

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5701

55th Legislature
1997 Regular Session

Passed by the Senate April 22, 1997
YEAS 37 NAYS 10

President of the Senate

Passed by the House April 15, 1997
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5701** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5701

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen and Swecker)

Read first time 02/26/97.

1 AN ACT Relating to commercial soil amendments; amending RCW
2 15.54.270, 15.54.800, and 70.95.240; adding a new section to chapter
3 15.54 RCW; and adding a new section to chapter 70.95 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 15.54.270 and 1993 c 183 s 1 are each amended to read
6 as follows:

7 Terms used in this chapter have the meaning given to them in this
8 chapter unless the context clearly indicates otherwise.

9 (1) "Brand" means a term, design, or trademark used in connection
10 with the distribution and sale of one or more grades of commercial
11 fertilizers.

12 (2) "Bulk fertilizer" means commercial fertilizer distributed in a
13 nonpackage form such as, but not limited to, tote bags, tote tanks,
14 bins, tanks, trailers, spreader trucks, and railcars.

15 (3) "Calcium carbonate equivalent" means the acid-neutralizing
16 capacity of an agricultural liming material expressed as a weight
17 percentage of calcium carbonate.

18 (4) "Commercial fertilizer" means a substance containing one or
19 more recognized plant nutrients and that is used for its plant nutrient

1 content or that is designated for use or claimed to have value in
2 promoting plant growth, and shall include limes, gypsum, ((and))
3 manipulated animal and vegetable manures, and a material approved under
4 section 5 of this act. It does not include unmanipulated animal and
5 vegetable manures and other products exempted by the department by
6 rule.

7 (5) "Customer-formula fertilizer" means a mixture of commercial
8 fertilizer or materials of which each batch is mixed according to the
9 specifications of the final purchaser.

10 (6) "Department" means the department of agriculture of the state
11 of Washington or its duly authorized representative.

12 (7) "Director" means the director of the department of agriculture.

13 (8) "Distribute" means to import, consign, manufacture, produce,
14 compound, mix, or blend commercial fertilizer, or to offer for sale,
15 sell, barter, exchange, or otherwise supply commercial fertilizer in
16 this state.

17 (9) "Distributor" means a person who distributes.

18 (10) "Grade" means the percentage of total nitrogen, available
19 phosphoric acid, and soluble potash stated in whole numbers in the same
20 terms, order, and percentages as in the "guaranteed analysis," unless
21 otherwise allowed by a rule adopted by the department. Specialty
22 fertilizers may be guaranteed in fractional units of less than one
23 percent of total nitrogen, available phosphorus or phosphoric acid, and
24 soluble potassium or potash. Fertilizer materials, bone meal, manures,
25 and similar materials may be guaranteed in fractional units.

26 (11) "Guaranteed analysis."

27 (a) Until the director prescribes an alternative form of
28 "guaranteed analysis" by rule the term "guaranteed analysis" shall mean
29 the minimum percentage of plant nutrients claimed in the following
30 order and form:

31	Total nitrogen (N)	percent
32	Available phosphoric acid (P205)		percent
33	Soluble potash (K20)	percent

34 The percentage shall be stated in whole numbers unless otherwise
35 allowed by the department by rule.

36 The "guaranteed analysis" may also include elemental guarantees for
37 phosphorus (P) and potassium (K).

1 (b) For unacidulated mineral phosphatic material and basic slag,
2 bone, tankage, and other organic phosphatic materials, the total
3 phosphoric acid or degree of fineness may also be guaranteed.

4 (c) Guarantees for plant nutrients other than nitrogen, phosphorus,
5 and potassium shall be as allowed or required by rule of the
6 department. The guarantees for such other nutrients shall be expressed
7 in the form of the element.

8 (d) The guaranteed analysis for limes shall include the percentage
9 of calcium or magnesium expressed as their carbonate; the calcium
10 carbonate equivalent as determined by methods prescribed by the
11 association of official analytical chemists; and the minimum percentage
12 of material that will pass respectively a one hundred mesh, sixty mesh,
13 and ten mesh sieve. The mesh size declaration may also include the
14 percentage of material that will pass additional mesh sizes.

15 (e) In commercial fertilizer, the principal constituent of which is
16 calcium sulfate (gypsum), the percentage of calcium sulfate
17 ($\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$) shall be given along with the percentage of total sulfur.

18 (f) The guaranteed analysis for a material approved under section
19 5 of this act and to be used as a soil amendment shall include the name
20 and percentage of each soil amending ingredient and the total
21 percentage of all other ingredients.

22 (12) "Label" means the display of all written, printed, or graphic
23 matter, upon the immediate container, or a statement accompanying a
24 fertilizer.

25 (13) "Labeling" includes all written, printed, or graphic matter,
26 upon or accompanying a commercial fertilizer, or advertisement,
27 brochures, posters, television, and radio announcements used in
28 promoting the sale of such fertilizer.

29 (14) "Licensee" means the person who receives a license to
30 distribute a fertilizer under the provisions of this chapter.

31 (15) "Lime" means a substance or a mixture of substances, the
32 principal constituent of which is calcium or magnesium carbonate,
33 hydroxide, or oxide, singly or combined.

34 (16) "Manipulation" means processed or treated in any manner,
35 including drying to a moisture content less than thirty percent.

36 (17) "Manufacture" means to compound, produce, granulate, mix,
37 blend, repackage, or otherwise alter the composition of fertilizer
38 materials.

1 (18) "Official sample" means a sample of commercial fertilizer
2 taken by the department and designated as "official" by the department.

3 (19) "Packaged fertilizer" means commercial fertilizers, either
4 agricultural or specialty, distributed in nonbulk form.

5 (20) "Person" means an individual, firm, brokerage, partnership,
6 corporation, company, society, or association.

7 (21) "Percent" or "percentage" means the percentage by weight.

8 (22) "Registrant" means the person who registers commercial
9 fertilizer under the provisions of this chapter.

10 (23) "Specialty fertilizer" means a commercial fertilizer
11 distributed primarily for nonfarm use, such as, but not limited to, use
12 on home gardens, lawns, shrubbery, flowers, golf courses, municipal
13 parks, cemeteries, greenhouses, and nurseries.

14 (24) "Ton" means the net weight of two thousand pounds avoirdupois.

15 (25) "Total nutrients" means the sum of the percentages of total
16 nitrogen, available phosphoric acid, and soluble potash as guaranteed
17 and as determined by analysis.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.54 RCW
19 to read as follows:

20 A material approved under section 5 of this act may be distributed
21 as a commercial fertilizer and may be registered as a packaged
22 commercial fertilizer. However, the department may refuse to register
23 such a material as a packaged commercial fertilizer, may cancel the
24 registration of the material as a packaged commercial fertilizer, and
25 may prohibit its distribution as a commercial fertilizer if the
26 department finds evidence that use of the material as a commercial
27 fertilizer poses unacceptable hazards to human health or the
28 environment that were not known during the approval process specified
29 in section 5 of this act.

30 **Sec. 3.** RCW 15.54.800 and 1993 c 183 s 14 are each amended to read
31 as follows:

32 (1) The director shall administer and enforce the provisions of
33 this chapter and any rules adopted under this chapter. All authority
34 and requirements provided for in chapter 34.05 RCW apply to this
35 chapter in the adoption of rules.

1 (2) The director may adopt appropriate rules for carrying out the
2 purpose and provisions of this chapter, including but not limited to
3 rules providing for:

4 (a) Definitions of terms;

5 (b) Determining standards for labeling and registration of
6 commercial fertilizers (~~(and agricultural minerals and limes)~~);

7 (c) The collection and examination of commercial fertilizers (~~(and~~
8 ~~agricultural mineral and limes)~~);

9 (d) Recordkeeping by registrants and licensees;

10 (e) Regulation of the use and disposal of commercial fertilizers
11 for the protection of ground water and surface water; and

12 (f) The safe handling, transportation, storage, display, and
13 distribution of commercial fertilizers.

14 **Sec. 4.** RCW 70.95.240 and 1993 c 292 s 3 are each amended to read
15 as follows:

16 (1) After the adoption of regulations or ordinances by any county,
17 city, or jurisdictional board of health providing for the issuance of
18 permits as provided in RCW 70.95.160, it shall be unlawful for any
19 person to dump or deposit or permit the dumping or depositing of any
20 solid waste onto or under the surface of the ground or into the waters
21 of this state except at a solid waste disposal site for which there is
22 a valid permit. This section shall not:

23 (a) Prohibit a person from dumping or depositing solid waste
24 resulting from his own activities onto or under the surface of ground
25 owned or leased by him when such action does not violate statutes or
26 ordinances, or create a nuisance; or

27 (b) Apply to a person using a material or materials on the land as
28 commercial fertilizer if (i) the department of ecology has issued
29 written approval for the use of the material or materials as
30 commercial fertilizer as provided in section 5 of this act, (ii) the
31 registration of the material or materials as a packaged commercial
32 fertilizer has not been canceled under section 2 of this act, and (iii)
33 the distribution of the material or materials as a commercial
34 fertilizer has not been prohibited by the department of agriculture
35 under section 2 of this act.

36 (2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120
37 for a person to litter in an amount less than or equal to one cubic
38 foot.

1 (b) It is a class 1 civil infraction as defined in RCW 7.80.120 for
2 a person to litter in an amount greater than one cubic foot. Unless
3 suspended or modified by a court, the person shall also pay a litter
4 cleanup fee of twenty-five dollars per cubic foot of litter. The court
5 may, in addition to or in lieu of part or all of the cleanup fee, order
6 the person to pick up and remove litter from the property, with prior
7 permission of the legal owner or, in the case of public property, of
8 the agency managing the property.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.95 RCW
10 to read as follows:

11 (1) The legislature finds that an optional procedure should be
12 established that provides certainty as to whether certain materials
13 generated as byproducts from the manufacturing of wood products may
14 clearly be distributed and used as commercial fertilizer. It is the
15 intent of the legislature in establishing such a procedure that it be
16 truly optional, and that the procedure or the legislature's
17 establishment of the procedure not be construed, except as provided in
18 subsection (3) of this section, as suggesting in any manner whatsoever
19 that a material submitted or not submitted for approval under the
20 procedure or generated or not generated as a byproduct from the
21 manufacturing of wood products is or is not to be regulated as a solid
22 waste.

23 (2) If a person desires to receive the express approval of the
24 department of ecology to distribute a material generated as a byproduct
25 from the manufacturing of wood products as a commercial fertilizer
26 under chapter 15.54 RCW for use as a commercial fertilizer, the person
27 may request in writing the department to provide such approval. The
28 department shall issue written approval to the person and to the
29 department of agriculture that the material may be used as a commercial
30 fertilizer, if the material characteristics and management methods will
31 not pose unacceptable hazards to human health and the environment. The
32 written approval shall certify, to the extent practicable, that the use
33 of the material as a commercial fertilizer is consistent with the
34 following:

35 (a) The biosolids standards set forth in rule or guidance under
36 chapter 70.95J RCW, municipal sewage sludge;

37 (b) Chapter 70.105D RCW, model toxics control act;

38 (c) Chapter 90.48 RCW, water pollution control;

1 (d) Chapter 70.94 RCW, Washington clean air act;
2 (e) Chapter 70.105 RCW, hazardous waste management act; and
3 (f) Other factors intended to protect human health and the
4 environment.

5 (3) A material generated as a byproduct from the manufacturing of
6 wood products that is approved by the department under this section for
7 use as commercial fertilizer and that is distributed and used as such
8 shall not be regulated as solid waste.

9 (4) A party aggrieved by a decision of the department to issue a
10 written approval under this section or to deny the issuance of such an
11 approval may appeal the decision to the pollution control hearings
12 board within thirty days of the decision. Review of such a decision
13 shall be conducted in accordance with chapter 43.21B RCW. Any
14 subsequent appeal of a decision of the hearings board shall be obtained
15 in accordance with RCW 43.21B.180.

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