



MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: 3/1/16 BILL NO.: SB 526

SUBJECT: AGRICULTURE – DONATION OF COMMERCIAL FEED

COMITTEE: EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS

MDA POSITION: WRITTEN OPPOSE

EXPLANATION:

Currently the definition of “distribute” in the Maryland Commercial Feed Law includes “to ... supply, furnish, or provide commercial feeds as part of a commercial enterprise.” SB 526 defines a new term, “donation,” as “a delivery from a single producer to a single operator without a fee” and exempts donations from the definition of “distribute.”

COMMENT:

MDA is committed to protecting and improving animal and human health through good agricultural practices, which include regulation of animal feeds. MDA is strongly committed to the growth of partnerships between regulated industries and the agricultural community. MDA recognizes the historical relationship between the industries and the agricultural community, and the benefits, both financial and practical, to both.

However, the proposed language to SB 526 to exempt donations from the Maryland Commercial Feed Law would create a significant complication in the existing law and would take away a substantial part of the Department’s ability to be proactive in protecting the animal feed supply, as well as the human food supply, through laboratory analysis, stop sale notices, quarantine and destruction of products. The proposed language would affect all types of commercial feed that are defined in the Commercial Feed Law, creating a pathway to “donate” substandard, misbranded, mislabeled and adulterated feed products that would not normally enter the stream of commerce.

The “donation” of these types of feed could have an adverse effect on animal health. If a substandard/mislabeled/misbranded feed was “donated”, then the requirements of 6-109 would not have to be met. If the feed does not have a guaranteed analysis, the entity accepting the donation cannot adequately formulate a complete ration that is needed for the continued health of the particular animals being fed. This can lead to unnecessary health risks due to malnutrition or to a particular nutrient being at elevated levels.

In 1997, the federal Food and Drug Administration (FDA) promulgated regulations to protect cattle, other ruminants, and humans from the spread of BSE (Bovine Spongiform

Encephalopathy a.k.a. mad cow disease). In 2008, changes were made to the regulation that prohibited certain materials from entering the ruminant food chain, such as brains and spinal cords from cattle, etc. With the proposed donation language, dry pet food containing ruminant protein could be “donated” to cattle/dairy farmers as a feeding supplement to their herds without regulatory oversight. This practice violates FDA’s ruminant tissue ban and could possibly become a mechanism for BSE to have a route into the human food chain.

The promulgation of the FDA Veterinary Feed Directive (VFD) creates an entirely new type of medicated customer-formula feed. Since the VFD is based upon herd size, herd type, animal type, specific disease being treated, etc., new customer-formulated feeds will be produced at feed mills. Currently, these types of feeds do not need to be registered with the Department if the ingredients from which they are manufactured are registered. However, if excess feed was “donated” by the feed mill to someone other than the prescribed customer, it would need to be registered. This bill would take away that requirement and create a dangerous situation. For example, if a feed containing a certain level of monensin to prevent coccidiosis intended for cattle was instead “donated” and fed to horses, it has the potential to kill the entire herd. This is true of other drugs if they are inadvertently fed to the incorrect species.

The proposed addition of the “donation” exemption would hinder or prevent trace back or trace forward activities because there would be no required paperwork that is needed to find the route that the feed takes to the final user, whether from a feed mill, warehouse, retailer or the brewing industry or from the final user to the source of the “donated” feed. This would hinder investigations into animal related illness and/or death that would involve the “donated” feed. **The Department would be unable to fulfill its role in oversight of the industry and protection of animal and human health.**

MDA respectfully requests an unfavorable report on SB0526.