

MAINE STATE LEGISLATURE

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Date: 5/1/7

L.D. 1074
(Filing No. H-166)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 792, L.D. 1074, Bill, "An Act To Amend the Maine Commercial Fertilizer Law"

Amend the bill in section 5 in subsection 3 in the next to the last line (page 2, line 21 in L.D.) by striking out the following: "fertilizer the" and inserting the following: 'fertilizer the'

Amend the bill by inserting after section 5 the following:

'Sec. 6. 7 MRSA §748, sub-§3 is enacted to read:

3. Establishment of allowances. The commissioner shall establish by rule allowances for deviations from the guaranteed analysis for plant nutrients and from the overall index value of a fertilizer. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by striking out all of section 6 and inserting the following:

'Sec. 6. 7 MRSA §750, sub-§2, as enacted by PL 2003, c. 452, Pt. B, §11 and affected by Pt. X, §2, is amended to read:

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than ~~\$100~~ \$500 may be adjudged.

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than ~~\$200~~ \$1,000 may be adjudged.

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

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1 **§751. Assessments for deficiencies**

2 In addition to any fine adjudged under section 750, an assessment for deficiencies in
3 a fertilizer must be made in accordance with this section. For the purposes of this section,
4 a deficiency occurs when an investigational analysis determines that the allowances
5 established in rules adopted under section 748, subsection 3 have been exceeded.

6 **1. Primary plant nutrients; overall index.** An assessment of 2 times the
7 commercial value of the deficiency or deficiencies as determined under subsection 3 must
8 be made if:

9 A. The analysis determines that a fertilizer is deficient in one or more of its
10 guaranteed primary plant nutrients; or

11 B. The analysis determines that the overall index value is deficient.

12 When a fertilizer is subject to an assessment under both paragraphs A and B, the larger
13 assessment applies.

14 **2. Other deficiencies.** When a fertilizer is labeled to guarantee or a bulk fertilizer is
15 accompanied by a statement guaranteeing that the fertilizer contains recognized plant
16 nutrients other than nitrogen, available phosphate or soluble potash, the commissioner
17 may evaluate the fertilizer and prescribe an assessment for deficiencies in any of the
18 claimed nutrients based on commercial values determined under subsection 3.

19 **3. Determination of commercial value.** For the purpose of determining the
20 commercial value of fertilizer, the commissioner shall use the amount originally invoiced
21 to the consumer per unit of nitrogen, available phosphate, soluble potash or other
22 nutrients that the registrant is required to or may guarantee. The values derived from the
23 invoice must be used in determining and the assessment.

24 **4. Payment to consumer; commissioner.** Assessments made under subsections 1
25 and 2 must be paid by the registrant to the consumer of the lot of fertilizer represented by
26 the sample analyzed. The commissioner shall send notification of the amount of the
27 assessment with the results of the analysis sent in accordance with section 745.
28 Assessments must be made within 30 days of the date of the notification. If the consumer
29 cannot be located, the registrant shall submit the assessment to the commissioner for
30 deposit in the commercial fertilizer account under subsection 5.

31 **5. Commercial fertilizer account.** The commissioner shall deposit all assessments
32 submitted to the commissioner in accordance with subsection 4 in a dedicated account
33 established within the department. The account is a nonlapsing interest-bearing account.
34 Funds from the account may only be used to pay costs of sampling and analyzing
35 fertilizer.'

36 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
37 section number to read consecutively.

38 **SUMMARY**

39 This amendment makes technical changes to the bill to clarify the process for making
40 assessments to consumers when analysis of fertilizers indicates there is a deficiency in
41 one or more nutrients. It also provides for assessments received by the Commissioner of

COMMITTEE AMENDMENT "A" to H.P. 792, L.D. 1074

RAS

- 1 Agriculture, Food and Rural Resources to be deposited in a dedicated account and used to
- 2 pay costs for sampling and analyzing fertilizers.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 1074

LR 661(02)

An Act To Amend the Maine Commercial Fertilizer Law

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Agriculture, Conservation and Forestry
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor cost increase - Other Special Revenue Funds
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Increases penalties for certain civil violations.
The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The establishment of certain assessments pertaining to commercial fertilizers is likely to result in minor amounts of additional dedicated revenue collected by the Department of Agriculture, Food and Rural Resources with a concomitant minor increase in expenditures.