

LEGISLATIVE BILL 91

Approved by the Governor May 6, 1977

Introduced by Goodrich, 20

AN ACT to amend sections 54-820.01, 81-2,162.02, 81-2,162.06, and 81-2,162.23, Revised Statutes Supplement, 1976, relating to agriculture; to redefine a term; to provide exemptions from various requirements; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 54-820.01, Revised Statutes Supplement, 1976, be amended to read as follows:

54-820.01. (1) No person shall manufacture or distribute commercial feed in this state unless such person holds a valid registration for each manufacturing and storage facility in this state. Application for registration shall be made to the department on forms furnished by the department, and accompanied by an annual registration fee of five dollars. Each registration shall expire on December 31 of each year unless application to renew such registration is made prior to expiration. A copy of the valid registration shall be posted in a conspicuous place in each location used for manufacturing or storage.

(2) The provisions of this section shall not apply to any retail store which sells or offers for sale less than a five-ton volume of commercial feed annually.

Sec. 2. That section 81-2,162.02, Revised Statutes Supplement, 1976, be amended to read as follows:

81-2,162.02. When used in this act, unless the context otherwise requires:

(1) Director shall mean the Director of Agriculture or his duly authorized agent;

(2) Department shall mean the Department of Agriculture;

(3) Commercial fertilizer shall mean any formula or product distributed, except unmanipulated animal and vegetable manures, which contains one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication, which nutrients are used for their plant nutrient content and

are intended to promote plant growth;

(4) Bulk shall mean nonpackaged;

(5) Custom blended product shall mean any individually compounded to-a-buyer's-specifications; when such-buyer-is-the-ultimate-consumer commercial fertilizer or soil conditioner mixed, blended, offered for sale or sold in Nebraska to a person's specifications, when such person is the ultimate consumer; Provided, that the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 shall have been so registered;

(6) Distribute shall mean to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil conditioners;

(7) Fineness shall mean the percentage of weight of the material which will pass United States standard sieves of specified sizes;

(8) Label shall mean a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or soil conditioner is distributed, or a statement accompanying such product;

(9) Labeling shall mean the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or soil conditioner at any time or to which reference is made on the label;

(10) Official sample shall mean any sample of commercial fertilizer or soil conditioner taken by the director or his agent;

(11) Product shall mean both commercial fertilizers and soil conditioners;

(12) Ton shall mean a net weight of two thousand pounds avoirdupois;

(13) Per cent or percentage shall mean the percentage by weight;

(14) Person shall include individual, cooperative, partnership, association, firm, and corporation;

(15) Sell or sale shall include exchange;

(16) Soil conditioner shall mean any formula or product distributed, except unmanipulated animal and

vegetable manures, which, when added to the soil or applied to plants, is intended to (a) change the physical condition of the soil, or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics, but shall not mean a commercial fertilizer or agricultural liming material; and

(17) Specialty product shall mean a product for nonfarm use.

Sec. 3. That section 81-2,162.06, Revised Statutes Supplement, 1976, be amended to read as follows:

81-2,162.06. (1) There shall be paid to the director, for all commercial fertilizer and soil conditioners distributed in this state, except custom blended products, an inspection fee at the rate fixed by the director but not exceeding ten cents per ton; Provided, that sales to manufacturers or exchanges between them are hereby exempted.

(2) Payment of the inspection fee shall be evidenced by a statement made with documents showing that fees corresponding to the tonnage were received by the director.

(3) Every person who distributes commercial fertilizer or soil conditioners to the consumer in this state shall file, not later than the last day of January and July of each year, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and soil conditioners distributed in this state during the preceding six months' period, which report shall cover the periods from July 1 to December 31 and January 1 to June 30, and such other information as the director shall deem necessary; and upon filing such report shall pay the inspection fee at the rate stated in subsection (1) of this section. The minimum inspection fee required pursuant to this section shall be five dollars, and no inspection fee shall be paid more than once for any one product.

(4) When more than one person distributes a commercial fertilizer or soil conditioner in this state, the person who registers the product shall be responsible for the requirements of subsection (3) of this section.

(5) If a person fails to report and pay the fees, as required by subsection (3) of this section, by January 31 and July 31, he shall pay a penalty of twenty-five per cent in addition to the fees due if paid during the period of February 1 to February 28 or August 1 to August

31 for the respective delinquency and an additional twenty-five per cent penalty thereafter. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for such person.

(6) No information furnished by the department under this section shall be disclosed in such a way as to reveal the operation of any person.

Sec. 4. That section 81-2,162.23, Revised Statutes Supplement, 1976, be amended to read as follows:

81-2,162.23. (1) No person shall manufacture or distribute commercial fertilizers or soil conditioners in this state unless such person holds a valid registration for each manufacturing and distribution facility in this state. Any out-of-state manufacturer or distributor who has no distribution facility within this state shall obtain a registration for his principal outlet used for distributing products in this state.

(2) Applicants for registrations shall make application to the department on forms furnished by the department. Application forms shall be submitted to the department accompanied by an annual registration fee of five dollars. Registrations shall be renewed on or before January 1 of each year.

(3) A copy of the valid registration shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) Registered persons distributing custom blended products shall maintain records of purchase orders received for custom blended products from the date such orders are received until such products are distributed, which records shall be sufficient to show the product ordered, date of such order, purchaser, and quantity of product ordered.

(5) The provisions of this section shall not apply to any retail store which sells or offers for sale less than a five-ton volume of commercial fertilizer or soil conditioners annually.

Sec. 5. That original sections 54-820.01, 81-2,162.02, 81-2,162.06, and 81-2,162.23, Revised Statutes Supplement, 1976, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after

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its passage and approval, according to law.