

ADVANCE COPY

ASSEMBLY, No. 1148

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 14, 1970

By Assemblymen LITTELL and FORAN

Referred to Committee on Agriculture, Conservation  
and Natural Resources

AN ACT to regulate the manufacture and distribution of commercial feeds in the State of New Jersey and repealing R. S. 4:4-1 through R. S. 4:4-20.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Short title. This act shall be known and may be cited as the  
2 "New Jersey Commercial Feed Law of 1970."

1 2. Enforcing official. This act shall be administered by the De-  
2 partment of Agriculture of the State of New Jersey, hereinafter  
3 referred to as the "department."

1 3. Definitions of words and terms. As used in this act:

2 a. "Person" means individual, partnership, corporation and  
3 association.

4 b. "Distribute" means to offer for sale, sell, exchange, or barter,  
5 commercial feed; or to supply, furnish, or otherwise provide com-  
6 mercial feed to a contract feeder.

7 c. "Distributor" means any person who distributes.

8 d. "Commercial feed" means all materials except unmixed seed,  
9 whole or processed, when not adulterated within the meaning of  
10 section 7 which are distributed for use as feed or for mixing in feed,  
11 provided, that the State board by regulation may exempt from this  
12 definition, or from specific provisions of this act, commodities such  
13 as hay, straw, stover, silage, cobs, husks, hulls, and individual  
14 chemical compounds, or substances when such commodities, com-  
15 pounds or substances are not intermixed or mixed with other ma-  
16 terials and are not adulterated within the meaning of section 7 of  
17 this act.

18 e. "Feed ingredient" means each of the constituent materials  
19 making up a commercial feed.

- 20 f. "Mineral feed" means a commercial feed intended to supply  
21 primarily mineral elements or inorganic nutrients.
- 22 g. "Drug" means any article intended for use in the diagnosis,  
23 cure, mitigation, treatment, or prevention of disease in animals  
24 other than man, and articles other than feed intended to affect the  
25 structure or any function of the animal body.
- 26 h. "Customer formula feed" means commercial feed which con-  
27 sists of a mixture of commercial feeds and feed ingredients, or  
28 either thereof, each batch of which is manufactured according to  
29 the specific instructions of the final purchaser.
- 30 i. "Manufacture" means to grind, mix or blend, or further  
31 process a commercial feed for distribution.
- 32 j. "Facility" means each separate mill or plant, fixed or mobile.
- 33 k. "Brand name" means any word, name, symbol, or device, or  
34 any combination thereof, identifying the commercial feed of a  
35 distributor or registrant and distinguishing it from that of others.
- 36 l. "Product name" means the name of the commercial feed  
37 which identifies it as to kind, class, or specific use.
- 38 m. "Label" means a display of written, printed, or graphic  
39 matter upon or affixed to the container in which a commercial feed  
40 is distributed, or on the invoice or delivery slip with which a com-  
41 mercial feed is distributed.
- 42 n. "Labeling" means all labels and other written, printed, or  
43 graphic matter (1) upon a commercial feed or any of its containers  
44 or wrapper, or (2) accompanying such commercial feed.
- 45 o. "Ton" means a net weight of 2,000 pounds avoirdupois.
- 46 p. "Per cent" or "percentages" means percentages by weight.
- 47 q. "Official sample" means a sample of commercial feed taken  
48 by the Secretary of Agriculture or his agent in accordance with  
49 the provisions of section 11 (c), (e), or (f) of this act.
- 50 r. "Contract feeder" means a person who as an independent  
51 contractor, feeds commercial feed to animals pursuant to a con-  
52 tract whereby such commercial feed is supplied, furnished, or  
53 otherwise provided to such person and whereby such person's  
54 remuneration is determined all or in part by feed consumption,  
55 mortality, profits, or amount or quality of product.
- 56 s. "Pet" means any domesticated animal normally maintained  
57 in or near the household of the owner thereof.
- 58 t. "Pet food" means any commercial feed prepared and dis-  
59 tributed for consumption by pets.
- 60 u. "Department" means the New Jersey Department of Agri-  
61 culture and includes the State Board of Agriculture, the Secretary  
62 of Agriculture, and all employees and agents thereof.

63 v. "State board" means the State Board of Agriculture of New  
64 Jersey.

65 w. "Secretary" means the Secretary of Agriculture of New  
66 Jersey.

67 x. "State Chemist" means the person appointed by the State  
68 board, subject to the supervision of the secretary.

1 4. Registration. a. Every person engaged in the manufacture of  
2 commercial feed or customer formula feed to be distributed in this  
3 State shall on January 1 of each year, or prior to manufacture or  
4 distribution of such feed, register each facility on a form furnished  
5 by the State Chemist, the application to be accompanied by a fee  
6 of \$25.00. Upon approval by the State board, a copy of the regis-  
7 tration shall be furnished to the applicant and displayed in or on  
8 the facility.

9 b. The State board is empowered to refuse registration of any  
10 facility not in compliance with the provisions of this act or to  
11 cancel the registration of any facility subsequently found not to be  
12 in compliance with any provision of this act, provided, however,  
13 that no registration shall be refused or cancelled until the regis-  
14 trant shall have been given an opportunity to be heard before the  
15 secretary or his agent.

16 c. Before a commercial feed may be offered for sale which con-  
17 tains drugs, chemical additives or other ingredients which are  
18 potentially harmful to animals, the registrant may be required to  
19 submit evidence to show the safety of the feed when used according  
20 to the directions which the distributor furnished with the feed.

1 5. Labeling. A commercial feed shall be labeled as follows:

2 a. In case of a commercial feed, except a customer formula feed,  
3 it shall be accompanied by a label bearing the following informa-  
4 tion:

5 (1) The net weight or contents as provided by regulation.

6 (2) The product name and the brand name, if any, under which  
7 the commercial feed is distributed.

8 (3) The guaranteed analysis stated in such terms as the State  
9 board by regulation determines is required to advise the user of  
10 the composition of the feed or to support claims made in the label-  
11 ing. In all cases, the substances or elements must be determinable  
12 by laboratory methods from generally recognized sources such as  
13 the methods published by the Association of Official Analytical  
14 Chemists.

15 (4) The common or usual name or each ingredient used in the  
16 manufacture of the commercial feed, provided that the State board

17 by regulation may permit the use of a collective term for a group  
18 of ingredients which perform a similar function, or it may exempt  
19 such commercial feeds, or any group thereof, from this require-  
20 ment of an ingredient statement if it finds that such statement is  
21 not required in the interest of consumers.

22 (5) The name and principal mailing address of the manufacturer  
23 or the person responsible for distributing the commercial feed.

24 (6) Adequate directions for use for all commercial feeds con-  
25 taining drugs and for such other feeds as the State board may  
26 require by regulation as necessary for their safe and effective use.

27 (7) Such warning or caution statements as the State board by  
28 regulation determines are necessary for the safe and effective use  
29 of the commercial feed.

30 (8) The amount of any drug stated in an appropriate manner in  
31 a prominent place.

32 b. In the case of a customer formula feed, it shall be accom-  
33 panied by a label, invoice, delivery slip, or other shipping docu-  
34 ment, bearing the following information:

35 (1) Name and address of the manufacturer.

36 (2) Name and address of the purchaser.

37 (3) Date of delivery.

38 (4) The product name and brand name, if any, and the net  
39 weight of the customer formula feed.

40 (5) Adequate directions for use for all customer formula feeds  
41 containing drugs and for such other feeds as the State board may  
42 require by regulation as necessary for their safe and effective use.

43 (6) Such warning or caution statements as the State board by  
44 regulation determines are necessary for the safe and effective use  
45 of the customer formula feed.

46 c. Label and nonquantitative listings of ingredients of formulae  
47 shall be submitted to the department upon request.

1 6. Misbranding. A commercial feed shall be deemed to be mis-  
2 branded:

3 a. If its labeling is false or misleading in any particular.

4 b. If it is distributed under the name of another commercial  
5 feed.

6 c. If it is not labeled as required in section 5 of this act.

7 d. If it purports to contain or is represented as containing or if  
8 it purports to contain or is represented as containing a commercial  
9 feed ingredient, unless such commercial feed or feed ingredient  
10 conforms to the definition, if any, prescribed by regulation by the  
11 State board.

12 e. If any word, statement, or other information required by or  
13 under authority of this act to appear on the label or labeling is not  
14 prominently placed thereon with such conspicuousness (as com-  
15 pared with other words, statements, designs, or devices in the  
16 labeling) and in such terms as to render it likely to be read and  
17 understood by the ordinary individual under customary condi-  
18 tions of purchase and use.

1 7. Adulteration. A commercial feed shall be deemed to be  
2 adulterated:

3 a. (1) If it bears or contains any poisonous or deleterious sub-  
4 stance which may render it injurious to health; but in case the  
5 substance is not an added substance, such commercial feed shall  
6 not be considered adulterated under this subsection if the quantity  
7 of such substance in such commercial feed does not ordinarily  
8 render it injurious to health; or

9 (2) If it bears or contains any added poisonous, added deleter-  
10 ious, or added nonnutritive substance which is unsafe within the  
11 meaning of the Federal Food, Drug and Cosmetic Act; or

12 (3) If it is, or it bears or contains any food additive which is  
13 unsafe within the meaning of the Federal Food, Drug, and  
14 Cosmetic Act; or

15 (4) If it is a raw agricultural commodity and it bears or con-  
16 tains a pesticide chemical which is unsafe within the meaning of the  
17 Federal Food, Drug, and Cosmetic Act, provided that where a  
18 pesticide chemical has been used in or on a raw agricultural com-  
19 modity in conformity with an exemption granted or a tolerance  
20 prescribed under the Federal Food, Drug, and Cosmetic Act and  
21 such raw agricultural commodity has been subjected to processing  
22 such as canning, cooking, freezing, dehydrating, or milling, the  
23 residue of such pesticide chemical remaining in or on such pro-  
24 cessed feed shall not be deemed unsafe if such residue in or on the  
25 raw agricultural commodity has been removed to the extent  
26 possible in good manufacturing practice and the concentration of  
27 such residue in the processed feed is not greater than the tolerance  
28 prescribed for the raw agricultural commodity unless the feeding  
29 of such processing feed will result or is likely to result in a pesti-  
30 cide residue in the edible product of the animal, which is unsafe  
31 within the meaning of the Federal Food, Drug, and Cosmetic Act.

32 (5) If it is an artificial color additive that has been deemed to  
33 be unsafe within the meaning of section 706 of the Federal Food,  
34 Drug, and Cosmetic Act.

35 b. If any valuable constituent has been in whole or in part  
36 omitted or abstracted therefrom or any less valuable substance sub-  
37 stituted therefor.

38 c. If its composition or quality falls below or differs from that  
39 which it is purported or is represented to possess by its labeling.

40 d. If it contains a drug and the methods used in or the facilities  
41 or controls used for its manufacture, processing, or packaging do  
42 not conform to current good manufacturing practice regulations  
43 promulgated by the State board to assure that the drug meets the  
44 requirement of this act as to safety and has the identity and  
45 strength and meets and quality and purity characteristics which it  
46 purports or is represented to possess . In promulgating such regu-  
47 lations the State board shall adopt the current good manufacturing  
48 practice regulations for medicated feed premixes and for medi-  
49 cated feeds established under authority of the Federal Food, Drug,  
50 and Cosmetic Act, unless it determines that they are not appro-  
51 priate to the conditions which exist in this State.

52 e. If it contains viable weed seeds in amounts exceeding the  
53 limits which the State board shall establish by rule or regulation.

1 8. Prohibited acts. The following acts are prohibited in the State  
2 of New Jersey:

3 a. The manufacture or distribution of any commercial feed that  
4 is adulterated or misbranded.

5 b. The adulteration or misbranding of any commercial feed.

6 c. The distribution of agricultural commodities such as whole  
7 seed, hay, straw, stover, silage, cobs, husks, and hulls, which are  
8 adulterated within the meaning of section 7 of this act.

9 d. The removal or disposal of a commercial feed in violation of  
10 an order under section 12 of this act.

11 e. The failure or refusal to register in accordance with section  
12 4 of this act.

13 f. The violation of section 13 f of this act.

14 g. Failure to pay inspection fees and file reports as required by  
15 section 9 of this act.

1 9. Inspection fees and reports. a. An inspection fee at the rate  
2 of \$0.15 per ton shall be paid on commercial feeds distributed in  
3 this State by the person who distributes the commercial feed to the  
4 consumer subject to the following:

5 (1) No fee shall be paid on a commercial feed if the payment  
6 has been made by a previous distributor.

7 (2) No fee shall be paid on customer formula feeds if the in-  
8 spection fee is paid on the commercial feeds which are used as  
9 ingredients therein.

10 (3) No fee shall be paid on commercial feeds which are used as  
11 ingredients for the manufacture of commercial feeds which are  
12 subject to the inspection fee. If the fee has already been paid,  
13 credit shall be given for such payment.

14 (4) In the case of any person who manufactures or distributes  
15 commercial feed in the State, a minimum annual fee of \$25.00 shall  
16 be paid.

17 b. Each person who is liable for the payment of such fee shall:

18 (1) File, not later than January 31 of each year, a statement,  
19 setting forth the number of net tons of commercial feeds dis-  
20 tributed in this State during the preceding calendar year; and upon  
21 filing such statement shall pay the inspection fee at the rate stated  
22 in paragraph "a." of this section. Inspection fees which are due  
23 and owing and have not been remitted to the department within 15  
24 days following the due date shall have a penalty fee of 10%  
25 (minimum \$10.00) added to the amount due when payment is finally  
26 made. The assessment of this penalty fee shall not prevent the  
27 department from taking other actions as provided in this act.

28 (2) Keep such records as may be necessary or required by the  
29 State board to indicate accurately the tonnage of commercial feed  
30 distributed in this State, and the department shall have the right  
31 to examine such records to verify statements of tonnage.

32 Failure to make an accurate statement of tonnage or to pay the  
33 inspection fee or comply as provided herein shall constitute suffi-  
34 cient cause for the cancellation of all registrations on file for the  
35 distributor.

36 c. Fees imposed by, and fines collected for violations of this act,  
37 shall be deposited with the State Treasurer and maintained by him  
38 in a special account. Money credited to the special account shall be  
39 appropriated and used for the costs of inspection, sampling,  
40 analyses and other expenses necessary for the administration of  
41 this act.

1 10. Rules and regulations. a. The State board is authorized to  
2 promulgate such rules and regulations for commercial feeds and  
3 pet foods as are specifically authorized in this act and such other  
4 reasonable rules and regulation as it may deem necessary and  
5 proper for the efficient administration of this act. In the interest of  
6 uniformity, the State board shall by regulation adopt, unless it  
7 determines that they are inconsistent with the provisions of this  
8 act or are not appropriate to conditions which exist in this State,  
9 the following:

10 (1) The definition of feed ingredients and feed terms adopted  
11 by the Association of American Feed Control Officials and pub-  
12 lished in the official publication of that organization, and

13 (2) Any regulation promulgated pursuant to the authority of  
14 the Federal Food, Drug and Cosmetic Act (U. S. C. Title 29, Sec.  
15 301, et seq.).

16 b. Before the adoption, amendment, or repeal of any rule or  
17 regulation authorized by this act, the State board shall comply with  
18 the requirements of the Administrative Procedure Act (P. L. 1968,  
19 c. 410) (C. 52:14B-1 et seq.).

1 11. Inspection, sampling, and analysis. a. For the purpose of  
2 enforcement of this act, and in order to determine whether its pro-  
3 visions have been complied with, including whether or not any  
4 operations may be subject to such provisions, officers or employees  
5 duly designated by the secretary, upon presenting appropriate  
6 credentials, and a written notice to the owner, operator, or agent in  
7 charge, are authorized (1) to enter, during normal business hours,  
8 any factory, warehouse, or establishment within this State in which  
9 commercial feeds are manufactured, processed, packed, or held for  
10 distribution, or to enter any vehicle being used to transport or hold  
11 such feeds; and (2) to inspect at reasonable times and within  
12 reasonable limits and in a reasonable manner, such factory, ware-  
13 house, establishment or vehicle and all pertinent equipment,  
14 finished and unfinished materials, containers, nonquantitative list-  
15 ings of ingredients of formulae, shipping records and labeling  
16 therein. The inspection may include the verification of only such  
17 records, and production and control procedures as may be ne-  
18 cessary to determine compliance with the good manufacturing  
19 practice regulations established under section 7 "d." of this act.

20 b. A separate notice shall be given for each such inspection, but  
21 a notice shall not be required for each entry made during the period  
22 covered by the inspection. Each such inspection shall be com-  
23 menced and completed with reasonable promptness. Upon comple-  
24 tion of the inspection, the person in charge of the facility or vehicle  
25 shall be so notified.

26 c. If the officer or employee making such inspection of a factory,  
27 warehouse, or other establishment has obtained a sample in the  
28 course of the inspection, upon completion of the inspection and  
29 prior to leaving the premises he shall give to the owner, operator,  
30 or agent in charge a receipt describing the samples obtained.

31 d. If the owner of any factory, warehouse, or establishment  
32 described in paragraph "a.," or his agent, refuses to admit the



33 secretary or his agent to inspect in accordance with paragraphs  
34 "a." and "b.," the secretary is authorized to obtain from a court  
35 of competent jurisdiction in the area in which any such factory,  
36 warehouse or establishment is located, a warrant directing such  
37 owner or his agent to submit the premises described in such  
38 warrant to inspection.

39 e. For the purpose of the enforcement of this act, the secretary  
40 or his duly designated agent is authorized to enter upon any public  
41 or private premises including any vehicle of transport during  
42 regular business hours to have access to, and to obtain samples,  
43 and to examine records relating to distribution of commercial  
44 feeds.

45 f. Sampling and analysis shall be conducted in accordance with  
46 methods published by the Association of Official Analytical Chem-  
47 ists, or in accordance with other generally recognized methods.

48 g. The results of all analyses of official samples shall be for-  
49 warded by the State Chemist to the person named on the label  
50 and after 14 days to the purchaser. When the inspection and analy-  
51 sis of an official sample indicates a commercial feed has been adul-  
52 terated or misbranded and upon request within 30 days following  
53 receipt of the analysis the State Chemist shall furnish to the regis-  
54 trant a portion of the sample concerned.

55 h. The State Chemist, in determining for administrative purposes  
56 whether a commercial feed is deficient in any component, shall be  
57 guided by the official sample as defined in paragraph "q." of  
58 section 3 and obtained and analyzed as provided for in paragraphs  
59 "c.," "e." and "f." of this section.

1 12. Detained commercial feeds. a. "Withdrawal from distribu-  
2 tion" orders: When the State Chemist or his authorized agent  
3 has reasonable cause to believe any lot of commercial feed is being  
4 distributed in violation of any of the provisions of this act or any  
5 of the prescribed regulations under this act, he may issue and  
6 enforce a written or printed "withdrawal from distribution"  
7 order, warning the distributor not to dispose of the lot of com-  
8 mercial feed in any manner until written permission is given by  
9 the State Chemist or the court. The State Chemist shall release  
10 the lot of commercial feed so withdrawn when said provisions and  
11 regulations have been complied with. If compliance is not obtained  
12 within 30 days, the State Chemist may begin, or upon request of  
13 the distributor or registrant shall begin, proceedings for con-  
14 demnation.

15 b. "Condemnation and confiscation": Any lot of commercial  
16 feed not in compliance with said provisions and regulations shall  
17 be subject to seizure on complaint of the secretary to a court of  
18 competent jurisdiction in the area in which said commercial feed  
19 is located. In the event the court finds the said commercial feed  
20 to be in violation of this act and orders the condemnation of said  
21 commercial feed, it shall be disposed of in any manner consistent  
22 with the quality of the commercial feed and the laws of the State,  
23 provided, that in no instance shall the disposition of said commer-  
24 cial feed be ordered by the court without first giving the claimant  
25 an opportunity to apply to the court for release of said commer-  
26 cial feed or for permission to process or relabel said commercial  
27 feed to bring it into compliance with this act.

1 13. Penalties. a. Any person convicted of violating any of the  
2 provisions of this act or the rules and regulations promulgated  
3 thereunder or who shall impede, hinder, or otherwise prevent, or  
4 attempt to prevent, said secretary or his duly authorized agent  
5 in performance of his duty in connection with the provisions of  
6 this act, shall be fined not less than \$50.00 or more than \$100.00  
7 for the first violation, and not less than \$100.00 or more than  
8 \$500.00 for a subsequent violation in any one year.

9 b. Nothing in this act shall be construed as requiring the State  
10 Chemist or his representative to: (1) report for prosecution, or  
11 (2) institute seizure proceedings, or (3) issue a withdrawal from  
12 distribution order, as a result of minor violations of the act, or  
13 when he believes the public interest will best be served by suitable  
14 notice of warning in writing.

15 c. It shall be the duty of the Attorney General to whom any vio-  
16 lation is reported to cause appropriate proceedings to be instituted  
17 and prosecuted in a court of competent jurisdiction without delay.  
18 Before the State Chemist reports a violation for such prosecution,  
19 an opportunity shall be given the distributor to present his view  
20 to the secretary.

21 d. The secretary is hereby authorized to apply for and the court  
22 to grant in an appropriate case, a temporary or permanent in-  
23 junction restraining any person from violating or continuing to  
24 violate any of the provisions of this act or any rule or regulation  
25 promulgated under the act, notwithstanding the existence of other  
26 remedies at law. Said injunction to be issued without bond.

27 e. Any person adversely affected by an act, order, or ruling made  
28 pursuant to the provisions of this act may seek judicial review  
29 by appeal to the Superior Court by a proceeding in lieu of pre-  
30 rogative writs.

31 f. Any person who used to his own advantage, or reveals to other  
32 than the secretary, or officers of the New Jersey Department of  
33 Agriculture, or to the courts when relevant in any judicial pro-  
34 ceeding, any information acquired under the authority of this act,  
35 concerning any method, records, formulations, or processes which  
36 as a trade secret is entitled to protection, is guilty of a misde-  
37 meanor and shall on conviction thereof be fined not less than \$500.00  
38 or imprisoned for not less than 1 year or both, provided that, this  
39 prohibition shall not be deemed as prohibiting the secretary or  
40 his duly authorized agent, from exchanging information of a regu-  
41 latory nature with duly appointed officials of the United States  
42 Government, or of other states, who are similarly prohibited by  
43 law from revealing this information.

44 g. Upon receiving any information of a violation of any provi-  
45 sions of this act or of any rule or regulation adopted thereunder,  
46 the secretary or any agent designated by him for such purpose,  
47 is empowered to hold hearings upon said violation and, upon find-  
48 ing the violation to have been committed, to assess a penalty  
49 against the violator in such amount, not to exceed the maximum  
50 limit set forth in this section, as the secretary deems proper under  
51 the circumstances. If the violator pays such penalty as settlement,  
52 no further prosecution shall be had upon that violation. Payment  
53 of such a penalty shall be deemed equivalent to a conviction for  
54 violation of this act.

1 14. Cooperation with other entities. The secretary may cooper-  
2 ate with and enter into agreements with governmental agencies  
3 of this State, other states, agencies of the Federal Government,  
4 and private associations in order to carry out the purpose and  
5 provisions of this act.

1 15. Publication. The State Chemist shall publish annually, in  
2 such forms as he may deem proper, information concerning the  
3 sales of commercial feeds, together with such data on their pro-  
4 duction and use as he may consider advisable, and a report of the  
5 results of the analyses of official samples of commercial feeds sold  
6 within the State as compared with the analyses guaranteed on the  
7 label, provided that the information concerning production and  
8 use of commercial feeds shall not disclose the operations of any  
9 person.

1 16. Constitutionality. If any clause, sentence, paragraph, or  
2 part of this act shall for any reason be judged invalid by any court  
3 of competent jurisdiction, such judgment shall not affect, impair,  
4 or invalidate the remainder thereof but shall be confined in its

5 operation to the clause, sentence, paragraph, or part thereof di-  
6 rectly involved in the controversy in which such judgment shall  
7 have been rendered.

1 17. Repeal. R. S. 4:4-1 through R. S. 4:4-20 are hereby repealed.

1 18. This act shall take effect January 1, 1971.

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#### STATEMENT

This bill provides for a modern approach to animal feed law enforcement. It replaces a 1912 act and increases the income, derived from licensing and tonnage fees, to the Department of Agriculture from approximately \$35,000.00 to \$70,000.00.

This legislation is similar to the model feed bill that was developed and officially adopted by the Association of American Feed Control Officials and is endorsed by the American Feed Manufacturers' Association, the National Feed Ingredients Association and the Pet Food Institute, and follows closely the legislation on this subject in nearby states. Every effort has been made to design this legislation so that it minimizes interstate shipment problems and eliminates considerable red tape and recordkeeping on the part of government and industry, thus reducing the cost of compliance by industry.

This bill is recommended by the various segments of the feed industry and the Department of Agriculture.

ASSEMBLY COMMITTEE AMENDMENTS TO  
**ASSEMBLY, No. 1148**

—•—  
**STATE OF NEW JERSEY**  
—•—

ADOPTED OCTOBER 5, 1970

Amend page 3, section 5, line 15, after "name", delete "or", insert "of".

Amend page 5, section 7, line 29, after "such", delete "processing", insert "processed".

Amend page 6, section 7, line 45, after "meets", delete "and", and insert "the".

Amend page 11, section 15, line 1, after "publish", insert "at least".

CHAPTER 338 LAWS OF N. J. 1970

APPROVED 12/30/70

[OFFICIAL COPY REPRINT]

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13 as hay, straw, stover, silage, cobs, husks, hulls, and individual  
14 chemical compounds, or substances when such commodities, com-  
15 pounds or substances are not intermixed or mixed with other ma-  
16 terials and are not adulterated within the meaning of section 7 of  
17 this act.

18 e. "Feed ingredient" means each of the constituent materials  
19 making up a commercial feed.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

- 20 f. "Mineral feed" means a commercial feed intended to supply  
21 primarily mineral elements or inorganic nutrients.
- 22 g. "Drug" means any article intended for use in the diagnosis,  
23 cure, mitigation, treatment, or prevention of disease in animals  
24 other than man, and articles other than feed intended to affect the  
25 structure or any function of the animal body.
- 26 h. "Customer formula feed" means commercial feed which con-  
27 sists of a mixture of commercial feeds and feed ingredients, or  
28 either thereof, each batch of which is manufactured according to  
29 the specific instructions of the final purchaser.
- 30 i. "Manufacture" means to grind, mix or blend, or further  
31 process a commercial feed for distribution.
- 32 j. "Facility" means each separate mill or plant, fixed or mobile.
- 33 k. "Brand name" means any word, name, symbol, or device, or  
34 any combination thereof, identifying the commercial feed of a  
35 distributor or registrant and distinguishing it from that of others.
- 36 l. "Product name" means the name of the commercial feed  
37 which identifies it as to kind, class, or specific use.
- 38 m. "Label" means a display of written, printed, or graphic  
39 matter upon or affixed to the container in which a commercial feed  
40 is distributed, or on the invoice or delivery slip with which a com-  
41 mercial feed is distributed.
- 42 n. "Labeling" means all labels and other written, printed, or  
43 graphic matter (1) upon a commercial feed or any of its containers  
44 or wrapper, or (2) accompanying such commercial feed.
- 45 o. "Ton" means a net weight of 2,000 pounds avoirdupois.
- 46 p. "Per cent" or "percentages" means percentages by weight.
- 47 q. "Official sample" means a sample of commercial feed taken  
48 by the Secretary of Agriculture or his agent in accordance with  
49 the provisions of section 11 (c), (e), or (f) of this act.
- 50 r. "Contract feeder" means a person who as an independent  
51 contractor, feeds commercial feed to animals pursuant to a con-  
52 tract whereby such commercial feed is supplied, furnished, or  
53 otherwise provided to such person and whereby such person's  
54 remuneration is determined all or in part by feed consumption,  
55 mortality, profits, or amount or quality of product.
- 56 s. "Pet" means any domesticated animal normally maintained  
57 in or near the household of the owner thereof.
- 58 t. "Pet food" means any commercial feed prepared and dis-  
59 tributed for consumption by pets.
- 60 u. "Department" means the New Jersey Department of Agri-  
61 culture and includes the State Board of Agriculture, the Secretary  
62 of Agriculture, and all employees and agents thereof.

63 v. "State board" means the State Board of Agriculture of New  
64 Jersey.

65 w. "Secretary" means the Secretary of Agriculture of New  
66 Jersey.

67 x. "State Chemist" means the person appointed by the State  
68 board, subject to the supervision of the secretary.

1 4. Registration. a. Every person engaged in the manufacture of  
2 commercial feed or customer formula feed to be distributed in this  
3 State shall on January 1 of each year, or prior to manufacture or  
4 distribution of such feed, register each facility on a form furnished  
5 by the State Chemist, the application to be accompanied by a fee  
6 of \$25.00. Upon approval by the State board, a copy of the regis-  
7 tration shall be furnished to the applicant and displayed in or on  
8 the facility.

9 b. The State board is empowered to refuse registration of any  
10 facility not in compliance with the provisions of this act or to  
11 cancel the registration of any facility subsequently found not to be  
12 in compliance with any provision of this act, provided, however,  
13 that no registration shall be refused or cancelled until the regis-  
14 trant shall have been given an opportunity to be heard before the  
15 secretary or his agent.

16 c. Before a commercial feed may be offered for sale which con-  
17 tains drugs, chemical additives or other ingredients which are  
18 potentially harmful to animals, the registrant may be required to  
19 submit evidence to show the safety of the feed when used according  
20 to the directions which the distributor furnished with the feed.

1 5. Labeling. A commercial feed shall be labeled as follows:

2 a. In case of a commercial feed, except a customer formula feed,  
3 it shall be accompanied by a label bearing the following informa-  
4 tion:

5 (1) The net weight or contents as provided by regulation.

6 (2) The product name and the brand name, if any, under which  
7 the commercial feed is distributed.

8 (3) The guaranteed analysis stated in such terms as the State  
9 board by regulation determines is required to advise the user of  
10 the composition of the feed or to support claims made in the label-  
11 ing. In all cases, the substances or elements must be determinable  
12 by laboratory methods from generally recognized sources such as  
13 the methods published by the Association of Official Analytical  
14 Chemists.

15 (4) The common or usual name \***[or]**\* \*of\* each ingredient used  
16 in the manufacture of the commercial feed, provided that the State



17 board by regulation may permit the use of a collective term for a  
18 group of ingredients which perform a similar function, or it may  
19 exempt such commercial feeds, or any group thereof, from this re-  
20 quirement of an ingredient statement if it finds that such statement  
21 is not required in the interest of consumers.

22 (5) The name and principal mailing address of the manufacturer  
23 or the person responsible for distributing the commercial feed.

24 (6) Adequate directions for use for all commercial feeds con-  
25 taining drugs and for such other feeds as the State board may  
26 require by regulation as necessary for their safe and effective use.

27 (7) Such warning or caution statements as the State board by  
28 regulation determines are necessary for the safe and effective use  
29 of the commercial feed.

30 (8) The amount of any drug stated in an appropriate manner in  
31 a prominent place.

32 b. In the case of a customer formula feed, it shall be accom-  
33 panied by a label, invoice, delivery slip, or other shipping docu-  
34 ment, bearing the following information:

35 (1) Name and address of the manufacturer.

36 (2) Name and address of the purchaser.

37 (3) Date of delivery.

38 (4) The product name and brand name, if any, and the net  
39 weight of the customer formula feed.

40 (5) Adequate directions for use for all customer formula feeds  
41 containing drugs and for such other feeds as the State board may  
42 require by regulation as necessary for their safe and effective use.

43 (6) Such warning or caution statements as the State board by  
44 regulation determines are necessary for the safe and effective use  
45 of the customer formula feed.

46 c. Label and nonquantitative listings of ingredients of formulae  
47 shall be submitted to the department upon request.

1 6. Misbranding. A commercial feed shall be deemed to be mis-  
2 branded:

3 a. If its labeling is false or misleading in any particular.

4 b. If it is distributed under the name of another commercial  
5 feed.

6 c. If it is not labeled as required in section 5 of this act.

7 d. If it purports to contain or is represented as containing or if  
8 it purports to contain or is represented as containing a commercial  
9 feed ingredient, unless such commercial feed or feed ingredient  
10 conforms to the definition, if any, prescribed by regulation by the  
11 State board.

12 e. If any word, statement, or other information required by or  
13 under authority of this act to appear on the label or labeling is not  
14 prominently placed thereon with such conspicuousness (as com-  
15 pared with other words, statements, designs, or devices in the  
16 labeling) and in such terms as to render it likely to be read and  
17 understood by the ordinary individual under customary condi-  
18 tions of purchase and use.

1 7. Adulteration. A commercial feed shall be deemed to be  
2 adulterated:

3 a. (1) If it bears or contains any poisonous or deleterious sub-  
4 stance which may render it injurious to health; but in case the  
5 substance is not an added substance, such commercial feed shall  
6 not be considered adulterated under this subsection if the quantity  
7 of such substance in such commercial feed does not ordinarily  
8 render it injurious to health; or

9 (2) If it bears or contains any added poisonous, added deleter-  
10 ious, or added nonnutritive substance which is unsafe within the  
11 meaning of the Federal Food, Drug and Cosmetic Act; or

12 (3) If it is, or it bears or contains any food additive which is  
13 unsafe within the meaning of the Federal Food, Drug, and  
14 Cosmetic Act; or

15 (4) If it is a raw agricultural commodity and it bears or con-  
16 tains a pesticide chemical which is unsafe within the meaning of the  
17 Federal Food, Drug, and Cosmetic Act, provided that where a  
18 pesticide chemical has been used in or on a raw agricultural com-  
19 modity in conformity with an exemption granted or a tolerance  
20 prescribed under the Federal Food, Drug, and Cosmetic Act and  
21 such raw agricultural commodity has been subjected to processing  
22 such as canning, cooking, freezing, dehydrating, or milling, the  
23 residue of such pesticide chemical remaining in or on such pro-  
24 cessed feed shall not be deemed unsafe if such residue in or on the  
25 raw agricultural commodity has been removed to the extent  
26 possible in good manufacturing practice and the concentration of  
27 such residue in the processed feed is not greater than the tolerance  
28 prescribed for the raw agricultural commodity unless the feeding  
29 of such \***[processing]**\* *processed*\* feed will result or is likely to  
30 result in a pesticide residue in the edible product of the animal,  
31 which is unsafe within the meaning of the Federal Food, Drug, and  
31A Cosmetic Act.

32 (5) If it is an artificial color additive that has been deemed to  
33 be unsafe within the meaning of section 706 of the Federal Food,  
34 Drug, and Cosmetic Act.

35 b. If any valuable constituent has been in whole or in part  
36 omitted or abstracted therefrom or any less valuable substance sub-  
37 stituted therefor.

38 c. If its composition or quality falls below or differs from that  
39 which it is purported or is represented to possess by its labeling.

40 d. If it contains a drug and the methods used in or the facilities  
41 or controls used for its manufacture, processing, or packaging do  
42 not conform to current good manufacturing practice regulations  
43 promulgated by the State board to assure that the drug meets the  
44 requirement of this act as to safety and has the identity and  
45 strength and meets *\*[and]\* \*the\** quality and purity characteristics  
46 which it purports or is represented to possess. In promulgating  
47 such regulations the State board shall adopt the current good  
48 manufacturing practice regulations for medicated feed premixes  
49 and for medicated feeds established under authority of the Federal  
50 Food, Drug, and Cosmetic Act, unless it determines that they are  
51 not appropriate to the conditions which exist in this State.

52 e. If it contains viable weed seeds in amounts exceeding the  
53 limits which the State board shall establish by rule or regulation.

1 8. Prohibited acts. The following acts are prohibited in the State  
2 of New Jersey:

3 a. The manufacture or distribution of any commercial feed that  
4 is adulterated or misbranded.

5 b. The adulteration or misbranding of any commercial feed.

6 c. The distribution of agricultural commodities such as whole  
7 seed, hay, straw, stover, silage, cobs, husks, and hulls, which are  
8 adulterated within the meaning of section 7 of this act.

9 d. The removal or disposal of a commercial feed in violation of  
10 an order under section 12 of this act.

11 e. The failure or refusal to register in accordance with section  
12 4 of this act.

13 f. The violation of section 13 f of this act.

14 g. Failure to pay inspection fees and file reports as required by  
15 section 9 of this act.

1 9. Inspection fees and reports. a. An inspection fee at the rate  
2 of \$0.15 per ton shall be paid on commercial feeds distributed in  
3 this State by the person who distributes the commercial feed to the  
4 consumer subject to the following:

5 (1) No fee shall be paid on a commercial feed if the payment  
6 has been made by a previous distributor.

7 (2) No fee shall be paid on customer formula feeds if the in-  
8 spection fee is paid on the commercial feeds which are used as  
9 ingredients therein.

10 (3) No fee shall be paid on commercial feeds which are used as  
11 ingredients for the manufacture of commercial feeds which are  
12 subject to the inspection fee. If the fee has already been paid,  
13 credit shall be given for such payment.

14 (4) In the case of any person who manufactures or distributes  
15 commercial feed in the State, a minimum annual fee of \$25.00 shall  
16 be paid.

17 b. Each person who is liable for the payment of such fee shall:

18 (1) File, not later than January 31 of each year, a statement,  
19 setting forth the number of net tons of commercial feeds dis-  
20 tributed in this State during the preceding calendar year; and upon  
21 filing such statement shall pay the inspection fee at the rate stated  
22 in paragraph "a." of this section. Inspection fees which are due  
23 and owing and have not been remitted to the department within 15  
24 days following the due date shall have a penalty fee of 10%  
25 (minimum \$10.00) added to the amount due when payment is finally  
26 made. The assessment of this penalty fee shall not prevent the  
27 department from taking other actions as provided in this act.

28 (2) Keep such records as may be necessary or required by the  
29 State board to indicate accurately the tonnage of commercial feed  
30 distributed in this State, and the department shall have the right  
31 to examine such records to verify statements of tonnage.

32 Failure to make an accurate statement of tonnage or to pay the  
33 inspection fee or comply as provided herein shall constitute suffi-  
34 cient cause for the cancellation of all registrations on file for the  
35 distributor.

36 c. Fees imposed by, and fines collected for violations of this act,  
37 shall be deposited with the State Treasurer and maintained by him  
38 in a special account. Money credited to the special account shall be  
39 appropriated and used for the costs of inspection, sampling,  
40 analyses and other expenses necessary for the administration of  
41 this act.

1 10. Rules and regulations. a. The State board is authorized to  
2 promulgate such rules and regulations for commercial feeds and  
3 pet foods as are specifically authorized in this act and such other  
4 reasonable rules and regulation as it may deem necessary and  
5 proper for the efficient administration of this act. In the interest of  
6 uniformity, the State board shall by regulation adopt, unless it  
7 determines that they are inconsistent with the provisions of this  
8 act or are not appropriate to conditions which exist in this State,  
9 the following:

10 (1) The definition of feed ingredients and feed terms adopted

11 by the Association of American Feed Control Officials and pub-  
12 lished in the official publication of that organization, and

13 (2) Any regulation promulgated pursuant to the authority of  
14 the Federal Food, Drug and Cosmetic Act (U. S. C. Title 29, Sec.  
15 301, et seq.).

16 b. Before the adoption, amendment, or repeal of any rule or  
17 regulation authorized by this act, the State board shall comply with  
18 the requirements of the Administrative Procedure Act (P. L. 1968,  
19 c. 410) (C. 52:14B-1 et seq.).

1 11. Inspection, sampling, and analysis. a. For the purpose of  
2 enforcement of this act, and in order to determine whether its pro-  
3 visions have been complied with, including whether or not any  
4 operations may be subject to such provisions, officers or employees  
5 duly designated by the secretary, upon presenting appropriate  
6 credentials, and a written notice to the owner, operator, or agent in  
7 charge, are authorized (1) to enter, during normal business hours,  
8 any factory, warehouse, or establishment within this State in which  
9 commercial feeds are manufactured, processed, packed, or held for  
10 distribution, or to enter any vehicle being used to transport or hold  
11 such feeds; and (2) to inspect at reasonable times and within  
12 reasonable limits and in a reasonable manner, such factory, ware-  
13 house, establishment or vehicle and all pertinent equipment,  
14 finished and unfinished materials, containers, nonquantitative list-  
15 ings of ingredients of formulae, shipping records and labeling  
16 therein. The inspection may include the verification of only such  
17 records, and production and control procedures as may be ne-  
18 cessary to determine compliance with the good manufacturing  
19 practice regulations established under section 7 "d." of this act.

20 b. A separate notice shall be given for each such inspection, but  
21 a notice shall not be required for each entry made during the period  
22 covered by the inspection. Each such inspection shall be com-  
23 menced and completed with reasonable promptness. Upon comple-  
24 tion of the inspection, the person in charge of the facility or vehicle  
25 shall be so notified.

26 c. If the officer or employee making such inspection of a factory,  
27 warehouse, or other establishment has obtained a sample in the  
28 course of the inspection, upon completion of the inspection and  
29 prior to leaving the premises he shall give to the owner, operator,  
30 or agent in charge a receipt describing the samples obtained.

31 d. If the owner of any factory, warehouse, or establishment  
32 described in paragraph "a.," or his agent, refuses to admit the  
33 secretary or his agent to inspect in accordance with paragraphs  
34 "a." and "b.," the secretary is authorized to obtain from a court

35 of competent jurisdiction in the area in which any such factory,  
36 warehouse or establishment is located, a warrant directing such  
37 owner or his agent to submit the premises described in such  
38 warrant to inspection.

39 e. For the purpose of the enforcement of this act, the secretary  
40 or his duly designated agent is authorized to enter upon any public  
41 or private premises including any vehicle of transport during  
42 regular business hours to have access to, and to obtain samples,  
43 and to examine records relating to distribution of commercial  
44 feeds.

45 f. Sampling and analysis shall be conducted in accordance with  
46 methods published by the Association of Official Analytical Chem-  
47 ists, or in accordance with other generally resognized methods.

48 g. The results of all analyses of official samples shall be for-  
49 warded by the State Chemist to the person named on the label  
50 and after 14 days to the purchaser. When the inspection and analy-  
51 sis of an official sample indicates a commercial feed has been adul-  
52 terated or misbranded and upon request within 30 days following  
53 receipt of the analysis the State Chemist shall furnish to the regis-  
54 trant a portion of the sample concerned.

55 h. The State Chemist, in determining for administrative purposes  
56 whether a commercial feed is deficient in any component, shall be  
57 guided by the official sample as defined in paragraph "q." of  
58 section 3 and obtained and analyzed as provided for in paragraphs  
59 "c.," "e." and "f." of this section.

1 12. Detained commercial feeds. a. "Withdrawal from distribu-  
2 tion" orders: When the State Chemist or his authorized agent  
3 has reasonable cause to believe any lot of commercial feed is being  
4 distributed in violation of any of the provisions of this act or any  
5 of the prescribed regulations under this act, he may issue and  
6 enforce a written or printed "withdrawal from distribution"  
7 order, warning the distributor not to dispose of the lot of com-  
8 mercial feed in any manner until written permission is given by  
9 the State Chemist or the court. The State Chemist shall release  
10 the lot of commercial feed so withdrawn when said provisions and  
11 regulations have been complied with. If compliance is not obtained  
12 within 30 days, the State Chemist may begin, or upon request of  
13 the distributor or registrant shall begin, proceedings for con-  
14 demnation.

15 b. "Condemnation and confiscation": Any lot of commercial  
16 feed not in compliance with said provisions and regulations shall  
17 be subject to seizure on complaint of the secretary to a court of

18 competent jurisdiction in the area in which said commercial feed  
19 is located. In the event the court finds the said commercial feed  
20 to be in violation of this act and orders the condemnation of said  
21 commercial feed, it shall be disposed of in any manner consistent  
22 with the quality of the commercial feed and the laws of the State,  
23 provided, that in no instance shall the disposition of said commer-  
24 cial feed be ordered by the court without first giving the claimant  
25 an opportunity to apply to the court for release of said commer-  
26 cial feed or for permission to process or relabel said commercial  
27 feed to bring it into compliance with this act.

1 13. Penalties. a. Any person convicted of violating any of the  
2 provisions of this act or the rules and regulations promulgated  
3 thereunder or who shall impede, hinder, or otherwise prevent, or  
4 attempt to prevent, said secretary or his duly authorized agent  
5 in performance of his duty in connection with the provisions of  
6 this act, shall be fined not less than \$50.00 or more than \$100.00  
7 for the first violation, and not less than \$100.00 or more than  
8 \$500.00 for a subsequent violation in any one year.

9 b. Nothing in this act shall be construed as requiring the State  
10 Chemist or his representative to: (1) report for prosecution, or  
11 (2) institute seizure proceedings, or (3) issue a withdrawal from  
12 distribution order, as a result of minor violations of the act, or  
13 when he believes the public interest will best be served by suitable  
14 notice of warning in writing.

15 c. It shall be the duty of the Attorney General to whom any vio-  
16 lation is reported to cause appropriate proceedings to be instituted  
17 and prosecuted in a court of competent jurisdiction without delay.  
18 Before the State Chemist reports a violation for such prosecution,  
19 an opportunity shall be given the distributor to present his view  
20 to the secretary.

21 d. The secretary is hereby authorized to apply for and the court  
22 to grant in an appropriate case, a temporary or permanent in-  
23 junction restraining any person from violating or continuing to  
24 violate any of the provisions of this act or any rule or regulation  
25 promulgated under the act, notwithstanding the existence of other  
26 remedies at law. Said injunction to be issued without bond.

27 e. Any person adversely affected by an act, order, or ruling made  
28 pursuant to the provisions of this act may seek judicial review  
29 by appeal to the Superior Court by a proceeding in lieu of pre-  
30 rogative writs.

31 f. Any person who used to his own advantage, or reveals to other  
32 than the secretary, or officers of the New Jersey Department of  
33 Agriculture, or to the courts when relevant in any judicial pro-  
34 ceeding, any information acquired under the authority of this act,

35 concerning any method, records, formulations, or processes which  
36 as a trade secret is entitled to protection, is guilty of a misde-  
37 meanor and shall on conviction thereof be fined not less than \$500.00  
38 or imprisoned for not less than 1 year or both, provided that, this  
39 prohibition shall not be deemed as prohibiting the secretary or  
40 his duly authorized agent, from exchanging information of a regu-  
41 latory nature with duly appointed officials of the United States  
42 Government, or of other states, who are similarly prohibited by  
43 law from revealing this information.

44 g. Upon receiving any information of a violation of any provi-  
45 sions of this act or of any rule or regulation adopted thereunder,  
46 the secretary or any agent designated by him for such purpose,  
47 is empowered to hold hearings upon said violation and, upon find-  
48 ing the violation to have been committed, to assess a penalty  
49 against the violator in such amount, not to exceed the maximum  
50 limit set forth in this section, as the secretary deems proper under  
51 the circumstances. If the violator pays such penalty as settlement,  
52 no further prosecution shall be had upon that violation. Payment  
53 of such a penalty shall be deemed equivalent to a conviction for  
54 violation of this act.

1 14. Cooperation with other entities. The secretary may cooper-  
2 ate with and enter into agreements with governmental agencies  
3 of this State, other states, agencies of the Federal Government,  
4 and private associations in order to carry out the purpose and  
5 provisions of this act.

1 15. Publication. The State Chemist shall publish *\*at least\** an-  
2 nually, in such forms as he may deem proper, information concern-  
3 ing the sales of commercial feeds, together with such data on their  
4 production and use as he may consider advisable, and a report of  
5 the results of the analyses of official samples of commercial feeds  
6 sold within the State as compared with the analyses guaranteed on  
7 the label, provided that the information concerning production and  
8 use of commercial feeds shall not disclose the operations of any  
9 person.

1 16. Constitutionality. If any clause, sentence, paragraph, or  
2 part of this act shall for any reason be judged invalid by any court  
3 of competent jurisdiction, such judgment shall not affect, impair,  
4 or invalidate the remainder thereof but shall be confined in its  
5 operation to the clause, sentence, paragraph, or part thereof di-  
6 rectly involved in the controversy in which such judgment shall  
7 have been rendered.

1 17. Repeal. R. S. 4:4-1 through R. S. 4:4-20 are hereby repealed.

1 18. This act shall take effect January 1, 1971.