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HOUSE BILL 2095

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State of Washington

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By Representatives G. Chandler, Linville, Koster, Grant, B. Chandler, Anderson and Sump

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1 AN ACT Relating to registration fees, stop sale and use, seizure,  
2 and disposal of commercial fertilizer; and amending RCW 15.54.325,  
3 15.54.330, 15.54.440, and 15.54.450.

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

5 **Sec. 1.** RCW 15.54.325 and 1998 c 36 s 4 are each amended to read  
6 as follows:

7 (1) No person may distribute in this state a commercial fertilizer  
8 until it has been registered with the department by the producer,  
9 importer, or packager of that product. A bulk fertilizer does not  
10 require registration if all commercial fertilizer products contained in  
11 the final product are registered.

12 (2) An application for registration shall be made biennially on a  
13 form furnished by the department and shall be accompanied by a fee of  
14 (~~twenty-five~~) fifty dollars for each product. Labels for each  
15 product shall accompany the application. All companies planning to mix  
16 customer-formula fertilizers shall include the statement "customer-  
17 formula grade mixes" under the column headed "product name" on the  
18 product registration application form. All customer-formula  
19 fertilizers sold under one brand name shall be considered one product.

1 (3) An application for registration shall include the following:

2 (a) The product name;

3 (b) The brand and grade;

4 (c) The guaranteed analysis;

5 (d) Name, address, and phone number of the registrant;

6 (e) Labels for each product being registered;

7 (f) Identification of those products that are (i) waste-derived  
8 fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer  
9 materials containing phosphate;

10 (g) Identification of the fertilizer components in the commercial  
11 fertilizer product and verification that all the components are  
12 registered. If any of the components are not registered, then the  
13 application must include the concentration of each metal in each  
14 fertilizer component, for which standards are established under RCW  
15 15.54.800;

16 (h) Waste-derived fertilizers and micronutrient fertilizers shall  
17 include at a minimum, information to ensure the product complies with  
18 chapter 70.105 RCW and the resource conservation and recovery act, 42  
19 U.S.C. Sec. 6901 et seq.; and

20 (i) Any other information required by the department by rule.

21 (4) A registration expires on June 30th of the second year  
22 following registration. If an application for renewal of the product  
23 registration provided for in this section is not filed prior to (~~July~~  
24 ~~1st of any one year~~) the day following the expiration of the  
25 registration, a penalty of ten dollars per product shall be assessed  
26 and added to the original fee and shall be paid by the applicant before  
27 the renewal registration shall be issued. The assessment of this late  
28 collection fee shall not prevent the department from taking any other  
29 action as provided for in this chapter. The penalty shall not apply if  
30 the applicant furnishes an affidavit that he or she has not distributed  
31 this commercial fertilizer subsequent to the expiration of his or her  
32 prior registration.

33 **Sec. 2.** RCW 15.54.330 and 1998 c 36 s 5 are each amended to read  
34 as follows:

35 (1) The department shall examine the commercial fertilizer product  
36 registration application form and labels for conformance with the  
37 requirements of this chapter. If the application and appropriate  
38 labels are in proper form and contain the required information, the

1 particular commercial fertilizer products shall be registered by the  
2 department and a certificate of registration shall be issued to the  
3 applicant. (~~All registrations expire June 30th of each year.~~)

4 (2) In reviewing the commercial fertilizer product registration  
5 application, the department may consider experimental data,  
6 manufacturers' evaluations, data from agricultural experiment stations,  
7 product review evaluations, or other authoritative sources to  
8 substantiate labeling claims. The data shall be from statistically  
9 designed and analyzed trials representative of the soil, crops, and  
10 climatic conditions found in the northwestern area of the United  
11 States.

12 (3) In determining whether approval of a labeling statement or  
13 guarantee of an ingredient is appropriate, the department may require  
14 the submission of a written statement describing the methodology of  
15 laboratory analysis utilized, the source of the ingredient material,  
16 and any reference material relied upon to support the label statement  
17 or guarantee of ingredient.

18 (4) Before registering a waste-derived fertilizer or micronutrient  
19 fertilizer, the department shall obtain written approval from the  
20 department of ecology as provided in RCW (~~15.54.800~~) 15.54.820. Once  
21 a waste-derived fertilizer or micronutrient fertilizer has been  
22 approved by the department of ecology, its subsequent use in another  
23 product during that registration cycle shall not require department of  
24 ecology review. This subsection shall apply to new and renewal  
25 registration applications for periods beginning July 1, 1999, and  
26 thereafter.

27 **Sec. 3.** RCW 15.54.440 and 1987 c 45 s 23 are each amended to read  
28 as follows:

29 (1) The department may issue and enforce a written (~~or printed~~)  
30 "stop sale," "stop use," or (~~removal~~) "withdrawal from distribution"  
31 order to the distributor, owner, or custodian of any lot of commercial  
32 fertilizer to hold (~~said~~) the commercial fertilizer at a designated  
33 place when the department has reasonable cause to believe such  
34 fertilizer is being offered or exposed for sale in violation of any of  
35 the provisions of this chapter(~~, until this chapter has been complied~~  
36 ~~with and said commercial fertilizer is released by order in writing of~~  
37 ~~the department~~)).

1       (2) The department may issue and enforce a written immediate "stop  
2 sale," "stop use," or "withdrawal from distribution" order to any  
3 distributor, owner, or custodian of commercial fertilizer in the state  
4 for any commercial fertilizer that:

5       (a) Is not registered in Washington state;

6       (b) According to the department, fails to meet the Washington  
7 standards for total metals, as established in RCW 15.54.800 or the  
8 rules adopted under this chapter; or

9       (c) Is misbranded, as defined in RCW 15.54.412.

10       (3) The department shall release the commercial fertilizer ((~~so~~  
11 withdrawn)) stopped or withdrawn under subsection (1) or (2) of this  
12 section when the distributor, owner, or custodian has complied with the  
13 provisions of this chapter and the rules adopted under it and the  
14 department has issued a written release order. If compliance is not or  
15 cannot be obtained, the department may institute proceedings under RCW  
16 15.54.450 or may agree in writing with the distributor, owner, or  
17 custodian of the commercial fertilizer to an alternative disposition of  
18 the commercial fertilizer.

19       (4) All costs associated with any "stop sale," "stop use," or  
20 "withdrawal from distribution" incurred by the distributor, owner, or  
21 custodian of a commercial fertilizer are the responsibility of the  
22 distributor, owner, or custodian.

23       **Sec. 4.** RCW 15.54.450 and 1967 ex.s. c 22 s 33 are each amended to  
24 read as follows:

25       (1) Any lot of commercial fertilizer not in compliance with the  
26 provisions of this chapter shall be subject to seizure on complaint of  
27 the department to a court of competent jurisdiction in the area in  
28 which ((~~said~~)) the commercial fertilizer is located.

29       (2) Any commercial fertilizer that is not registered in the state,  
30 that fails to meet the Washington standards for total metals, or that  
31 is misbranded is subject to seizure on complaint of the department in  
32 the name of the state to Thurston county superior court or other court  
33 of competent jurisdiction.

34       (3) In the event the court finds ((~~the said commercial fertilizer~~  
35 to be in violation of)), upon application by the department under  
36 subsection (1) or (2) of this section, that a commercial fertilizer  
37 violates this chapter or the rules adopted under it and orders the  
38 condemnation of ((~~said~~)) the commercial fertilizer, ((~~it~~)) the

1 commercial fertilizer shall be disposed of in any manner consistent  
2 with the quality of the commercial fertilizer and the laws of the  
3 state: PROVIDED, That in no instance shall the disposition of ((said))  
4 the commercial fertilizer be ordered by the court without first giving  
5 the claimant an opportunity to apply to the court for release of  
6 ((said)) the commercial fertilizer or for permission to process or  
7 relabel ((said)) the commercial fertilizer to bring it into compliance  
8 with this chapter and the rules adopted under it.

9 (4) All costs associated with disposal are the responsibility of  
10 the distributor, owner, or custodian of the commercial fertilizer.

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