

UTAH FILE 1943 - UTAH
ANNOTATED CODE

3-7-4. Label or Signs to Indicate Grade.

It shall be unlawful for any person to sell or offer or expose for sale any eggs that are intended for human consumption without notifying by suitable signs or label the persons purchasing or intending to purchase the same of the exact grade or quality according to the standards prescribed by the state board of agriculture. (L. 25, p. 165, § 4.)

History.

As amended by L. 35, ch. 2, eff. May 14, by eliminating requirement that "pullet" eggs be labeled such.

Comparable provisions.

Cal. Agric. Code, § 1103.1 (similar).

3-7-5. Candling Record to Be Kept.

Every person shall in selling, buying or exchanging eggs keep such candling records as may be required by the rules and regulations of the state board of agriculture, and all such records shall be open at all reasonable times for examination by accredited inspectors or representatives of the state board of agriculture. (L. 25, p. 165, § 5.)

Comparable provisions.

Iowa Code 1939, § 3109 (substantially the same).

3-7-6. Effect of Seller's Guaranty.

No retailer shall be prosecuted under the provisions of this chapter, if he can establish a guaranty from the person from whom any eggs are purchased to the effect that the eggs at the time of such purchase conformed to the grade or quality and the size or weight as stated in the invoice and said eggs were labeled by the retailer for resale in accordance with the purchase invoice; *provided*, that such guaranty shall not exempt from prosecution any retailer who may have kept the eggs covered by such guaranty for such time after their purchase or under such conditions as to cause them to deteriorate into a lower grade or standard. (L. 25, p. 165, § 6.)

3-7-7. Penalty.

Every person who violates any of the provisions of this chapter is guilty of a misdemeanor, and shall be punished by a fine of not less than \$25 nor more than \$100. (L. 25, p. 165, § 7.)

CHAPTER 8

COMMERCIAL FEEDING STUFFS

- | | |
|--|--|
| 3-8-1. Commercial Feed and Feeding Stuff Defined. | 3-8-6. Deceptive Names and Labels Denied Registration. |
| 3-8-2. To Be Labeled Before Sale. | 3-8-7. Right of Visitation—Samples. |
| 3-8-3. Registration — Fees — Invoice and Tax Stamps for Consumers' Formula Mixtures. | 3-8-8. Rules and Regulations. |
| 3-8-4. Id. One Statement Sufficient. | 3-8-9. State Chemist to Analyze. |
| 3-8-5. Purchasers to Be Supplied with Statement. | 3-8-10. Violation of Chapter—Penalty. |

3-8-1. Commercial Feed and Feeding Stuff Defined.

The terms "commercial feed and commercial feeding stuff" shall include all materials used for feeding birds or other domestic animals or

domesticated wild animals except the following:

1. Unmixed whole seeds or grain as defined by U. S. grain standards.
2. The unmixed meals made directly from and consisting wholly of any one of the following entire grains; corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, milo or other seeds or grains.
3. Entire, unmixed, hays, straws, cotton seed hulls, stover or silage, whether whole, ground or chopped when unmixed with other materials.

(L. 21, p. 35, § 1.)

History.

As amended by L. 39, ch. 9, eff. May 9, making number of changes in section.

Comparable provisions.

Cal. Agric. Code, § 1081, as amended by Laws of 1941 (includes similar provision; exception also as to following items: fresh green roughage; unprocessed milk; wet garbage; salt except in block or chunk form; preparations represented or sold primarily as tonics or for cure, mitigation, or prevention of disease; preparations sold for feeding domestic pets).

Idaho Code, § 24-2501 (similar).

Iowa Code 1939, § 3113 (includes similar provision).

Other provisions comparable to those contained in Title 3, Ch. 8: Ill. Rev. Stats. 1941, Ch. 56½, § 56 et seq.; Mich. Stats. Ann., § 12.491 et seq.; McKinney's N. Y. Consol. Laws, Agriculture and Markets Law, § 128 et seq.; Wis. Stats. § 94.72.

Decisions from other jurisdictions.

—Iowa.

In action against corporation for death of sheep from being fed defend-

ant's powder, the court properly instructed the jury that defendant would be bound by representations of its sales manager made in furtherance of sales that powder was not injurious to sheep in condition of plaintiff's sheep if jury found that he did make such representation to plaintiff since warranty was not unusual, not being one of cure but that powder would not harm sheep. *Miller v. Economy Hog & Cattle Powder Co.*, 228 Iowa 626, 293 N. W. 4.

—Federal.

Iowa statute regulating sale within state by manufacturers, importers, dealers and agents of "concentrated commercial feeding stuffs" and exacting an inspection fee or license fee, falls within the rule that "one who would strike down a state statute as violative of the Federal Constitution must bring himself by proper averments and proper showing within the class as to whom the act thus attacked is unconstitutional," and show that the unconstitutional feature of the statute so operates as to deprive him of rights protected by the Federal Constitution. *Standard Stock Food Co. v. Wright*, 225 U. S. 540, 56 L. Ed. 1197, 32 S. Ct. 784.

3-8-2. To Be Labeled Before Sale.

Every lot or parcel of commercial feeding stuff sold, offered or exposed for sale, or distributed within this state shall have affixed thereto a tag in a conspicuous place on the outside thereof containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (1) The net weight of the contents of the package, lot or parcel.
- (2) The name, brand or trade-mark.
- (3) The name and principal address of the manufacturer or distributor of the product.
- (4) The minimum percentage of crude protein.
- (5) The minimum percentage of crude fat.
- (6) The maximum percentage of ash.
- (7) The maximum percentage of crude fiber.
- (8) The maximum percentage of minerals.
- (9) The specific name of each and every ingredient used in its manufacture under the term as defined by the association of feed control officials of the United States.

Iowa Code 1939, § 3114 (similar).

Cross-references.

Trade marks and names generally, Title 95.

Decisions from other jurisdictions.

—California.

Notwithstanding that tags attached to bags of beet pulp showed, in compliance with statute, that the pulp contained in the bags was composed of a certain quantity of each of several chemical elements, the trial court properly excluded the tags on objection of defendant, inasmuch as no issue in the case involved the question whether the pulp contained those elements; the tags not even purporting to show that the pulp did not contain certain other elements which would be deleterious to animal life, the action at bar having been brought to recover the purchase price of beet pulp sold and delivered to defendant who claimed in defense of the action

fee, falls within the rule that "one who would strike down a state statute as violative of the Federal Constitution must bring himself by proper averments and proper showing within the class as to whom the act thus attacked is unconstitutional," and show that the unconstitutional feature of the statute so operates as to deprive him of rights protected by the Federal Constitution. *Standard Stock Food Co. v. Wright*, 225 U. S. 540, 56 L. Ed. 1197, 32 S. Ct. 784.

The state had authority under its police power to enact statute requiring manufacturers, importers and dealers in "concentrated commercial feeding stuffs," defined in the statute, to state on labels attached to packages or containers of such food stuffs, the percentage of diluents or bases of such food stuffs. *Standard Stock Food Co. v. Wright*, 225 U. S. 540, 56 L. Ed. 1197, 32 S. Ct. 784.

A. L. R. notes.

Constitutionality of requirement of disclosure by label of materials or ingredients of articles sold or offered for sale, 57 A. L. R. 686; constitutionality of statutes requiring notice by label or otherwise of the fact that product is imported, or as to the place of production, 83 A. L. R. 1409.

3-8-3. Registration—Fees—Invoice and Tag

(10)

per cent
used a
or unm
primary
or birds
factors
cium, p
same be
those of
centum

The a
ing to t
agricult

History.
As an
May 14;
changing
Stats.

Comparal
Cal. A
by Laws
Idaho
Iowa C

Cross-ref
Trade
Title 95.

Decisions

—Califor
Notwith
bags of b
with stat
the bags
quantity
elements,
cluded th
ant, inas
involved
contained
even pur
did not
which w
life, the
brought t
beet pulp
ant who c

3-8-3.

Before
this stat
of agric
for each
so requ
mercial
tributed
is repre

fee, falls
who would
as violative
must bring
and proper
to whom the
stitutional,
rates as to
ed by the
ard Stock
540, 56 L.

ed or ex-
ed thereto
a legible
and truly
parcel.

or dis-

All such commercial feeding stuff shall be registered annually and the fee for such registration of each feed shall be \$4. The person so registering such feed shall receive therefor a license to sell such commercial feed until the first day of January next following. Before any change in ingredients or guaranteed analysis may be made by the manufacturer of any commercial feeding stuffs registered in the state of Utah notice of said change must be given to the state board of agriculture and a new application for registration filed in the office of such board. A new certificate shall be issued before such commercial feeding stuffs may be offered for sale in the state of Utah. Fee for such change in registration shall be \$1. Any manufacturer, jobber, firm, association, corporation or person who manufactures or mixes any feeding stuffs according to a formula furnished by a consumer which is not to be resold shall furnish those for whom such feeding stuffs are manufactured or made a numbered invoice which shall have written or printed thereon the date of the sale, name and address of purchaser, and name and number of pounds of each ingredient entering into such feeding stuff. All such invoices shall remain on file with such manufacturer or mixer for one year and the same invoice number shall not be used twice in any one year. The state board of agriculture and its authorized agent shall have access to all such invoices at all times. Each package or parcel of such feeding mixture shall have attached thereto a written or printed tag showing the invoice number and date of each invoice and the name and address of the mixer or manufacturer. Such mixture shall not be subject to registration and fee as provided for in this section but will be subject to a fee of \$0.10 per ton. For the purposes of collection of said fee stamps of appropriate denominations will be provided and sold by the state board of agriculture to the manufacturers and mixers and such stamps must be placed on tags to be attached to each package or parcel or if the mixture is delivered in bulk and not in containers such stamps must be affixed to the invoice covering such mixtures. All fees under this section shall be collected by the commissioner of agriculture and shall be used for the payment of the cost of inspection, assembling, analysis, and other expenses necessary for putting into effect the provisions of this chapter. (L. 21, p. 35, § 3.)

History.

As amended by L. 39, ch. 9, eff. May 9, by adding all of section following first sentence, except requirement of fee which formerly was \$3.00.

Comparable provisions.

Idaho Code, § 24-2503 (substantially identical with first sentence herein).

Iowa Code 1939, § 3117 (similar in purport).

Cross-references.

Failure to obtain license generally as crime, 103-26-68.

Decisions from other jurisdictions.**—Iowa.**

Inasmuch as the statute imposing license fee on persons who sell concentrated feeding stuffs does not authorize recovery of the fee by civil action, no such action will lie for that purpose. State v. Shores-Mueller Co., 182 Iowa 501, 166 N. W. 62, 5 A. L. R. 1305.

3-8-4. Id. One Statement Sufficient.

Whenever a person manufacturing or selling a brand of commercial feeding stuff shall have filed the statement required by section 3-8-3 no other agent or person shall be required to file such statement.

(L. 21, p. 35, § 6.)

Compar
Idaho
port).

3-8-5.

Whe
is offer
keeping
the ma
ment r
ing stu
the pur
provisi

Compar
Idaho

3-8-6.

The s
feeding
mislead
the spe
is not s
feeding
person.
in viola
agricult
allow ar
dients c
for wh
making

Compar
Idaho
identical

3-8-7.

The s
business
kind use
age of c
or suppo
such sar
of the se
lyzed as
every co
for sale
for a vic
the sam
be less
portions
or pare
taken fi

All such commercial feeding stuff shall be registered annually and the fee for such registration of each feed shall be \$4. The person so registering such feed shall receive therefor a license to sell such commercial feed until the first day of January next following. Before any change in ingredients or guaranteed analysis may be made by the manufacturer of any commercial feeding stuffs registered in the state of Utah notice of said change must be given to the state board of agriculture and a new application for registration filed in the office of such board. A new certificate shall be issued before such commercial feeding stuffs may be offered for sale in the state of Utah. Fee for such change in registration shall be \$1. Any manufacturer, jobber, firm, association, corporation or person who manufactures or mixes any feeding stuffs according to a formula furnished by a consumer which is not to be resold shall furnish those for whom such feeding stuffs are manufactured or made a numbered invoice which shall have written or printed thereon the date of the sale, name and address of purchaser, and name and number of pounds of each ingredient entering into such feeding stuff. All such invoices shall remain on file with such manufacturer or mixer for one year and the same invoice number shall not be used twice in any one year. The state board of agriculture and its authorized agent shall have access to all such invoices at all times. Each package or parcel of such feeding mixture shall have attached thereto a written or printed tag showing the invoice number and date of each invoice and the name and address of the mixer or manufacturer. Such mixture shall not be subject to registration and fee as provided for in this section but will be subject to a fee of \$0.10 per ton. For the purposes of collection of said fee stamps of appropriate denominations will be provided and sold by the state board of agriculture to the manufacturers and mixers and such stamps must be placed on tags to be attached to each package or parcel or if the mixture is delivered in bulk and not in containers such stamps must be affixed to the invoice covering such mixtures. All fees under this section shall be collected by the commissioner of agriculture and shall be used for the payment of the cost of inspection, assembling, analysis, and other expenses necessary for putting into effect the provisions of this chapter. (L. 21, p. 35, § 3.)

History.

As amended by L. 39, ch. 9, eff. May 9, by adding all of section following first sentence, except requirement of fee which formerly was \$3.00.

Comparable provisions.

Idaho Code, § 24-2503 (substantially identical with first sentence herein).

Iowa Code 1939, § 3117 (similar in purport).

Cross-references.

Failure to obtain license generally as crime, 103-26-68.

Decisions from other jurisdictions.**— Iowa.**

Inasmuch as the statute imposing license fee on persons who sell concentrated feeding stuffs does not authorize recovery of the fee by civil action, no such action will lie for that purpose. State v. Shores-Mueller Co., 182 Iowa 501, 166 N. W. 62, 5 A. L. R. 1305.

3-8-4. Id. One Statement Sufficient.

Whenever a person manufacturing or selling a brand of commercial feeding stuff shall have filed the statement required by section 3-8-3 no other agent or person shall be required to file such statement.

(L. 21, p. 35, § 6.)

Compara
Idaho
port).

3-8-5.

Whe
is offer
keeping
the man
ment r
ing stu
the pur
provisio

Compara
Idaho

3-8-6.

The s
feeding
mislead
the spe
is not s
feeding
person.
in viola
agricult
allow at
dients
for wh
making

Compara
Idaho
identical

3-8-7.

The s
business
kind use
age of
or suppo
such sa
of the s
lyzed as
every co
for sale
for a vic
the sam
be less
portions
or par
taken fi