



Substitute House Bill No. 5317

Public Act No. 16-102

AN ACT CONCERNING COMMERCIAL FEED AND THE TERM AND FEE FOR CERTAIN LICENSES ISSUED BY THE DEPARTMENT OF AGRICULTURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (16) of section 22-118k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(16) "Official sample" means a sample of feed taken by the Commissioner of Agriculture, or [his designee] the commissioner's designated agent, in accordance with the provisions of section 22-118r, as amended by this act;

Sec. 2. Section 22-118l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) [No person shall manufacture a commercial feed in this state unless he has filed with the Commissioner of Agriculture on forms provided by the commissioner, his name, place of business and location of each manufacturing facility in this state.] Any person who manufactures commercial feed in this state and who offers such commercial feed for sale shall register with the Commissioner of Agriculture on forms and in a manner prescribed by the commissioner.

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Commercial feed manufacturing facilities with gross sales of less than twenty-five thousand dollars per year from the sale of commercial feed shall be exempt from the provisions of this section and section 22-118r, as amended by this act, except that the commissioner or the commissioner's designated agent may investigate any allegation of adulteration, misbranding, illness or injury relating to such commercial feed upon receipt of a written complaint provided the complainant is identified in such complaint. Each commercial feed manufacturing facility registration shall expire on the thirty-first day of December of each year and may be renewed during the month of December. Until such time as regulations are adopted pursuant to section 22-118q to change the annual fee for such registration, the annual fee charged for registration of a commercial feed manufacturing facility employing less than five full-time staff shall be fifty dollars and for any such facility employing five or more full-time staff such annual registration fee shall be one hundred dollars.

(b) No person shall distribute in this state a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the commissioner. Upon approval by the commissioner the registration shall be issued to the applicant. All registrations shall expire on the thirty-first day of December of each year. A distributor shall not be required to register any commercial feed which is already registered under this chapter by another person.

(c) [The commissioner may refuse registration of any commercial feed not in compliance with the provisions of sections 22-118k to 22-118u, inclusive, and cancel any registration subsequently found not to be in compliance with any provision of said sections provided no registration shall be refused or canceled unless the registrant is given an opportunity to be heard before the commissioner and to amend his

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application in order to comply with the requirements of sections 22-118k to 22-118u, inclusive.] The commissioner may suspend, revoke, cancel or refuse the registration of any commercial feed or commercial feed manufacturing facility that is not in compliance with the provisions of this chapter provided no commercial feed registration shall be refused or canceled unless the registrant is given an opportunity to amend the commercial feed registration application in order to comply with the requirements of this chapter. Any applicant or registrant aggrieved by an order to suspend or revoke a commercial feed or commercial feed manufacturing facility registration or a refusal to register such a feed or facility or cancel the registration of such a feed or facility, and any person aggrieved by the imposition of an administrative fine issued pursuant to subdivision (3) of subsection (d) of this section may appeal to the commissioner, in writing, provided such appeal is received by the commissioner not later than ten days after the date of the order, refusal, notice of cancellation or notice of intent to issue an administrative fine. The appeal and hearing shall be held pursuant to chapter 54 and the administrative code of the department, not later than ninety days after the date of the appeal. Any such appeal shall be limited to consideration of whether the alleged violation or violations that resulted in the applicable order or notice existed. Any applicant or registrant aggrieved by a final decision of the commissioner or the hearing officer may appeal to the Superior Court in accordance with the provisions of section 4-183. Nothing in this subsection shall be construed to limit the authority of the commissioner or the commissioner's designated agent to issue any order deemed necessary to protect the safety, health and welfare of humans or animals.

(d) (1) After notification of the requirement to register a commercial feed manufacturing facility, any person who fails to register a commercial feed manufacturing facility pursuant to subsection (a) of this section shall, for a first violation, be deemed to have committed an

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infraction, and, for any subsequent offense, be fined five hundred dollars; (2) after notification of the requirement to register a commercial feed, any person who fails to register a commercial feed, as required pursuant to subsection (b) of this section shall be assessed an administrative fine of one hundred dollars. Each commercial feed found in violation shall be considered a separate offense; and (3) for all other violations for which a penalty has not been established, after notification of any violation of the provisions of this chapter or any regulation adopted pursuant to this chapter and an opportunity to correct the violation, any person who violates any provision of this chapter or any such regulation may be assessed an administrative fine of two hundred fifty dollars per violation for a first offense and five hundred dollars per violation for any subsequent offense that occurs within one year of the first offense.

Sec. 3. Section 22-118r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Any [employee duly] designated [by] agent of the Commissioner of Agriculture, upon presenting appropriate credentials, [and a written notice to the owner, operator or agent in charge,] may (1) enter, during normal business hours, any factory, warehouse or establishment within this 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) 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 for compliance with the provisions of this chapter, and (3) obtain samples of commercial feeds for laboratory analysis. [The inspection may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the regulations established under section 22-118o.]

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(b) [A separate notice shall be given for each such inspection but a notice shall not be required for each entry made during the period covered by the inspection. Each such] Any inspection conducted pursuant to this chapter shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(c) [If the officer or employee making such inspection of a factory, warehouse or other establishment] Whenever the commissioner or the commissioner's designated agent has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, [he] the commissioner or the commissioner's designated agent shall give to the owner, operator or agent in charge a receipt describing the samples obtained.

(d) If the owner of any factory, warehouse or establishment described in subsection (a) of this section, or [his] such owner's agent, refuses to admit the commissioner or [his designee] the commissioner's designated agent to inspect in accordance with subsections (a) and (b) of this section, the commissioner [may] shall apply to the Superior Court for a warrant directing such owner or [his] such owner's agent to submit the premises described in such warrant.

[(e) The commissioner or his designee may enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.]

[(f)] (e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists International, or in accordance with other generally recognized methods approved by the United States Food and Drug Administration or the commissioner. The report issued by any accredited laboratory acceptable to the commissioner or the

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commissioner's designated agent shall be prima facie evidence of the components and constituents of any sample collected and submitted by the commissioner or the commissioner's designated agent. When requested by a registrant, the commissioner or the commissioner's designated agent shall prepare and leave a duplicate sample with the registrant at the location a sample is taken.

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

[(h)] (f) The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample, as defined in section 22-118k, as amended by this act, and obtained and analyzed as provided in this section.

Sec. 4. Section 22-229 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

No dealer shall receive or purchase milk from producers or others within the state for storage, manufacture, processing, sale, distribution or handling within or without the state, or sell or distribute milk within the state, unless such dealer is licensed as provided herein. No dealer shall buy milk from, or sell milk to, a dealer within the state who is unlicensed, or deal in or handle milk which he has reason to believe has previously been dealt in or handled in violation of this part or any order, ruling or regulation issued hereunder. The license period shall be for a period of two years and extend from July first to the second following June thirtieth, [following,] inclusive.

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Sec. 5. Section 22-230 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) An application for a license to do business as a dealer, subdealer, cheese manufacturer, dry milk manufacturer or yogurt manufacturer shall be made to the commissioner. Any person who desires to enter business as a dealer, subdealer, cheese manufacturer, dry milk manufacturer or yogurt manufacturer shall file application not less than fifteen days prior to the date for which he is applying to engage in such business. Application for renewal of a license shall be made no later than July first of [each year] the second year following issuance of such license.

(b) In order to be complete, each application shall be accompanied by the license fee provided for by sections 22-235a and 22-236, as amended by this act. An applicant who fails to apply for renewal of a license on or before July first of [each license year] the second year following issuance of such license shall be assessed a late filing fee of fifty dollars and in the case of a store the late filing fee shall be fifteen dollars. Such late filing fee shall be in addition to any fees normally due for renewal of a license.

(c) The applicant shall state such information in regard to his business or proposed business as is required by the commissioner, upon such form as he prescribes. Such information may include: (1) The nature of the business to be conducted; (2) the full name and address of the person applying; if the applicant is a copartnership, the full name of each member shall be stated; if the applicant is an association or corporation, the names and addresses of all officers and directors shall be stated; (3) the location at which the business is to be conducted and the locations or areas in which such business is to be operated; (4) the financial condition of the applicant; (5) a showing that he has complied and will comply with this part and all orders, rulings, regulations or directions issued hereunder; (6) the quantities, sources

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and type of outlets of milk handled during the calendar year preceding the period for which the license is desired; (7) such other facts with respect to the applicant's business as may be required by the commissioner pursuant to this part. The commissioner shall grant or renew a license to an applicant qualifying under and complying with all provisions of this part and orders, rulings, regulations and directions issued under this section.

(d) Licenses shall not be transferable.

(e) The licensing period shall be from the first day of July through the thirtieth day of June of the [following year] second year following issuance of such license. The reporting period shall be the first day of April through the thirty-first day of March of the [following year] second year following issuance of such license. During the month of March, the commissioner shall send a notice to each milk dealer, subdealer, cheese manufacturer, dry milk manufacturer and yogurt manufacturer, regarding their license renewal date and licensing reporting requirements.

(f) The fees accompanying their application shall be returned to applicants who have been refused a license by the commissioner.

(g) License fees collected shall be credited to the General Fund.

(h) A milk dealer or a yogurt, dry milk and cheese manufacturer who fails to submit required information or fees no later than sixty days after the end of the licensing period shall be deemed to have surrendered its license and shall be notified by the commissioner via certified mail that its license is expired and deemed to have been surrendered. In the case of a store, such notification may be via first class mail. In the month of September, the commissioner shall furnish all licensed dealers, by electronic or other means deemed acceptable by the commissioner, a listing of all known milk dealers and stores that

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have failed to renew a license or whose license was revoked. The commissioner may update the listing from time to time.

(i) No license shall be issued to any person, firm or corporation who has surrendered its license or whose license was revoked, until the commissioner has received all past due license or late fees.

Sec. 6. Section 22-236 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The [~~annual~~] biennial license fee for each milk dealer, yogurt manufacturer, or subdealer shall be [~~one~~] two hundred dollars. The license fee for dealers and subdealers with yearly sales in excess of one hundred thousand quarts shall be increased at a rate of .021 cents per one hundred quarts of milk product sold during the reporting period.

(b) The license fee for each cheese manufacturer shall be [~~one~~] two hundred dollars.

(c) The license fee for each dry milk manufacturer shall be [~~one~~] two hundred dollars.

(d) The license fee for each store shall be [~~sixty~~] one hundred twenty dollars.

(e) The Commissioner of Agriculture shall adopt regulations, in accordance with the provisions of chapter 54, necessary to carry out the provisions of this section.

(f) The commissioner may grant a waiver from any fee established in this chapter to any nonprofit organization, as defined in Section 501(c)(3) of the United States Internal Revenue Code, upon presentation to the commissioner of adequate proof of the organization's nonprofit status.

Sec. 7. Section 22-344 of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) (1) No person shall maintain a commercial kennel until he has obtained from the commissioner a license to maintain such kennel under such regulations as the commissioner provides as to sanitation, disease and humane treatment of dogs or cats and the protection of the public safety. Upon written application and the payment of a fee of [two] four hundred dollars, the commissioner shall issue such license to be effective until the [ensuing] the second December thirty-first following issuance provided the commissioner finds (A) that such regulations have been complied with, and (B) in the case of each initial application for such license, that the zoning enforcement official of the municipality wherein such kennel is to be maintained has certified that the kennel conforms to the municipal zoning regulations. Such license shall be renewed [annually] biennially, not later than December thirty-first, in accordance with the provisions of this section, and may be transferred by the licensee to another premises upon approval of the commissioner.

(2) Any person who maintains a commercial kennel and who advertises the services of such commercial kennel shall cause the license number for such commercial kennel, as issued pursuant to this section, to clearly appear in such advertisement. The commissioner may adopt regulations, in accordance with chapter 54, to prescribe the requirements for the appearance of the license number of a commercial kennel in any form of advertisement. Such regulation may include, but need not be limited to, the size, font and location of such license number for any given form of advertisement.

(b) No person shall maintain a pet shop until he has obtained from the commissioner a license to maintain such pet shop under such regulations as the commissioner provides as to sanitation, disease and humane treatment of animals and the protection of the public safety. Upon written application and the payment of a fee of [two] four

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hundred dollars, the commissioner shall issue such license to be effective until the [ensuing] second December thirty-first following issuance provided the commissioner finds (1) that such regulations have been complied with, and (2) in the case of each initial application for such license, that the zoning enforcement official of the municipality wherein such pet shop is to be maintained has certified that the pet shop conforms to the municipal zoning regulations. Application for renewal of such license shall be made biennially by not later than the second December thirty-first following issuance. Such pet shop license may be transferred by the licensee to another premises upon the approval of the commissioner. The commissioner, after consultation with the Commissioners of Public Health and Energy and Environmental Protection, shall establish and maintain, pursuant to regulations adopted in accordance with chapter 54, a list of animals which are deemed to be injurious to the health and safety of the public or whose maintenance in captivity is detrimental to the health and safety of the animal. The sale or offer of sale of any animal which is on said list is prohibited and any person who violates this provision shall be fined not more than five hundred dollars.

(c) No person shall engage in the business of grooming or maintaining a grooming facility until such person has obtained from the commissioner a license to maintain such facility under such regulations as the commissioner provides as to sanitation, disease and humane treatment of such animals and the protection of the public safety. Upon written application and the payment of a fee of [one] two hundred dollars, the commissioner shall issue such license to be effective until the [ensuing] second December thirty-first following issuance provided the commissioner finds (1) that such regulations have been complied with, and (2) in the case of each initial application for such license, that the zoning enforcement official of the municipality wherein such grooming is to be maintained has certified that the facility conforms to the municipal zoning regulations. Such

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license shall be renewed [annually] biennially, not later than the second December thirty-first following issuance, in accordance with the provisions of this section, and may be transferred by the licensee to other premises upon approval of the commissioner.

(d) No person shall maintain a training facility until such person has obtained from the commissioner a license to maintain such facility under such regulations as the commissioner provides as to sanitation, disease and humane treatment of such animals and the protection of public safety. Upon written application and the payment of a fee of [one] two hundred dollars, the commissioner shall issue such license to be effective until the [ensuing] second December thirty-first following issuance provided the commissioner finds (1) that such regulations have been complied with, and (2) in the case of each initial application for such license, that the zoning enforcement official of the municipality wherein such training facility is to be maintained has certified that the facility conforms to the municipal zoning regulations. Such license shall be renewed [annually] biennially not later than the second December thirty-first following issuance upon the terms required for the original license and may be transferred by the licensee to another premises upon approval of the commissioner.

(e) (1) No animal importer shall import any dog or cat into this state until such person registers as an animal importer with the commissioner. Such registration shall be on a form as prescribed by the commissioner. Such registration shall require the submission of the following information: (A) The name, mailing address, business address, telephone number and Internet address of such registrant, (B) if such registrant is domiciled out-of-state, the name, Connecticut address and phone number of a Connecticut-based agent for service of process, and (C) the number of animals brought into the state during the prior year by such animal importer and the state or country of origin for each such animal. Such registration shall be accompanied by

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payment of a fee of [one] two hundred dollars and shall be valid until the second December thirty-first following such registration. Such registration shall be renewed [annually] biennially not later than the second December thirty-first following issuance, in accordance with the provisions of this subsection, provided the commissioner determines that such registrant complies with any requirements provided by the commissioner as to the health, safety and humane treatment of animals that is applicable to animal importers. Such registration shall not be required for any employee or volunteer of a registered animal importer or other person who is required to be licensed pursuant to the provisions of this chapter, provided such employee, volunteer or other person is not otherwise an animal importer. Any person who violates the provisions of this subdivision shall be fined not more than five hundred dollars.

(2) Any animal importer who intends to offer for sale, adoption or transfer any dog or cat at a venue or location that is open to the public or at an outdoor location, including, but not limited to, a parking lot or shopping center, shall provide notice to the Department of Agriculture and the municipal zoning enforcement officer of the town where any such sale, adoption or transfer will occur, not later than ten days prior to such event. Such notice shall state the date for such sale, adoption or transfer event, the exact location of such event and the anticipated number of animals for sale, adoption or transfer at such event. Any person who fails to provide notice as required pursuant to this subdivision shall be fined not more than one hundred dollars per animal that is offered for sale, adoption or transfer at such event.

(3) For the purpose of this subsection, "animal importer" means a person who brings any dog or cat into this state from any other sovereign entity for the purpose of offering such dog or cat to any person for sale, adoption or transfer in exchange for any fee, sale, voluntary contribution, service or any other consideration. "Animal

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importer" includes any commercial or nonprofit animal rescue or adoption, humane relocation or delivery organization that is not otherwise required to be licensed under the provisions of this chapter.

(4) The provisions of this subsection shall not be construed to apply to any animal importer who offers a dog or cat for sale to a pet shop that is licensed in accordance with the provisions of subsection (b) of this section, provided such animal is delivered directly to a pet shop.

(5) The Commissioner of Agriculture may inspect any animal imported by an animal importer or any record required to be kept by such animal importer, provided such inspection shall not authorize the entry of the commissioner into the residence of such animal importer.

(6) Not later than December 31, 2013, the Commissioner of Agriculture shall prescribe the conditions that constitute the humane treatment of animals that are applicable to animal importers. Such conditions shall include, but not be limited to, the appropriate shelter, availability of food and water and standard of care to be provided by an animal importer to such animals.

(f) The commissioner may, at any time, inspect or cause to be inspected by the commissioner's agents any such commercial kennel, pet shop, grooming facility or training facility, and if, (1) in the commissioner's judgment such kennel, pet shop, grooming facility or training facility is not being maintained in a sanitary and humane manner or in a manner that protects the public safety, (2) the commissioner finds that contagious, infectious or communicable disease or other unsatisfactory conditions exist, or (3) in the case of a pet shop, the commissioner finds any violation of the provisions of section 22a-381d, the commissioner may issue a fine to such commercial kennel, pet shop, grooming facility or training facility of not more than five hundred dollars for each animal that is the subject of such violation, may issue such orders as the commissioner deems

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necessary for the correction of such conditions and may quarantine the premises and animals. If the owner or keeper of such kennel, pet shop, grooming facility or training facility fails to comply with the regulations or orders of the commissioner, or fails to comply with any provision of the statutes or regulations relating to dogs or other animals, the commissioner may revoke or suspend such license. Any person aggrieved by any order issued under the provisions of this section may appeal therefrom in accordance with the provisions of section 4-183. Any person maintaining any commercial kennel, pet shop, grooming facility or training facility without having obtained a license for the same or after any such license has been revoked or suspended as provided herein shall be fined not more than two hundred dollars. The provisions of this section shall not apply to veterinary hospitals, except those boarding or grooming dogs for nonmedical purposes, and other establishments where all the dogs or animals were born and raised on the premises where they are kept for sale.

(g) The provisions of subsections (a) to (d), inclusive, of this section requiring certification by the zoning enforcement official that every commercial kennel, pet shop, grooming facility and training facility conforms to the zoning regulations of the municipality wherein such kennel, pet shop, grooming facility or training facility is maintained shall not apply to any person who is licensed under said subsections and maintained any such kennel, pet shop or grooming facility prior to October 1, 1977, provided such person does not relocate such kennel, pet shop, grooming facility or training facility in a zone in which such kennel, pet shop, grooming facility or training facility is not a permitted use. In addition, the provisions of said subsections requiring certification by the zoning enforcement official that every commercial kennel, pet shop, grooming facility and training facility conforms to the zoning regulations of the municipality wherein such kennel, pet shop, grooming facility or training facility is maintained shall not

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apply when a zone in which such kennel, pet shop, grooming facility or training facility is maintained is changed to a use which does not permit such kennel, pet shop, grooming facility or training facility in such zone.