otherwise:

(1) BOARD. The Alabama State Public Market Board created pursuant to this article.

(2) LIVESTOCK. Cattle, swine, sheep, goats, equidae, ratites, poultry and exotic animals.

(3) LIVESTOCK MARKET. A place, concentration or collection point or other public or private place where a person shall assemble livestock for either public or private sale by him and the service or the cost or expense thereof is to be compensated by the owner, on a commission basis or otherwise. Such term shall not include:

(a) Any place, other than at a permanently established livestock market, used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale;

(b) Any farm, ranch or place where livestock either raised or kept thereon for the grazing season or for fattening is sold and no other livestock is brought there for sale or offered for sale;

(c) The premises of any butcher, packer or processor who receives animals exclusively for immediate slaughter;

(d) The premises of any person engaged in the raising of livestock for breeding purposes only who limits his sale to animals of his own production;

(e) Any place where a producer or an association of producers of livestock of any class assemble and offer for sale and sell under his or their own management any livestock when such producer or association of producers shall assume all responsibility of such sale and the title of livestock sold; and

(f) Any place, other than a permanently established livestock market, used solely for livestock sales of 4-H Clubs, Future Farmers of America and other youth organizations of like kind.

(4) COMMISSIONER. The Commissioner of the Alabama Department of Agriculture and Industries.

(5) CHARTER. The charter for a public livestock market business authorized to be issued under this article.

(6) PERSON. Any individual, association, partnership, corporation, or other entity.

(7) LIVESTOCK MARKET OWNER. Any person engaged in the business of conducting or operating a public livestock market whether personally or through agents or employees.

(8) DEPARTMENT. The Department of Agriculture and Industries.

(Acts 1991, No. 91-629, p. 1171, §4; Acts 1994, No. 94-322, p. 562, §7.)

Section 2-15-119

Creation of public livestock board; membership and duties of board; chairman; ex officio members.

There is hereby created the Alabama Public Livestock Market Board which shall consist of eight members as follows: Two members nominated and appointed by the Alabama Livestock Marketing Association; two members nominated and appointed by the Alabama Cattlemen's Association; one member nominated and appointed by the Alabama Pork Producers; one member nominated and appointed by the Alabama Farmers Federation; and one member nominated and appointed by the Alabama Dairy Producers. The eighth member will be the commissioner who shall be chairman of the board. It shall be the duty of the board to carry out the provisions of this article. The following persons shall be ex officio members of the board: One representative from Auburn University; the chairman of the Senate Agriculture, Conservation and Forestry Committee; one representative from the banking industry; and the chairman of the House Agriculture, Forestry and Natural Resources Committee.

(Acts 1991, No. 91-629, p. 1171, §5.)

Section 2-15-120

Terms of members; power to make bylaws, rules, and regulations; per diem allowance and travel expenses.

The members of the board, with the exception of the commissioner, shall be appointed for terms of three years. The board is given authority to make all necessary bylaws, rules and regulations for the proper performance of its duties.

The board may provide for a per diem allowance for its members. In addition, each member shall be reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance.

(Acts 1991, No. 91-629, p. 1171, §6.)

Section 2-15-121

Application for charter; information required; fee.

(a) The application for a charter under this article shall include the following information, which is to be filed with the commissioner:

- (1) A detailed statement showing all the assets and liabilities of the applicant;
- (2) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market;
- (3) The weekly or monthly sales day or days on which the applicant proposes to operate his public livestock market sales;
- (4) Projected source and quantity of livestock, by county, anticipated to be handled;
- (5) Projected income and expense statement for the first year's operation;
- (6) Facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market; and
- (7) Such other information as the commissioner may reasonably require.

(b) A charter application fee of \$250.00 which will be retained by the Department of Agriculture and Industries whether or not the charter is granted.

(Acts 1991, No. 91-629, p. 1171, §7.)

Section 2-15-122

Application for charter; review by commissioner; notice of hearing; persons entitled to notice; factors affecting decision of board; grounds for denial of charter.

Upon the filing of such application the commissioner shall determine that all necessary information has been furnished and shall fix a reasonable time for the hearing thereon in the city itself, or the nearest city thereto, where the public livestock market is proposed to be located. The commissioner shall cause a copy of such application together with notice of the time and place of hearing, to be served by mail not less than 15 days prior to such hearing upon the following persons or associations:

- (1) The charter applicant;
- (2) All duly organized statewide livestock associations in the state who have filed written request with the board to receive notice of such hearings and such other livestock associations as in the opinion of the commissioner would be interested in such application; and
- (3) The owners of all public livestock markets in the state. The commissioner shall give such further notice of the hearing by publication once in a daily and weekly newspaper circulated in the city or town where such hearing is to be held, as, in the opinion of the commissioner, will give public notice of such time and place of hearing to persons interested therein. A hearing shall be conducted by the board, at which interested persons may formally appear in support of opposition thereto. If, after the hearing, the board finds from the evidence presented that such public livestock market for which a market charter is sought would beneficially serve the livestock economy, such market charter shall be issued to the applicant. The board, in determining whether the charter shall be granted, shall consider the following:
 - a. The financial stability, business integrity and fiduciary responsibility of the applicant;
 - b. The adequacy of the facilities proposed to be used;
 - c. The present market services elsewhere available to the trade area proposed to be served;
 - d. The livestock industry marketing benefits to be derived from the establishment and operation of the public livestock market proposed in the application; and
 - e. The economic feasibility of the proposed market service.

If the board finds the applicant is unqualified or determines that the charter should not be issued because of failure to comply with the standards prescribed in this article, it shall deny the application, and the applicant, or any interested party who claims to have been adversely affected by such an order, shall have the right to have the action of the board reviewed.

(Acts 1991, No. 91-629, p. 1171, §8.)

Section 2-15-123

Public livestock markets pre-existing this article; non-transferability of charter.

The owner of any public livestock market operated and conducted as such on September 1, 1991, shall be issued a charter for the operation of said market, in accordance with the Alabama Department of Agriculture and Industries' records. Each charter issued under this article is personal to the holder and may not be transferred to another place or legal entity or person.

(Acts 1991, No. 91-629, p. 1171, §9.)

Section 2-15-124

Disposition of fees.

Fees required by this article shall be deposited in a special fund in the State Treasury to the account of the Alabama Public Livestock Market Board. The fund shall be used by the board to pay the expenses of the administration of this article.

(Acts 1991, No. 91-629, p. 1171, §10.)

Section 2-15-125

Lapse of charter upon transfer of business or failure to pay licensing fees; "transfer" defined.

A charter shall lapse upon transfer of the chartered business. "Transfer" for this purpose means any conveyance of any right, title or interest in a charter which results in ownership of one-half or more of the market by persons not indicated on the original application for charter as having a financial interest in the applicant. "Transfer" includes incorporation by an existing market owner, or dissolution of a corporate market owner, where accomplished for the purpose of changing the form of market ownership, and whether or not accompanied by a formal conveyance. No transfer shall be deemed to have taken place in such cases, where at least one-half the resulting ownership of the market, or of a corporate market owner, remains in persons indicated on the original charter application as having a financial interest in the applicant. The charter will lapse upon failure to pay the annual licensing fee as determined by the commissioner in accordance with the Alabama livestock industry regulations.

(Acts 1991, No. 91-629, p. 1171, §11.)

Section 2-15-126

Amendments to charter; application and notice; when application required.

(a) Application must be made to amend a charter in the following instances which shall not amount to a transfer:

- (1) Change in the name of chartered market;
- (2) Change in persons having a financial interest in a charter holder from those who appear in the application;
- (3) Incorporation of a charter holder; and
- (4) Dissolution of a corporate charter holder.

(b) If a charter must be amended, the following procedure will be followed. Notice shall be made by letter to the commissioner detailing the reason for the application. The commissioner shall forward copies of the application to each board member, and thereafter, if he finds the notification to be in order, he shall issue an amended charter and shall supplement the information on file maintained in reference thereto.

(Acts 1991, No. 91-629, p. 1171, §12.)

Section 2-15-127

Appeal of refusal to grant charter; court, venue, bond, and costs; stay upon appeal of suspension or revocation of charter; failure to perfect appeal.

An appeal of a decision of the board refusing to grant an application for a certificate of a livestock business shall be taken to the district court of the county in which the proposed livestock market is to be located or in which the authorized livestock market has its principal place of business. The appellant shall file a bond with the clerk of the district court in the sum of \$300.00, to be approved by the judge, which shall be conditioned to pay all costs that may be awarded against the appellant in the event of an adverse decision or the decision of the department being affirmed. The cost of preparing transcripts shall be paid by appellant. In a case of suspension or revocation of a certificate, the filing of the notice and bond stays the order of the department until the final determination of the appeal. If the appellant fails to perfect the appeal, the stay shall automatically terminate.

(Acts 1991, No. 91-629, p. 1171, §13.)

Section 2-15-130

Short title.

This article shall be known and cited as the Alabama Livestock Dealers' Financial Responsibility Act.

(Acts 1969, No. 568, p. 1049, §1.)

Section 2-15-131

Definitions.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.
- (2) BOARD. The Board of Agriculture and Industries of the State of Alabama.
- (3) DEPARTMENT. The Department of Agriculture and Industries of the State of Alabama.
- (4) PERSON. Any individual, partnership, corporation, association or other business unit.
- (5) DEALER. Any person engaged in the business of buying livestock in the State of Alabama for resale, exchange or slaughter and meat packing purposes, either on his own account or as agent for others on a commission basis or otherwise.
- (6) LIVESTOCK. Cattle, swine, sheep, goats, equidae, ratites, poultry and catfish.

(Acts 1969, No. 568, p. 1049, §2; Acts 1979, No. 79-774, p. 1376, §3; Acts 1984, 1st Ex. Sess., No. 84-797, p. 207, §1; Acts 1994, No. 94-322, p. 562, §6.)

Section 2-15-132

Dealer license required; denial or revocation of license; appeal.

(a) No person may engage in the business of a dealer as defined in Section 2-15-131 without having a license

therefor issued by the Commissioner of Agriculture and Industries, which license shall expire on December 31 and shall be renewable as of January 1 of each year.

(b) An application for a license or annual renewal of a license as required under subsection (a) of this section shall be filed with the commissioner upon a form furnished for this purpose accompanied by a fee established by the Board of Agriculture and Industries payable before issuance of such license. Such application shall state the full name and address of the person applying for the license, the name of each member of the firm or all officers, if a corporation or association, together with the location of the applicant's business operation and the general territory or area in which the applicant intends to buy livestock, and it shall also contain any other information deemed necessary by the commissioner for the administration of this article. License fees collected under this subsection shall be deposited in the State Treasury to the credit of the Agricultural Fund.

(c) Upon receipt of the application, payment of the license fee, and the furnishing of a bond as provided in this article, a license shall be issued entitling the applicant to engage in the business of a dealer. Notwithstanding the foregoing, a license shall be denied or revoked if the commissioner finds that the applicant: Has failed to comply with any of the provisions of this article; has failed to pay for livestock purchased; has given in payment for livestock purchased a check or draft which has been returned unpaid or dishonored without reasonable cause; is involved in any legal proceeding which may impair his or her ability to meet his or her financial obligations; has suffered a money judgment to be entered against him or her upon which execution has been returned unsatisfied; or has been guilty of fraud in applying for or obtaining a license or a renewal thereof as required by this article.

(d) Any person denied a license or any dealer whose license has been revoked by the commissioner may appeal the action to the board by filing a written request therefor with the board within 10 days after notice of denial or revocation of a license has been received. An appeal shall be heard by the board within 30 days following the date on which the appeal was filed. The filing of an appeal shall not suspend the revocation or denial of a license. The action of the board in refusing to grant or in revoking any license may be reviewed by the Circuit Court of Montgomery County upon a complaint being filed in the circuit court, accompanied by a bond to be approved by the clerk, within 15 days after notice to the applicant or licensee of the board's decision. The complaint shall be styled in the name of the applicant or licensee as plaintiff against the commissioner as defendant and shall set forth the action complained of and request its reversal. The commissioner shall serve an answer within 30 days after the complaint is served upon him or her. The action shall be heard de novo by the court, and it shall be determined from the evidence whether the denial or revocation of the license is or is not justified under the provisions of this article. The decision shall be accordingly entered, subject to the right of appeal which is available as in other civil actions, and the decision shall be binding upon the parties. All appeal rights provided in this subsection shall not suspend the action of the commissioner in the revocation or denial of a license.

(Acts 1969, No. 568, p. 1049, §3; Acts 1976, No. 364, p. 450; Act 2004-516, p. 996, §1.)

Section 2-15-133

Bonds of dealers generally; bond equivalents; furnishing of financial statements and reports, maintenance of books and records, etc., by dealers; requirement as to payment for livestock purchased.

(a) No license as required under Section 2-15-132 shall be issued or renewed until the applicant therefor shall make, execute and thereafter maintain on file with the commissioner a bond or a bond equivalent as provided in subsection (f) of this section in favor of the State of Alabama or a trustee to be approved by the commissioner to secure the performance of obligations incurred in the State of Alabama and the payment thereof to persons from whom such dealer purchases livestock. Except as otherwise provided in this subsection, the amount of each bond shall be not less than the next multiple of \$2,000.00 above the average amount of purchases of livestock purchased either as a dealer or on an agency basis in Alabama during a period equivalent to two business days based on the total number of business days and the total amount of such transactions during the proceeding 12 months or in such substantial part thereof in which the applicant

did business. For the purpose of this computation, 260 shall be deemed the number of business days in any year. Bonds above \$26,000.00 shall not be less than the next multiple of \$5,000.00 above the average amount of livestock purchased either as a dealer or on an agency basis in Alabama, computed as set out in this subsection. When the amount of a bond, calculated as required in this subsection, exceeds \$50,000.00, the amount of the bond shall not exceed \$50,000.00 plus 10 percent of the excess, unless the commissioner has reason to believe that a bond in such amount is inadequate because of the volume of business conducted on a seasonal or otherwise irregular basis, in which event the commissioner shall determine and specify the amount of the bond to be required.

(b) In no case shall a bond covering the buying operations of a dealer be less than \$10,000.00.

(c) If the applicant is a successor in business to a dealer subject to the requirements of this article, the bond of such applicant shall be in an amount not less than that required of the prior dealer, unless the commissioner finds that the amount of such a bond will be excessive and unnecessary. If the applicant has not been previously engaged in the business of a dealer subject to the requirements of this article, the bond of such applicant shall be in an amount equivalent to the estimated value of livestock purchases which it is anticipated such applicant will make during any two business days during the succeeding 12 months; provided, however, that the amount of such bond shall be subject to adjustment from time to time in accordance with the provisions of subsection (e) of this section.

(d) Bonds required by subsection (a) of this section shall be conditioned that the dealer or principal shall pay, when due to the person or persons entitled thereto, the purchase price of all livestock purchased in the State of Alabama by said dealer-principal for his own account or for the accounts of others and that the said dealer-principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the account of others. Bonds required by subsection (a) of this section shall be written by a surety company qualified to do business in Alabama. Any person having a cause of action against a dealer for breach of the condition of the bond may bring a civil action against the principal and surety of such bond in any court of competent jurisdiction for recovery of the loss resulting from such breach of the condition of the bond; provided, however, that the aggregate liability of the surety for all such losses shall not exceed the amount of the bond. The bond shall contain a provision requiring not less than 15 days' written notice to the commissioner by the party terminating such bond in order to effect its termination.

(e) Whenever the commissioner finds that any bond required under this section is inadequate, such bond, upon notice from the commissioner, shall be increased to meet the requirements of this section or, in like manner, may be reduced if found to be in excess of the requirements of this section; provided, however, that the amount of such bond shall not be increased or reduced by the commissioner, nor shall the amount of any bond be increased under authority of subsection (a) of this section unless and until the State Board of Agriculture and Industries adopts and promulgates rules and regulations prescribing the conditions under which bond increases or reductions will be required by the commissioner. Such rules and regulations shall prescribe a uniform method and procedure to be followed by the commissioner in determining the amount of any bond increases or reductions that may be ordered by the commissioner because of being inadequate or excessive. All such bond increases and reductions as ordered by the commissioner as authorized under this subsection shall be reviewed by the board at its next quarterly or special call meeting for the purpose of determining whether the action of the commissioner in requiring an increase or reduction in the amount thereof is in compliance with the rules and regulations as prescribed by the said board for this purpose.

(f) A bond equivalent may be filed or maintained in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based upon cash or fully negotiable bonds of the United States government or of the State of Alabama. All provisions of this section relating to making, executing, filing and maintaining bonds on file with the commissioner shall be applicable to such trust fund agreements.

(g) The above requirements for a bond or bond equivalent may be waived provided the dealer, "at the time of purchase," pays for all livestock purchased with United States currency (cash), money orders or cashier's

or certified checks. The dealer may also be required to submit verified statements to this effect.

(h) Every person engaged in the business of a dealer, as defined in Section 2-15-131, shall furnish annually and at such other times as the commissioner may designate or request verified financial statements and reports showing the volume and value of livestock purchased in Alabama and the names and addresses of all employees authorized to purchase livestock for such person and shall keep such books and records as the commissioner may require as being reasonably necessary to carry out the provisions and requirements of this section, and the commissioner or his duly authorized agent or agents shall have access to such books and records during the regular business hours of any business day for the purpose of examination, inspection, audit or investigation of such dealer's operations. Any person who submits false information in making any report required under this subsection or who refuses the commissioner or his authorized agent access to such books and records as are required to be kept under this subsection shall be subject to the provisions of Section 2-15-136.

(i) Every person engaged in the business of a dealer, as defined in Section 2-15-131, shall make full payment of the amount of each purchase of livestock to the person from whom such purchase was made not later than the close of the next business day following the date of such purchase; however, dealers engaged in the business of buying catfish shall make such payment not later than the close of 10 business days following the date of such purchase of catfish.

(j) Every person engaged in the business of a dealer as defined in Section 2-15-131 shall, with regard to any purchase of livestock made by such dealer at a livestock market regulated by Sections 2-15-60 through 2-15-71, be liable for the payment of the amount of each such livestock purchase made by such dealer whether the purchase was made by the dealer on his own account or as an agent for another, and with respect to such livestock purchases made as an agent for another, such liability shall exist without regard to the fact that the other party for whom the purchase was made shall also be liable for the payment of the amount of such purchase.

(Acts 1969, No. 568, p. 1049, §4; Acts 1979, No. 79-822, p. 1535; Acts 1984, No. 84-190, p. 297; Acts 1984, 1st Ex. Sess., No. 84-797, p. 207, §1.)

Section 2-15-134

Acceptance of bonds given under federal Packers and Stockyards Act.

The commissioner is hereby authorized to accept a bond made by any dealer pursuant to the bonding requirements of the federal Packers and Stockyards Act, 1921, as amended, and any dealer presenting such a bond shall be deemed to have complied with the bonding provisions of Section 2-15-133; provided, that the amount of such bond equals or is greater than the amount required in said Section 2-15-133. If the amount of such bond does not satisfy the requirements of said Section 2-15-133, such bond shall be increased to such amount as will satisfy the requirements of said section, prior to issuance of a license to such dealer. Any dealer not required to file and maintain a bond or a bond equivalent pursuant to the requirements of the federal Packers and Stockyards Act, 1921, as amended, shall be required to file and maintain a bond for the amount as set forth under Section 2-15-133.

(Acts 1969, No. 568, p. 1049, §5.)

Section 2-15-135

Promulgation of rules and regulations for implementation of article.

The commissioner with the approval of the State Board of Agriculture and Industries is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the evident intent and purposes of this article.

(Acts 1969, No. 568, p. 1049, §7.)

Section 2-15-136

Penalty for violations of provisions of article; injunctive proceedings to restrain operation by dealer in violation of provisions of article.

(a) Any person who shall engage in business as a dealer as defined in Section 2-15-131 without having a

license as required by subsection (a) of Section 2-15-132 or any person who shall violate any of the other requirements of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed by law for such offense.

(b) In addition to the penalty provided under subsection (a) of this section, the commissioner may apply by a petition to a circuit court, and such court or any judge thereof shall have jurisdiction, for cause shown, to grant a temporary restraining order or permanent injunction or both restraining and enjoining any person from engaging in the business of a dealer as defined in Section 2-15-131 in violation of any of the requirements of this article, or engaging in or continuing to engage in such business without having a license required by subsection (a) of Section 2-15-132 or after such license has been revoked in accordance with the provisions of subsection (c) of Section 2-15-132. Any temporary restraining order or permanent injunction issued under this subsection shall be issued without bond.

(Acts 1969, No. 568, p. 1049, §8.)

Section 2-15-137

Applicability of article.

The provisions of this article shall not apply to purchases of livestock bought by bona fide farmers or stockmen for grazing, feeding, dairying or breeding purposes when such livestock is held and kept for such purposes during a period of 15 days or more.

(Acts 1969, No. 568, p. 1049, §6.)

Section 2-15-138

Provisions of article cumulative and supplemental to Article 3 of chapter.

None of the provisions of this article shall be construed to repeal, amend, modify or otherwise change the provisions and requirements of Article 3 of this chapter, as it is hereby intended that the provisions of this article are cumulative and supplemental to such other requirements imposed upon livestock dealers by said provisions.

(Acts 1969, No. 568, p. 1049, §10.)

COMMERCIAL FEED LAW

1978



CODE OF ALABAMA 1975

§2-22-1 ~ §2-22-23

Section 2-21-16

Short title.

This chapter shall be known as the Alabama Commercial Feed Law of 1978.

(Acts 1978, No. 780, p. 1143, §1.)

Section 2-21-17

Definitions.

When used in this chapter or in rules and regulations promulgated thereunder, the following words and terms shall have the meaning ascribed to them, except where the context clearly indicates otherwise:

- (1) **BRAND NAME.** Any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor or licensee and distinguishing it from that of others.
- (2) **COMMERCIAL FEED.** Such term includes customer-formula feed, as this term is used in this chapter, and means any material whether simple, mixed compound, ground, unground, organic or inorganic, used as a feed for animals other than man or any material including minerals, vitamins, antibiotics, anti-oxidants, medicines, drugs, chemicals and other substances, materials or elements, or parts thereof intended for use or used as an ingredient or component of a mixture of materials, used as a feed for animals other than man; provided, that the commissioner, with approval of the board and by regulation, may exempt from this definition or from specific provisions of this chapter, commodities such as unprocessed and unmixed whole seeds, hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed or mixed with other materials and are not adulterated within the meaning of subdivision (1) of Section 2-21-22.
- (3) **CONTAINER.** Any bag, box, barrel, package, carton, object, apparatus, device, appliance or other container into which commercial feed is packed, stored or placed for handling and transporting.
- (4) **CONTRACT FEEDER.** A person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product. A manufacturer of a "vertical-integrator feed" is not a contract feeder.
- (5) **CUSTOMER-FORMULA FEED.** Commercial feed which consists of a mixture of commercial feeds and/or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.
- (6) **DISTRIBUTE.** To offer for sale, sell, exchange or barter commercial feed; or to supply, furnish or otherwise provide commercial feed to a contract feeder.
- (7) **DISTRIBUTOR.** Any person who distributes.
- (8) **DRUG.** Any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man and substances other than feed intended to affect the structure or any function of the animal body.

(9) FEED INGREDIENT. Each of the constituent materials making up a commercial feed.

(10) LABEL. A display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(11) LABELING. All labels and other written, printed or graphic matter

a. Upon a commercial feed or any of its containers or wrapper, or

b. Accompanying such commercial feed.

(12) MANUFACTURE. To grind, mix or blend, or further process, a commercial feed for distribution.

(13) MINERAL FEED. A commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(14) OFFICIAL SAMPLE. A sample of feed taken by the commissioner or his agent in accordance with Section 2-21-26.

(15) PERCENT or PERCENTAGES. Parts per hundred by weight.

(16) PERMITTED ANALYTICAL VARIATION. Allowances for the inherent variability in sampling and in laboratory analyses of guaranteed components, as published by the Association of American Feed Control Officials from time to time in its official publication. Manufacturing variation and their effects on the guaranteed components are not included in such value.

(17) PERSON. Such term includes individual, partnership, corporation, cooperatives and associations.

(18) PET. Any domesticated animal normally maintained in or near the household of the owner thereof.

(19) PET FOOD. Any commercial feed prepared and distributed for consumption by pets.

(20) PRODUCT NAME. The name of the commercial feed which identifies it as to kind, class or specific use.

(21) PURCHASER and CUSTOMER-BUYER. Any person, firm, organization, agency, association or group who buys or otherwise acquires a commercial feed, customer-formula feed or custom-mix or custom-mill services.

(22) SPECIALTY PET. Any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(23) SPECIALTY PET FOOD. Any commercial feed prepared and distributed for consumption by specialty pets.

(24) TON. A net weight of two thousand pounds avoirdupois. The metric ton is a unit of weight equal to one thousand kilograms of 2204.62 pounds avoirdupois.

(25) VERTICAL-INTEGRATOR FEED. A commercial feed manufactured for feeding livestock, poultry or aquatic animals that are owned by the person manufacturing the feed or that are owned by subsidiaries, parents or other business entities associated with the manufacturer through common ownership.

(26) BOARD. The State Board of Agriculture and Industries.

(Acts 1978, No. 780, p. 1143, §3.)

Section 2-21-18

Enforcing official.

This chapter shall be administered by the Commissioner of Agriculture and Industries of the State of Alabama, hereinafter referred to as the "commissioner."

(Acts 1978, No. 780, p. 1143, §2.)

Section 2-21-19

Licensing.

(a) No person shall manufacture or sell a commercial feed in this state, unless he or she has filed with the commissioner on forms provided by the commissioner, his or her name, place of business, and location of each manufacturing facility from which feed may be shipped within or into this state.

(b) The person shall apply for and obtain from the commissioner a license authorizing the sale and distribution of commercial feed. The application for a license shall be accompanied by the fee hereinafter required and shall be on forms furnished by the commissioner which shall contain such information as is necessary for the issuance of the license. All licensing shall expire on December 31 of each year and shall be renewed annually as of January 1 upon the filing of an application and payment of the required license fee. The license fee shall be based upon the number of tons of commercial feed sold or distributed in this state during the preceding 12-month period ending December 31. The amount of the license fee shall be established by the Board of Agriculture and Industries within the range as set out in the following schedule:

| Tons Sold | License Fee |
|--|--------------------|
| Less than 250 tons | \$ 30.00- 45.00 |
| 250 tons or more but less than 500 tons | 60.00 - 90.00 |
| 500 tons or more but less than 1,000 tons | 200.00 - 300.00 |
| 1,000 tons or more but less than 2,000 tons | 250.00 - 375.00 |
| 2,000 tons or more but less than 4,000 tons | 300.00 - 450.00 |
| 4,000 tons or more but less than 8,000 tons | 350.00 - 575.00 |
| 8,000 tons or more | 400.00 - 750.00 |

If the license fee is not paid within a period of 30 days after the date on which payment thereof is due, a delinquent penalty of 10 percent of the total amount due or a minimum amount of \$10.00 shall be added to the license fee. The license fee due hereunder, and any delinquent penalty, shall constitute a debt and becomes the basis of judgment against the person required to obtain the license if not paid as herein required. The amount of the license fee required to be paid by persons not previously distributing commercial feed into this state shall be the minimum fee of \$30.00 for a license also expiring on December 31 following the date of issuance at which time the license shall be renewable in accordance with this subsection.

(c) In the event of sale or other transfer of ownership of a commercial feed manufacturing or sale facility by a person who has a license as required in this section, the license shall be transferred to the new owner, provided, that the amount of such new owner's license required on January 1 shall be governed by the amount of the person's previous sales from which the license was transferred.

It is hereby intended that every person who manufactures or formulates or labels any commercial feed which is sold in or for importation into this state, or any person who labels any such commercial feed and sells it in or for importation into this state, whether manufactured by such person or not, shall be required to procure a license and pay the fee therefor as herein required.

(d) Pursuant to rules and regulations, any person making application for a license as required in subsection (b) of this section shall place on file with the commissioner the label for each brand of feed which the person may sell, offer for sale, or distribute for sale in this state. The label so filed with the commissioner shall be the official label for the commercial feed sold, offered for sale, or distributed for sale in this state. Any commercial feed sold, offered for sale, or distributed for sale with a label not on file or at variance with the official label shall be deemed misbranded and subject to the penalties of this chapter.

(e) The commissioner is empowered to refuse or cancel the license of any manufacturer whose commercial feed is not in compliance with the provisions of this chapter or to prevent the sale, offering for sale, or distribution for sale of any commercial feed determined by official action to be harmful, detrimental, or of no value when used in accordance with the label directions; provided, that no action under this section shall be final until the manufacturer shall have been given an opportunity to be heard before the commissioner.

(Acts 1978, No. 780, p. 1143, §4; Act 2004-516, p. 996, §1.)

Section 2-21-20

Labeling.

A commercial feed, regardless of the container in which it is shipped or sold, shall be labeled as follows:

(1) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

a. The net weight.

b. The product name and the brand name, if any, under which the commercial feed is distributed.

c. The guaranteed analysis stated in such terms as the commissioner by regulation determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the

substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.

d. The common or usual name of each ingredient used in the manufacture of the commercial feed; provided, that the commissioner, by regulation, may permit the use of a collective term for a group of ingredients which perform a similar function, or he may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if he finds that such statement is not required in the interest of consumers.

e. The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

f. Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the commissioner may require by regulation as necessary for their safe and effective use.

g. Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the commercial feed.

(2) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip or other shipping document, bearing the following information:

a. Name and address of the manufacturer.

b. Name and address of the purchaser.

c. Date of delivery.

d. The product name and brand name, if any, the net weight of each commercial feed used in the mixture and the net weight of each other ingredient used.

e. Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the commissioner may require by regulation as necessary for their safe and effective use.

f. Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the customer-formula feed.

(3) In the case of a "vertical-integrator feed" all the conditions specified under subdivision (2) of this section for the customer-formula feed will apply except that the records will be kept at the place of manufacture and need not accompany the feed as it is transported to point of use, except as required by the Federal Food, Drug and Cosmetic Act (21 U.S.C. Section 301, et seq.).

(Acts 1978, No. 780, p. 1143, §5.)

Section 2-21-21

Misbranding.

A commercial feed 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;
- (3) If it is not labeled as required in Section 2-21-20;
- (4) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner; or
- (5) If any word, statement or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(Acts 1978, No. 780, p. 1143, §6.)

Section 2-21-22

Adulteration.

A commercial feed shall be deemed to be adulterated:

- (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subdivision if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or
- (2) If it bears or contains any added poisonous, added deleterious or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug and Cosmetic Act (other than one which is a. a pesticide chemical in or on a raw agricultural commodity; or b. a food additive); or
- (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug and Cosmetic Act; or
- (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug and Cosmetic Act; provided, that 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 Section 408 of the Federal Food, Drug and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the

processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug and Cosmetic Act; or

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug and Cosmetic Act; or

(6) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor; or

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

(8) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure 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 which it purports or is represented to possess. In promulgating such regulations, the commissioner shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug and Cosmetic Act, unless he determines that they are not appropriate to the conditions which exist in this state; or

(9) If it contains viable weed seeds in amounts exceeding the limits which the commissioner shall establish by rule or regulation.

(Acts 1978, No. 780, p. 1143, §7.)

Section 2-21-23

Prohibited acts.

The following acts and the causing thereof within the State of Alabama are hereby prohibited:

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

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

(3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks and hulls, which are adulterated within the meaning of subdivision (1) of Section 2-21-22.

(4) The removal or disposal of a commercial feed in violation of an order under Section 2-21-27.

(5) The failure or refusal to obtain a license in accordance with Section 2-21-19.

(6) The violation of Section 2-21-30.

(7) Failure to pay inspection fees and file reports as required by Section 2-21-24.

(Acts 1978, No. 780, p. 1143, §8.)

Section 2-21-24

Inspection fee; quarterly statement; disposition of fees; overpayments.

(a) An inspection fee established by the Board of Agriculture and Industries not to exceed twenty-five cents (\$.25) per ton shall be paid on commercial feeds by every person who distributes the commercial feed in this state, exempting bulk grain; except that:

(1) The inspection fee shall be paid only once on any commercial feed, feed ingredients, customer-formula feeds or parts thereof. Commercial feeds, feed ingredients, customer-formula feeds or parts thereof on which the inspection fee has not been paid by the distributor or previous distributor shall be subject to the inspection fee.

(2) No fee shall be paid on "vertical-integrator feed" or on the ingredient used to manufacture a "vertical-integrator feed." Any services the Department of Agriculture and Industries provides manufacturers of "vertical-integrator feed" in relation to this chapter shall be paid for according to fees established by the board.

(3) In the case of a commercial feed distributed in this state in packages or containers of ten pounds or less, an annual fee established by the Board of Agriculture and Industries not to exceed one hundred dollars (\$100) per product shall be paid to the benefit of the Agricultural Fund in lieu of the inspection fee specified above.

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

(1) File, not later than the last day of 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 calendar quarter. Upon filing the quarterly statement, the person shall pay the inspection fee at the rate stated in subsection (a). Inspection fees which have not been paid to the commissioner within 15 days following the date due shall have a penalty fee of 15 percent (minimum \$15.00) added to the amount due. The assessment of this penalty fee shall not prevent the commissioner from taking other actions as provided in this chapter.

(2) Keep records as may be necessary or required by the commissioner to indicate accurately the tonnage of commercial feed distributed in this state. The commissioner may examine the records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of the licenses on file for the distributor.

(c) Fees collected pursuant to this section, including license fees collected under Section 2-21-19, shall be deposited to the credit of the Agricultural Fund of the State Treasury for the regulatory duties of the Department of Agriculture and Industries.

(d) Amounts improperly or illegally collected under this chapter as overpayments may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(Acts 1978, No. 780, p. 1143, §9; Acts 1979, No. 79-310, p. 463; Act 2004-516, p. 996, §1.)

Section 2-21-25

Rules and regulations.

(a) The commissioner, with the approval of the board, is authorized to promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this chapter and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this chapter. In the interest of uniformity, the commissioner shall, by regulations, adopt, unless he determines that they are inconsistent with the provisions of this chapter or are not appropriate to conditions which exist in this state, the following:

- (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization; and
- (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act (21 U.S.C. Section 301, et seq.); provided, that the commissioner, with the approval of the board, would have the authority under this chapter to promulgate such regulations.

(b) Before the issuance, amendment or repeal of any rule or regulation authorized by this chapter, the commissioner shall give adequate notice of the proposed regulation, amendment or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties including all current licensees, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner, with approval of the board, shall take appropriate action to adopt and promulgate the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this subsection notwithstanding, if the commissioner, pursuant to the authority of this chapter, adopts the official definitions of feed ingredient or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act, any amendment or modification adopted by said association or by the Secretary of Health, Education and Welfare in the case of regulations promulgated pursuant to the Federal Food, Drug and Cosmetic Act, shall be adopted automatically under this chapter without regard to the publication of the notice required by this subsection, unless the commissioner, by order, specifically determines that said amendment or modification shall not be adopted.

(Acts 1978, No. 780, p. 1143, §10.)

Section 2-21-26

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 duly designated by the commissioner, upon presenting appropriate credentials 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 therein. 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 regulations established under subdivision (4) of Section 2-21-22.

(b) Each 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 and presented a copy of the inspection report, which will include a record of all samples taken.

(c) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall offer to leave with the owner-operator, or agent in charge, a duplicate sample.

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

(e) For the purpose of the enforcement of this chapter, the commissioner or his duly 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, to obtain samples and to examine records relating to distribution of commercial feeds.

(f) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists, or in accordance with other generally recognized methods approved by the commissioner.

(g) The results of all analyses of official samples revealing deficiencies shall be forwarded by the commissioner to the person named on the label and to the purchaser when he can be located. When the inspection and analysis of an official sample indicates a commercial feed is in violation of the provisions of this chapter and upon request within 30 days following receipt of the analysis, the commissioner shall furnish to the licensee a portion of the sample concerned.

(h) The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the permitted analytical variation as defined in subdivision (16) of Section

2-21-17 and obtained and analyzed as provided for in subsections (c), (e) and (f) of this section.

(i) Penalties may be invoked if the analysis of a sample shows a deviation from "permitted analytical variation" established by the commissioner and established in rules and regulations promulgated pursuant to this chapter.

(j) For repeated or flagrant violations, the commissioner may cancel the manufacturer's license.

(k) Samples and portions of samples shall be retained according to sample retention times established by the commissioner in the rules and regulations.

(Acts 1978, No. 780, p. 1143, §11.)

Section 2-21-27

Stop sale orders, seizure and condemnation.

When the commissioner or his duly authorized agent has reasonable cause to believe that any lot or other quantity of commercial feed is being distributed, sold or offered for sale or kept for sale in violation of any of the requirements of this chapter or rules or regulations adopted under this chapter, he may issue and enforce a written or printed "stop sale" or "suspension from sale" order warning the distributor not to dispose of the lots of commercial feed in the manner as provided by Section 2-2-30. Any lot or other quantity of commercial feed not in compliance with this chapter or rules and regulations adopted thereunder shall also be subject to seizure and condemnation on complaint of the commissioner filed in the circuit court in accordance with the procedure and requirements of Sections 2-2-31 and 2-2-32.

(Acts 1978, No. 780, p. 1143, §12.)

Section 2-21-28

Short weight.

If any commercial feed in the possession of or consigned to the purchaser is found by the commissioner to be short in weight, the licensee who manufactures or distributes said commercial feed shall, within 30 days after an official notice from the commissioner, pay to the purchaser a penalty equal to four times the value of the actual shortage. The commissioner, by regulation and with approval of the board may allow reasonable tolerances for short weight due to loss through handling and transportation.

(Acts 1978, No. 780, p. 1143, §13.)

Section 2-21-29

Feed deficiency penalties.

If a commercial feed is found to be deficient in a constituent guaranteed on the label by more than one "permitted analytical variation," a monetary penalty is assessed in an amount equal to five percent of the purchase price of the product and 10 percent for each additional "permitted analytical variation deficiency." An exception to this penalty rate will apply for nutrients in commercial feeds where the level in the feed is guaranteed to be one and one-half percent or less. If these nutrients are found to be deficient by one "permitted analytical variation," a monetary penalty is assessed in the amount of two percent of the pur-

chase price and two percent for each additional "permitted analytical variation." The total penalty assessed under this section for major and minor constituents shall not exceed 25 percent of the selling price of the feed, with a minimum penalty of \$10.00.

Penalties assessed under this section shall be paid by the guarantor of the feed to the consumer of the feed within 60 days from the date of notice if the consumer can be identified and located. The commissioner shall be notified of such payment in a form and manner prescribed in rules and regulations. When the consumer cannot be identified and located, then the penalty shall be paid to the commissioner for deposit to the credit of the Agricultural Fund of the State Treasury.

(Acts 1978, No. 780, p. 1143, §14.)

Section 2-21-28

Short weight.

If any commercial feed in the possession of or consigned to the purchaser is found by the commissioner to be short in weight, the licensee who manufactures or distributes said commercial feed shall, within 30 days after an official notice from the commissioner, pay to the purchaser a penalty equal to four times the value of the actual shortage. The commissioner, by regulation and with approval of the board may allow reasonable tolerances for short weight due to loss through handling and transportation.

(Acts 1978, No. 780, p. 1143, §13.)

Section 2-21-29

Feed deficiency penalties.

If a commercial feed is found to be deficient in a constituent guaranteed on the label by more than one "permitted analytical variation," a monetary penalty is assessed in an amount equal to five percent of the purchase price of the product and 10 percent for each additional "permitted analytical variation deficiency." An exception to this penalty rate will apply for nutrients in commercial feeds where the level in the feed is guaranteed to be one and one-half percent or less. If these nutrients are found to be deficient by one "permitted analytical variation," a monetary penalty is assessed in the amount of two percent of the purchase price and two percent for each additional "permitted analytical variation." The total penalty assessed under this section for major and minor constituents shall not exceed 25 percent of the selling price of the feed, with a minimum penalty of \$10.00.

Penalties assessed under this section shall be paid by the guarantor of the feed to the consumer of the feed within 60 days from the date of notice if the consumer can be identified and located. The commissioner shall be notified of such payment in a form and manner prescribed in rules and regulations. When the consumer cannot be identified and located, then the penalty shall be paid to the commissioner for deposit to the credit of the Agricultural Fund of the State Treasury.

(Acts 1978, No. 780, p. 1143, §14.)

Section 2-21-30

Recovery of short weight and feed deficiency penalties.

In any case wherein the licensee fails or refuses to make payment of a penalty to the purchaser within the time required, the purchaser may institute legal action against the licensee for the recovery of such penalty as provided in Sections 2-21-28 and 2-21-29. Any judgment against the licensee shall be double the amount of the penalty and shall include a reasonable attorney's fee and court costs. In cases where the licensee is required to pay the amount of any penalty to the commissioner for deposit to the credit of the Agricultural Fund, and the licensee fails or refuses to make such payment within the time required, the commissioner may institute legal action in a court of competent jurisdiction for collection of the amount of the penalty upon 10 days' notice to the licensee following the 60 day payment period.

(Acts 1978, No. 780, p. 1143, §15.)

Section 2-21-31

Penalties for violations of chapter or rules and regulations; injunctive relief; warning notices.

(a) Penalties. Any person who shall violate any of the provisions of this chapter or who fails to perform any duty or requirement imposed by the provisions of this chapter or who violates any rule or regulation duly promulgated under this chapter or who shall sell or offer for sale or distribute for sale any commercial feed in violation of the requirements of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as now prescribed by law for such an offense. Fines paid for such violations shall be deposited in the State Treasury to the credit of the Agricultural Fund.

(b) Injunctive relief. In addition to the penalty provided hereunder, the commissioner may apply by petition or complaint to the circuit court, and such court, or any judge thereof, shall have jurisdiction and for cause shown to grant a temporary or permanent injunction, or both, restraining and enjoining any person from violating or continuing to violate any of the provisions and requirements of this chapter or any rule or regulation promulgated under authority of this chapter. Such injunction shall be issued without bond. Petitions for injunctive relief as authorized hereunder shall be filed in the circuit court of the county of residence of the defendant or in the county where such violation or violations occurred.

(c) Warning notices. Nothing in this chapter shall be construed as requiring the commissioner or his 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,

when he believes the public interest will best be served by suitable notice of warning in writing.

(Acts 1978, No. 780, p. 1143, §16.)

Section 2-21-32

Protection of trade secrets.

Any person who seeks to his own advantage, or reveals to other than the commissioner or officers of the commissioner (appropriate department of the state), or to the court when relevant in any judicial proceeding, any information acquired under the authority of this chapter concerning any method, record, formulation or processes which, as a trade secret, is entitled to protection, is guilty of a misdemeanor and shall, on conviction thereof, be fined not less than \$500.00 or imprisoned for not more than six months or both; provided, that this prohibition shall not be deemed as prohibiting the commissioner or his duly authorized agent from exchanging information of a regulatory nature with duly appointed officials of the United States government or all other states who are similarly prohibited by law from revealing this information.

(Acts 1978, No. 780, p. 1143, §17.)

Section 2-21-33

Cooperation with other entities.

The commissioner may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government and private associations in order to carry out the purpose and provisions of this chapter.

(Acts 1978, No. 780, p. 1143, §18.)

Section 2-21-34

Publication of certain information.

The commissioner may publish annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable; provided, that the information concerning production and use of commercial feed shall not disclose the operations of any persons.

(Acts 1978, No. 780, p. 1143, §19.)

ALABAMA FERTILIZER LAW

1969



CODE OF ALABAMA 1975

§2-22-1 ~ §2-22-23

Section 2-22-1

Short title.

This chapter shall be known as the Alabama Fertilizer Law of 1969.

(Acts 1969, No. 434, p. 840, §1.)

Section 2-22-2

Definitions.

When used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **COMMERCIAL FERTILIZER.** Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, basic slag, gypsum and other materials or products regulated under Chapter 23 of this title. Such term shall include fertilizer material as defined in subdivision (2) of this section, and the provisions and requirements of this chapter applicable to commercial fertilizer shall also apply to fertilizer material.

(2) **FERTILIZER MATERIAL.** A commercial fertilizer containing one or more of the recognized plant nutrients, which is used primarily for its plant nutrient content and which either:

- a. Contains important quantities of no more than one of the primary plant nutrients (nitrogen, phosphorus and potassium);
- b. Has approximately 85 percent of its plant nutrient content present in the form of a single chemical compound; or
- c. Is derived from a plant or animal residue or by-product or a natural material deposit which has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification and concentration.

(3) **BULK FERTILIZERS.** Commercial fertilizer distributed to the purchaser in a solid or fluid state in a nonpackaged form.

(4) **BRAND.** A term, design or trademark used in connection with one or several grades of commercial fertilizer or fertilizer material.

(5) **GUARANTEED ANALYSIS:** The minimum percentage of plant nutrients claimed in the following order and form:

a. Total nitrogen (N) percent

Available phosphorus (P₂O₅) percent

Soluble potassium (K₂O) percent

b. For unacidulated mineral phosphatic materials the guaranteed analysis shall express both total and available phosphorus and/or the degree of fineness. For bone, tankage and other organic phosphatic materials, the guaranteed analysis shall express total phosphorus.

c. Guarantees for plant nutrients other than nitrogen, available phosphorus and soluble potassium may be permitted or required by regulation of the board. The guarantees for such other nutrients shall be expressed in the form of the element. The sources of such other nutrients (oxides, salt, chelates, etc.) may be required

to be stated on the label. Other beneficial substances or compounds determinable by laboratory methods also may be guaranteed by permission of the commissioner with approval of the State Board of Agriculture and Industries with the advice of Directors of the Agricultural Experiment Station and the Cooperative Extension Service. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the board.

d. At any time after October 1, 1969, when the State Board of Agriculture and Industries finds after public hearing following due notice that the requirements for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, it may require by regulation thereafter that the guaranteed analysis shall be in the following form:

Total nitrogen (N) percent

Available phosphorus (P) percent

Soluble potassium (K) percent

The effective date of said regulation shall be not less than six months following the issuance thereof, and, for a period of two years following the effective date of said regulation, the equivalent of phosphorus and potassium may also be shown in the form of P₂O₅ and K₂O. After the effective date of a regulation issued under the provisions of this section requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus and potassium shall constitute the grade.

(6) GRADE. The percentages of total nitrogen, available phosphorus and soluble potassium stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, that fertilizer materials, bone meal, manures and similar raw materials may be guaranteed in fractional units.

(7) OFFICIAL SAMPLE. Any sample of commercial fertilizer or fertilizer material taken by the commissioner or his agent as prescribed in Section 2-22-11 and designated as official by the commissioner.

(8) TON. A net weight of 2,000 pounds avoirdupois.

(9) PERCENT and PERCENTAGE. The percentage by weight.

(10) PERSON. Any individual, partnership, association, firm, corporation or any combination thereof.

(11) DISTRIBUTOR. Any person who imports, consigns, manufactures, produces, compounds, mixes or blends commercial fertilizer or fertilizer material or who offers for sale, sells, barter or otherwise supplies commercial fertilizer or fertilizer material in this state or for use in this state.

(12) LICENSEE. A person who has been issued a license to manufacture and sell commercial fertilizer and fertilizer material under the requirements of Section 2-22-5.

(13) BOARD. The State Board of Agriculture and Industries.

(14) COMMERCIAL VALUE. The value per unit of plant nutrient in dollars and cents as ascertained and published by the commissioner under the provisions of Section 2-22-14, which values shall be used in computing the dollar rates of penalties provided in this chapter. The "commercial value" as determined under this chapter is provided as a guide in determining the actual value of the commercial fertilizer and

fertilizer material and shall not be construed to mean or imply that this chapter in any manner intends to or attempts to be a sales price-controlling or price-fixing chapter, or in any manner to fix, regulate or control the sales price of commercial fertilizer.

(15) SOIL CONDITIONER or SOIL AMENDMENT. Any material or mixture of materials used for promoting or stimulating the growth of plants, grasses or crops increasing their productivity or producing any chemical or physical change in the soil.

(16) LABEL. All written, printed or graphic matter displayed upon the immediate container of or statement accompanying a commercial fertilizer, fertilizer material, soil conditioner or soil amendment.

(17) LABELING. All written, printed or graphic matter upon or accompanying any commercial fertilizer, soil conditioner or soil amendment and all advertisements, brochures, posters or television and radio announcements used in promoting the sale of such products.

(Acts 1969, No. 434, p. 840, §3.)

Section 2-22-3

Administration of chapter.

This chapter shall be administered by the Commissioner of Agriculture and Industries of the State of Alabama, hereinafter referred to as "commissioner."

(Acts 1969, No. 434, p. 840, §2.)

Section 2-22-4

Fertilizer dealer permit required; relation to Section 2-22-5.

Before any person may sell or offer for sale or exchange in this state any commercial fertilizer to a user thereof, the person shall first procure a fertilizer dealer permit from the commissioner authorizing the person to sell, exchange, or deal therein. The permit shall be issued on payment of a fee established by the Board of Agriculture and Industries not to exceed ten dollars (\$10), and shall expire on September 30 of each year. A permit as required by this section shall be obtained for each separate place of business at which commercial fertilizer is sold or offered for sale to the user thereof. Any person required to procure a license under Section 2-22-5 shall not be required to procure a permit as required by this section as it is the intent of this section that every person who purchases any commercial fertilizer for resale where the fertilizer is not manufactured, mixed, formulated, or labeled by the person is required to obtain the permit required by this section.

(Acts 1969, No. 434, p. 840, §4; Act 2004-516, p. 996, §1.)

Section 2-22-5

Licenses for sale of commercial fertilizer.

(a) Before any person sells or offers for sale any commercial fertilizer in this state for use herein or before any person sells such fertilizer for importation into this state for use herein where such person is required to comply with the labeling requirements of Section 2-22-7, such person shall apply for and obtain from the commissioner a license authorizing the sale of commercial fertilizer. The application for a license shall be accompanied by the fee required by subsection (b) of this section and shall be on forms furnished by the commissioner, which forms shall contain certain information as is necessary for the issuance of the license. All such licenses shall expire on September 30, the end of the fiscal year for which they are issued, and shall be renewed annually as of October 1, upon payment of the required license fee.

(b) The license fee shall be based upon the number of tons of commercial fertilizer sold in or for importation

| Tons Sold | License Fee |
|--|--------------------|
| Less than 100 tons | \$25.00 - 37.50 |
| 100 tons or more but less than 1,000 tons | 50.00 - 75.00 |
| 1,000 tons or more but less than 5,000 tons | 100.00 - 150.00 |
| 5,000 tons or more but less than 10,000 tons | 150.00 - 225.00 |
| 10,000 tons or more but less than 25,000 tons | 200.00 - 300.00 |
| 25,000 tons or more but less than 50,000 tons | 250.00 - 375.00 |
| 50,000 tons or more but less than 75,000 tons | 300.00 - 450.00 |
| 75,000 tons or more but less than 100,000 tons | 350.00 - 525.00 |
| 100,000 tons or more | 400.00 - 750.00 |

into the state for use therein during the preceding 12-month period which ends on June 30. The amount of the license fee shall be established by the Board of Agriculture and Industries within the range as set out in the following schedule:

If the license fee is not paid within a period of 30 days after the due date, a delinquent penalty of 10 percent of the amount due (minimum \$10.00) shall be added to the license fee. The license fee due under this subsection and delinquent penalty shall constitute a debt and become the basis of judgment against the person if not paid as required in this subsection. The amount of the license fee required to be paid by persons not previously selling commercial fertilizer in or for importation into this state shall be the minimum fee established by the Board of Agriculture and Industries, which license shall also expire on September 30 following the date of issuance, at which time said license shall be renewable in accordance with subsection (a) of this section.

(c) In the event of sale or other transfer of ownership of a commercial fertilizer manufacturing or sale facility by a person who has a license required by subsection (a) of this section, such license may be transferred to

the new owner; provided, however, that the amount of such new owner's license required on October 1 shall be governed by the amount of the person's previous sales from whom said license was transferred.

(d) It is hereby intended that every person who manufactures or formulates and labels any commercial fertilizer which is sold in or for importation into this state or any person who labels such commercial fertilizer and sells it in or for importation into this state whether manufactured by such person or not shall be required to procure a license and pay the fee therefor as required by this section.

(Acts 1969, No. 434, p. 840, §5; Act 2004-516, §1.)

Section 2-22-6

Cancellation or refusal of licenses.

The commissioner is authorized and empowered to cancel the license of any licensee or refuse to issue a license to any applicant upon satisfactory evidence that the licensee or applicant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this chapter or any rules and regulations promulgated thereunder; provided, that no license shall be revoked or refused until the licensee shall have been given the opportunity to appear for a hearing before the board, with the further opportunity of appealing to a court of competent jurisdiction for judicial review of such revocation or

refusal.

(Acts 1969, No. 434, p. 840, §20.)

Section 2-22-7

Labeling of commercial fertilizers.

(a) Any commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein in containers shall have printed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(1) The net weight;

(2) The brand and grade;

(3) The guaranteed analysis;

(4) The materials from which the plant nutrients are derived with the percentage of each as may be required by regulations of the board; and

(5) The name and principal address of the manufacturer or other person responsible for placing it on the market.

(b) If distributed in bulk, a written or printed statement of the information required by subdivisions (1), (2), (3), (4) and (5) of subsection (a) of this section shall accompany delivery and be supplied to the purchaser at time of delivery.

(c) A commercial fertilizer formulated according to specifications which are furnished by a consumer prior to mixing shall be labeled to show the information contained in subdivisions (1), (3) and (5) of subsection (a) of this section.

(Acts 1969, No. 434, p. 840, §6.)

Section 2-22-8

Licensing and labeling requirements for sale of soil conditioners and soil amendments.

Every person who sells or offers for sale in or for importation into this state any soil conditioner or soil amendment for which label or labeling claims are made that such a product contains plant nutrients shall be subject to all of the requirements of this article for the sale of commercial fertilizer including the license and inspection fee requirement. If any label or labeling claims are made for the release of plant nutrients in the soil or of any bacterial action causing the release of plant nutrients in the soil in connection with the sale of any soil conditioner or soil amendment, a license authorizing the sale of the product shall be obtained from the commissioner. The commissioner may issue such a license in accordance with regulations promulgated by the board.

(Acts 1969, No. 434, p. 840, §7.)

Section 2-22-9

Inspection fee; monthly statement; collection fee; disposition of fees; overpayments; examination, review, audit of sales records.

(a) There shall be paid to the commissioner for all commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein an inspection fee established by the board not to exceed seventy-five cents (\$.75) per ton; provided, that sales to manufacturers or exchanges between them are hereby exempted. Fees so collected, including permit fees and license fees levied under Sections 2-22-4 and

2-22-5, shall be deposited to the credit of the Agricultural Fund of the State Treasury for the regulatory duties of the Department of Agriculture and Industries.

(b) Every person who sells commercial fertilizer in or for importation into this state for use therein, who is licensed under Section 2-22-5 or where such person is required to procure such a license shall file with the commissioner on forms furnished by the commissioner a monthly statement for the period ending on the last day of each month setting forth thereon the number of tons of each grade of commercial fertilizer sold in or for importation into this state for use therein during such month. The person shall also include on the report any information of the type provided by Section 2-22-10 when required to do so pursuant to rules and regulations promulgated by the commissioner with approval of the board. The monthly report of tonnage sales with the amount of inspection fees due thereon shall be due on or before the fifteenth day of the month following the report period. Each such report shall bear a certificate that the amount remitted is correct.

If the tonnage report is not filed and the payment of inspection fee is not made by the twentieth day of the month when due, a collection fee amounting to 10 percent (minimum \$10.00) of the amount may be assessed against the licensee, and the amount of fees due and unpaid shall constitute a debt and become the basis of a judgment against the licensee.

(c) When more than one person is involved in the sale, importation or distribution of a commercial fertilizer, the person who sells the fertilizer to a nonlicensee for resale or use shall be responsible for reporting the tonnage and paying the inspection fee, unless the report and payment was previously made by another licensee.

(d) The inspection fee levied under subsection (a) of this section, the permit fee required by Section 2-22-4 and the license fee levied under Section 2-22-5 shall be paid by cooperative marketing and purchasing associations, and the exemptions allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such associations from the payment of such fees.

(e) Amounts improperly or illegally collected under the provisions of this chapter as overpayments may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(f) The commissioner, or his or her agents or employees may examine, review, and audit the sales records of every person required to remit to the commissioner the inspection fee levied under subsection (a) to verify and determine the accuracy of the amounts remitted monthly as inspection fees and the amount due for a license as required by Section 2-22-5. Every such person shall maintain records as will indicate accurately the tonnage of commercial fertilizer upon which inspection fees are due.

(Acts 1969, No. 434, p. 840, §8; Acts 1981, No. 81-664, p. 1085; Act 2004-516, p. 996, §1.)

Section 2-22-10

Furnishing of semiannual tonnage reports by licensees.

(a) Each licensee shall furnish the commissioner a report showing the number of tons of each grade of fertilizer sold in each county in the state semiannually pursuant to regulations adopted by the board. Said report shall be submitted not later than 30 days following the close of the six-month period; provided, however, that more frequent reports giving this information may be required by the commissioner with the approval of the board. This report may be made on a special summary form provided by the commissioner or by submitting a copy of the invoice. No information furnished the commissioner under this section shall be disclosed in such a way as to divulge the operation of any person.

(b) When more than one person is involved in the sale, importation or distribution of a commercial fertilizer, the licensee who distributes the fertilizer to a nonlicensee is responsible for reporting the tonnage as under subdivision (c) of Section 2-22-9.

(Acts 1969, No. 434, p. 840, §9.)

Section 2-22-11

Inspection, sampling, testing and analysis of commercial fertilizers by commissioner; furnishing of results, etc., to licensees where fertilizers found subject to penalty or legal action.

(a) It shall be the duty of the commissioner, who may act through his authorized agent, to sample, inspect, make analyses of and test commercial fertilizers distributed within this state at such times and places and to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with the provisions of this chapter.

(b) The commissioner, individually or through his agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers subject to the provisions of this chapter and the rules and regulations pertaining thereto and to the records relating to their distribution.

(c) In drawing any official sample and in making any analysis, the officially adopted methods and terminology of the association of official analytical chemists shall be used. In cases not covered by such officially adopted methods and terminology, the commissioner shall, as soon as practicable and from other sources deemed proper, adopt and publish appropriate methods and terminology.

(d) The commissioner, in determining for administrative purposes whether any commercial fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in subdivision (7) of Section 2-22-2 and obtained and analyzed as provided for in subsection (c) of this section.

(e) The results of official analysis of any commercial fertilizer which has been found to be subject to penalty or other legal action shall be forwarded by the commissioner to the licensee at least 10 days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the commissioner, the report shall become official. Upon request the commissioner shall furnish to the licensee a portion of any sample found subject to penalty or other legal action.

(f) The analysis, test and sampling of commercial fertilizers shall be made and conducted in accordance with and be subject to the provisions and requirements of Article 2 of Chapter 2 of this title.

(Acts 1969, No. 434, p. 840, §10.)

Section 2-22-12

Proceedings upon determination of deficiency in guaranteed primary plant nutrients in commercial fertilizers - Generally.

(a) If the analysis shall show that a commercial fertilizer is deficient in one or more of its guaranteed primary plant nutrients (NPK) beyond the tolerances as established by regulation adopted by the State Board of Agriculture and Industries pursuant to Section 2-22-20, a penalty shall be assessed in accordance with regulations adopted by the board.

(b) Deficiencies in any other constituent or constituents covered under paragraphs b and c of subdivision (5) of Section 2-22-2, which is required to be or may be guaranteed shall be evaluated by the commissioner and penalties therefor shall be prescribed by the board; provided, however, that in no case shall the penalty exceed the selling price of the fertilizer.

(c) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for judgment as to the justification of such penalties.

(d) When an official sample of a lot of commercial fertilizer shows a deficiency beyond the tolerance allowed under regulations of the board, a penalty shall be assessed in accordance with regulations promulgated by the board, which penalty shall be paid to the consumer by the licensee, and receipts shall be taken therefor and forwarded to the commissioner within 60 days after receiving written notification of such deficiency and the amount of the penalty from the commissioner. If any consumer of commercial fertilizer which has been

determined by official analysis to be deficient and subject to penalty cannot be found, payment of the amount of such penalty shall be made to the commissioner within a period of 60 days for deposit in the State Treasury to the credit of the Agricultural Fund.

(e) Lots of fertilizer in manufacturing plants, on dealers' premises or elsewhere from which samples are drawn and which are determined to be deficient by official analysis or are not otherwise in compliance with the requirements of this chapter, shall be subject to suspension from sale, seizure and condemnation in accordance with Section 2-22-6. Where any such lot of commercial fertilizer or portions thereof are sold by the licensee before the official analysis report is received by the commissioner and before notice has been given to the licensee of such deficiency, the penalty shall be paid to either the consumer of such commercial fertilizer or to the commissioner as provided in subsection (d) of this section.

(Acts 1969, No. 434, p. 840, §11.)

Section 2-22-13

Proceedings upon determination of deficiency in guaranteed primary plant nutrients in commercial fertilizers
- Legal actions for recovery of penalty.

In any case wherein the licensee fails or refuses to make payment to the consumer of a penalty within the time required, the consumer may institute legal action against the licensee for the recovery of such penalty as provided in Section 2-22-12. Any judgment against the licensee shall be double the amount of the penalty and shall include a reasonable attorney's fee and court costs. In cases where the licensee is required to pay the amount of any penalty to the commissioner for deposit to the credit of the Agricultural Fund and the licensee fails or refuses to make such payment within the time required, the commissioner may institute legal action in a court of competent jurisdiction for collection of the amount of the penalty upon 10 days' notice to the licensee following the 60-day payment period.

(Acts 1969, No. 434, p. 840, §13.)

Section 2-22-14

Ascertainment and publication of fair market values of nitrogen, available phosphorus and soluble potassium in commercial fertilizers.

For the purpose of determining the commercial values to be applied under the provisions of Section 2-22-12, the commissioner shall ascertain and publish annually the fair market values per pound of nitrogen, available phosphorus and soluble potassium in commercial fertilizers in this state. The values so determined and published shall be used in determining and assessing penalties.

(Acts 1969, No. 434, p. 840, §12.)

Section 2-22-15

Establishment, etc., of standards of classification for commercial fertilizers generally; adoption of standards for sale of specialty fertilizers; establishment of standards and minimum guarantees for plant nutrients other than nitrogen, phosphorus and available potassium.

The board shall have authority to establish standards of classification for commercial fertilizer according to ratios and grades by which its quality, condition, fertilizing or plant food value may be judged and to alter or modify such standards when found to be necessary. In pursuance thereof, the board is authorized to establish, adopt and promulgate a list of minimum analysis ratios and grades for commercial fertilizers including minimum available plant food content for nitrogen, available phosphorus and available soluble

potassium and also for superphosphate with potassium, nitrogen with superphosphate and superphosphate. The board shall also be authorized to define and to adopt standards for the sale of specialty fertilizers together with conditions and restrictions under which they may be sold and to establish standards and minimum guarantees for plant nutrients other than nitrogen, available phosphorus and soluble potassium. Before the board shall establish and adopt minimum plant food ratios, grades and other activities as authorized in this section, it shall hold a public hearing open to all interested persons, and it shall also request recommendations thereon from the Director of the Agricultural Experiment Station and the Cooperative Extension Service of Auburn University relating to the need for such action.

(Acts 1969, No. 434, p. 840, §14.)

Section 2-22-16

Sale, offer for sale or distribution of misbranded commercial fertilizers; when commercial fertilizers deemed misbranded; adoption of regulations defining plant nutrients or commercial fertilizers.

(a) No person shall sell, offer for sale or distribute misbranded commercial fertilizer. A commercial fertilizer shall be deemed to be misbranded if:

- (1) Its labeling is false or misleading in any particular;
- (2) It is distributed under the name of another fertilizer product;
- (3) It is not labeled as required in Section 2-22-7 and in accordance with regulations prescribed under this chapter; and
- (4) It purports to be or is represented as a commercial fertilizer or is represented as containing a plant nutrient or commercial fertilizer, unless such plant nutrient or commercial fertilizer conforms to the definition of identity, if any, prescribed by regulation of the board.

(b) In adopting the regulations provided for in subdivision (4) of subsection (a) of this section, the board shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the Association of American Fertilizer Control Officials.

(Acts 1969, No. 434, p. 840, §15.)

Section 2-22-17

Sale, offer for sale or distribution of adulterated commercial fertilizers; when commercial fertilizers deemed adulterated.

No person shall sell, offer for sale or distribute an adulterated commercial fertilizer product. A commercial fertilizer shall be deemed to be adulterated if:

- (1) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label or if adequate warning statements or directions for use, which may be necessary to protect plant life, are not shown upon the label; and
- (2) Its composition falls below or differs from that which it is purported to possess by its labeling.

(Acts 1969, No. 434, p. 840, §16.)

Section 2-22-18

Penalty for manufacture of commercial fertilizer short in weight.

If any commercial fertilizer in the possession of or consigned to the consumer is found by the commissioner to be short in weight, the licensee who manufactures said commercial fertilizer shall, within 30 days after official notice from the commissioner, pay to the consumer a penalty equal to four times the value of the actual shortage.

(Acts 1969, No. 434, p. 840, §19.)

Section 2-22-19

Annual publications.

The commissioner shall publish at least annually and in such form as he may deem proper:

- (1) Information concerning the distribution of commercial fertilizer; and
- (2) The results of analyses based on official samples of commercial fertilizers distributed within the state as compared with the guaranteed analyses.

(Acts 1969, No. 434, p. 840, §17.)

Section 2-22-20

Rules and regulations.

For the administration and enforcement of this chapter, the board is authorized to adopt and promulgate reasonable rules and regulations relating to the sale and distribution of commercial fertilizers necessary to carry out the full intent and meaning of this chapter, including, but not limited to, fixing tolerances for plant food deficiency penalty assessments pursuant to Section 2-22-12, providing for the incorporation into commercial fertilizer of such other substances as pesticides and the proper labeling of such mixture, establish a fee together with such other rules and regulations reasonably necessary to implement, make specific, and interpret the provisions of this chapter. Notwithstanding any other provisions of this chapter and specifically the provisions of subdivision (5) of Section 2-22-2 relating to guaranteed analysis, the commissioner with the approval of the board shall be authorized to require by rules and regulations that the guaranteed analysis of phosphorus and potassium for labeling purposes shall be expressed in the elemental form, but until such rules and regulations are duly promulgated and adopted, the guaranteed analysis shall not be required to be expressed in the elemental form.

(Acts 1969, No. 434, p. 840, §18; Act 2004-516, p. 996, §1.)

Section 2-22-21

Suspension from sale, seizure and condemnation of commercial fertilizers not in compliance with chapter or rules or regulations promulgated thereunder.

Any lot or other quantity of commercial fertilizer not in compliance with the provisions of this chapter or rules and regulations duly adopted and promulgated under this chapter shall be subject to suspension from sale, seizure and condemnation. The issuance of a "suspension from sale or use" or "stop sale" and seizure and condemnation of any lot or other quantity of commercial fertilizer sold, offered for sale or kept for sale in violation of the provisions of this chapter shall be in accordance with such procedure as is now prescribed under Article 2 of Chapter 2 of this title.

(Acts 1969, No. 434, p. 840, §21.)

Section 2-22-22

Violations of chapter or rules or regulations promulgated thereunder deemed misdemeanors; injunctive proceedings to restrain violations of chapter or rules or regulations promulgated thereunder.

(a) Any person who shall violate any of the provisions of this chapter or who fails to perform any duty or requirement imposed by the provisions of this chapter or who violates any rule or regulation duly promulgated thereunder or who shall sell or offer for sale or distribute for sale any commercial fertilizer in violation of the requirements of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished as now prescribed by law for such an offense.

(b) In addition to the penalty provided in subsection (a) of this section, the commissioner may apply by petition to a circuit court, and such court or any judge thereof shall have jurisdiction, for cause shown, to grant a temporary restraining order or permanent injunction or both restraining and enjoining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under authority of this chapter. Said temporary restraining order or permanent injunction shall be issued without bond.

(Acts 1969, No. 434, p. 840, §22.)

Section 2-22-23

Chapter not to restrict or avoid sales or exchanges of commercial fertilizers between manufacturers, processors, etc., or shipment of fertilizers to manufacturers or processors.

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or processors who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or processors.

(Acts 1969, No. 434, p. 840, §23.)

ALABAMA AGRICULTURAL LIMING MATERIALS ACT



CODE OF ALABAMA 1975

§2-23-1 ~ §2-23-11

Section 2-23-1

Short title.

This chapter shall be known and may be cited as the "Alabama Agricultural Liming Materials Act."
(Acts 1975, No. 1190, §1.)

Section 2-23-2

Definitions.

The following terms, as used in this chapter and rules and regulations promulgated under authority of this chapter, shall have the following meanings, respectively:

- (1) **AGRICULTURAL LIMING MATERIALS.** Those products whose calcium and magnesium compounds are capable of neutralizing soil acidity
- (2) **LIMESTONE.** A calcareous rock composed primarily of calcium carbonate or a combination of calcium and magnesium carbonates.
- (3) **CALCITIC LIMESTONE.** A calcareous rock composed wholly or largely of calcium carbonate.
- (4) **DOLOMITIC LIMESTONE.** A calcareous rock composed of calcium and magnesium carbonates with a minimum elemental magnesium (Mg) content of six percent.
- (5) **BURNT LIME.** A material made from limestone which consists essentially of calcium oxide or a combination of calcium and magnesium oxides.
- (6) **HYDRATED LIME.** A material made from burnt lime which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.
- (7) **CHALK.** A soft, friable, loosely consolidated material composed largely of calcium carbonate.
- (8) **GROUND SHELLS.** A product obtained by the grinding of shells of mollusks and which shall carry the name of mollusk origin.
- (9) **INDUSTRIAL BY-PRODUCT USED AS LIMING MATERIALS.** Any industrial by-product containing calcium or calcium and magnesium in forms that will neutralize acidity.
- (10) **BRAND.** The term, designation, trademark, product name or the specific designation under which an individual or type of agricultural liming material as defined in this section is offered for sale.
- (11) **FINENESS.** The percentage by weight of the material which will pass U.S. standard sieves of specified sizes.
- (12) **CALCIUM CARBONATE EQUIVALENT.** The acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (13) **TON.** Two thousand pounds avoirdupois.
- (14) **PERCENT or PERCENTAGE.** By weight.
- (15) **BULK.** Nonpackaged form.
- (16) **LABEL.** Any written or printed matter on or attached to the package or delivery ticket which accompanies a bulk shipment.
- (17) **COMMISSIONER.** The Commissioner of Agriculture and Industries of the State of Alabama.
- (18) **BOARD.** The Board of Agriculture and Industries of the State of Alabama.
- (19) **PERSON.** Any individual, partnership, corporation, association or other legal entity or organization.
(Acts 1975, No. 1190, §2.)

Section 2-23-3

Permit required for manufacturing or distribution; fees.

Every manufacturer or distributor selling agricultural liming materials in this state shall, on or before October 1 of each year or prior to manufacture or distribution of such liming material in the State of Alabama, apply for and obtain an annual permit for such purpose on a form to be furnished by the commissioner. Such application shall be accompanied by a permit fee established by the Board of Agriculture and Industries not to exceed two hundred fifty dollars (\$250) and shall show the brand name under which the liming material will be sold. If more than one type of agricultural liming material is manufactured or distributed or the product or the brand name is changed by a manufacturer or distributor, an additional permit fee established by the Board of Agriculture and Industries not to exceed one hundred twenty-five dollars (\$125) for each additional brand or type of liming material must be paid. All permits shall expire on September 30 of the following year. When the manufacturer and the distributor are not the same, only one permit shall be required unless the brand name is changed, as it is hereby intended that the permit fee be paid only once on the same brand. Such application shall contain the name and address of the manufacturer or distributor, the brand name and common name of each such product together with the correct name of the material which it desires to sell in Alabama and the guaranteed analysis thereof and such other information as may be required for the effective administration and enforcement of the provisions of this chapter pursuant to rules and regulations adopted by the board.

(Acts 1975, No. 1190, §3; Act 2004-516, p. 996, §1.)

Section 2-23-4

Requirements as to labeling generally; false or misleading statements on package labels; delivery slips, etc., prohibited.

(a) Agricultural liming materials sold or offered for sale in this state for use herein or sold for importation into this state for use herein shall have affixed to each container in a conspicuous manner on the outside thereof a clearly legible printed or stamped label, tag or statement or, in the case of bulk sales, a delivery slip, setting forth at least the following information:

- (1) The name and principal office of the manufacturer, processor or distributor;
- (2) The brand name of the material;
- (3) The identification of the product as to the type of agricultural liming material, as defined in subdivisions (2) through (9) of Section 2-23-2;
- (4) The minimum percent guaranteed by weight passing through U. S. standard sieves as prescribed by regulations of the board;
- (5) The minimum guaranteed calcium carbonate equivalent;
- (6) The minimum guaranteed content of elemental magnesium (Mg) if claimed;
- (7) The minimum guaranteed content of available potassium (K₂O) and/or phosphorus (P₂O₅) if claimed;
- (8) The maximum water content; and
- (9) Net weight.

(b) No information or statement shall appear on any package label, delivery slip or advertising matter which is false or misleading to the purchaser as to the quality, analysis, type or composition of any agricultural liming material.

(Acts 1975, No. 1190, §4.)

Section 2-23-5

Inspection fee; tonnage report.

(a) Each manufacturer or distributor of agricultural liming materials shall report monthly to the commissioner, at the end of each month, on forms provided by the commissioner, his or her gross sales in tons of such materials sold in the State of Alabama for that month accompanied by a per ton inspection fee based on tons sold during such month. The exact amount of the per ton inspection fee shall be established by the Board of Agriculture and Industries not to exceed twenty-five cents (\$.25) per ton. In the case of a distributor's being the agent for a manufacturer at one or more locations, it is the intent of this law that such sales be reported only once and that the fee assessed therewith be paid only once on the same brand or type of agricultural liming material or product. The monthly sales report of tonnage and the inspection fee due thereon shall be due and payable to the commissioner on or before the twentieth day of each month, which report and payment shall cover the tonnage of agricultural liming material sold or distributed in Alabama during the preceding month. Each remittance shall be accompanied by a certificate stating that the amount remitted is correct.

(b) If the tonnage report is not filed and payment of the inspection fee is not made by the twentieth day of the month, a collection fee of 10 percent of the amount shall be assessed against the manufacturer or distributor as a delinquent penalty.

(c) When more than one person is involved in the sale, importation or distribution of agricultural liming materials, the first manufacturer or distributor who sells such material in Alabama shall be responsible for reporting the tonnage and paying the inspection fee in keeping with the intent of this section that the inspection fee levied hereunder shall be paid only once on the same brand or type of agricultural liming materials. The inspection fee shall be paid by cooperative marketing and purchasing associations, and the exemptions allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such associations from payment of such fees.

(d) Amounts improperly or illegally collected under the provisions of this section as overpayments may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(e) The commissioner or his or her agents or employees shall have the right to examine, review, and audit sales records of every person required to remit to the commissioner the inspection fee levied under this section to verify and determine the accuracy of amounts remitted monthly as inspection fees.

(f) Every manufacturer or distributor of agricultural liming materials shall maintain records which will indicate accurately the tonnage of such materials sold in Alabama for a period of not less than two years.

(g) Inspection fees collected under this section by the commissioner, including permit fees collected under Section 2-23-3, shall be deposited to the credit of the Agricultural Fund of the State Treasury to be used and expended for the performance of the regulatory duties required for the administration and enforcement of the provisions of this chapter.

(Acts 1975, No. 1190, §5; Act 2004-516, p. 996, §1.)

Section 2-23-6

Inspection, sampling, analysis, etc., of agricultural liming materials by commissioner; right of entry upon public or private premises, etc., of commissioner.

(a) It shall be the duty of the commissioner, who may act through his authorized agents, to sample, inspect, make analysis of and test agricultural liming materials distributed within this state as he may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act or regulations promulgated hereunder.

(b) The commissioner, individually or through his agents, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming materials subject to the provisions of this chapter and regulations pertaining thereto and to the records relating to their distribution.

(c) In the case of out-of-state manufacturers or distributors of agricultural liming materials, sampling and

inspections will be made at points of delivery or elsewhere in Alabama.

(d) The methods of analysis and sampling shall be those approved by the board and shall be guided by procedures of the Association of Official Analytical Chemists. The analysis, test and sampling of agricultural liming materials shall be made and conducted in accordance with and subject to the provisions and requirements of Article 2 of Chapter 2 of this title.

(Acts 1975, No. 1190, §6.)

Section 2-23-7

Assessment of penalties against manufacturers, distributors, etc., for deficiencies in agricultural liming materials.

The board shall have authority by rules and regulations duly adopted, as provided in this section, to provide for the assessment of penalties to be assessed against a manufacturer, distributor or other seller responsible for such deficiency of any agricultural liming material where such material is determined by analysis to be deficient in its calcium carbonate equivalent, magnesium, available potassium, available phosphorous, excessive moisture content, fineness or other minimum standards as may be established by the board for the manufacture, distribution or sale of agricultural liming materials with reasonable tolerances to be specified in such standards. Such rules and regulations as may be adopted under this section relating to the assessment of monetary penalties shall provide for the payment thereof to the purchaser-user of the liming materials; and, in the event such purchaser-user cannot be found, then payment of the amount of such penalty shall be made to the commissioner for deposit in the State Treasury to the credit of the Agricultural Fund.

(Acts 1975, No. 1190, §9.)

Section 2-23-8

Sale or offer for sale of agricultural liming materials not complying with provisions of chapter, etc.; sale or offer for sale of agricultural liming materials containing toxic materials in quantities injurious to plants or animals.

(a) No agricultural liming materials shall be sold or offered for sale in this state unless they comply with provisions of this chapter or rules and regulations promulgated hereunder.

(b) No agricultural liming materials shall be sold or offered for sale in this state which contain toxic materials in quantities injurious to plants or animals.

(Acts 1975, No. 1190, §7.)

Section 2-23-9

Rules and regulations.

The board, after reasonable notice and hearing to interested persons, may make such rules and regulations, including establishing fees, as are reasonably necessary to implement and carry out the provisions of this chapter and to establish such additional standards and requirements as are necessary to protect the purchasers and users of agricultural liming materials which relate to the manufacture, distribution, sale, and advertising for sale of such materials.

(Acts 1975, No. 1190, §11; Act 2004-516, p. 996, §1.)

Section 2-23-10

Suspension from sale, seizure and condemnation of agricultural liming materials offered or exposed for sale in violation of chapter, etc.

The commissioner may issue and enforce a written or printed stop sale or suspension from sale, use or removal order to the manufacturer, owner, distributor or custodian of any lot of agricultural liming materials being held for sale purposes and to hold such material at a designated place when such agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and such agricultural liming material is released in writing by the commissioner or his authorized agents or such liming material has been otherwise legally disposed of by written or judicial authority. Any lot or other quantity of agricultural liming material not in compliance with the provisions and requirements of this chapter or rules and regulations duly adopted and promulgated hereunder shall be subject to suspension from sale, seizure and condemnation in accordance with the procedure now prescribed by law under Article 2 of Chapter 2 of this title.

(Acts 1975, No. 1190, §8.)

Section 2-23-11

Violations of chapter or rules or regulations promulgated thereunder deemed misdemeanors.

Any person who shall violate any of the provisions of this chapter or who fails to perform any duty or requirement imposed by the provisions of this chapter or who violates any rule or regulation duly promulgated under this chapter shall be guilty of a misdemeanor and upon conviction shall be punished as now prescribed by law for such an offense.

(Acts 1975, No. 1190, §10.)

ALABAMA SEED LAW



CODE OF ALABAMA 1975

§2-26-1 ~ §2-26-76

Section 2-26-1

Definitions.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) PERSON. An individual, partnership, corporation, company, society, association or agency.
- (2) AGRICULTURAL SEED. The seeds of grasses, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds and mixtures of such seeds.
- (3) VEGETABLE SEED. The seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.
- (4) FLOWER SEED. The seeds of all plants grown for ornamental purposes, either for domestic or commercial purposes, and which are generally known and sold under the name of flower seed in this state.
- (5) TREE AND SHRUB SEED. The seeds of woody plants commonly known and sold as tree or shrub seeds in this state.
- (6) WEED SEEDS. The seeds, bulblets and tubers of all plants generally recognized as weeds within this state, including noxious weed seeds, bulblets and tubers.
- (7) NOXIOUS WEED SEED.
 - a. Prohibited noxious weeds.
 - b. Restricted noxious weeds.

The State Board of Agriculture and Industries by rules and regulations adopted under authority of this article is authorized to designate noxious weeds which shall be prohibited and noxious

weeds which shall be restricted after public hearing indicates such prohibitions or restrictions are for the best interest of Alabama agriculture. Seed containing noxious weeds designated by the State Board of Agriculture and Industries as prohibited shall not be sold or offered for sale, and seed containing noxious weeds designated as restricted may be sold or offered for sale under limitations established by the board.

(8) OTHER CROP SEED. The seed of all kinds or varieties of agricultural or vegetable seeds not of the kind or variety declared on the label or tag.

(9) INERT MATTER. All matter not seeds, including, among others, broken seeds, sterile florets, chaff, fungus bodies and stones, etc.

(10) PURE SEED. The seed of the kind or kind and variety of agricultural, tree, shrub or vegetable seed declared on the label or tag.

(11) KIND. One or more related species or subspecies which singly or collectively are known by one common name, for example, wheat, oat, vetch, sweet clover, cabbage, cauliflower, etc.

(12) VARIETY. A subdivision of a kind which is characterized by growth, plant, fruit, seed, period of maturation or other characters by which it can be differentiated from other sorts of the same kind, for example, Redhart wheat, Flat Dutch cabbage, Otootan soybeans, Chantenay carrot, etc.

(13) GERMINATION. The percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed or obviously abnormal sprouts nor hard seeds).

(14) HARD SEEDS. The percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

(15) MIXTURE. Seed consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(16) DEALER. Any person who buys and sells seed in Alabama. An itinerant trucker who buys seed and sells or delivers them in Alabama shall be deemed to be a dealer and shall be subject to the requirements of this article.

(17) LOT OF SEED. A definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

(18) CERTIFIED SEED and REGISTERED SEED. Seed that have been produced and labeled in accordance with the procedure and in compliance with the rules and regulations of an officially recognized seed-certifying agency.

(19) **HYBRID SEED CORN.** The first generation seed of a cross produced by controlling the pollination and by combining two, three or four inbred lines or by combining one inbred line or a single cross with an open-pollinated variety. Hybrid designations shall be treated as variety names. As used in this subdivision, the term inbred means a pure live strain that has been self-pollinated for not less than three generations.

(20) **ORIGIN or WHERE GROWN.** The state, if grown in the United States, or country or province, if grown outside the continental United States.

(21) **LABELING.** All labels and other written, printed or graphic representations in any form whatsoever accompanying and pertaining to any seed, whether in bulk or in containers, and such term includes invoices and other bills of shipment.

(22) **ADVERTISEMENT.** All representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this article.

(23) **PROCESSING.** The passing of seed through a cleaning machine for the purpose of removing some constituent or through a blending machine or grinding of the seed for other uses.

(Acts 1943, No. 560, p. 552, §1; Acts 1963, No. 424, p. 931, §1.)

Section 2-26-2

Powers and duties of commissioner generally.

It shall be the duty of the Commissioner of Agriculture and Industries, who may act individually or through his authorized agents to:

(1) Inspect, sample, make analyses of and test agricultural, vegetable, herb, tree, shrub and flower seeds transported, sold, offered or exposed for sale or distributed within this state for sowing or planting purposes, at such time and place and to such extent as he may deem necessary to determine whether said seeds are in compliance with the provisions of this article and notify promptly the person who transported, sold, offered or exposed the seed for sale of any violation;

(2) Enter upon any public or private premises during regular business hours in order to have access to seeds subject to this article and the rules and regulations thereunder;

(3) Issue and enforce a written or printed "stop-sale," "suspension from sale" or "nonuse" order to the owner or custodian of any lot of agricultural, vegetable, flower, tree, shrub or herb seed which is found to be in violation of any of the provisions of this article, which shall prohibit further sale or use of such seed until such officer has evidence that the law has been complied with; provided, that in respect to seeds which have been denied sale, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, requesting a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting this sale in accordance with the findings of the court;

(4) Establish and maintain or make provision for seed testing and sampling facilities, employ qualified persons and incur such expenses as may be necessary to comply with these provisions;

(5) Make or provide for making purity and germination tests of such seeds for farmers and dealers on request, prescribe rules governing such testing and fix and collect charges for such tests. The fees collected for making service tests shall be paid into the Agricultural Fund;

(6) Cooperate with the United States Department of Agriculture in seed law enforcement; and

(7) Publish the result of laboratory and field analyses and tests, information shown on analyses tags or labels by seedsmen and information pertaining to violations of this article.

(Acts 1943, No. 560, p. 552, §7; Acts 1963, No. 424, p. 931, §8.)

Section 2-26-3

Promulgation of rules and regulations by state board.

(a) The State Board of Agriculture and Industries shall have power to prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the method of sampling, inspecting, analyzing, testing and examining agricultural, vegetable, flower, tree, shrub and herb seed and the tolerances and limitations to be followed in the administration of this article, to add to or subtract from the list of noxious weeds, to adopt or amend standards for vegetable, flower, tree, shrub and herb seed, to increase or lower the standards for seeds when found to be in the best interest of users of seed and to meet emergencies, to adopt sizes of containers for seed sold, offered for sale or distributed in Alabama, to establish reasonable limitations as to the number of bags or other containers of seed in any one lot of seed sold, offered for sale or distributed in Alabama and such other rules and regulations as may be reasonably necessary to carry out the evident intent and purposes of this article and to secure its efficient administration and enforcement.

(b) The board shall also be authorized to adopt rules and regulations to govern and control the sale or offering for sale of any seed which may be labeled and sold as feed or feed grain where such feed or grain is or may be used for planting purposes. The board is authorized to adopt rules, regulations and recommendations of the Association of Seed Control Officials of the Southern States; provided, that such recommendations are not in conflict with the provisions of this article.

(c) The board shall also be authorized to adopt rules and regulations which will prohibit any false or misleading labeling, false or misleading advertising or other false or misleading representations with respect to sale, handling, labeling or distribution of any agricultural, vegetable, flower, tree or herb seed sold, offered for sale or distributed in Alabama where the sale of such seed is subject to any of the provisions and requirements of the Plant Variety Protection Act of the Congress of the United States.

(Acts 1943, No. 560, p. 552, §6; Acts 1963, No. 424, p. 931, §7; Acts 1975, No. 741, §3.)

Section 2-26-4

Establishment of seed division and testing laboratory; powers and duties thereof; enforcement of rules and regulations as to sale or distribution of tree or shrub seed.

(a) There shall be established within the Department of Agriculture and Industries a seed division which shall maintain facilities, equipment and qualified personnel to perform the seed testing, sampling and analysis work required to execute the provisions and requirements of this article. The seed division established and created under this section shall also perform the administrative, clerical and other work incident to the administration and enforcement of the provisions and requirements of this article and such seed testing and administrative duties shall not be performed by any other division of the Department of Agriculture and Industries; except, that the State Board of Agriculture and Industries shall have the authority to enter into an agreement delegating the responsibility for the testing of tree and shrub seed to the United States Forest Service or any other seed laboratory designated and approved by the State Board of Agriculture and Industries.

(b) The responsibility for the enforcement of the rules and regulations governing the sale or distribution of tree or shrub seed within the state shall be the sole responsibility of the state Department of Agriculture and Industries.

(Acts 1963, No. 424, p. 931, §9.)

Section 2-26-5

Annual permit fees.

(a) Every person who sells, offers for sale, exposes for sale, distributes or solicits orders for the sale of any agricultural, vegetable, herb, tree, shrub or flower seed to retail seed dealers, farmers or to others who use or plant such seed in the State of Alabama shall, before selling or offering such seed for sale or distributing or soliciting orders for the sale of such seed and on or before January 1 of each year secure an annual permit from the Commissioner of Agriculture and Industries to engage in such business. Seed dealers and other sellers of seed shall apply for an annual permit upon forms prescribed by the commissioner, and such permit shall be issued upon the payment of the following permit fees when the application is in proper form:

- (1) For each person engaged in selling seed at retail in closed containers or packets of eight ounces or less displayed on a supplemental container display, a permit fee established by the Board of Agriculture and Industries, not to exceed seven dollars fifty cents (\$7.50) for each such display, the fee to be deposited to the benefit of the Agricultural Fund in the State Treasury;
- (2) For each person selling seed to retail seed dealers, farmers or others who use or plant the seed, not displayed on a supplemental container display, a permit fee for each place of business, or each representative or representatives, where such person does not maintain an established place of business

in Alabama, shall be based on gross receipts from the sale of such seed for the last preceding year in Alabama established by the Board of Agriculture and Industries within the range of the schedule set out below as follows:

| Gross Receipts | Permit Fee |
|--|---------------------|
| 1. Receipts of \$2,500.00 or less | \$ 5.00 - \$15.00 |
| 2. Receipts of \$2,500.01 through \$25,000.00 | \$ 25.00 - \$50.00 |
| 3. Receipts of \$25,000.01 through \$50,000.00 | \$ 50.00 - \$75.00 |
| 4. Receipts of \$50,000.01 through \$100,000.00 | \$100.00 - \$150.00 |
| 5. Receipts of \$100,000.01 through \$200,000.00 | \$200.00 - \$300.00 |
| 6. Receipts of \$200,000.01 through \$300,000.00 | \$300.00 - \$400.00 |
| 7. Receipts of \$300,000.01 through \$400,000.00 | \$400.00 - \$500.00 |
| 8. Receipts of \$400,000.01 through \$500,000.00 | \$500.00 - \$600.00 |
| 9. Receipts of more than \$500,000.00 | \$600.00 - \$700.00 |

(3) For places of business not previously in operation, the fee shall be based on anticipated gross receipts for the first year of business. Out-of-state seed sellers not previously selling seed in Alabama which sell or distribute seed through a representative soliciting orders in Alabama shall not be required to pay the required permit fee for their first year of operation in the State of Alabama.

(b) Any person selling seed who also sells seed in closed containers or packets of eight ounces or less from a rack display shall be required to pay only the permit fee required by subdivision (2) of subsection (a) of this section.

(c) Persons engaged in the operation of seed cleaning or processing plants, including peanut shellers, seed treaters and corn processors, and persons who purchase seed and process such seed for resale shall be required to obtain a permit as required under this section if such persons clean and/or process or treat seed at their plant, and the annual fee to be paid therefore shall be established by the Board of Agriculture and Industries not to exceed one hundred dollars (\$100); provided, that if such persons shall sell seed to retail seed dealers, farmers or to others who use or plant such seed they shall also be required to pay the annual permit fee required under subdivision (2) of subsection (a) of this section in addition to the annual permit fee.

(d) A broker, as defined in this subsection, shall obtain an annual permit as required by this section and pay the fee required under subdivision (2) of subsection (a) for a person selling seed. The term "broker" as used in this subsection means a person domiciled in Alabama or who solicits business in Alabama who acts as agent for or otherwise represents another person for compensation in negotiating the sale or purchase of agricultural, vegetable, flower, tree, shrub or herb seed.

(e) Any permit issued under this section shall be valid and effective until January 1 next succeeding the date of issuance. The permit fee levied under this section shall be in addition to all other fees, licenses, taxes and other similar charges or fees now levied by law for the sale of seed in Alabama. All fees collected under this section and all amounts collected as fines imposed under the penalty provisions of this article shall be paid into the Agricultural Fund of the State Treasury for use in the administration and enforcement of the provisions of this article. Amounts collected under this section as an improper or illegal collection or overpayment may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(f) A permit as required under this section shall be obtained by a person for each place of business at which such person is engaged in the sale of seed and for each separate operation where seed are cleaned, treated or otherwise processed unless such place of business is an integral part of one business or operation. All permit fees due under this section shall be delinquent if not paid within 30 days from the date on which the permit fee is due, and the commissioner is authorized to add a delinquent penalty of 10 percent to the amount of the permit fee due under this section. The permit fee levied under this section shall be paid by all agricultural cooperative marketing and purchasing associations, and the exemption allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such cooperative organizations from the payment of the permit fee levied under the provisions of this section.

(g) Farmers or producers of agricultural, vegetable, flower, tree, shrub or herb seed who sell uncleaned, unprocessed, unpackaged and unlabeled seed of their own production only and do not sell seed received or purchased from other sources shall not be required to obtain a permit or pay any fee required under this section; provided, that any farmer who sells cleaned, processed, packaged and labeled seed to retail seed dealers, farmers or to others who use or plant such seed where the total amount of the sale price thereof is in excess of \$3,000.00 in any one year shall be required to obtain a permit and pay the fee required by subdivision (2) of subsection (a) of this section; provided, that the first \$3,000.00 worth of cleaned, processed, packaged and labeled seed of any farmer shall be exempted from the computation of gross receipts in determining the amount of the permit fee.

(Acts 1963, No. 424, p. 931, §10; Acts 1965, 2nd Ex. Sess., No. 118, p. 163; Acts 1971, No. 1951, p. 3168; Act 2004-516, §1.)

Section 2-26-6

Injunctive proceedings to restrain persons selling, processing, cleaning, etc., seed without permit.

Any person required to secure a permit as provided under Section 2-26-5 who fails or refuses to apply for and obtain such a permit and pay the fee therefor may be restrained from engaging in the sale of agricultural, vegetable, flower, tree, shrub or herb seed or from operating a seed cleaning, shelling, delinting or processing plant. In addition to the penalty provided in this article, the Commissioner of Agriculture and Industries may file a petition in the circuit court for a temporary restraining order or permanent injunction or both; and, for cause shown, the court shall have jurisdiction to restrain or enjoin any person from engaging in the sale of seed without

securing the permit as required under this article. Such temporary restraining order or permanent injunction shall be issued without bond.

(Acts 1963, No. 424, p. 931, §11.)

Section 2-26-7

Requirements as to labeling of containers in which seed sold, distributed, etc.

(a) Agricultural seed.

(1) Each container of agricultural seed in excess of two pounds which is sold, offered for sale, exposed for sale or distributed within this state for planting or sowing purposes shall have attached thereto in a conspicuous place a plainly written in ink or printed label of a size not less than 2 3/8 x 4 3/4 inches in the English language, giving information for the following items:

- a. Commonly accepted name, kind and variety (of those crops for which commercial varieties have been developed) of each agricultural seed component in excess of five percent of the whole, subject to tolerances as provided in Section 2-26-3, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously near the top of the label or tag in type of not less than 8 point;
- b. Lot number or other lot identification;
- c. Origin or place where grown;
- d. Percentage by weight of all weed seeds; provided, that not more than two percent weed seeds may occur in any lot of seed; provided further, that the State Board of Agriculture and Industries is authorized to reduce this percentage and the State Board of Agriculture and Industries is also authorized to exempt certain seeds from this requirement; and provided further, that such seed that may be exempted shall not exceed five percent weed seed;
- e. Percentage by weight of agricultural seeds other than those required to be named on the label;
- f. Percentage by weight of inert matter;
- g. The name and rate of occurrence per pound of the whole for each kind of noxious weed seed provided that the limits under Section 2-26-11 are not exceeded. All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this article;
- h. Percentage of germination, exclusive of hard seed, percentage of hard seed, when present, and the calendar month and year the test was completed to determine such percentages; provided, that such seed shall not germinate below the minimum standards to be found under Section 2-26-11;

i. Net weight;

j. Name and address of the person who labeled said seed or who sells, offers or exposes it for sale or distribution within this state; and

k. The name and address, for hybrid seed corn, of the person who grew the seed or is responsible for its distribution and the name or designation under which each lot of seed will be sold.

(2) All information required on the analysis tag or label shall be placed on one side of the tag without intervening matter which obliterates, defaces or contradicts the analysis. Information required under subsection (e) of this section hereof for treated seed may be shown on the face of the analysis tag. The State Board of Agriculture and Industries pursuant to rules and regulations is authorized to permit the required labeling information to be placed on the bag or container if found to be in the best interest of Alabama agriculture.

(b) Vegetable seed.

(1) All vegetable seed, including beans, peas, edible soybeans, edible cowpeas and corn, shall be labeled to show:

a. Name of kind and variety,

b. Net weight,

c. Lot identification,

d. Percentage of germination, exclusive of hard seed,

e. Date of germination test, and

f. Name and address of person responsible for the information.

(2) For seed which germinate less than the standard last established by the State Board of Agriculture and Industries, the packet or container shall be labeled to also contain the words "below standard" in not less than 12 point type; provided, that the State Board of Agriculture and Industries shall also fix a minimum germination below which vegetable seed cannot be sold or offered for sale.

(3) If such seed contain weed seeds in excess of one half of one percent of the total or inert matter in excess of one percent or other crop seed in excess of one percent or any noxious weed seeds, a complete analysis must be given, showing information for all the items required under the labeling requirements for agricultural seed in subdivision (1) of subsection (a) of this section.

(c) Flower and herb seed. Every separate package of flower or herb seed sold, offered for sale or exposed for sale in this state for seeding purposes shall be labeled to show:

(1) Name of kind and variety,

(2) Year for which seed were packed for sale, and

(3) Name and address of the person responsible for the information given.

(d) Tree and shrub seed. Each bag or container must be labeled to comply with the rules and regulations promulgated by the State Board of Agriculture and Industries.

(e) Treated seed. Any seed or any mixture thereof for seeding purposes that has been treated shall have shown on a label or tag in type no smaller than one-fourth inch bold face type to indicate that the seed has been treated and such label shall also state the commonly accepted, coined, chemical or abbreviated chemical (generic) name of any substance or a description of any process (other than application of a substance) used in such treatment in accordance with this section. Seed treated with mercurials or similar toxic substances shall be labeled to show "treated with poison" or "poison treated," and such statement shall appear in bold face type of not less than one-fourth inch. These words shall be printed in heavy red type. The label shall also show a representation of a skull and crossbones which may be shown on the tag bearing the analysis information or on a separate tag or on the container. If the substance used in such treatment in the amount remaining with the seed is harmful to humans or other vertebrate animals, the label shall also contain additional information as required under regulations of the State Board of Agriculture and Industries.

(Acts 1943, No. 560, p. 552, §2; Acts 1953, No. 736, p. 997, §1; Acts 1963, No. 424, p. 931, §2.)

Section 2-26-8

Analyses and interpretations of seeds.

Analyses and interpretations shall be in accordance with the rules and regulations prescribed by the Association of Official Seed Analysts.

(Acts 1943, No. 560, p. 552, §1; Acts 1963, No. 424, p. 931, §1.)

Section 2-26-9

Requirements as to certification, etc., of hybrid seed corn sold or offered for sale.

No hybrid seed corn shall be sold or offered for sale unless it is certified by a recognized seed certifying agency or produced by a person having a bona fide corn breeding program. The State Board of Agriculture and Industries shall be authorized to determine whether certain corn breeding programs constitute a bona fide program to comply with this requirement.

(Acts 1963, No. 424, p. 931, §4.)

Section 2-26-10

Maintenance, inspection, etc., of records as to receipt, sale and delivery of seeds generally; maintenance of sales records by retail sellers; maintenance of bills of lading, waybills, etc., by trucks, etc., transporting seed for sale, etc.; auditing of records of receipts, sales and deliveries of seeds.

(a) Records of receipts, sale and delivery of all seed, other than retail sales and deliveries by a dealer, except as provided in subsection (b) of this section, shall be kept readily accessible for examination by an authorized agent of the Department of Agriculture and Industries. These records shall include invoices, bills of lading or transportation records and a copy of the labeling information, and these records must show the lot numbers. Such records must be made available to the inspectors within 10 days after receipt of seeds which said records cover. Such records as are surrendered shall be duplicated and a copy left with the owner or party in question. Records shall be kept by the dealer for a period of three years; except, that a file sample of each lot of seed shall be kept for one year after final disposition of the lot in order to carry out the purpose of effective administration of this article.

(b) All retail seed sales having a value in excess of an amount to be fixed by the State Board of Agriculture and Industries shall be accompanied by an invoice or a sales ticket issued by the seller bearing the name and address of the seller and purchaser, the kind and variety of seed sold, the quantity of seed in each lot and the lot number or numbers for each kind and variety of seed sold or delivered. Such sales records shall be kept by the retail seller for a period of one year following sales, and such records shall be made available for inspection and examination by the Commissioner of Agriculture and Industries or his authorized agent upon request. Such records shall also be made available to any committee created by law for investigation and arbitration purposes for its examination and review.

(c) Trucks and other motor conveyors transporting seed for sale, to be sold to consumers or distributed, and using the Alabama public highways shall have available for examination at any time by an authorized agent of the Department of Agriculture and Industries a bill of lading, waybill or a delivery receipt showing the name of shipper or party from whom purchased, the name and address of the party to whom the seed is to be delivered, the kind and amount of each separate kind of seed, except that all vegetable seed can be grouped as "garden seed," and the name of the truck line or other carrier making delivery of the seed. A copy of the bill of lading, invoice or delivery receipt shall be left with the consignee.

(d) Records of receipts, sales and deliveries of all seed sold in Alabama shall be kept readily accessible for auditing by an authorized agent of the Department of Agriculture and Industries at reasonable times during business hours to determine whether sellers of seed comply with Section 2-26-5 with respect to payment of the permit fee required thereunder, and such information as obtained shall be treated as confidential, and no employee shall divulge the information obtained from such an audit, but nothing in this subsection shall be construed to prevent the commissioner, his authorized agents or employees or a committee created by law for investigation and arbitration purposes from having access to records for examination and review as authorized by subsection (a) of this section.

(Acts 1943, No. 560, p. 552, §5; Acts 1963, No. 424, p. 931, §6; Acts 1975, No. 741, §2.)

Section 2-26-11

Prohibited acts.

(a) It shall be unlawful for any person to sell, offer for sale, expose for sale or distribute within this state:

(1) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by Section 2-26-7 shall have been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale or offering for sale, transportation or distribution; provided, however, that the State Board of Agriculture and Industries shall have authority under rules and regulations adopted under this article to prescribe a shorter required test period when deemed necessary to meet seasonal conditions with respect to certain seed; provided further, that the State Board of Agriculture and Industries shall also have authority pursuant to rules and regulations to prescribe a longer period of time for the test required to determine the percentage of germination for agricultural and vegetable seed labeled and packed in hermetically sealed containers, which shall not exceed 36 months after the month of test, and to prescribe the conditions and labeling requirements for the sale of such seed in hermetically sealed containers;

(2) Any agricultural, vegetable, herb, tree, shrub or flower seed not labeled in accordance with the provisions of this article, or having a false or misleading labeling;

(3) Any agricultural, vegetable, herb, tree, shrub or flower seed pertaining to which there has been a false or misleading advertisement;

(4) Any agricultural or vegetable seed containing prohibited noxious weed seeds or restricted noxious weed seeds in excess of limitations prescribed by the State Board of Agriculture and Industries;

(5) Any agricultural or vegetable seed containing weed seed in excess of two percent of the whole by weight, except as provided by the State Board of Agriculture and Industries pursuant to rules and regulations adopted for the occurrence of weed seeds;

(6) Any agricultural seed having a total percentage of germination and hard seed of less than 60, except Dallisgrass, Johnsongrass and seed released by the U.S.A. Customs, unless such percentage of germination is lowered or increased by the State Board of Agriculture and Industries as authorized under Section 2-26-2;

(7) Any agricultural, vegetable, flower, tree, shrub or herb seed unless the person selling, offering for sale or distributing such seed for sale has obtained an annual permit as required under Section 2-26-5;

(8) Oat or sorghum seed not complying with the regulations promulgated by the State Board of Agriculture and Industries controlling the sale and distribution of same;

(9) Any hybrid seed corn unless it is certified or produced as required under Section 2-26-9; and

(10) Any tree or shrub seed not in compliance with the rules and regulations promulgated by the State Board of Agriculture and Industries.

(b) It shall be unlawful for any person within this state:

(1) To detach, alter, deface or destroy any label provided for in this article or the rules and regulations made and promulgated hereunder or to alter or substitute seed in a manner that may defeat the purpose of this article;

(2) To disseminate any false or misleading advertisement concerning agricultural, vegetable, herb, tree, shrub or flower seed in any manner or by any means;

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this article;

(4) To fail to comply with a "stop-sale," "suspension from sale" or "nonuse" order;

(5) To use a nonwarranty or disclaimer clause or limited warranty clause in any invoice, labeling or advertising which shall directly or indirectly deny or modify any information required by this article or regulations promulgated hereunder, nor shall any such clause relieve or exempt any person from any of the requirements of this article or regulations promulgated hereunder; or

(6) To violate or fail to comply with any rule or regulation promulgated and adopted by the State Board of Agriculture and Industries under authority of this article.

(Acts 1943, No. 560, p. 552, §3; Acts 1953, No. 736, p. 997, §2; Acts 1963, No. 424, p. 931, §3; Acts 1975, No. 741, §1.)

Section 2-26-12

Suspension from sale, seizure and condemnation of articles not in compliance with provisions of article.

Any lot of agricultural, vegetable, herb, tree, shrub or flower seed not in compliance with the provisions of this article shall be subject to suspension from sale, seizure and condemnation. The issuance of a "suspension from sale or use" or "stop-sale" order and seizure and condemnation of seed sold or offered for sale in violation of the provisions of this article shall be in accordance with Article 2 of Chapter 2 of this title.

(Acts 1943, No. 560, p. 552, §8; Acts 1963, No. 424, p. 931, §12.)

Section 2-26-13

Violation of provisions of article or rules or regulations promulgated hereunder deemed misdemeanor.

Any person who shall perform any of the acts which are declared to be unlawful by this article or who fails to perform any duty or requirements imposed by the provisions of this article or who violates any rule or regulation duly promulgated hereunder or who shall sell, offer for sale, distribute or solicit orders for agricultural, vegetable, herb, tree, shrub or flower seed without having a permit as required by this article shall be guilty of a misdemeanor and shall be punished as now prescribed by law for such offense.

(Acts 1943, No. 560, p. 552, §8; Acts 1963, No. 424, p. 931, §13.)

Section 2-26-14

Exemptions from article.

The provisions of this article do not apply to:

- (1) Seed when sold directly to and in the presence of the consumer and taken from the container properly labeled in accordance with the provisions of this article, but this provision shall in no way exempt the vendor from the analysis given on the tag or label attached to any container;
- (2) Seed or grain not intended for sowing or planting purposes if proper indication of such intention is shown;
- (3) Seed in storage in or consigned to a seed-cleaning or processing establishment for cleaning or processing; provided, that for seed to be processed and stored in the same room from which seed are delivered for planting, sowing or resale, each bag shall bear a label or there shall be displayed a large placard with the following words "For Processing - Not for Sale;" further provided, that seed held in storage for interstate shipment need be labeled only with a lot number supported by an analysis in office files; and provided further, that any labeling or other representations which may be made with respect to such seed shall be subject to this article;
- (4) Seed produced in Alabama and sold by the farmer who produced such seed to another farmer with the provision that if such seed are advertised for sale by a paid advertisement or by free advertisement through publications of the Alabama Department of Agriculture and Industries such seed shall be subject to all of the requirements of this article; provided, however, that farmer-producers selling only their own production shall not be required to obtain the permit except as required under Section 2-26-5; or
- (5) Seed sold or distributed by the grower thereof, unless such grower is also a dealer, to a local merchant in due course of trade and by such local merchant resold in due course of trade, but without advertising and without holding himself as a dealer as defined in this article.

(Acts 1943, No. 560, p. 552, §4; Acts 1963, No. 424, p. 931, §5.)

Section 2-26-30

Promulgation of rules and regulations for removal, etc., of fungi and noxious weeds from seeds and small grains by commissioner.

The Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries, is hereby authorized to promulgate and adopt rules and regulations for the purpose of eradicating and preventing the spread of fungus growths and diseases from seed and small grains used for planting purposes and the removal of noxious weeds from agricultural and vegetable seed and small grain used for planting purposes by requiring that persons, firms, partnerships, corporations and associations engaged in cleaning or otherwise processing seed shall process, clean or treat such seed and small grains in a manner whereby fungi, diseases and noxious weeds will be eradicated or removed from such seed and small grain prior to the packaging, shipping or sale thereof to growers. Rules and regulations adopted under this section may require seed cleaners or processors to clean or process seed and small grain used for planting purposes by applying fungicides or other chemicals and to process or treat such seed and grain in any other manner reasonably necessary to carry out the purposes of this article. Rules and regulations adopted under this section shall be adopted in accordance with the procedure prescribed under the provisions of Sections 2-2-16 and 2-2-17.

(Acts 1953, No. 739, p. 1003, §1.)

Section 2-26-31

Suspension from sale, seizure and condemnation of seeds and small grains sold, transported, etc., in violation of rules and regulations; right of commissioner to inspect and secure samples.

Any agricultural or vegetable seed or small grain used for planting purposes which is sold, offered for sale, exposed for sale or transported in violation of any rules and regulations promulgated and adopted in accordance with the provisions of this article shall be subject to suspension from sale, seizure and condemnation in accordance with the provisions of Article 2 of Chapter 2 of this title. The Commissioner of Agriculture and Industries shall have the right of inspection and the right to secure samples as provided in said Article 2.

(Acts 1953, No. 739, p. 1003, §2.)

Section 2-26-32

Failure to process, clean, etc., seeds or small grains or sale, distribution, etc., of seeds or small grains not cleaned, processed, etc., in accordance with rules and regulations promulgated under article.

It shall be unlawful for anyone to fail or refuse to clean, process or treat agricultural or vegetable seed or small grain used for planting purposes in violation of any rules or regulations promulgated under the provisions of this article, and it shall also be unlawful for anyone to sell, offer for sale, expose for sale or distribute any agricultural or vegetable seed or small grain used for planting purposes unless such seed and grains have been cleaned, processed or treated in accordance with requirements of rules and regulations adopted and promulgated under the provisions of this article. Whoever shall violate any rules and regulations or other requirements of this article shall be guilty of a misdemeanor and shall be punished as prescribed by law.

(Acts 1953, No. 739, p. 1003, §3.)

Section 2-26-50

Adoption and registration of symbols of identification or certification of foundation seed, seeds or plant parts.

An association or associations of farmers engaged in multiplying and certifying seed or plant parts of a superior variety or strain of plants or crops, such as those bred and tested or tested only by the Agricultural Experiment Station of Auburn University, and in increasing breeder seed by producing, processing and distributing foundation seed may adopt a symbol or symbols of identification or certification of such seed or plant parts and such foundation seed and, upon approval of the director of such experiment station and of the Director of the Extension Service of Auburn University, register same with the state Commissioner of Agriculture and Industries. Only one such association may so register such a symbol or symbols for any one specified crop.

(Acts 1945, No. 404, p. 643, §§1, 2; Acts 1975, No. 745, §1.)

Section 2-26-51

Use of symbols by persons, associations, etc., other than associations registering same; violations of provisions of article deemed misdemeanors.

(a) It shall be unlawful for any person, firm, association or corporation, other than the association which so registered such symbol or symbols, to use such symbol or symbols in any manner for identifying or certifying seeds or plant parts or for any person, firm, association or corporation to sell, offer for sale or otherwise market or distribute foundation seed for any specified crop, other than the association which registered the symbol or symbols of such foundation seed for such crop with the Commissioner of Agriculture and Industries.

(b) Any person, firm, association or corporation who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor.

(Acts 1945, No. 404, p. 643, §3; Acts 1975, No. 745, §2.)

Section 2-26-52

Cooperation of Department of Agriculture and Industries and Agricultural Extension Service and Experiment Station of Auburn University.

The Department of Agriculture and Industries, the Agricultural Extension Service and the Agricultural Experiment Station of Auburn University are hereby authorized and directed to cooperate and work with such associations of farmers to accomplish the following purposes:

(1) To implement an Alabama seed improvement program encompassing activities of foundation seed production, seed certification and labeling and quality control in the production of seed in order to make available for agriculture in this state high quality seed;

(2) To conduct educational programs stressing the benefits of the use of seed of superior varieties and strains; and

(3) To otherwise formulate and implement such programs as will insure that quality seed is properly produced, processed, certified and distributed in the state.

(Acts 1945, No. 404, p. 643, §4; Acts 1975, No. 745, §3.)

Section 2-26-70

Purpose of article.

The intent and purpose of this article is to provide a method for assisting farmers and other seed purchasers and seed dealers to determine the validity of complaints of such seed purchasers against seed dealers relating to the quality of the seed by establishing a committee to investigate and make findings and recommendations in the nature of arbitration proceedings where damages are suffered by such seed purchasers caused by the failure of any agricultural, vegetable, flower, tree, shrub and herb seeds to perform as represented, or to conform to the description on the labeling thereof as required by Sections 2-26-1 through 2-26-14. The meaning of words and terms as used in this article shall, where applicable, be construed to conform to the meaning of such words and terms as same are defined in Section 2-26-1.

(Acts 1979, No. 79-424, p. 661, §1.)

Section 2-26-71

Creation of Seed Investigation and Arbitration Committee; composition; qualifications, appointment and terms of office of members; officers; meetings generally.

There is hereby created and established a Seed Investigation and Arbitration Committee to be appointed by the Commissioner of Agriculture and Industries to consist of five members. The members shall be appointed by the Commissioner of Agriculture and Industries upon the recommendation of each of the following: Dean and Director, School of Agriculture and Agricultural Experiment Station of Auburn University; Executive Committee of the Alabama Seedsmen's Association; President of the Alabama Farmers Federation; State Board of Agriculture and Industries, and one member shall be appointed by the Commissioner of Agriculture and Industries. Each of these members may be represented by an alternate appointed by the Commissioner of Agriculture and Industries, upon the recommendation of the recommending authority or on recommendation of the committee member when such authority has been vested in the committee member by the recommending authority. Each member shall continue to serve on the committee until a replacement has been recommended by one of the above named organizations, agencies, or officials authorized to make such recommendations or appointments, at which time the Commissioner of Agriculture and Industries shall appoint a new member from those recommended. Each alternate shall serve only for the case in which he has been appointed and only one member shall represent each of the above organizations, agencies, or officials authorized to make recommendations for appointment to the committee. The committee shall elect a chairman and a secretary from its membership. The committee chairman

shall conduct all meetings and deliberations held by the committee and direct the other activities of the committee. The secretary shall keep accurate and correct records on all meetings and deliberations and perform any other duties for the committee as directed by the chairman. The committee shall be known as the Seed Investigation and Arbitration Committee.

(Acts 1979, No. 79-424, p. 661, §3 (1); Acts 1992, No. 92-108, p. 178, §3.)

Section 2-26-72

Compensation and expenses of members of committee.

The members of the committee shall receive no compensation for the performance of their duties, but shall be reimbursed for travel expenses incurred in the performance of their duties in the same manner and at the same rate paid to state employees for travel expenses when such members attend meetings or perform other required duties which shall be paid from funds appropriated or available to the Department of Agriculture and Industries upon approval of the commissioner.

(Acts 1979, No. 79-424, p. 661, §3 (4).)

Section 2-26-73

Duties of committee; calling of meetings of committee.

The duties of the Seed Investigation and Arbitration Committee shall be to assist farmers and other purchasers of agricultural, vegetable, flower, tree, shrub and herb seeds and seed dealers to ascertain and determine the validity of complaints made by seed purchasers against seed dealers and recommend the settlement and payment of monetary damages by seed dealers where such damages result from the failure of the seed to perform as represented or to conform to the description of the labeling on or accompanying the seed or seed containers. The committee may be called into session by the Commissioner of Agriculture and Industries at his discretion or upon the direction of the chairman or a majority of the committee members to consider complaints and other matters referred to it by the Commissioner of Agriculture and Industries.

(Acts 1979, No. 79-424, p. 661, §3 (2).)

Section 2-26-74

Filing of complaint as to performance or labeling of seed by purchaser; forwarding of complaint and answer thereto to committee for investigation, findings and recommendations.

Any farmer, or other purchaser of agricultural, vegetable, flower, tree and shrub or herb seeds purchased for planting purposes who believes that he has been damaged by the failure of the seed to perform as represented, or to conform to the description on the labeling attached thereto or accompanying such seed as required by Sections 2-26-1 through 2-26-14, and rules and regulations promulgated thereunder, may make a sworn complaint against the seed dealer from

whom such seeds were purchased. The complaint shall allege the failure of the seed to perform or to conform to legal requirements and the damages sustained or to be sustained by him. The complaint shall be filed with the Commissioner of Agriculture and Industries within 10 days after the alleged defect or violation becomes apparent. The seed purchaser shall also mail a copy of said complaint to the dealer from which the seeds were purchased by United States registered or certified mail. A filing fee of \$10.00 shall be paid to the Commissioner of Agriculture and Industries with each complaint filed which shall be deposited to the credit of the Agricultural Fund of the State Treasury. Within 10 days after receipt of a copy of the complaint, the seed dealer shall file with the Commissioner of Agriculture and Industries an answer thereto and forward a copy of same to the purchaser of the seed by United States registered or certified mail. Any seed dealer against whom a complaint is filed hereunder or any seed purchaser filing a complaint may request an investigation and other action by the committee for the investigation and arbitration created by Section 2-26-71. The Commissioner of Agriculture and Industries shall forthwith refer the complaint and the answer to said committee for its investigation, findings and recommendation of the allegations of the complaint. Where seed which are the basis of a complaint are labeled by a person other than a seed dealer who sells directly to the farmer or other purchaser of seed, a copy of the complaint shall also be mailed by the commissioner to the person responsible for the labeling of such seed in order that he may be entitled to file an answer. Upon receipt of such findings and recommendation, the Commissioner of Agriculture and Industries shall transmit the findings and recommendations of the committee to the farmer or other purchaser of the seed and to the seed dealer by United States registered or certified mail together with a copy thereof to any person responsible for the labeling of the seed.

(Acts 1979, No. 79-424, p. 661, §2.)

Section 2-26-75

Conduct of investigation as to complaint by committee; hindering, obstructing, etc., access to premises, review of records, etc., by committee; report of findings and recommendations.

When the Commissioner of Agriculture and Industries refers a complaint by a farmer or other seed purchaser to the Seed Investigation and Arbitration Committee, said committee shall make a full and complete investigation of the matters complained of and at the conclusion of said investigation report its findings with its recommendations and file same with the Commissioner of Agriculture and Industries. The purchaser of the seed and the seed dealer shall upon request of either party be entitled to a hearing before the committee before any findings and recommendations are made. Notice of the date, time and place of the hearing shall be given to both parties. In conducting its investigation the committee or any member or members thereof is authorized to investigate the farmer or other purchaser's complaint and the farming or growing operation involved in the complaint and the seed dealer's sales, packaging, labeling, storage or processing operation relating to the seed alleged to be faulty. The investigation shall be conducted in a manner prescribed by the committee. The committee, or any member thereof, in the performance of its duties is authorized to enter upon any public or private premises during regular business hours in order to have access to seed and records of the sale and purchase thereof for examination and review as authorized under the provisions of Section 2-26-10(b) and (d), when necessary to perform its duties required under this article. Any person who hinders,

obstructs or refuses entry, access or review of such records shall be guilty of a violation of Sections 2-26-11 (b)(3) and 2-26-13. The committee shall be authorized to grow to production a representative sample of the alleged faulty seed through the facilities of the state, or Auburn University, under the supervision of the Commissioner of Agriculture and Industries or his authorized agent when such action is deemed necessary; also, to hold hearings at a time and place directed by the chairman of the committee upon reasonable notice to the farmer or other purchaser of seed and the seed dealer and to prescribe and promulgate rules of procedure to carry out the evident intent and purpose of this article. Any investigation made by less than the whole membership of the committee shall be conducted by authority of a written directive by the chairman or by rules of procedure adopted by the committee. Investigations shall be summarized in writing and considered by the committee in a report of its findings and recommendations.

(Acts 1979, No. 79-424, p. 661, §3(3).)

Section 2-26-76

Effect and admissibility as evidence of findings and recommendations of committee; effect of provisions of article upon legal and equitable rights of persons.

The findings or recommendations of the committee shall be in the nature of arbitration or settlement, but its findings and recommendations shall not affect the rights of parties to resort to any arbitration proceedings available under authority of Sections 6-6-1 through 6-6-16 or as may be otherwise provided by law, nor shall any of the provisions of this article affect any legal or equitable rights that any person may have in a court having jurisdiction of such matters nor shall the findings or recommendations of the committee be admissible as evidence in any court of law. It is the intent and purpose of this article to provide a simplified procedure for investigations and recommendations for monetary settlements as declared in Section 2-26-70.

(Acts 1979, No. 79-424, p. 661, §4.)



ADMINISTRATIVE CODE OF ALABAMA



ANIMAL FEED



ADMINISTRATIVE CODE OF ALABAMA

**80-1-5, 80-1-8,
80-1-9, 80-1-12**

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE
CHAPTER 80-1-5
SALE OF COMMERCIAL FEED
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80-1-5-.01 Purpose. The purpose of this Chapter is to implement the provisions of the commercial feed law as found in the Alabama law.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.02 Previous Regulation Withdrawn And Repealed. That regulation entitled Agricultural Chemistry Division Rules and Regulations Governing the Sale of Commercial Feed passed December 19, 1978, effective January 1, 1979, and signed February 2, 1979, is hereby withdrawn and repealed. The following regulation amending the above is submitted in its place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.03 Definitions And Terms.

- (1) The official definition of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, as amended by said organization from time to time, are hereby adopted for use in Alabama except as the Commissioner may otherwise designate by this or other regulations.

- (2) The following commodities are exempt from the definition of Commercial Feed when unground, when not mixed or intermixed with other materials, when not adulterated within the meaning of Code of Ala. 1975, §2-21-22, and when not otherwise adulterated as determined by the Commissioner: hay, straw, stover, whole seed, silage, cobs, shucks, hulls, and plain salt. All individual chemical compounds enumerated in Code of Ala. 1975, §2-21-17(2), shall also be exempt when not intermixed or mixed with other materials and not adulterated as defined by Code of Ala. 1975, §2-21-22 above.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.04 Labeling.

(1) In addition to the labeling requirements set out under Code of Ala. 1975, §2-21-20, commercial feed other than customer-formula feed and vertical-integrator feed shall also be labeled with the following information on the principal display panel of the product and in the following general format:

(a) Net weight.

(b) Product name and brand name if any under which the feed is distributed.

(c) Drugs. If drugs are used, the following shall apply:

1. The word medicated shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.
2. The purpose of medication (claim statement).
3. An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Rule 80-1-5-.06(4).
4. The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Rules 80-1-5-.08 and 80-1-5-.09 appear elsewhere on the label.

(d) The guaranteed analysis of the feed as required under the provisions of Code of Ala. 1975, §2-21-20(1)(c), includes the following items, unless exempted in this subrule, and in the order listed:

1. Minimum percentage of crude protein.
2. Maximum or minimum percentage of equivalent protein from nonprotein nitrogen as required in Rule 80-1-5-.06(5).
3. Minimum percentage of crude fat.
4. Maximum percentage of crude fiber.
5. Minerals, to include in the following order: (a) minimum and maximum percentages of calcium (Ca), (b) minimum percentage of phosphorus (P), (c) minimum and maximum percentages of salt (NaCl), and (d) other minerals.
6. Vitamins in such terms as specified in Rule 80-1-5-.06(3).
7. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content.

(e) Exemptions from guaranteed analysis are allowed as follows:

1. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than 6¹ % of calcium, phosphorus, sodium and chloride.

2. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

3. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements and molasses.

(f) Feed ingredients, collective terms for the grouping of feed ingredients, are to be shown as follows:

1. The name of each ingredient as defined in the official publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Commissioner.

2. Collective terms for the grouping of feed ingredients as defined in the official definition of feed ingredients published in the official publication of the Association of American Feed Control Officials in lieu of the individual ingredients, provided that:

(i) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.

(ii) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

(g) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

(h) The information required in (a) through (g) above, must appear in its entirety on one side of the label or on one side of the container. The information concerning adequate directions shall be displayed in a prominent place on the label or container but not necessarily on the same side as the other information. When the information on use and precautions is placed on a different side of the label or container, it must be referenced on the front side with a statement such as See back of

label for directions for use. None of the information required by Rule 80-1-5-.04 shall be subordinated or obscured by other statements or designs.

(2) Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information:

(a) The name and address of the manufacturer.

(b) The name and address of the purchaser.

(c) The date of sale or delivery.

(d) The feed name and brand name if any.

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

(f) If a drug-containing product is used:

1. The purpose of the medication (claim statement).

2. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Rule 80-1-5-.06(4).

3. The directions for use and precautionary statements as required by Rules 80-1-5-.08 and 80-1-5-.09.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.05 Registration Of Commercial Feed Companies, Brand And Product Names.

(1) No person shall manufacture or sell a commercial feed in this state, unless he has filed with the commissioner on forms provided by the commissioner, his name, place of business and location of each manufacturing facility from which feed may be shipped within or into this state.

(2) Such person shall apply for and obtain from the commissioner a license authorizing the sale and distribution of commercial feed. The application for a license shall be accompanied by the fee hereinafter required and shall be on forms

furnished by the commissioner which shall contain such information as is necessary for the issuance of the license. All licensing shall expire on December 31 of each year and shall be renewed annually as of January 1 upon the filing of an application and payment of the required license fee. The license fee shall be based upon the number of tons of commercial feed sold or distributed in this state during the preceding twelve-month period ending December 31. The amount of the license fee shall be based upon the following schedule:

TONS SOLD LICENSE FEE

| | |
|--|----------|
| Less than 250 tons..... | \$ 45.00 |
| 250 tons or more but less than 500 tons..... | \$ 90.00 |
| 500 tons or more but less than 1,000 tons..... | \$300.00 |
| 1,000 tons or more but less than 2,000 tons..... | \$375.00 |
| 2,000 tons or more but less than 4,000 tons..... | \$450.00 |
| 4,000 tons or more but less than 8,000 tons..... | \$575.00 |
| 8,000 tons or more..... | \$750.00 |

(3) An inspection fee at the rate of 25 cents per ton shall be paid on commercial feeds by every person who distributes the commercial feed in this state. Nothing in this rule shall affect the exemptions and exceptions found in §2-21-24(a), §2-21-24(a)(1), and §2-21-24(a)(2) of the Code of Ala. 1975. In the case of a commercial feed distributed in this state in packages or containers of ten pounds or less, an annual fee of \$100.00 per product shall be paid the commissioner in lieu of the inspection fee specified herein for individuals or entities whose annual gross sales in Alabama exceed \$250,000.00 annually or \$1,000,000.00 overall. For individuals or entities whose gross sales are \$250,000.00 or less in Alabama and \$1,000,000.00 or less overall, the fee paid per product shall be \$50.00.

(4) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled Dairy Feed, for example, must be suitable for that purpose.

(5) Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

(6) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name, provided that if any ingredient or combination of

ingredients is intended to impact a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

(7) The word protein shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.

(8) When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word protein, provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(9) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients.

(10) The word vitamin, or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Rule 80-1-5-.06(3).

(11) The term mineralized shall not be used in the name of a feed except for TRACE MINERALIZED SALT. When so used, the product must contain significant amounts of the trace minerals which are recognized as essential for animal nutrition.

(12) The term meat and meat by-products shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §§2-21-19, 2-21-24, 2-21-25.

History: Filed April 19, 1982. Amended: Filed August 16, 2004; effective September 20, 2004. Amended: Filed August 10, 2011; effective September 14, 2011.

80-1-5-.06 Expression Of Guarantees.

(1) The guarantees for crude protein, equivalent protein from nonprotein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage by weight.

(2) Commercial feeds containing 6¹ % or more calcium, phosphorus, sodium and chloride shall include in the guaranteed analysis the minimum and maximum percentage of calcium (Ca), the minimum percentage of phosphorus (P), and if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals except salt (NaCl), shall be guaranteed in terms of percentage of the element. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following:

(a) When the minimum is 5.0% or less, the maximum shall not exceed the minimum by more than one percentage point.

(b) When the minimum is above 5.0%, the maximum shall not exceed the minimum by more than 20% and in no case shall the maximum exceed the minimum by more than five percentage points.

(3) Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound for feed except that:

(a) Vitamin A, other than precursors of Vitamin A, shall be stated in International or USP units per pound.

(b) Vitamin D, products offered for poultry feeding, shall be stated in International Chick Units per pound.

(c) Vitamin D for other uses shall be stated in International or USP units per pound.

(d) Vitamin E shall be stated in International or USP Units per pound.

(e) Guarantees for vitamin content on the label of a commercial feed shall state the guarantee as true vitamins, not compounds, with the exception of the compounds Pyridoxine Hydrochloride, Choline Chloride, Thiamine, and Pantothenic Acid.

(f) Oils and premixes containing Vitamin A or Vitamin D or both may be labeled to show vitamin content in terms of units per gram.

(4) Guarantees for drugs shall be stated in terms of percent by weight, except:

(a) Antibiotics present at less than 2,000 grams per ton (total, of commercial feed) shall be stated in grams per ton of commercial feed.

(b) Antibiotics present at 2,000 or more grams per ton (total, of commercial feed) shall be stated in grams per pound of commercial feed.

(c) Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive regulations for certain antibiotics, wherein quantitative guarantees are required regardless of the level or purpose of the antibiotic.

(d) The term milligrams per pound may be used for drugs or antibiotics in those cases where a dosage is given in milligrams in the feeding directions.

(5) Commercial feeds containing any added nonprotein nitrogen shall be labeled as follows:

(a) For ruminants:

1. Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than 5% protein from natural sources shall express the protein guarantee as follows:

Crude Protein, minimum, _____% (This includes not more than _____% equivalent protein from nonprotein nitrogen.)

2. Mixed feed concentrates and supplements containing less than 5% protein from natural sources may express the protein guarantee as follows:

Equivalent Crude Protein from Nonprotein Nitrogen, minimum, _____%.

3. Ingredient sources of nonprotein nitrogen such as Urea, Di-Ammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic nonprotein nitrogen ingredients shall be guaranteed as follows:

Nitrogen, minimum, _____. Equivalent Crude Protein from Nonprotein Nitrogen, minimum, _____%.

(6) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.07 Ingredients.

(1) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall conform to the provisions of Rule 80-1-5-.03 above.

(2) The name of each ingredient must be shown in letters or type of the same size.

(3) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

(4) The term dehydrated may precede the name of any product that has been artificially dried.

(5) A single ingredient product, which ingredient conforms to an established definition appearing in Rule 80-1-5-.03 is not required to have an ingredient statement.

(6) When the word iodized is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.08 Directions For Use And Precautionary Statements.

(1) Directions for use and precautionary statements on the labeling of all commercial feeds, customer-formula and vertical-integrator feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall:

(a) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(b) Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

(2) Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in Rule 80-1-5-.09 below.

(3) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral or other dietary nutrient or compound.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.09 Nonprotein Nitrogen.

(1) Urea and other nonprotein nitrogen products are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: **CAUTION: USE AS DIRECTED.** The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

(2) On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.10 Drug And Feed Additives.

(1) Prior to approval of a label for commercial feed which contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

(2) Satisfactory evidence of safety and efficacy of a commercial feed may be:

(a) When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulations in the C.F.R. Title 21, or as amended, or which are prior sanctioned or generally recognized as safe for such use, or

(b) When the commercial feed is itself a drug as defined in Code of Ala. 1975, §2-21-17(8), and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b) or as amended.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.11 Adulterants. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than 300 viable prohibited weed seeds per pound and not more than 0 viable restricted weed seeds per pound.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.12 Adulteration: Definition Of Good Manufacturing Practice. For the purpose of defining good manufacturing practices, in the determination of adulteration under the provisions of Code of Ala. 1975, §2-21-22(8), the following shall apply:

(a) The regulations prescribing good manufacturing practices for medicated feeds as published in the C.F.R., Title 21, Part 225, Sections 225.1 - 225.115 or as amended.

(b) The regulations prescribing good manufacturing practices for medicated premixes as published in C.F.R., Title 21, Part 226, §§226.1 - 226.115 or as amended.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.13 Retention Time. Retention time for samples and portions of samples shall be as follows:

(a) Samples of commercial feeds and feed ingredients found by official analysis to comply with the label guarantee may be disposed of at the conclusion of the analysis.

(b) Samples of commercial feeds and feed ingredients found by official analysis to be deficient from guarantees and subject to penalty or other regulatory action shall be retained for a period of 180 days or until certificate of payment is received or other regulatory action is completed.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.14 Short Weight.

(1) A weight tolerance for commercial feed marketed in containers of 25 pounds or less of 3% of the declared weight (adjusted to 12% moisture) shall be allowed before a penalty is assessed.

(2) A weight tolerance for commercial feed marketed in containers of more than 25 pounds, but not more than 100 pounds of 2.5% of the declared weight (adjusted to 12% moisture) shall be allowed before a penalty is assessed.

(3) A weight tolerance for commercial feed marketed in containers of over 100 pounds of .5% of the declared weight (adjusted to 12% moisture) shall be allowed before a penalty is assessed.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-5-.15 Notice Of Payment Of Penalty. When a penalty is assessed under provisions of Code of Ala. 1975, §2-21-29, of the Law, the Commissioner shall be notified by the guarantor of payments of such penalty to the consumer by one of the following methods:

- (a) A certificate of receipt of penalty signed and dated by recipient of the payment.
- (b) A photo copy of the negotiated instrument of penalty payment (in check, money order, etc.).
- (c) A photo copy of a credit memo on recipient's account endorsed by recipient acknowledging notice of credit to his account.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: January 1, 1979. Amended: July 9, 1980.

EDITOR'S NOTE: The following is a history by the Department of Agriculture and Industries prior to the enactment of the Alabama Administrative Procedure Act.

HISTORY: This Chapter was first promulgated on January 1, 1979. It was amended June 9, 1980. It became effective July 9, 1980.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE
CHAPTER 80-1-8
REQUIREMENTS FOR ANIMAL WASTE FEED
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80-1-8-.01 Purpose. The purpose of this regulation is to provide requirements and guidelines for the processing of animal waste to be used as commercial feed or as a feed ingredient. This necessarily includes requirements for labeling, processing, testing, keeping of records and licensing.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.02 Previous Regulations Withdrawn. That regulation entitled Rules and Regulations For Processed Animal Waste For Feed is hereby repealed and withdrawn. The following rules are submitted in its place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.03 Definitions. For the purposes of this Chapter, the following definitions shall apply:

(a) **Animal Waste** means a product composed of excreta, with or without bedding materials and/or animal drugs, and collected from poultry, ruminants, or other domestic farm animals.

(b) **Processed**, as applied to animal waste, means thermally dehydrated, dry stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated or treated by other processes which will enable the product to comply with the standards set forth in this regulation.

(c) **Dried Poultry Waste** means a processed animal waste product composed primarily of feces from commercial poultry, which has been thermally dehydrated to a moisture content not in excess of 15 percent.

(d) **Dried Poultry Litter** means a processed animal waste product composed primarily of a processed combination of feces from commercial poultry together with litter that was present in the flock production of poultry, which has been thermally dehydrated to a moisture content not in excess of 15 percent.

(e) **Dried Ruminant Waste** means a processed animal waste product composed primarily of processed ruminant excreta which has been thermally dehydrated to a moisture content not in excess of 15 percent.

(f) **Undried Processed Animal Waste Product** means a processed animal waste product composed of excreta, with or without litter, from poultry, ruminants or other domestic farm animal and which contains in excess of 15 percent moisture.

(g) **Processed Animal Waste Derivative** means a product resulting from the chemical, physical, or microbiological alteration of an animal waste. The product must be free of the original unaltered animal waste except moisture. Examples of processed animal waste derivatives are yeasts, algae or other organisms produced and harvested from nonhuman animal wastes. The specific name of each such animal waste derivative product must be descriptive and be approved by the Commissioner of Agriculture and Industries before being offered for sale.

(h) **Person** means an individual, corporation, partnership, association, or any business entity.

(i) Commissioner means the Commissioner of Agriculture and Industries or his official representative.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.04 Requirements For Selling And Processing Animal Waste.

(1) Any person processing for sale, selling or manufacturing for sale any animal waste as defined in this Chapter, to be used as a commercial feed or feed ingredient, must comply with all provisions of the commercial feed law as provided under Code of Ala. 1975, §§2-21-17 through 2-21-34, to include licensing.

(2) Any animal waste as defined in this Chapter that is sold or offered for sale as a commercial feed or feed ingredient as defined in Code of Ala. 1975, §2-21-17 (2) and (9) above, shall, along with meeting the requirements of the commercial feed law, also meet all of the requirements of this Chapter.

(3) Any animal waste used as a commercial feed or feed ingredient must be processed as defined in this Chapter prior to its being sold or offered for sale.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.05 Requirements For Use Of Processed Animal Waste Products.

(1) All processed animal waste products, before being used as commercial feed or as a feed ingredient, must be in compliance with applicable federal statutes and regulations along with Alabama statutes and regulations.

(2) No pathogenic organisms, drug or pesticide residues, harmful parasites, mycotoxins, heavy metals, or other toxic or deleterious substances above levels permitted by Alabama or Federal Laws and regulations, or which may result in residue in the tissues or by-products of birds or animals at a level determined to be illegal by Alabama or Federal statutes or

regulation shall be permitted in any processed animal waste products used as commercial feed or feed ingredient.

(3) All processed animal waste, before being sold or offered for sale as commercial feed or feed ingredient, shall be labeled in compliance with this Chapter and the Alabama commercial feed law and regulations.

(4) Processed animal waste products to be used as commercial feed or feed ingredient shall not contain any commercial extraneous materials such as, but not limited to, metal, glass, nails, or other harmful matter, except as provided in this regulation.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.06 Quality Standards For Animal Waste. Processed animal waste shall meet the following standards before it may be sold or offered for sale in Alabama as commercial feed or feed ingredient:

(a) Dried poultry waste shall contain as follows:

1. Not less than 18% crude protein.
2. Not more than 15% crude fiber.
3. Not more than 30% ash.
4. Not more than 1% feathers.
5. Not more than 15% moisture.

(b) Dried poultry litter shall contain as follows:

1. Not less than 16% crude protein.
2. No more than 40% crude fiber.
3. No more than 40% ash.
4. No more than 5% feathers.
5. No more than 15% moisture.

(c) Dried ruminant waste shall contain as follows:

1. Not less than 12% crude protein.
2. No more than 40% crude fiber.
3. No more than 30% ash.

4. No more than 40% straw, wood shavings or other bedding material acceptable to the Commissioner.
5. No more than 15% moisture.

(d) No undried processed animal waste product shall contain more than 40% straw, wood shavings or other bedding material acceptable to the Commissioner.

(e) Any product labeled as containing dried animal waste products shall contain no more than 15% moisture.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.07 Labeling Requirements. The label or tag of processed animal waste products intended as feed ingredient or feed containing processed animal waste products shall, in addition to meeting the labeling requirements of commercial feed under Code of Ala. 1975, §2-21-20, be also labeled as follows:

(a) If the product contains drug residues, then the label shall contain the following statement in boldface type at least one-half as large as any other type appearing on the label:

WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES - DO NOT USE WITHIN 15 DAYS OF SLAUGHTER AND DO NOT USE 15 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS.

(b) If the product contains more than 15 ppm of copper, then the label shall contain the following statement in boldface type at least one-half as large as any other type appearing on the label:

WARNING: CONTAINS COPPER -- DO NOT FEED TO SHEEP.

(c) If the product derives one third or more of the guaranteed total crude protein from nonprotein nitrogen sources, the label shall provide adequate directions for the safe use of the product and the precautionary statement:

CAUTION: USE ONLY AS DIRECTED.

The precautionary statement shall be in boldface type at least one-half as large as other type appearing on the

label and placed so as to be conspicuous to the average user under normal conditions of purchase and use.

(d) The guaranteed analysis shall be expressed in the following order:

1. Minimum protein.
2. Maximum equivalent crude protein derived from nonprotein nitrogen sources.
3. Minimum fat.
4. Maximum fiber.
5. Maximum ash.
6. Maximum and minimum calcium (CA).
7. Minimum phosphorus (P).
8. Maximum and minimum sodium (Na).
9. Maximum moisture.

(e) The product name, animal source, and product type, must also be stated on the label.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.08 Testing Required. Any person, selling, processing, or offering to sell any processed animal waste product shall test, by representative sampling and assaying of such samples, in a manner approved by the Commissioner. He shall keep accurate written records of such tests and assaying for such periods as is required by this Chapter. The above testing and assaying which is necessary to ensure that the products are noncontaminated and fall under the requirements of Rule 80-1-8-.06 above, shall be conducted with such regularity as the Commissioner may require to fulfill the requirements of this Chapter and the commercial feed law.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.09 Processing Requirements.

(1) In addition to the requirements for a license under the commercial feed law, a processor of animal waste which is to be used as a commercial feed or feed ingredient shall also submit to the Commissioner a description of the facilities and equipment to be used in the manufacturing and processing of animal waste products for sale, and protocols to be followed during operation. If the Commissioner is satisfied that the facilities, equipment, and protocol are adequate to fulfill the requirements for the product, the Commissioner shall issue the license subject, however, to conditions that it may be summarily suspended whenever the Commissioner has reason to believe that the approved procedures are not being complied with, or that the product may contain unlawful residues as set forth in this Chapter.

(2) Each process approved by the Commissioner shall result in products conforming to standards set forth in this Chapter. The Commissioner may require the use of recording devices and thermometers and a periodic schedule of sampling and laboratory examinations, and such other records as are indicated in Rule 80-1-8-.10 following.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-.10 Books And Records Required To Be Kept. Any person selling or offering to sell processed animal waste products as a commercial feed or feed ingredient shall maintain for a period of not less than three years, books and records setting forth fully the following information:

(a) Each lot of processed animal waste or feed containing processed animal waste shall bear a lot number as an identifying code. All instruments of sales and distribution for their sale shall bear the lot number of the product. The lot number shall be so recorded on all sales and purchase records so that a lot of processed animal waste or feed containing processed animal waste can be quickly and accurately traced from manufacturer or processor to ultimate consumer/user;

(b) All results of inspection, sampling, analysis and assaying required in Rule 80-1-8-.08 above;

(c) Records of all sales of processed animal waste products or feeds and feed ingredients containing processed animal waste products, to anyone.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-11 Reasons For Cancellation Of License. Failure of any person to perform the testing as specified in this Chapter, or to accurately maintain and display to the Commissioner or upon demand, the records required to be maintained under this Chapter, or any violation of the commercial feed law, shall be grounds for revocation, suspension, annulment, limitation or modification of the processor's license or of any affected processed animal waste product, as may be deemed appropriate by the Commissioner.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

80-1-8-12 Deviation From Rules. The Commissioner may in his discretion for good cause shown, upon written request permit reasonable deviation from this Chapter insofar as the Commissioner finds compliance therewith to be impossible, impracticable or unreasonable. Said deviation shall not be contrary to any law, nor pose any danger to the public. Said allowed deviation shall be in writing and in effect until revoked in writing by the Commissioner.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

EDITOR'S NOTE: The following is a history by the Department of Agriculture and Industries prior to the enactment of the Alabama Administrative Procedure Act.

HISTORY: This Chapter was first adopted August 25, 1976. It was amended November 10, 1981, and became effective December 10, 1981.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

AGRICULTURAL CHEMISTRY

ADMINISTRATIVE CODE

CHAPTER 80-1-9

PET FOOD STANDARDS

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80-1-9-.01 Application

80-1-9-.02 Pet Food Standards

80-1-9-.01 Application. Pursuant to Code of Ala. 1975, §§4, 67 and 68 of Title 2, the following regulations, standards and requirements are hereby approved and adopted for the sale of commercial feeds where such feeds are offered for sale or sold for the feeding of domestic animals, birds and fish that are normally maintained in or near households as pets:

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

NOTE: Code of Ala. 1975, §§4, 67 and 68 of Title 2 of the Code of Alabama appearing in the above rule are codified in Code of Ala. 1975, as §§2-2-16, 2-21-12 and 2-21-13, respectively. Sections 2-21-12 and 2-21-13 were repealed January 1, 1979. Code of Ala. 1975, §2-21-5, apparently replaced the majority of repealed §§2-21-12 and 2-21-13.

80-1-9-.02 Pet Food Standards. The regulations as prepared and approved by the Association of American Feed Control Officials (AAFCO) and the Pet Food Institute as same appear in the official publication of the Association of American Feed Control Officials, 1977, as recommended for adoption to govern the manufacture or distribution of feeds for animals, birds and fish normally maintained or kept in or near a household as pets, are hereby adopted by reference thereto for implementation, administration and enforcement of the sale or offering for sale of commercial feeds in Alabama as regulated by Code of Ala. 1975, §§56-68, Title 2, as amended, the law which governs the sale of commercial feeds, unless such regulations as adopted herein by reference are in conflict with said law or clearly not applicable thereunder.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

NOTE: Code of Ala. 1975, §§56-68, Title 2, appearing in the above rule are codified in Code of Ala. 1975, as §§2-21-1 through 2-21-13. All of these statutes were repealed on January 1, 1979, and replaced by §§2-21-16 through 2-21-34 which is the present Commercial Feed Law.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-21-25.

History: Filed April 19, 1982.

EDITOR'S NOTE: The following is a history by the Department of Agriculture and Industries prior to the enactment of the Alabama Administrative Act.

HISTORY: This Chapter was adopted June 22, 1977 and became effective September 1, 1977.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE
CHAPTER 80-1-12
FEES FOR ANALYSIS OF UNOFFICIAL SAMPLES
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80-1-12-.07 Commissioner To Determine Fees For Analysis At Diagnostic Laboratories

80-1-12-.01 Purpose. The purpose of this Chapter is to provide a fee schedule to be charged for analysis run on certain products, animals or fowl when the request for analysis originates from private citizens or agencies other than public agencies.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982. Amended: Filed May 28, 1987.

80-1-12-.02 Previous Rules And Regulations Withdrawn And Amended. That rule or regulation entitled Charges For Unofficial Laboratory Samples, dated June 30, 1977, and all other rules, regulations, or statements or charges for analysis of unofficial samples are hereby repealed and withdrawn. This Chapter shall neither repeal, nor affect in any manner charges for seed testing under Rule 80-11-2-.06.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982. Amended: Filed May 28, 1987.

80-1-12-.03 Definitions.Chapter

- (1) Official Sample shall mean a sample obtained under the direction, orders and authority of official representatives of the Department of Agriculture and Industries, or official representatives of any other state, county, city, or federal agency in his official capacity.
- (2) Unofficial Sample shall mean a sample for which there has been a request for analysis by private individuals or private corporations or associations.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982.

80-1-12-.04 Agencies Not Affected. The provisions of this Chapter shall not affect nor have any bearing on the following laboratories or diagnostic centers operated by and under the control of the Department of Agriculture and Industries.

- (a) Seed Laboratory, Montgomery.
- (b) Weights and Measures Laboratory, Montgomery.
- (c) United States Department of Agriculture, Food Safety and Quality Service Laboratory, Dothan.
- (d) Plant Pathology Laboratory, Montgomery.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982. Amended: Filed May 28, 1987.

80-1-12-.05 Fees For Analysis Of Unofficial Samples. Fees to be charged for analysis of unofficial samples conducted at the Food, Drug and Petroleum Laboratory in Montgomery and the State Chemical and Pesticide Residue Laboratories in Auburn shall be as follows:

(a) Animal Feed Samples:

1. For protein, fat and fiber - \$25.00 per sample.
2. For calcium and phosphorus content - \$15.00 per element.
3. For other nutrients or elements - \$10.00 per element or nutrient.
4. For aflatoxin - \$35.00 per sample.

(b) Fertilizer Samples:

1. For nitrogen, phosphorus and potassium - \$35.00 per sample.
2. For sulfur, boron, or biuref - \$15.00 per element.
3. For other minor elements - \$10.00 per element

(c) Liming Material Samples:

1. For fineness determination (#10 and #60 mesh sieve) and calcium carbonate - \$20.00 per sample.
2. For minor element determination - \$12.00 per element.

(d) Pesticide samples, including herbicides, fungicides, defoliants, rodenticides and other like chemicals:

1. For two or more active ingredients - \$40.00 per sample.
2. For one active ingredient - \$25.00 per sample.

(e) Gasoline and Gasohol Samples:

1. For distillation - \$10.00 per sample.
2. For octane rating - \$45.00 per sample.
3. For sedimentation - \$10.00 per sample.
4. For water content - \$10.00 per sample.
5. For complete analysis, to include the four above, according to federal guidelines - \$75.00 per sample.

(f) Petroleum product samples other than (e) above, to include brake fluid and antifreeze - \$75.00 per sample.

(g) Food samples for human consumption to include all beverages - \$35.00 per sample.

(h) Any similar type samples not fitting one of the categories set out in (a) through (g) above - \$35.00 per sample.

Author: Charles H. Barnes Chapter

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982. Amended: Filed May 28, 1987.

80-1-12-.06 Results Of Analysis To Be Available For Regulatory Purposes. When the analysis of an unofficial sample reflects noncompliance with the laws and regulations enforceable by the Commissioner of Agriculture and Industries, then all remedies available under said laws and regulations for the protection of the public may be taken by the Commissioner on the basis of the analysis.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed April 19, 1982.

80-1-12-.07 Commissioner To Determine Fees For Analysis At Diagnostic Laboratories.

- (1) The Commissioner of Agriculture and Industries, in his discretion, may impose reasonable fees for analysis conducted at those animal diagnostic laboratories operated by the Department of Agriculture and Industries.
- (2) No fees may be charged for analysis at said diagnostic laboratories unless the Commissioner finds that the request for analysis would create a burden upon available funds to operate said laboratories and the laboratory facilities and personnel.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-2-16.

History: Filed May 28, 1987.

FERTILIZER



ADMINISTRATIVE CODE OF ALABAMA 80-1-6

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE
CHAPTER 80-1-6
SALE OF COMMERCIAL FERTILIZER
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80-1-6-.01 Purpose. The purpose of this Chapter is to implement the provisions for Code of Ala. 1975, Chapter 22 of Title 2, denoted as the Alabama Fertilizer Law of 1969.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.02 Previous Regulations Withdrawn And Amended. Regulations entitled **Commercial Fertilizer Regulations by State Board of Agriculture and Industries as Amended—January 13, 1970**, adopted October 7, 1969, and effective February 1, 1970, and regulation entitled **Commercial Fertilizer Regulation** adopted February 6, 1973, and effective March 1, 1973, and **Agricultural Chemistry Regulation No. 3** dated September 25, 1980, are withdrawn and repealed. The following Chapter amending the above referenced regulations is submitted in their place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.03 Plant Nutrients To Be Identified. The materials in commercial fertilizer from which each plant nutrient is derived shall be shown immediately following the name of each material on the label or invoice or other accompanying statement; provided, however, that the above requirement shall not apply to specialty (nonfarm) fertilizers.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.04 Minor Plant Nutrients, If Claimed, Shall Be Guaranteed.

(1) Additional plant nutrients other than nitrogen (N) available phosphorus (P₂₀₅), and soluble potassium (K₂₀), when mentioned or claimed on the label or container shall be guaranteed in the element form. Guarantees or claims for the following secondary plant nutrients and micronutrients only will be accepted as being of value:

ELEMENT

Calcium (Ca) Chlorine (Cl) Manganese (Mn)

Magnesium (Mg) Cobalt (Co) Molybdenum (Mo)

Sulfur (S) Copper (Cu) Sodium (Na)

Boron (B) Iron (Fe) Zinc (Zn)

(2) Any of the above-listed elements which are claimed or guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed with April 19, 1982. **Amended:** Filed August 12, 1987.

80-1-6-.05 Soil Conditioners Or Amendments Must Be Verified.

Those persons requesting a license under the provisions of Code of Ala. 1975, §2-22-8, of the fertilizer law concerning products identified as soil conditioners or soil amendments shall first make application for said license. In conjunction with the license request, all claims made by the applicant concerning plant nutrients, or any other claim, shall be verified by research and experimental data from Auburn University or any other sources acceptable to the Commissioner of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.06 Penalties For Plant Food Deficiencies. If any fertilizer sold in this state shall, upon official analysis, prove to be deficient from its guarantee as stated on the bag or other container, or upon the invoice or other accompanying statement if sales are made in bulk or liquid form, penalties shall be assessed as follows:

- (a) For a single ingredient fertilizer containing nitrogen (N), available phosphorus (P205) or soluble potassium (K20), when the deficiency exceeds five percent of the guaranteed content, the penalty shall be three times the commercial value of the deficiency.
- (b) In a multiple ingredient fertilizer containing two or more of the ingredients, nitrogen (N), available phosphorus (P205) and soluble potassium (K20), when the deficiency of either such ingredient is 10 percent or more of the guaranteed content thereof, the penalty shall be three times the commercial value of the deficiency.
- (c) For a multiple ingredient fertilizer containing two or more of the ingredients, nitrogen (N), available phosphorus (P205) and soluble potassium (K20), if the total combined commercial value of these nutrients is found to be deficient in excess of five percent of the total commercial value, the penalty shall be three times the actual value of the deficiency; provided, however, when a multiple ingredient fertilizer is subject to a penalty under both (b) and (c) above, only the larger penalty shall be assessed.

(d) If the content of calcium, magnesium, sulfur, chlorine, sodium, copper, iron, manganese or zinc in mixed fertilizer shall be shown by official analysis to be deficient to the extent of 35 percent or more from the guarantee, the penalty shall be \$6.00 per ton, provided that the minimum penalty assessed shall be no less than \$25.00.

(e) If the content of boron, molybdenum or cobalt in mixed fertilizers shall be shown by analysis to be deficient from the guarantee to the extent of 50 percent or more, the penalty shall be \$6.00 per ton, provided that the minimum penalty assessed shall be no less than \$25.00.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.07 Special Labeling Required For Fertilizer Containing Economic Poisoning.

(1) Each bag or container used for a pesticide fertilizer mixture in addition to labeling information required on fertilizer packages by the fertilizer law, and the labeling information required on pesticide packages by the Alabama Economic Poison Law, shall also bear a special caution tag of bright yellow color printed in ink of a contrasting color. This tag shall be headed **PESTICIDE-FERTILIZER MIXTURE** or words of like import to inform the purchaser of its contents and such tag shall contain the economic poison ingredient statement and the warning or caution statement required by the Alabama Economic Poison Law.

(2) The labeling information required on the special caution tag may be printed on the bag or other container on a bright yellow background in ink of a contrasting color so as to appear on the container in a prominent and conspicuous manner. Package labels so printed in the required color do not require additional yellow caution tags separately attached.

(3) The use of the yellow tag on fertilizer containing no pesticides is not permitted. The printing of the required information concerning pesticides on the reverse side of the fertilizer tag is not permitted.

(4) Invoices accompanying shipments of fertilizer-pesticide mixtures in bulk (dry or liquid) shall have attached thereto a caution tag as required on bagged deliveries, or in lieu thereof this information may be typed or printed on the invoice in a contrasting color.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.08 Definitions Of AAFCO Adopted. The definitions for fertilizer materials as approved and adopted by the Association of American Fertilizer Control Officials as presently set forth in official publication No. 22 (1968-69) or as same may hereafter be revised, are hereby adopted and accepted as definitions for materials for the purpose of the administration and enforcement of the Alabama Fertilizer Law.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.09 Guarantee Required For Fertilizer Blended With Other Material. Every person who sells commercial fertilizer blended with other material at the purchaser's request shall furnish each purchaser with a written and signed statement showing the total weight and grade of all fertilizers and other materials used in the blend, the source of plant nutrients from which the fertilizer materials are derived and the statement shall guarantee that the total number of pounds of nitrogen, phosphorus, potash and other ingredients shown on the invoice of sale are present in the mixture.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed with April 19, 1982.

80-1-6-.10 Sampling Of Blended Fertilizer. When an official sample is taken from fertilizers blended with other material for analysis by the Department of Agriculture and Industries, the information required to be furnished under Rule 80-1-6-.09 above shall be recorded by the sampling inspector on his sample report which information shall be used for computing the actual guarantee of the blended fertilizer product shall be responsible for any deficiencies which occur below the actual guaranteed analysis of the product prior to the addition of the blended material. Penalties shall be assessed as provided in Rule 80-1-6-.06 above.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.11 Retention Of Samples. All official samples of commercial fertilizer taken and analyzed under the provisions of Code of Ala. 1975, §2-22-11, shall be retained by the Department of Agriculture and Industries as follows:

(a) Samples, after analysis, where no deficiency has been determined, may be discarded at any time following conclusion of the analysis.

(b) Samples, after analysis, where a deficiency has been determined, shall be retained for a period of 180 days. It is found that a period of 180 days is a reasonable time within which to allow the licensee to request a portion of deficient samples, as provided under Code of Ala. 1975, §2-22-11(e). The above period of 180 days may be extended at the discretion of the Chief of the Agricultural Chemistry Division of the Department of Agriculture and Industries upon the request of any interested party.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982.

80-1-6-.12 Inspection Fee Required.

(a) An inspection fee of 75¢ per ton for all commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein is hereby imposed as provided under the provisions of Code of Ala. 1975, §2-22-9.

(b) Before any person may sell or offer for sale or exchange in this state any commercial fertilizer to a user thereof, the person shall first procure a fertilizer dealer permit from the commissioner authorizing the person to sell, exchange, or deal therein. The permit shall be issued on payment of a fee of \$10.00, and shall expire on September 30 of each year. A permit as required by this section shall be obtained for each separate place of business at which commercial fertilizer is sold or offered for sale to the user thereof. Any person required to procure a license under Section 2-22-5 shall not be required to procure a permit as required by this section as it is the intent of this section that every person who purchases any commercial fertilizer for resale where the fertilizer is not manufactured, mixed, formulated, or labeled by the person is required to obtain the permit required by this section.

Authors: Charles H. Barnes, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §§2-22-9, 2-22-20.

History: Filed April 19, 1982. **Amended:** Filed August 27, 1991.

Amended: Filed August 16, 2004; effective September 20, 2004.

Amended: Filed August 10, 2011; effective September 14, 2011.

Agriculture and Industries Chapter 80-1-6

80-1-6-.13 Reporting Of Fertilizer Sales.

(a) Before any person sells or offers for sale any commercial fertilizer in this state for use herein or before any person sells such fertilizer for importation into this state for use herein where such person is required to comply with the labeling requirements of Section 2-22-7, such person shall apply for and obtain from the commissioner a license authorizing the sale of commercial fertilizer. The application for a license shall be accompanied by the fee required by subsection (b) of this section and shall be on forms furnished by the Commissioner, which forms shall contain certain information as is necessary for the issuance of the license. All such licenses shall expire on September 30, the end of the fiscal year for which they are issued, and shall be renewed annually as of October 1, upon payment of the required license fee.

(b) The license fee shall be based upon the number of tons of commercial fertilizer sold in or for importation into the state for use therein during the preceding 12-month period which ends on June 30. The amount of the license fee shall be based upon the following schedule:

| Tons Sold License Fee | |
|--|----------|
| Less than 100 tons..... | \$ 37.50 |
| 100 tons or more but less than 1,000 tons..... | \$ 75.00 |
| 1,000 tons or more but less than 5,000 tons..... | \$150.00 |
| 5,000 tons or more but less than 10,000 tons..... | \$225.00 |
| 10,000 tons or more but less than 25,000 tons..... | \$300.00 |
| 25,000 tons or more but less than 50,000 tons..... | \$375.00 |
| 50,000 tons or more but less than 75,000 tons..... | \$450.00 |
| 75,000 tons or more but less than 100,000 tons... | \$525.00 |

If the license fee is not paid within a period of 30 days after the due date, a delinquent penalty of 10 percent of the amount due (minimum \$10.00) shall be added to the license fee. The license fee due under this subsection and delinquent penalty shall constitute a debt and become the basis of judgment against the person required to obtain the license if not paid by such person as required in this subsection. The amount of the license fee required to be paid by persons not previously selling commercial fertilizer in or for importation into this state shall be the minimum fee of \$30.00, which license shall also expire on September 30 following the date of issuance, at which time said license shall be renewable in accordance with subsection (a) of this rule.

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982. **Amended:** Filed August 16, 2004; effective September 20, 2004.

Amended: Filed August 10, 2011; effective September 14, 2011.

AGRICULTURE LIME



ADMINISTRATIVE CODE OF ALABAMA

80-1-7

**ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE
CHAPTER 80-1-7
SALE OF AGRICULTURAL LIME
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80-1-7-.01 Subject. Subject rules governing the sale and regulation of agricultural liming material, to include standards, penalties and fees.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.02 Purpose. The purpose of this regulation is to implement the provisions of the Alabama Agricultural Liming Materials Act codified into Code of Ala. 1975, §§ 2-23-1 through 2-23-11.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.03 Previous Regulation Withdrawn And Amended.

Regulation entitled **Agricultural Chemistry Division Revised Regulations Governing the Sale of Agricultural Liming Materials**, adopted on November 6, 1975, December 10, 1975, and December 19, 1978; dated February 2, 1979; and effective January 1, 1979; is hereby withdrawn and repealed. The following regulation amending the above is submitted in its place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.04 Screening Standards Of Liming Materials.

(1) All agricultural liming materials except chalk, offered for sale, sold, or distributed in this state shall be crushed or ground to such a degree of fineness, that not less than 90% of the material will pass a 10 mesh screen, and not less than 50% of the material will pass a 60 mesh screen.

(2) Chalk offered for sale, sold, or distributed in this state as an agricultural liming material shall be processed to such a degree of fineness that not less than 90% of the material will pass a 10 mesh screen.

(3) When an agricultural liming material is mixed with enough water to be applied as a spray and is offered for sale, sold, or distributed in this state, 100% of the material shall pass a 100 mesh screen.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.05 Neutralizing Value Requirements.

(1) Limestone and Ground Shells used as agricultural liming materials shall have a neutralizing value of not less than 90% calcium carbonate equivalent.

(2) Chalk used as agricultural liming material shall have a neutralizing value of not less than 80% calcium carbonate equivalent.

(3) Burnt lime, hydrated lime, and industrial by-products used as agricultural liming material shall have a calcium carbonate equivalent neutralizing value of not less than that guaranteed on the label of the product.

(4) An agricultural liming material of 100 mesh fineness when mixed with enough water for application as a spray shall have a neutralizing value of not less than 44% calcium carbonate equivalent on a net weight basis.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.06 Penalties For Deficiency In Screening, Neutralizing Value And Guarantees. If any agricultural liming material sold in this state shall upon official analysis prove to be deficient in meeting the screening and neutralizing value standards established herein or shall be deficient from its guarantee, as stated on the bag or other container, the penalties as hereinafter provided shall be assessed against the packer. Where sales are made in bulk form, such monetary penalties shall be assessed against the final responsible seller. The penalties for such deficiencies shall be as follows:

(a) For agricultural liming materials deficient from the minimum calcium carbonate equivalent as guaranteed on the labeling, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the labeling guarantee with a tolerance of 5%. If the deficiency exceeds the 5% tolerance, then the \$.20 (twenty cents) per ton penalty shall be assessed upon the total deficiency. See Table (1) Paragraph (g) below.

(b) For agricultural liming material deficient in material passing a 10 mesh screen, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the labeling guarantee. See Table (2), Paragraph (g) below.

(c) For agricultural liming material deficient in material passing a 60 mesh screen, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the label guarantee with a tolerance of 5%. If the deficiency exceeds the 5% tolerance, then the \$.20 (twenty cents) per ton penalty shall be assessed upon the total deficiency. See Table (3), Paragraph (g) below.

(d) For an agricultural liming material that is mixed with enough water for application as a spray and is deficient in passing a 100 mesh screen, the penalty shall be \$.20 (twenty cents) per ton of solution for each percentage point below the label guarantee. For deficiency in required neutralizing value, the penalty shall be \$.20 (twenty cents) per ton of solution for each percentage point below the label guarantee.

(e) For agricultural liming material deficient in the guaranteed magnesium, available phosphorus (P205), soluble potassium (K20), or other elements guaranteed by the label, the penalty shall be \$.50 (fifty cents) per ton for each 10% deficient from the guaranteed analysis. See Table (4), Paragraph (7) below.

(f) Agricultural liming material sold in Alabama shall have a moisture content as guaranteed on the label. When the maximum moisture content exceeds the guarantee a penalty of \$.20 (twenty cents) per percentage point per ton shall be assessed. See Table (5), Paragraph (g) below.

(g) The following tables are for use as guidelines to determine the amount of penalty assessments:

Table (1)
Calcium Carbonate Equivalent

| Guarantee | Found | Penalty Per Ton |
|-----------|---------------|-----------------|
| 90% | 85% or higher | 0 |
| | 84-84.9% | \$1.20 |
| | 83-83.9% | \$1.40 |
| | 82-82.9% | \$1.60 |
| | 81-81.9% | \$1.80 |
| | 80-80.9% | \$2.00 |
| | 79-79.9% | \$2.20 |
| | 75-75.9% | \$3.00 |
| | 70-70.9% | \$4.00 |

Table (2)
Fineness 10 Mesh

| Guarantee | Found | Penalty Per Ton |
|-----------|----------|-----------------|
| 90% | 89-89.9% | \$.20 |
| | 88-88.9% | .40 |
| | 85-85.9% | 1.00 |
| | 84-84.9% | 1.20 |
| | 80-80.9% | 2.00 |
| | 79-79.9% | 2.20 |
| | 75-75.9% | 3.00 |

Table (3)
Fineness 60 Mesh

| Guarantee | Found | Penalty Per Ton |
|-----------|--------------|-----------------|
| 50% | 45 or higher | 0 |
| | 44-44.9% | \$1.20 |
| | 43-43.9% | 1.40 |
| | 42-42.9% | 1.60 |
| | 41-41.9% | 1.80 |
| | 40-40.9% | 2.00 |
| | 39-39.9% | 2.20 |
| | 35-35.9% | 3.00 |

Table (4)
Element Guarantee - example magnesium

| Guarantee | Found | Penalty Per Ton |
|-----------|-----------|-----------------|
| 6% | 5.4-5.9% | \$.50 |
| | 4.8-5.39% | 1.00 |
| | 4.2-4.79% | 1.50 |
| | 3.6-4.19% | 2.00 |
| | 3.0-3.59% | 2.50 |

Table (5)
Moisture

| Guarantee | Found | Penalty Per Ton |
|-----------|----------|-----------------|
| 10% | 10.1-11% | \$.20 |
| | 11.1-12% | .40 |
| | 12.1-13% | .60 |
| | 13.1-14% | .80 |
| | 14.1-15% | 1.00 |

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.07 Payment Of Penalties.

(1) Penalties assessed under Rule 80-1-7-.06 above shall be paid to the consumer-user by the final responsible seller within 60 days of the date of penalty notice from the Commissioner of Agriculture and Industries where the consumer-user can be located. Payment of penalties shall be verified to the Commissioner by means of a certificate of receipt signed by the consumer-user, a photostatic copy of the instrument of payment, or a copy of any memos of credit extended the consumer-user in satisfaction of the assessed penalty.

(2) When the consumer-user of agricultural liming material who is due a penalty cannot be located, the penalty due shall be paid to the Commissioner of Agriculture and Industries within 60 days of the date of the penalty statement and shall be deposited into the Agricultural Fund of the State Treasury.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.08 Inspection Fee Required. An inspection fee of 25 cents per ton of gross sales shall accompany the monthly gross sales report, required under the provisions of Code of Ala. 1975, §2-23-5, for each manufacturer or distributor of agricultural liming materials, to be sent to the Commissioner of Agriculture and Industries.

Authors: Charles H. Barnes, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982. Amended: Filed August 16, 2004; effective September 20, 2004. Amended: Filed August 10, 2011; effective September 14, 2011.

80-1-7-.09 Sampling And Sample Retention. All official samples of agricultural liming materials obtained and analyzed under the provisions of Code of Ala. 1975, §2-23-6, shall be retained by the Department of Agriculture and Industries at the conclusion of the analysis, as follows:

(a) Samples, where no deficiency has been determined, may be discarded at any time following the conclusion of the analysis.

(b) Samples, where a deficiency has been determined by analysis, shall be retained for a period of 180 days. This period may be extended for a reasonable period upon the request of any concerned or interested party, timely made, to the Department of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

Supp. 9/30/11

1-7-6

80-1-7-.10 Requirements Of Applicants For Permits.

(1) Every manufacturer or distributor selling agricultural liming materials in this state shall, on or before October 1 of each year or prior to manufacture or distribution of such liming material in the State of Alabama, apply for and obtain an annual permit for such purpose on a form to be furnished by the commissioner. Such application shall be accompanied by a permit fee of \$250.00 and shall show the brand name under which the liming material will be sold. If more than one type of agricultural liming material is manufactured or distributed or the product or the brand name is changed by a manufacturer or distributor, an additional permit fee of \$125.00 for each additional brand or type of liming material must be paid. All permits shall expire on September 30 of the following year. When the manufacturer and the distributor are not the same, only one permit shall be required unless the brand name is changed, as it is hereby intended that the permit fee be paid only once on the same brand.

(2) Applicants for an agricultural liming materials permit shall furnish with the application for the permit a complete and accurate copy of the label to be attached to the container of agricultural liming materials sold in this state, or if sold in bulk, a true copy of the labeling information which is required to be placed on the delivery slip and made available to the vendor in sufficient quantities to accompany each load of liming material sold.

(3) Only one permit will be required unless the Brand name is changed.

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-23-3, -23-9.

History: Filed April 19, 1982.

Amended: Filed August 16, 2004; effective September 20, 2004.

Amended: Filed August 10, 2011; effective September 14, 2011.

Amended: Filed August 10, 2011; effective September 14, 2011.

80-1-7-.11 Penalty For Violation Of Regulation. Any person violating any provisions of this regulation shall be guilty of a misdemeanor as provided under the provisions of Code of Ala.1975, §2-23-11.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

EDITOR'S NOTE: The following is a history by the Department of Agriculture and Industries prior to the enactment of the Alabama Administrative Procedure Act.

HISTORY: This Chapter was first promulgated on November 6, 1975. It was amended on December 19, 1978 and June 9, 1980. It became effective on October 1, 1980.

LIVESTOCK



ADMINISTRATIVE CODE OF ALABAMA

80-3-11, 80-3-12,

80-3-13, 80-3-21

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ANIMAL INDUSTRY
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80-3-11-.01 Purpose.

The purpose of the Chapter is to further define and implement the provisions of the Livestock Dealers Financial Responsibility Act under Code of Ala. 1975, §§2-15-131 through 2-15-138.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-11-.02 Previous Regulations Repealed.

That regulation entitled Regulations of the Department of Agriculture and Industries, State of Alabama, Promulgated Under the Alabama Livestock Dealers Financial Responsibility Act, approved January 13, 1970, is hereby repealed. The following rules are substituted in its place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-11-.03 Dealer Defined And Exemptions.

(1) Code of Ala. 1975, §2-15-131(5), defines dealer as follows:

(5) DEALER. Any person engaged in the business of buying livestock in the State of Alabama for resale, exchange or slaughter and meat packing purposes, either on his own account or as agent for others on a commission basis or otherwise.

The above definition is not construed to mean full time salaried employees of a person or business already required to be licensed, but if a person buys livestock for more than one person or business unit, no matter how he is paid, he is deemed to meet the above definition of dealer, thereby requiring a license and bond. Those persons considered full-time employees of a person or business unit may be required to submit proof of their being carried on the rolls of a business unit as any other employee. Even a full-time employee of only one business unit, who is in the business of buying livestock in his own name, for later transfer to his employer, is deemed to be a dealer, as defined above.

(2) Bona fide farmers or stockman purchasing livestock for grazing, feeding, dairying or breeding purposes, under Code of Ala. 1975, §2-15-137, are exempt from the provisions of the Act, but as provided in the above section, any livestock purchased for the above purposes must be kept for at least 15 days. Any person buying and selling the same livestock within a 15 day period shall be deemed a Dealer, and required to meet the requirements of licensing and bonding.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-11-.04 Record Requirements For Dealers.

(1) Every dealer, as defined in the law and this Chapter must maintain written records of every livestock transaction within which he is involved, including buying, selling, trading for, or giving away livestock. These records must be kept and maintained for a period of at least two years.

(2) The above records must be available for inspection by the Commissioner of Agriculture and Industries, or his authorized representative, at any reasonable hour, within 24 hours after notice has been given of intention to inspect. Said availability shall also include copying, photographing, or otherwise reproducing any of the records which the Commissioner or his representative shall deem necessary for official use.

(3) The following information is deemed to be the minimum required to be kept by the dealer for livestock transaction:

(a) Full name and address of the buyer and seller of livestock, which shall reflect the origin and distribution of each livestock.

- (b) Date of each purchase, sale, or transaction.
 - (c) Date and place of brucellosis test, when such test is required.
 - (d) Number of animals involved.
 - (e) Sufficient individual description of identification so that each animal may be traced to the herd and farm of origin. This must include breed, sex, age, weight, tattoo, registration number and ear tag number. Back tag numbers may be substituted in place of tattoo, registration number and ear tag number.
- (4) Willful falsification of any information required to be kept concerning livestock transactions is deemed to be sufficient cause for suspension or revocation of the dealer license required under Code of Ala. 1975, §2-15-132.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-11-.05 Specific Requirements For Dealer Licenses.

All licenses issued under the provisions of Code of Ala. 1975, §2-15-132, shall be governed by the following requirements:

- (a) No license shall be transferable.
- (b) The license issued to a firm or corporation, or association or other like entities shall only be used by that officer or employees of the licensee who is specifically listed as a buyer in the application for license.
- (c) All licensees, when engaged in the business of a dealer, shall carry on his person official proof of such licensing. He shall produce such proof to anyone, when requested, with whom he is engaged in livestock transactions. He shall also produce such proof at any time to the Commissioner of Agriculture and Industries or his official representative. Willful failure to produce such proof, under the above circumstances, may result in suspension or revocation of the license.
- (d) Whenever any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of a licensee, such licensee shall report such change in writing to the Commissioner of Agriculture

and Industries, Montgomery, Alabama, within 10 days after making such change. The above is not to imply that the restrictions on transferring may be waived, but only that notice must be sent as provided. Failure to comply with the above may result in revocation or suspension of the license.

(e) Licenses expire on December 31 and are renewable as of January 1 of each year as provided under § 2-15-132(a) above. The Department distributes applications for relicensing to all known licensees approximately two months prior to the expiration date. It is imperative for the licensee to return a fully executed application along with proper funds and other required documents prior to the expiration date. Anyone acting as a dealer as defined under the law and Rule 80-3-11-.03 of this Chapter, after the expiration date of the license, that has not, prior to the expiration date, taken all necessary steps to become relicensed, shall be deemed to be in violation of the law and this Chapter and subject to all available penalties. The burden of complying in a timely manner with the laws and regulations for relicensing every year is upon the dealer, but a good faith attempt by a licensee to renew the license and through no fault of his own the existing license expires prior to renewal will be taken into consideration.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ANIMAL INDUSTRY
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80-3-12-.01 Purpose

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80-3-12-.01 Purpose. The following regulation is hereby approved and adopted by the State Board of Agriculture and Industries under authority of Code of Ala. 1940, §389 of Title 2, which regulation relates to persons engaged in the business of transporting livestock along the public roads or highways of Alabama:

NOTE: Code of Ala. 1940, §389 of Title 2, set out above is now codified as Code of Ala. 1975, §2-15-45.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-12-.02 Waybill Required. Persons engaged in the business of transporting or hauling livestock along the public roads or highways in Alabama shall upon receiving such livestock for transportation issue a waybill or bill of lading for all livestock hauled or transported by them, and such waybill or bill of lading shall accompany the shipment of livestock with a copy thereof being furnished to the person who delivers the livestock to the hauler.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

80-3-12-.03 Information Requirements For Waybill. The waybill or bill of lading as herein required shall contain the following information with respect to the livestock received for transportation:

- (a) Date and time of loading.
- (b) Name of person or company hauling the livestock.
- (c) Number of head of each kind of livestock in shipment.
- (d) A general description of the livestock including any brands or marks.
- (e) Place of origin or shipment.
- (f) Name of owner of livestock.
- (g) Destination of shipment.
- (h) Signature of person delivering livestock to hauler signifying that the above information is correct.
- (i) Such other information as the hauler may desire to include with respect to the livestock received for transportation.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-45.

History: Filed April 19, 1982.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

ANIMAL INDUSTRY

ADMINISTRATIVE CODE

CHAPTER 80-3-13

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80-3-13-.01 Insurance Requirements For Livestock Markets.

(1) Livestock markets shall carry fire and windstorm insurance on the livestock accepted for sale while such livestock are kept at the livestock market, and such insurance must be carried with an insurance company qualified to do business in the State of Alabama.

(2) Livestock markets shall furnish the Department of Agriculture and Industries with a copy of the insurance policy required under paragraph (1) above.

(3) Livestock markets shall, within ten (10) days, notify the Department of Agriculture and Industries of any change, modifications or cancellation of the insurance policy required under the provisions of paragraph (1).

(4) Fire and windstorm insurance coverage required to be carried by livestock markets on livestock accepted for sale shall not be cancelled unless written notice of such cancellation is given to the Department of Agriculture and Industries by the insurance company not less than ten (10) days prior to the effective date of such cancellation, and the insurance policy shall contain a provision or endorsement that any cancellation of the policy shall not become effective unless the Department of Agriculture and Industries is given written notice thereof not less than ten (10) days prior to the effective date of such cancellation.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-67.

History: Filed April 19, 1982.

Chapter 80-3-13 Agriculture and Industries

80-3-13-.02 Bonding Requirements For Livestock Markets.

(1) The bond required of livestock markets shall not be cancelled or terminated until the Commissioner of Agriculture and Industries has been notified at least fifteen (15) days before such cancellation.

(2) Livestock markets are required to notify the Commissioner of Agriculture and Industries of all suits at law or other claims filed against the principal and surety of the bond furnished by the livestock market within fifteen (15) days after a claim is filed against the principal and surety, or within fifteen (15) days after notice of any pending suit is received by the livestock market operator.

(3) Livestock markets licensed under the provisions of the Federal Packers and Stockyards Act of 1921, as amended, may file a copy of the bond made under the provisions of such Act, and such bond will be accepted in lieu of the bond required under Code of Ala. 1975, §2-15-63, provided the amount of such bond equals or is greater than the amount required under the provisions of §2-15-63.

(4) The Chief of the Stockyards and Brands Section of the Department of Agriculture and Industries is authorized to be designated and to act as Trustee in any bond furnished by livestock markets under the requirements of the Federal Packers and Stockyards Act of 1921, as amended.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-68.

History: Filed April 19, 1982.

80-3-13-.03 Reporting Requirements For Livestock Markets.

(1) Code of Ala. 1975, § 2-15-82, requires every livestock market to report to the Commissioner the identity of every livestock dealer who does not pay for livestock purchased by him by the close of the next business day following the date of the purchase.

(2) Since there is no statutory provision requiring when this reporting must be done to the Commissioner, it is determined that the livestock market must report within a reasonable time.

(3) For purposes of reporting as required under §2-15-82, a reasonable time is hereby interpreted to mean two (2) weeks from the time the purchase money for the livestock is due.

(4) Henceforth, all livestock markets shall report to the Commissioner the failure of a livestock dealer to pay for livestock purchased by the close of the next business day, within, or by, the expiration of two (2) weeks from the time the purchase money was due.

(5) Failure of a livestock market to comply with this requirement will subject the market to the provisions of Code of Ala. 1975, §2-15-85.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-15-84.

History: Filed August 16, 1989.

**ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ADMINISTRATIVE CODE
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80-3-21-.01 Purpose

80-3-21-.02 Definitions

80-3-21-.03 Requirements For Registration Of Brands By Livestock Owners

80-3-21-.01 Purpose. Pursuant to §§2-15-20 et. seq., in order to facilitate the tracing and identification of lost, stolen or estrayed livestock and afford protection against the theft and unlawful dealing, handling or movement of livestock, including a system for brand registrations, transfer of brands, reregistrations and standards or requirements for brands acceptable for registration the following Rules and Regulations have been promulgated by the Commissioner of Agriculture and Industries and approved by the State Board of Agriculture and Industries.

Author: John P. Hagood

Statutory Authority: Code of Ala. 1975, §2-15-28.

History: New Rule: Filed August 16, 2004; effective September 20, 2004.

80-3-21-.02 Definitions. When used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **BRAND** - Any recorded identification mark applied to any position on the hide of livestock by means of heat, acid or a chemical, except numbers used to keep production records or record of age. The word "brand" shall also mean and include tattoo marks on the hide or in the ear of livestock.

(2) **LIVESTOCK**- Cattle, swine, sheep, goats, equidae, ratites and poultry.

(3) **PERSON**- Any individual, partnership, corporation or association.

Author: John P. Hagood

Statutory Authority: Code of Ala. 1975, §2-15-20.

History: New Rule: Filed August 16, 2004; effective September 20, 2004.

80-3-21-.03 Requirements For Registration Of Brands By Livestock Owners.

(a) Any livestock owner who uses a brand to identify his livestock must register such brand by applying to the department for registration of his brand. The application shall be made on forms prescribed and furnished by said department, which application shall be accompanied by a fee of \$20.00 for the first position on the animal on which the brand appears and a fee of \$4.00 for each additional position of the animal on which the brand appears. A facsimile of the brand to be registered shall also be furnished by the applicant. If the brand described in the application or one similar or closely resembling a registered brand has not been previously registered by another livestock owner and such brand complies with standards and requirements of brands acceptable for registration as prescribed by the board pursuant to regulations, then the department shall approve the application, register the brand in the name of the applicant and issue to such applicant a certificate of registration. In the event the department denies registration of a brand for any reason, the registration fee of \$10.00 shall be returned to the person making application for registration.

(b) When a livestock owner who has registered a brand with the department transfers such brand to another, he shall immediately notify the department of the transfer, giving the date of transfer, brand identity and the name of the transferee. Upon receipt of the notice of transfer and a transfer fee of \$10.00, the department shall cause such transfer to be made in its register of brands, and such brand shall not be used by the new owner until permission has been given by the department for use of such brand.

(c) The provisions of this article shall not be construed to require any owner of livestock to brand his livestock unless he voluntarily elects to do so in which event he shall be required to comply with the registration requirements of this article.

Author: John P. Hagood

Statutory Authority: Code of Ala. 1975, §2-15-21.

History: New Rule: Filed August 16, 2004; effective September 20, 2004.

SEED



ADMINISTRATIVE CODE OF ALABAMA

80-11-1 & 80-11-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
SEED
ADMINISTRATIVE CODE
CHAPTER 80-11-1
SEED STANDARDS, TOLERANCES AND TREATMENT
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80-11-1-.07 Permit Fees For Seed Dealers And Processors

80-11-1-.01 Purpose. The purpose of this regulation is to implement the manner of testing seeds regulated by the Alabama seed law, for germination and to prescribe germination standards and tolerances. It also provides prohibitions and restrictions of noxious weed seed. It also establishes permit fees for seed dealers and processors.

Authors: Charles H. Barnes, John P. Hagood

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982.

Amended: Filed August 16, 2004; effective September 20, 2004.

80-11-1-.02 Previous Regulations Withdrawn And Amended.

Portions of that regulation entitled Rules and Regulations for Administration of Alabama Seed Law adopted December 13, 1963, March 10, 1965 and November 17, 1965, identified as Regulations Nos. 1 through 13 and Regulations Nos. 17, 19, 21, 30, 31, and 33 and all amendments thereto, and all other regulations pertaining to the purpose appearing in Rule No. 80-11-1-.01 of this regulation are hereby repealed, amended and withdrawn. This chapter is submitted in their place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982.

80-11-1-.03 Allowable Standards For Sampling And Tolerances.

(1) The manner of sampling and handling seed in the field and analyzing and testing seed in the Laboratory, Greenhouse and Trial plots shall be the same as that recommended in the Rules For Testing Seeds of the Association of Official Seed Analysts, as published in 1978 and as same is subsequently amended.

(2) The same tolerances published in the Rules For Testing Seeds as published by the Association of Official Seed Analysts, in 1978 and as subsequently amended, shall be recognized in the administration of the Alabama State Seed Law; except no tolerances shall be applied to minimum germination standards, maximum weed seed percentages, maximum noxious weed seeds permitted, prohibited noxious weeds and when the term "none allowed" is used, this shall mean 0 with no tolerance.

(3) Any portion of the Rules For Testing Seeds of the Association of Official Seed Analysts, or as may later be amended, in conflict with any Alabama law or regulation shall be disregarded and not followed:

(4) Tree and shrub seed shall be tested in accordance with the proceedings prescribed by the Association of Official Seed Analysts and set forth in the latest edition of the Rules For Testing Seeds published by that Association. For those kinds not covered in these rules, the testing procedure used shall be those recommended by the Eastern Tree Seed Lab.

(5) All lots of seeds shall be stacked separately and made accessible for proper sampling.

(6) The nine (9) month period of validity of a germination test is hereby extended to 36 months for agricultural and vegetable seeds packaged in hermetically sealed containers which comply with the following requirements:

(a) The seed was packaged within nine months after harvest;

(b) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100 degrees F. with a relative humidity on one side of 90 per cent and on the other side of 0 per cent. Water vapor penetration or W V P is measured by the standards of the U. S. Bureau of Standards as gm.H₂O/24 hr./100 sq. in./100 degrees F/90% RH V.0% RH;

(c) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed in S201.36c of the Federal Seed Act for the crops listed in this section;

(d) The container is conspicuously labeled in not less than eight point type to indicate (1) that the container is hermetically sealed, (2) that the seed has been preconditioned as to moisture content, and (3) the calendar month and year in which the germination test was completed.

(e) The percentage of germination shall be stated on label at the time of packaging.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982.

80-11-1-.04 Germination Standards For Seed.

(1) Germination standards for vegetable seed shall be as follows:

| | Percent | | Percent |
|---------------------------------|---------|------------------|---------|
| Artichoke | 60 | Bean, lima | 70 |
| Asparagus | 70 | Bean, runner | 75 |
| Asparagus bean | 75 | Beet | 65 |
| Bean, garden | 75 | Broad bean | 75 |
| [Varieties other | | Broccoli | 75 |
| than Improved Tendergreen | | Brussels sprouts | 70 |
| (Resistant Tendergreen), | | Cabbage | 75 |
| Cornelli 14, King Green, | | Cantaloupe (see | |
| Logan Processor, Ranger, | | muskmelon) | |
| Rival Seminole, Tenderbest, | | Cardoon | 60 |
| Tenderlong 15, Topcrop, Top- | | Carrot | 55 |
| most, Wade, Whitseeded | | Cauliflower | 75 |
| Tendergreen, and Woodruff's | | Celeriac | 55 |
| Hyscore] | | Celery | 55 |
| Beans, garden | | Chard, Swiss | 65 |
| [Varieties Improved Tendergreen | | Chicory | 65 |
| (Resistant Tendergreen), | | Chinese cabbage | 75 |
| Tendercrop, King Green, | | Chives | 50 |
| Logan, Processor, Ranger | | Citron | 65 |
| | | Collards | 80 |

| | | | |
|---|----|----------------------|----|
| Rival, Seminole, Tenderbest | | Corn, sweet | 75 |
| Tenderlong 15, Topcrop, Top- most, Wade, Whiteseeded | | Cornsalad | 70 |
| Tendergreen, and Woodruff's | | Cowpea | 75 |
| Hyscore] | 70 | | |
| Cress, upland | 60 | Cress, garden | 75 |
| Cress, water | 40 | Parsley | 60 |
| Cucumber | 80 | Parsnip | 60 |
| Dandelion | 60 | Pea | 80 |
| Eggplant | 60 | Pepper | 55 |
| Endive | 70 | Pumpkin | 75 |
| Kale | 75 | Radish | 75 |
| Kale, Chinese | 75 | Rhubarb | 60 |
| Kohlrabi | 75 | Rutabaga | 75 |
| Leek | 60 | Salsify | 75 |
| Lettuce | 80 | Sorrell | 65 |
| Muskmelon | 75 | Soybean | 75 |
| Mustard | 75 | Spinach | 60 |
| Mustard, spinach | 75 | Spinach, New Zealand | 40 |
| Okra | 50 | Squash | 75 |
| Onion | 70 | Tomato | 75 |
| Onion, Welsh | 70 | Tomato, husk | 50 |
| Pak-choi | 75 | Turnip | 80 |
| Watermelon | 70 | | |

(2) Germination standards for any vegetable seeds not listed above shall be the same as is published by the United States Department of Agriculture in the Code of Federal Regulations in regard to germination standards for vegetable seed.

(3) Seeds falling below the minimum germination set out below shall not be sold, offered for sale or distributed in Alabama.

(a) All vegetable seeds listed in Subrules (1) and (2) above falling below 20% of standards appearing in these subsections.

(b) Hybrid seed corn germinating less than 90%.

(c) Soybeans germinating less than 70%.

(d) Cotton seed germinating less than 70%.

(4) The person upon whose premises seed are located will be held responsible for securing a new germination test, and subsequently amending the analysis tags, when the test date exceeds 270 days.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982.

80-11-1-.05 Mixed Seed Prohibitions.

(1) The following adulterations or mixtures of seed shall not be sold, offered for sale, or distributed in Alabama:

(a) Common lespedeza containing more than 5% weed seed.

(b) Carpet grass containing more than 2.5% weed seed.

(c) Dallis grass containing less than 25% pure live seed.

(d) Johnson grass containing less than 50% pure live seed.

(e) Seed peanuts of one variety containing more than 2.5% of another variety; however, seed peanuts containing 2.5% or less of another variety may be sold, provided the percentages of such varieties are stated on the analysis tag attached to each bag, in addition to all other labeling requirements now, or in the future, in effect.

(f) Rye seed produced in a northern state or having a northern origin. The term "northern origin" shall mean all states north of North Carolina, Tennessee, Arkansas, Oklahoma and north and west of Texas.

(g) Seed corn, for planting purposes, containing Texas male sterile cytoplasm. Other types of cytoplasm, which are resistant to Race "T" of the Southern corn leaf blight are not banned nor shall the presence of these other types of cytoplasm be required to be shown on the analysis tag.

(h) Sunn Hemp (*Crotalaria juncea*) in a mixture.

(2) The following adulterations or mixtures of seed shall not be sold under the name of the dominant seed:

(a) Oats consisting of mixed varieties, and oats containing a total of 5% or more of other oat varieties shall not be labeled or sold as seed oats.

A false wild oat will be considered as any unstable or variant form of a cultivated and wild oat possessing one or more of the distinct characteristics of the wild oats (*Avena fatua*).

The sale of mixed oats shall not be prohibited when they are used as a component part in seed for wildlife mixtures. In order to be used in such a mixture the following criteria must be met: The mixture must include (3) kinds or more and the oat component must be labeled according to the predominate variety that comprises at least sixty (60) percent of the mixture.

(b) Sorghum consisting of mixed varieties and sorghum containing a total of 5% or more of other sorghum varieties shall not be labeled or sold as sorghum seed.

(c) Cowpeas consisting of mixed varieties shall be labeled as, "mixed." The percent of pure seed shall represent all cowpeas present and the germination test shall be based upon a uniform sample of all of the varieties in the lot.

(3) All whole grain rye sold, offered or exposed for sale in Alabama during the period of time beginning September 1 and ending December 31 of each year shall be labeled as seed rye and must meet all requirements of the Alabama seed law and rules and regulations, except, however, whole grain rye may be mixed with other grain and may be sold during the above prohibitive period, provided such mixture is labeled as commercial feed and shows the percentage of each kind of grain present and shall also comply with all provisions of the Alabama Commercial Feed Law of 1978, Code of Ala. 1975, §§2-21-17 through 2-21-34.

Authors: Charles H. Barnes, Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982.

Amended: Filed May 17, 2007; effective June 21, 2007.

Amended: Filed May 16, 2012; effective June 20, 2012.

80-11-1-.06 Noxious Weed Seed Prohibitions And Restrictions.

(1) No agricultural, vegetable, flower, herb, tree or shrub seed for planting purposes shall be sold, offered for sale, or distributed within the State if the noxious weed seed per pound of seed tested is in excess of the following limitations:

(a) Field bindweed (*Convolvulus arvensis*) - prohibited - none allowed.

- (b) Hedge bindweed (*Convolvulus sepium*) - prohibited - none allowed.
- (c) Nutgrass (*Cyperus rotundus*) - Prohibited - none allowed.
- (d) *Crotalaria* spp. - prohibited - none allowed except Sunn Hemp (*Crotalaria juncea*) – restricted – 5 seed per pound.
- (e) Balloon Vine (*Cardiospermum halicacabum*) - prohibited - none allowed.
- (f) Cocklebur (*Xanthium* sp.) in seed which are certified by an officially recognized seed certifying agency, as defined in Code of Ala. 1975, §2-26-1(18),- prohibited - none allowed.
- (g) Cocklebur (*Xanthium* sp.), in uncertified seed - restricted - 2 seed per pound.
- (h) Blessed Thistle (*Cnicus benedictus*) - restricted - 9 seed per pound.
- (i) Moonflower or giant morningglory (*Calonyction muricatum*) restricted - 9 seed per pound.
- (j) Wild Onion and/or Wild Garlic (*Allium* spp.)- restricted - 27 seed per pound.
- (k) Wild Mustard and/or Turnip (*Brassica* spp.)- restricted - 27 seed per pound.
- (l) Radish (*Raphanus* spp.) - restricted - 27 seed per pound.
- (m) Johnson Grass (*Sorghum halepense*) and/or Sorghum Almum and perennial rhizomatous derivatives of these - restricted - 100 seed per pound.
- (n) Dodder (*Cuscuta* spp.) - restricted - 100 seed per pound.
- (o) Canada Thistle (*Cirsium arvense*) - restricted - 100 seed per pound.
- (p) Quack Grass (*Agropyron repens*)- restricted - 100 seed per pound.
- (q) Docks (*Rumex* spp. except *hastatulus*) - restricted- 100 seed per pound.

- (r) Giant Foxtail (*Setaria faberi*) - restricted - 100 seed per pound.
 - (s) Darnel (*Lolium temulentum*) - restricted - 200 seed per pound.
 - (t) Corncockle (*Argostemma githago*) restricted - 200 seed per pound.
 - (u) Horsenettle (*Solanum carolinense*) restricted - 200 seed per pound.
 - (v) Silverleaf Nightshade (*Solanum elaeagnifolium*)- prohibited - 200 seed per pound.
 - (w) Buckhorn (*Plantago lanceolata*)- restricted - 200 seed per pound.
 - (x) Bracted Plantain (*Plantago artistata*) - restricted - 200 seed per pound.
 - (y) Sheep Sorrel (*Rumex acetosella*) - restricted - 200 seed per pound.
 - (z) Bermuda Grass (*Cynodon spp.*) - restricted - 300 seed per pound.
 - (aa) Cheat or Chess (*Bromus secalinus*, *B. commutatus*) - restricted - 300 seed per pound.
 - (bb) Serrated Tussock (*Nassella trichotoma*) - prohibited - none allowed.
 - (cc) Goatgrass (*Aegilops spp.*) – restricted – 9 seed per pound.
 - (dd) Sickle Pod (*Senna tora*) – restricted – 27 seed per pound.
 - (ee) Tropical Soda-Apple (*Solanum viarum*) – prohibited – none allowed.
- (2) When more than one species or variety of noxious weed seed are discovered in pure seed, in addition to the restrictions set out above, the following restrictions shall also apply:
- (a) For seeds identified in Subrule 80-11-1-.06(l)(g) through (y), any combination of weed seed shall, also,

collectively, not exceed 200 total weed seed per pound of pure seed.

(b) For seeds identified in Subrule 80-11-1-.06(l) (z) through (aa), any combination of these weed seed shall also, collectively, not exceed 300 total weed seed per pound of pure seed.

(c) The added restrictions in Subrule 80-11-1-.06(2)(a) and (b) are, in addition to, and are not to be interpreted as amending or changing the restrictions for individual species of weed seed set out in Subrule 80-11-1-.06(l) above.

Authors: Charles H. Barnes, Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. Emergency amendment: Effective

March 3, 1989. Permanent Amendment: Filed May 19, 1989.

Amended: Filed May 17, 2007; effective June 21, 2007. Amended:

Filed May 16, 2012; effective June 20, 2012.

80-11-1-.07 Permit Fees For Seed Dealers And Processors.

(1) Pursuant to Code of Ala. 1975, §2-26-5, Every person who sells, offers for sale, exposes for sale, distributes or solicits orders for the sale of any agricultural, vegetable, herb, tree, shrub or flower seed to retail seed dealers, farmers or to others who use or plant such seed in the State of Alabama shall, before selling or offering such seed for sale or distributing or soliciting orders for the sale of such seed and on or before January 1 of each year secure an annual permit from the Commissioner of Agriculture and Industries to engage in such business. Seed dealers and other sellers of seed shall apply for an annual permit upon forms prescribed by the commissioner, and such permit shall be issued upon the payment of the following permit fees when the application is in proper form:

(a) For each person engaged in selling seed at retail in closed containers or packets of eight ounces or less displayed on a supplemental container display such as a seed rack, a permit fee of \$5.00 for each such supplemental container display;

(b) For each person selling seed to retail seed dealers, farmers or others who use or plant such seed, not displayed on a supplemental container display, a permit fee for each such place of business or each such representative or representatives, where such person does not maintain an established place of business in Alabama, shall be based on gross

receipts from the sale of such seed for the last preceding year in Alabama as follows:

| Gross Receipts | Permit Fee |
|---|------------|
| 1. Receipts of \$2,500.00 or less..... | \$ 15.00 |
| 2. Receipts of \$2,500.01 through \$25,000.00..... | \$ 50.00 |
| 3. Receipts of \$25,000.01 through \$50,000.00..... | \$ 70.00 |
| 4. Receipts of \$50,000.01 through \$100,000.00..... | \$150.00 |
| 5. Receipts of \$100,000.01 through \$200,000.00..... | \$300.00 |
| 6. Receipts of \$200,000.01 through \$300,000.00..... | \$400.00 |
| 7. Receipts of \$300,000.01 through \$400,000.00..... | \$500.00 |
| 8. Receipts of \$400,000.01 through \$500,000.00..... | \$600.00 |
| 9. Receipts of more than \$500,000.00..... | \$700.00 |

(c) Persons engaged in the operation of seed cleaning or processing plants, including peanut shellers, seed treaters and corn processors, and persons who purchase seed and process such seed for resale shall be required to obtain a permit as required under this section if such persons clean and/or process or treat seed at their plant, and the annual fee to be paid therefor shall be \$75.00.

Authors: John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-26-5.

History: New Rule: Filed August 16, 2004; effective

**September 20, 2004. Amended: Filed August 10, 2011; effective
September 14, 2011.**

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
SEED
ADMINISTRATIVE CODE
CHAPTER 80-11-2
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80-11-2-.01 Purpose.

(1) The purpose of this Chapter is to set up guidelines to be used in labeling all types of seed to include chemically treated seeds. It also provides for the keeping of records and sets out charges for the testing of seeds.

(2) In recognition of the necessity of establishing clear and effective standards for the testing, analyzing and labeling of seed, and the corresponding duties and obligations of seed dealers and others engaged in the sale of seeds to test and analyze seeds and to disclose the results of such testing, seed which shall have been tested in accordance with, and meets the standards established under the Alabama Seed Law and regulations, shall be deemed to comply with all laws of this State relating to fitness and suitability for use within this State. This provision is declaratory of the laws of Alabama as they have existed since the adoption of the Alabama Seed laws.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. Amended: Filed December 10, 1984.

80-11-2-.02 Labeling Requirements And Recommended Tags.Chapter 80-11-2

(a) The labeling information required for agricultural seed under the provisions of Code of Ala._1975, §2-26-7(a), with certain exceptions set out below, shall appear on a tag attached to each container in substantially the same form appearing below.

1. One seed variety.

| | |
|--|-----------------------|
| Weight_____ | Net Lot No._____ |
| Kind and Variety_____ | |
| Pure Seed_____ | % Germ._____% |
| Inert_____ | % Hard Seed_____% |
| Weeds_____ | % Germ. & H. S._____% |
| Crop_____ | % Date Tested_____ |
| Name & No. of Noxious Weeds per Lb._____ | |
| _____ Grown In_____ | |
| NAME_____ | |
| ADDRESS_____ | |

2. Mixed seed variety tag.

| MIXTURE | | | | | |
|--|------------------|----------------|------|-------------------|------|
| Weight_____ | Net Lot No._____ | | | | |
| Pure | Test | | | | |
| Kind | Variety | Seed | Germ | H.S. | Date |
| _____ | _____ | _____ | % | % | % |
| _____ | _____ | _____ | % | % | % |
| _____ | _____ | _____ | % | % | % |
| _____ | _____ | _____ | % | % | % |
| Weed Seed_____ | % | Crop Seed_____ | % | Inert Matter_____ | % |
| Name & No. of Noxious Weeds Per Lb._____ | | | | | |
| _____ Grown In_____ | | | | | |
| NAME_____ | | | | | |
| ADDRESS_____ | | | | | |

(b) In lieu of using a tag as set out in subparagraph (a) above, containers in which seed corn or soybeans are sold may show the required labeling information on a sealing tape across the top of each bag, provided the seller of the seed must have first obtained approval for the use of sealing tape from the Commissioner of Agriculture and Industries prior to its use.

(c) Effective June 1, 1985, Tall Fescue (*Festuca arundinacea*) seed sold, offered for sale, or exposed for sale, for forage purposes, shall also be labeled to show the percentage of Fungal Endophyte (*Acremonium coenophialum*) infected seed, except carryover Tall Fescue seed may be labeled to show only the percentage of Live Fungal Endophyte. This information shall be stated on the analysis tags with other required labeling information and in the same size print. Tall Fescue seed will be considered as carryover if more than nine months have expired from date of production.

(d) Effective June 1, 1985, Fescue and Ryegrass seed sold, offered for sale, or exposed for sale, for lawn and turf purposes, shall be labeled to show the percentage of Fungal Endophyte infected seed, if any representations as to these Fungal Endophytes are made in the labeling or advertising of the seed. Carryover seed shall be labeled to show only the percentage of live Fungal Endophyte infected seed.

(e) The labeling requirement for all vegetable seed and lawn seed mixtures may be placed directly on the bag or container in lieu of a tag.

(f) The tag or label for tree and shrub seeds shall give the following information:

1. Commonly accepted common or Latin name of species.
2. Variety (if applicable).
3. New weight.
4. Lot number.
5. Year collected.
6. Origin. The specific locality (state and county, or Alabama zone, in the United States or nearest equivalent political unit in case of foreign countries) in which seed were collected.
7. Date of test (month and year).
8. Percentage by weight of pure seed.
9. Percentage by county of full seed.
10. Percentage by weight of inert matter.

11. Percentage by weight of other crop.
12. Percentage of germination.
13. Percentage of hard seed.
14. Speed of germination, as days to reach 90 per cent of total.
15. Pregermination treatment used in test.
16. Number of seed per pound.
17. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.
18. The above information shall be placed on an analysis tag no smaller in size than a number 5 standard shipping tag in substantially the same order as appearing below:

| | |
|--------------------------------|-------------------------------------|
| Species _____ | Variety _____ |
| Net wt. _____ | Yr. Coll. _____ Lot No. _____ |
| Origin: State _____ | County _____ Ala. Zone _____ |
| Date of Test _____ | Pure Seed _____% |
| Full Seed _____% | Inert Matter _____% |
| Other Crop _____% | Germination _____% Hard Seed _____% |
| Speed of Germination _____ | Days _____ |
| Pregermination Treatment _____ | Seed Per Lb. _____ |
| _____ | |
| NAME _____ | |
| ADDRESS _____ | |

(g) The zones for labeling tree seed shall be Northern (N), Central (C) and Southern (S). The above abbreviations may be used. These zones are as follows:

See Master Code for a copy of map

Author: Charles H. Barnes

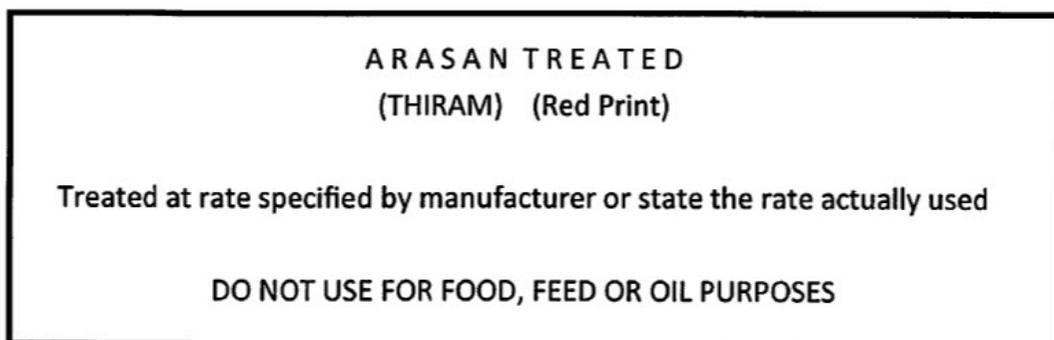
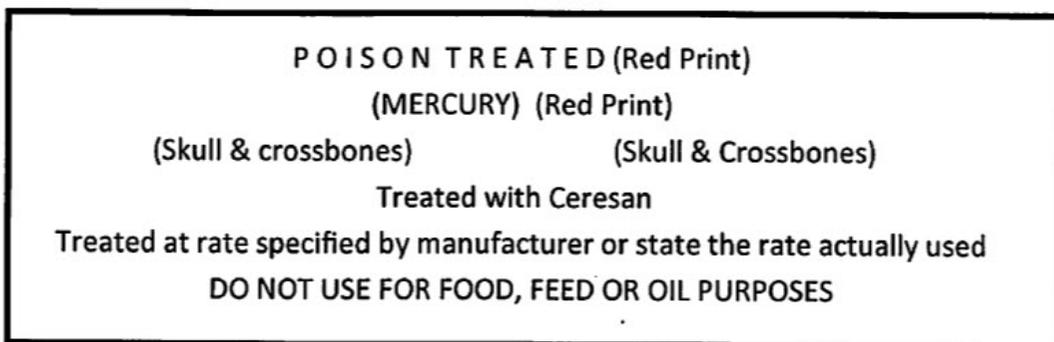
Statutory Authority: Code of Ala. 1975, §2-26-3.

**History: Filed April 19, 1982. Amended: Filed
December 10, 1984.**

80-11-2-.03 Labeling Requirements For Treated Seed.

(a) In addition to the labeling requirements for treated seed appearing in Code of Ala. 1975, §2-26-7(e), the separate tag required for seed treated for seed-borne disease shall show the kind of chemical used and the manufacturer's recommended rate or the rate actually used.

(b) The information required for the separate tag to be placed on treated seed under §2-26-7(e) and this Chapter shall appear on the tag in substantially the same order as appearing below:

1. Treated seed tag.**2. Poison treated seed tag.**

As required under law, the words "Poison Treated", appearing on the above tag shall be in heavy red type of not less than 1/4 inch.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. Amended: Filed

December 10, 1984.

80-11-2-.04 Additional Labeling Requirements And Prohibitions.

- (a) Analysis tags not bearing all of the information required under the provisions of Code of Ala. 1975, §2-26-7, and this Chapter will be considered incomplete unless the value of such information found upon analysis is none and so stated on the tag in the proper spaces provided for such information.
- (b) The words "Free" and "None" shall be construed to mean that none were found in a test complying with the methods set forth for testing seed by the Association of Official Seed Analysts.
- (c) Abbreviations of names of the variety and kind of seed on the tag or tape is prohibited.
- (d) Distribution or sale of cottonseed under a varietal name which is not already registered with the American Society of Agronomy is prohibited unless evidence is first furnished the Board of Agriculture and Industries showing this cotton to be true to name.
- (e) The place of origin shall not be used in connection with the name of variety or kind of seed, unless it is a part of the generally accepted name of kind or variety. Modifying words or phrases shall not be used in connection with the variety, as for example, "type", "for forage purposes", etc.; nor shall group names be used as varietal names.
- (f) Brand names, designs, grades or pictures indicating a condition or quality other than that required or shown on the analysis tag, or corresponding with that on the analysis tag, or indicating contradictions to any part of the analysis is prohibited.
- (g) Alabama dealers will not be held responsible for representations made as to the variety or kind of seed when such varieties or kinds are not distinguishable by seed characteristics if the dealer secures and retains a grower's declaration or statement from the shipper that he has reason to know that the seed in question are true to variety or kind.
- (h) For vegetable seed packed in containers of eight ounces or less, the year in which packed may be stated in lieu of the date of test and the percentage of germination need not be shown on the container for vegetable seed which germinate above the standard last established by the State Board of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3. History: Filed April 19, 1982. Amended: Filed December 10, 1984.

80-11-2-.05 Record And Bagging Requirements.

(a) In addition to the record keeping requirements under Code of Ala. 1975, §2-26-10, all seedsmen are also required to keep records of receipts, sales and deliveries of all seed for a period of not less than three years, (except retail sales and deliveries by dealers) for inspection purposes. Such records shall include:

1. Original shipper's analysis tag.
2. If lot numbers are changed, both the original and changed numbers shall be kept on record.
3. Copy of laboratory analysis identified by lot number from the original grower, shipper or firm responsible for analysis.
4. Such other available information as is needed for identification of shipment of lots of seeds.

(b) Records shall be kept on tree and shrub seed the same as any other seeds under §2-26-10 of this Chapter.

(c) All seed sold or offered for sale in Alabama may be sold in any size bags or containers, provided the bags or containers within each lot of seed are of uniform sizes and weights and further provided the net weight is stated on the analysis tag, except as stated below. Single cross hybrid corn seed only may be sold or offered for sale in bags weighing not less than 42 pounds net weight nor more than 56 pounds net weight, without complying with uniform weight requirements, provided the number of seed contained in the bag is shown on the analysis tag and the net weight thereof is shown on the bag or tag attached to each bag.

(d) With the exception of sales of each kind and variety of vegetable seed, of less than \$25.00, all sales of agricultural or vegetable seed when sold by a seed dealer, must meet the following requirements:

1. An invoice or sales ticket shall be issued by the seller which shall include thereon the name and address of the seller and the purchaser, the kind and variety of seed, the quantity in each lot and the lot number or numbers for each kind and variety of such seed sold or delivered.

2. Copies of the invoices or sales tickets containing the above record information shall be kept by the seller for a period of not less than 12 months from the date of such sale.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. Amended: Filed December 10, 1984.

80-11-2-.06 Charges For Seed Testing.

(a) Alabama farmers shall be entitled to submit to the Seed Laboratory of the Department of Agriculture and Industries seed samples to be analyzed and tested free of charge, provided that not more than the equivalent of Ten Dollars (\$10.00) worth of free seed testing services will be provided to any farmer within a period of one month.

(b) Seed testing and analysis for farmers in excess of \$10.00 per month and for seed dealers and non-farmers shall be charged as follows:

1. For purity and germination per sample:
 - Group 1
Barley, Wheat, Rye, Field Peas (Austrian),
Corn, Lupine, Sorghum, Vetch and Rough Peas \$ 3.00
 - Group 2
Soybeans, Cowpeas, Velvet Beans, Partridge
Peas, Crotalaria, Peanuts, Button Clover,
Crimson Clover, Lespedeza, Ryegrass (except
fluorescence test), Fescue, Millet, Sudan
Grass, Alfalfa, Cotton and Rescue Grass \$ 4.00
 - Group 3
Johnson Grass, Bermuda Grass, Centipede
Grass, Alsike Clover, White Clover, Alyce
Clover, Ladino Clover, Persian Clover,
Lappacea Clover, Red Clover, Ball Clover,
Hop Clover, Oats, Carpet Grass, Redtop,
Dallis Grass, Kentucky Bluegrass, Orchard
grass and Love Grass \$ 5.00

| | |
|-----------------------------|---------|
| Bahia Grass: Hulled Samples | \$10.00 |
| Unhulled Samples | \$ 5.00 |

2. For purity test only:

| | |
|-------------------|---------|
| All Groups Deduct | \$ 1.00 |
|-------------------|---------|

3. For germination test only:

For germination test only, except when a purity test is required in order to conduct the germination test, examination for noxious weeds only, varietal determination only and moisture test only per sample

| | |
|--|---------|
| | \$ 2.00 |
|--|---------|

| | |
|----------------|---------|
| Vegetable Seed | \$ 2.00 |
|----------------|---------|

| | |
|-----------------------------------|---------|
| 4. Fluorescence Test for Ryegrass | \$ 3.00 |
|-----------------------------------|---------|

| | |
|---|---------|
| 5. Vigor test for all varieties of seed | \$ 1.00 |
|---|---------|

Note: Pending the promulgation by the Association of Official Seed Analysts of uniform seed vigor testing procedures in its Rules For Testing Seeds, and the recognition and adoption of such testing procedures and corresponding labeling requirements relating to vigor under Alabama seed laws and regulations, persons requesting vigor tests are cautioned to only use the results for personal information. Pending the above, advertising or warranting of vigor in the selling of seed is prohibited. No Alabama dealer or other person offering seed for sale within this State shall be under a duty to conduct or secure tests for vigor or to disclose by label or otherwise any information relating to vigor.

(c) Seed not listed above will be charged according to other seed of similar size.

(d) All of the above prices apply only to seed that have been properly cleaned, and also to each kind or variety of seed in a mixture

Author:

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. Amended: Filed December 10, 1984.



**COMPILED BY THE
AGRICULTURAL COMPLIANCE SECTION
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ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
1445 FEDERAL DRIVE
MONTGOMERY, ALABAMA 36107-1123**