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SENATE BILL 5800

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State of Washington

56th Legislature

1999 Regular Session

By Senator Rasmussen; by request of Department of Agriculture

Read first time 02/09/1999. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to the two-year registration of fertilizer products  
2 and the immediate stop sale, stop use, withdrawal from distribution,  
3 and seizure of unlawful commercial fertilizers; amending RCW 15.54.325,  
4 15.54.330, 15.54.440, and 15.54.450; providing an effective date; and  
5 declaring an emergency.

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

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

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

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

1 registration application form. All customer formula fertilizers sold  
2 under one brand name shall be considered one product.

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

4 (a) The product name;

5 (b) The brand and grade;

6 (c) The guaranteed analysis;

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

8 (e) Labels for each product being registered;

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

12 (g) Identification of the fertilizer components in the commercial  
13 fertilizer product and verification that all the components are  
14 registered. If any of the components are not registered, then the  
15 application must include the concentration of each metal in each  
16 fertilizer component, for which standards are established under RCW  
17 15.54.800;

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

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

23 ((+4)) (3) All companies planning to mix customer-formula  
24 fertilizers shall include the statement "customer-formula grade mixes"  
25 under the column headed "product name" on the product registration  
26 application form. All customer-formula fertilizers sold under one  
27 brand name shall be considered one product.

28 (4) All registrations issued by the department for applicants whose  
29 names begin with the letters A through M expire on June 30th of even-  
30 numbered years. All registrations issued by the department for  
31 applicants whose names begin with the letters N through Z expire on  
32 June 30th of odd-numbered years.

33 (5) An application for registration shall be accompanied by a fee  
34 of fifty dollars for each product, except that an applicant whose  
35 registration expires in even-numbered years shall pay a fee of twenty-  
36 five dollars for each product for the registration period ending June  
37 30, 2000.

38 (6) If an application for renewal of the product registration  
39 provided for in this section is not filed prior to July 1st of ((any

1 one)) the registration renewal year, a penalty of ten dollars per  
2 product shall be assessed and added to the original fee and shall be  
3 paid by the applicant before the renewal registration shall be issued.  
4 The assessment of this (~~late-collection~~) penalty fee shall not  
5 prevent the department from taking any other action as provided for in  
6 this chapter. The penalty shall not apply if the applicant furnishes  
7 an affidavit that he or she has not distributed this commercial  
8 fertilizer subsequent to the expiration of his or her prior  
9 registration.

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

12 (1) The department shall examine the commercial fertilizer product  
13 registration application form and labels for conformance with the  
14 requirements of this chapter. If the application and appropriate  
15 labels are in proper form and contain the required information, the  
16 particular commercial fertilizer products shall be registered by the  
17 department and a certificate of registration shall be issued to the  
18 applicant. (~~All registrations expire June 30th of each year.~~)

19 (2) In reviewing the commercial fertilizer product registration  
20 application, the department may consider experimental data,  
21 manufacturers' evaluations, data from agricultural experiment stations,  
22 product review evaluations, or other authoritative sources to  
23 substantiate labeling claims. The data shall be from statistically  
24 designed and analyzed trials representative of the soil, crops, and  
25 climatic conditions found in the northwestern area of the United  
26 States.

27 (3) In determining whether approval of a labeling statement or  
28 guarantee of an ingredient is appropriate, the department may require  
29 the submission of a written statement describing the methodology of  
30 laboratory analysis utilized, the source of the ingredient material,  
31 and any reference material relied upon to support the label statement  
32 or guarantee of ingredient.

33 (4) Before registering a waste-derived fertilizer or micronutrient  
34 fertilizer, the department shall obtain written approval from the  
35 department of ecology as provided in RCW (~~15.54.800~~) 15.54.820. Once  
36 a waste-derived fertilizer or micronutrient fertilizer has been  
37 approved by the department of ecology, its subsequent use in another  
38 product during that registration cycle shall not require department of

1 ecology review. This subsection shall apply to new and renewal  
2 registration applications for periods beginning July 1, 1999, and  
3 thereafter.

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

6 (1) Commercial fertilizers that are not registered in Washington  
7 state, that fail to meet the Washington standards for total metals, or  
8 that are misbranded pose an immediate threat to the public safety and  
9 welfare and pose an emergency situation because they can contain  
10 certain metals at levels which are injurious to Washington soils and  
11 plants and they may contain ingredients which are harmful to the public  
12 without its knowledge. Commercial fertilizers that are not registered,  
13 that fail to meet the Washington standards for total metals, or that  
14 are misbranded are subject to immediate stop sale, stop use, or  
15 withdrawal from distribution in this state and/or seizure and disposal.

16 (2) The department may issue and enforce a written ((or printed))  
17 "stop sale," "stop use," or ((removal)) "withdrawal from distribution"  
18 order to the distributor, owner, or custodian of any lot of commercial  
19 fertilizer to hold ((said)) the commercial fertilizer at a designated  
20 place when the department has reasonable cause to believe such  
21 fertilizer is being offered or exposed for sale in violation of any of  
22 the provisions of this chapter((, until this chapter has been complied  
23 with and said commercial fertilizer is released by order in writing of  
24 the department)).

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

29 (a) Is not registered in Washington state;

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

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

34 (4) The department shall release the commercial fertilizer ((so  
35 withdrawn)) stopped or withdrawn under subsection (2) or (3) of this  
36 section when the distributor, owner, or custodian has complied with the  
37 provisions of this chapter and the rules adopted under it and the  
38 department has issued a written release order. If compliance is not or

1 cannot be obtained, the department may institute proceedings under RCW  
2 15.54.450 or may agree in writing with the distributor, owner, or  
3 custodian of the commercial fertilizer to an alternative disposition of  
4 the commercial fertilizer.

5 (5) All costs associated with any "stop sale," "stop use," or  
6 "withdrawal from distribution" incurred by the distributor, owner, or  
7 custodian of a commercial fertilizer are the responsibility of the  
8 distributor, owner, or custodian.

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

11 (1) Any lot of commercial fertilizer not in compliance with the  
12 provisions of this chapter shall be subject to seizure on complaint of  
13 the department to a court of competent jurisdiction in the area in  
14 which ((said)) the commercial fertilizer is located.

15 (2) Any commercial fertilizer that is not registered in the state,  
16 that fails to meet the Washington standards for total metals, or that  
17 is misbranded is subject to seizure on complaint of the department in  
18 the name of the state to Thurston county superior court or other court  
19 of competent jurisdiction.

20 (3) In the event the court finds ((the said commercial fertilizer  
21 to be in violation of)), upon application by the department under  
22 subsection (1) or (2) of this section, that a commercial fertilizer  
23 violates this chapter or the rules adopted under it and orders the  
24 condemnation of ((said)) the commercial fertilizer, ((it)) the  
25 commercial fertilizer shall be disposed of in any manner consistent  
26 with the quality of the commercial fertilizer and the laws of the  
27 state: PROVIDED, That in no instance shall the disposition of ((said))  
28 the commercial fertilizer be ordered by the court without first giving  
29 the claimant an opportunity to apply to the court for release of  
30 ((said)) the commercial fertilizer or for permission to process or  
31 relabel ((said)) the commercial fertilizer to bring it into compliance  
32 with this chapter and the rules adopted under it.

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

35 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 July 1, 1999.

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