

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 771

H. P. 584

House of Representatives, February 23, 1979

Referred to the Committee on Agriculture. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Austin of Bingham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Maine Commercial Fertilizer Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 7 MRSA § 485, as last amended by PL 1975, c. 382, § 1, is further amended to read:

§ 485. Annual analysis

The Director of the Maine Agricultural Experiment Station shall annually analyze, or cause to be analyzed, samples of articles of agricultural, vegetable or tree and shrub seeds, commercial feeding stuff, commercial fertilizer, **plant and soil amendments, agricultural lime**, drugs and foods at such times and to such extent as the commissioner may determine. Said commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural, vegetable or tree and shrub seeds, commercial feeding stuff, commercial fertilizer, **plant and soil amendments, agricultural lime**, drugs or food are manufactured, stored, transported, sold, offered or exposed for sale. He may, in person or by deputy, open any case, package or other container, and may, upon tendering the market price, take samples for analysis. The results of analyses of agricultural, vegetable or tree and shrub seeds, commercial feeding stuff, commercial fertilizer, **plant and soil amendments, agricultural lime**, drugs and food may be said director shall be published by him in the bulletins or reports of the experiment station, together

with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof and such additional information as to him may seem advisable. **Publication of analytical results are for informational purposes only and not intended for use as promotional material.**

Sec. 2. 7 MRSA § 742 is repealed and the following enacted in its place:

§ 742. Definitions

As used in this subchapter: unless the context indicates otherwise, the following terms shall have the following meanings.

1. Availability of plant nutrients. "Availability of plant nutrients" means the immediate potential property of a product to be utilized by a plant and have agronomic value when used according to directions, except nutrients which are indicated as "slow release", or some similar term, when in compliance with regulations for these designated nutrients. Methods of determining availability shall be those from such sources as the Journal of The Association of Official Analytical Chemists.

2. Brand. "Brand" means a term, design or trademark used in connection with one or several grades of commercial fertilizer.

3. Bulk fertilizers. "Bulk fertilizers" mean commercial fertilizer distributed in nonpackaged form.

4. Commercial fertilizer. "Commercial fertilizer" includes mixed fertilizer or fertilizer materials, or both.

5. Commissioner. "Commissioner" means the Commissioner of Agriculture or his authorized agent.

6. Distribute; distributor. "Distribute" means to offer for sale, sell, barter or otherwise supply commercial fertilizers. The term "distributor" means any person who distributes.

7. Fertilizer material. "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

8. Grade. "Grade" means the percentage of total nitrogen, available phosphoric acid and soluble potash in whole numbers in the same terms, order and percentages as in the guaranteed analysis; except that fertilizer materials, bone meal and similar raw materials may be guaranteed in fractional units, provided further, that when total nitrogen, available phosphoric acid or soluble potash of a specialty fertilizer is present in less than one percent, the guarantee for that nutrient may be expressed in a fractional unit.

9. Guaranteed analysis.

Until such times as the commissioner prescribes the alternative form of "guaranteed analysis," in accordance with this subsection, "guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form.

- Total Nitrogen (N) percent
- Available Phosphoric Acid (P₂O₅) percent
- Soluble Potash (K₂O) percent

A. For unacidulated mineral phosphatic materials and basic slag, bone, tankage and other organic phosphate materials, the total phosphoric acid and degree of fineness may also be guaranteed;

B. Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the commissioner. The guarantees for other nutrients shall be expressed in the form of the element. The sources of other nutrients, such as oxides, salt, chelates, etc., may be required to be stated on the application for registration and may be included as a parenthetical statement on the label; and

C. Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton when permitted by regulation.

When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he thereafter may require by regulation that the "guaranteed analysis" shall be in the following form:

- Total Nitrogen (N) percent
- Available Phosphorus (P) percent
- Soluble Potassium (K) percent

The effective date of this regulation shall not be less than 6 months following its issuance, and, for a period of 2 years following the effective date of this regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of any regulation issued under this paragraph, which requires that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus and potassium shall constitute the grade.

10. Investigational allowance. "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of commercial fertilizer as provided by regulation.

11. Label. "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a commercial fertilizer.

12. **Labeling.** “Labeling” means all oral, written, printed or graphic matter, upon or accompanying any commercial fertilizer, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of these commercial fertilizers.

13. **Mixed fertilizers.** “Mixed fertilizers” means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

14. **Official sample.** “Official sample” means any sample of commercial fertilizer taken by the commissioner.

15. **Per cent or percentage.** “Per cent” or “percentage” means the percentage by weight.

16. **Person.** “Person” means an individual, partnership, association, firm and corporation.

17. **Registrant.** “Registrant” means the person who registers commercial fertilizer under this subchapter.

18. **Singular and plural.** “Singular and plural” means words importing the singular number which may extend and be applied to several persons or things and words importing the plural number which may include the singular.

19. **Specialty fertilizer.** “Specialty fertilizer” means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

Sec. 3. 7 MRSA § 744, is amended to read:

§ 744. Labeling

Any commercial fertilizer distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible form the information required by section 743, subsections 1 to 4 3, **and the name and address of the person whose name will appear on the label, if other than the registrant.**

If distributed in bulk, a written or printed statement of the information required by section 743, subsections 1 to 4 3, **and the name and address of the persons whose name will appear on the label, if other than the applicant,** shall accompany delivery and be supplied to the purchaser at time of delivery.

Sec. 4. 7 MRSA § 747, sub-§ 2, is repealed and the following enacted in its place.

2. **Deleterious materials.** If it contains any material in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use, which may be necessary to protect plant life are not shown upon the label; or

Sec. 5. 7 MRSA § 751 is enacted to read:

§ 751. Exchanges between manufacturers

Nothing in this subchapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or manipulators who have registered their brands as required by this subchapter.

Sec. 6. 36 MRSA § 4441, as amended by PL 1971, c. 158 is further amended to read:

§ 4441. Statement and rate of tax

Any person, firm or corporation who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in this State any ~~mixed commercial~~ fertilizer to a nonregistrant shall on or before September 1st in each year file with the State Tax Assessor a statement, in such form as the State Tax Assessor may prescribe, listing exactly the number of net tons of ~~mixed commercial~~ fertilizer sold by him in this State during the 12 months preceding July 1st of the current year, **provided, that sales to manufacturers or exchanges between them are hereby exempt.** With the filing of said statement, each such person, firm or corporation shall pay to the State Tax Assessor a fee of 10¢ a ton of 2,000 pounds for ~~mixed commercial~~ fertilizer so sold. Whenever a statement has been filed and the fee required by this section has been paid, no other person shall be required to pay the fee. The State Tax Assessor or his agents shall be authorized to examine the books of the person, firm or corporation filing the statement for the purpose of verifying the same. This section shall not apply to sales of ~~mixed commercial~~ fertilizer to the Federal Government.

Sec. 7. 36 MRSA § 4443, as repealed and replaced by PL 1977, c. 696, § 292, is amended to read:

§ 4443. Civil violation

Whoever sells, offers or exposes for sale a ~~mixed commercial~~ fertilizer without having filed the statement and paid the fee required by section 4441 commits a civil violation for which a forfeiture not to exceed \$100 for the first violation and \$200 for each subsequent violation may be adjudged.

Sec. 8. **Effective date.** This Act shall become effective January 1, 1980.

STATEMENT OF FACT

This bill amends the Maine Commercial Fertilizer Law which results primarily from the transfer of regulatory control of agricultural liming materials from the fertilizer law to a separate act. In the process, a general up-dating and clarification of the Maine Commercial Fertilizer Law was undertaken.

The effective date coincides with the annual registration dates.