

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 773

H. P. 586

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 Regulate the Distribution, Labeling and Sale of Agricultural Liming Materials.

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

Sec. 1. 7 MRSA, c. 103, sub-c. V-A is enacted to read:

**SUBCHAPTER V-A
AGRICULTURAL LIMING MATERIALS**

§ 761. Title

This Act shall be known and may be cited as the "Maine Agricultural Liming Materials Act."

§ 762. Definitions

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

1. **Agricultural liming materials.** "Agricultural liming materials" means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity.

2. **Brand.** "Brand" means the term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale.

3. **Bulk.** "Bulk" means in nonpackaged form.
4. **Burnt lime.** "Burnt lime" means a material, made from limestone which consists essentially of calcium oxide or combination of calcium oxide with magnesium oxide.
5. **Calcium carbonate equivalent.** "Calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
6. **Fineness.** "Fineness" means the percentage by weight of the material which will pass United States standard sieves of specified sizes. In promulgating regulations relating to fineness the commissioner shall be guided by American Society for Testing Materials specifications for sieve sizes.
7. **Hydrated lime.** "Hydrated lime" means a material, made from burnt lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and magnesium hydroxide.
8. **Industrial by-product.** "Industrial by-product" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.
9. **Label.** "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.
10. **Limestone.** "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.
11. **Marl.** "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.
12. **Percent or percentage.** "Percent" or "percentage" means by weight.
13. **Person.** "Person" means individual, partnership, association, firm or corporation.
14. **Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois, or metric weight, if and when appropriate and in accordance with regulations.
15. **Weight.** "Weight" means the weight of undried material as offered for sale.

§ 763. Labeling

Any agricultural liming materials distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

1. **Name and address.** The name and principal office address of the manufacturer or distributor;

- 2. Brand or trade name. The brand or trade name of the material;
- 3. Identification. The identification of the product as to the type of the agricultural liming material;
- 4. Weight. The net weight of the agricultural liming material;
- 5. Percentage of calcium oxide. The minimum percentage of calcium oxide and magnesium oxide and calcium carbonate and magnesium carbonate;
- 6. Calcium carbonate equivalents. Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists; minimum calcium carbonate equivalents as prescribed by regulation; and
- 7. Standards. The minimum percent by weight passing through United States standard sieves as prescribed by regulations.

In case of bulk shipments, this information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

No information or statement shall appear on any package, label, delivery slip or advertising matter which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof and before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of such adulteration therein.

At every site from which agricultural liming materials are delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be conspicuously posted a copy of the statement required by this section for each brand of material.

When the commissioner finds, after public hearing held in a manner consistent with Title 5, chapter 375, that the requirement for expressing the calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting labeling requirements among the states, he may require by regulation thereafter that the minimum percentage of calcium oxide and magnesium oxide and calcium carbonate and magnesium carbonate shall be expressed in the following form:

Total Calcium (Ca)percent
 Total Magnesium (Mg)percent

Provided that the effective date of the regulation shall be not less than 6 months following the issuance thereof, and provided, further that for a period of 2 years following the effective date of the regulation of the equivalent of calcium and magnesium may also be shown in the form of calcium oxide and magnesium oxide and calcium carbonate and magnesium carbonate.

§ 764. Prohibited acts

No agricultural liming material shall be sold or offered for sale in this State unless it complies with this subchapter or regulations promulgated under this subchapter. No agricultural liming material shall be sold or offered for sale in this State which contains toxic materials in quantities injurious to plants or animals.

§ 765. Registration

Each separately identified product shall be registered before being distributed in this State. The application for registration shall be submitted to the commissioner on forms furnished or approved by the commissioner and shall be accompanied by a fee of \$20. Upon approval by the commissioner a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year.

The fees so collected by the commissioner shall be deposited with the Treasurer of State and appropriated for carrying out this subchapter, including the cost of inspection, sampling and analysis. These funds shall not lapse, but shall remain a continuing carrying account.

A distributor shall not be required to register any brand of agricultural liming material which is already registered under this subchapter by another person, providing the label does not differ in any respect.

§ 766. Report of tonnage

Each registrant shall on or before September 1st in each year file with the commissioner, on forms prescribed by him, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of the current year.

The commissioner may publish and distribute annually, to each agricultural liming material registrant and other interested persons a composite report showing the tons of agricultural liming material sold in the State. This report shall in no way divulge the operation of any registrant.

§ 767. Inspection; sampling; analysis

It shall be the duty of the commissioner who may act through his authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this State as he may deem necessary to determine whether the agricultural liming materials are in compliance with this subchapter. The commissioner, individually or through his agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to this subchapter and regulations pertaining thereto, and to the records relating to their distribution.

The methods of analysis and sampling shall be those approved by the commissioner and shall be guided by the Association of Official Analytical Chemists procedures.

When the inspection and analysis of an official sample indicate an agricultural liming material has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned.

§ 768. "Stop sale" orders

The commissioner may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of agricultural liming materials and to hold at a designated place when the commissioner finds the agricultural liming material is being offered or exposed for sale in violation of this subchapter, until the law has been complied with and the agricultural liming material is released in writing by the commissioner or the violation has been otherwise legally disposed of by written authority. The commissioner shall release the agricultural liming materials so withdrawn, when the requirements of this subchapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid. The issuance of the order shall not be considered licensing or an adjudicatory proceeding, as defined by Title 5, chapter 375.

§ 769. Forfeitures for violations

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof commits a civil violation for which a forfeiture of not more than \$100 for the first violation and not more than \$200 for each subsequent violation. Nothing in this subchapter shall be construed as requiring the commissioner to report for suit or for the institution of seizure proceedings as a result of minor violations of this subchapter, when he believes that the public interests will be best served by a suitable notice of warning in writing.

§ 770. Rules for administration

The commissioner after reasonable notice and hearing is empowered to promulgate and enforce rules and regulations for the administration of this subchapter, in a manner consistent with Title 5, chapter 375 and to grant exemptions from specific requirements of this subchapter as, from time to time, may be deemed necessary.

Sec. 2. **Effective date.** This Act shall take effect January 1, 1980.

STATEMENT OF FACT

This bill is designed to regulate the sale and distribution of liming materials. It would remove current requirements for lime from the fertilizer law, thus allowing for information more realistic with liming requirements, guarantees and labeling. It would further allow for tonnage reporting this giving a more accurate figure for liming materials distribution and use in the State.

The effective date coincides with annual registration dates.