

FEED: Missouri State Feed Law does not apply to feed for game birds or fur bearing animals.

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November 27, 1942

Mr. S. Y. Roth  
Feed Division  
Department of Agriculture  
Jefferson City, Missouri



Dear Sir:

This is in reply to yours wherein you submit the following questions:

"When game bird feeds are sold for commercial production, either for meat or breeding purposes, will such feeds come under our Missouri State Feed Law and are they subject to registration and tonnage tax?"

"Do feeds used for the commercial production of fur-bearing animals either for their pelts or for breeding purposes come under the Missouri State Feed Law?"

Section 14319, R. S. Mo. 1939, which pertains to the subject of your inquiry, reads as follows:

"The term 'commercial feeding-stuffs' shall be held to include all feeding-stuffs used for feeding livestock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, and milo, whole hays, straws,

cotton seed hulls and corn stover, pure corn chops and pure ground ear corn, when the same are not mixed with other materials, but the term shall not apply to other materials containing sixty (60) per cent or more of water."

Since a penalty is provided for the violation of the commercial feed stuffs act, it is a criminal statute and, therefore, it must receive a strict construction. The general rule is that provisions of such statutes cannot be extended by judicial interpretation so as to include subjects not clearly within their provisions. This principle is announced in *State v. Lloyd*, 7 S. W. (2d) 344, l. c. 346, wherein the court said:

"\* \* \* Such statutes may not be extended or enlarged by judicial interpretation so as to embrace persons not specifically brought within their terms. No one may be made subject to its provisions by implication."

Said Section 14319, supra, applies to feed used for feeding "livestock and poultry."

The term "livestock" as it is ordinarily used, means those kind of domestic animals and fowls which are normally susceptible of confinement within boundaries without seriously impairing their utility and the intrusion of which upon the land of others normally causes harm to the land or to crops thereon. (*Words and Phrases*, Permanent Edition, Vol. 25, at page 415.)

The term "poultry" is used to denote domestic fowls generally or collectively reared for the table or for their eggs and feathers, such as chickens, ducks, geese and turkeys.

We think that the lawmakers in enacting Section 14319 only had in mind the livestock and poultry as is included in such terms as are referred to above.

Mr. S. Y. Roth

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CONCLUSION

It is, therefore, the opinion of this department that, in cases where game bird feeds are sold as commercial products, either for meat or breeding purposes, such feeds will not come under the Missouri State Feed Law and are not subject to registration and tonnage tax.

We are further of the opinion that feeds used for commercial production for fur bearing animals, either for their pelts or for breeding purposes, do not come under the Missouri Feed Law Act.

Respectfully submitted,

TYRE W. BURTON  
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APPROVED:

ROY MCKITTRICK  
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TWB:CP