

# FINAL BILL REPORT

## SSB 6474

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C 36 L 98

Synopsis as Enacted

**Brief Description:** Adopting the fertilizer regulation act.

**Sponsors:** Senate Committee on Agriculture & Environment (originally sponsored by Senators Jacobsen, Rasmussen, Kline, T. Sheldon, Patterson and Fairley; by request of Governor Locke).

**Senate Committee on Agriculture & Environment**

**Senate Committee on Ways & Means**

**House Committee on Agriculture & Ecology**

**Background:** Registration and Standards: All fertilizers, including fertilizers made with industrial byproducts, must be registered or licensed annually by the Department of Agriculture. The product label must include the guaranteed analysis of nitrogen, phosphorous, and potassium. The label is not required to include information about components in the fertilizer other than plant nutrients.

The inert, nonnutritive ingredients in fertilizer are not subject to regulation under the state fertilizer laws. However, state law requires that no fertilizer product may be adulterated. Adulteration is defined as containing materials that would make the product injurious to beneficial plant life when applied according to the label. Adulteration is also defined as not meeting the guaranteed analysis of nutrients, or containing unwanted, viable, seed.

Canada does regulate nonnutritive metals in fertilizer through the Canadian Fertilizer Act and adopted regulations. The regulations were developed based on soil background levels.

Registration Fees: The application for fertilizer registration must be accompanied by a fee of \$25 for the first product, and \$10 for each additional product.

Penalties: Any person who fails to comply with the fertilizer laws may be subject to a civil penalty of not more than \$1,000 for each violation. Money collected is deposited in the agricultural local fund. Any person who aids in the violation may also be subject to the penalty.

Soil Amendments: Byproducts from the manufacturing of wood products may be distributed as a commercial fertilizer after review by the Department of Ecology. The Department of Ecology must provide written approval to the Department of Agriculture certifying that use of the product is consistent with the state biosolids standards, the Model Toxics Control Act, the Water Pollution Control Act, the Washington Clean Air Act, and the Hazardous Waste Management Act.

The use of industrial byproducts in fertilizer has raised concerns about impacts to human health and the environment. The extent of plant uptake of heavy metals from soils, and the

potential for human health impacts are unclear. However, it has been suggested that greater state review of industrial byproducts in fertilizer is needed to minimize the potential for impacts to human health or the environment.

**Summary:** Registration and Standards: Waste-derived fertilizer is defined as a commercial fertilizer that is derived from an industrial byproduct or other material that would otherwise be disposed of. This may include solid or hazardous wastes, but does not include regulated biosolids or wastewater. Micronutrient fertilizer is defined as a commercial fertilizer that contains commercially valuable concentrations of micronutrients.

The Canadian standards for maximum acceptable cumulative metal additions to soil are adopted. The Department of Agriculture may revise the standards by rule if federal or other risk-based studies are adopted.

An application for registration of a waste-derived fertilizer or micronutrient fertilizer must identify all of the fertilizer components, and verify that all components are registered. If any components are not registered, then the application must include the concentration of each metal subject to the Canadian standards.

Beginning July 1, 1999, the Department of Agriculture must obtain written approval from the Department of Ecology before a waste-derived fertilizer is registered to certify that use of the fertilizer is consistent with the Solid Waste Management Act, the Hazardous Waste Management Act, and the federal Resource Conservation and Recovery Act. If standards in the state dangerous waste regulations are more stringent than the Canadian metals standards or the standards adopted by the Department of Agriculture by rule, the more stringent standards apply. The decision of the Department of Ecology may be appealed to the Pollution Control Hearings Board.

The label of any commercial fertilizer must include information required by the Department of Labor and Industries hazard communication rules, and a statement that the product has been registered with the Washington State Department of Agriculture and meets the Washington standards for heavy metals. Information regarding the components of all commercial fertilizers must be made available on the Internet by the Department of Agriculture. The product label must include the department's Internet address.

A commercial fertilizer is adulterated if a constituent in a sample exceeds the maximum concentration stated on the registration application or the label.

Registration Fees: The registration fee for fertilizers is \$25 per product.

Penalties: Any person who fails to comply with the fertilizer regulations may be subject to a fine of not more than \$7,500 for each violation. Money collected as fines must be deposited in the general fund.

Soil Amendments: Soil amendments are defined as substances intended to improve the physical characteristics of the soil, not including composted material or certain fertilizers. Waste-derived soil amendments are soil amendments derived from solid waste, but do not include biosolids or wastewater. Waste-derived soil amendments that meet the Canadian metals standards may apply for an exemption from solid waste permitting requirements to

the Department of Ecology. The department must take comment from the local health department, and make a final decision on the application within 90 days. The department may revoke an exemption at any time if the quality or use of the waste-derived soil amendment changes or presents a threat to human health or the environment. The decision of the Department of Ecology may be appealed to the Pollution Control Hearings Board.

Information and Study: The Department of Agriculture must expand its fertilizer database to include additional information on waste-derived products. Information in the database must be made available to the public upon request. The Department of Agriculture, in consultation with the Departments of Ecology and Health, must prepare a biennial report to the Legislature on levels of nonnutritive substances in fertilizers. The first report is due December 1, 1999.

The Department of Agriculture, in cooperation with the Departments of Ecology and Health, must conduct a comprehensive study of plant uptake of metals. A report of the results of the study must be submitted to the Legislature by December 31, 2000.

The Department of Ecology, in cooperation with the Departments of Agriculture and Health, must undertake a study of whether dioxins occur in fertilizers, soil amendments, and soils, and if so, at what levels. The department must report its findings to the Legislature in November 1998.

**Votes on Final Passage:**

Senate	38	11
House	73	24 (House amended)
Senate	35	11 (Senate concurred)

**Effective:** June 11, 1998