CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5318**

67th Legislature

2021 Regular Session

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| Passed by the Senate April 22, 2021  Yeas 31 Nays 18  **President of the Senate**  Passed by the House April 21, 2021  Yeas 77 Nays 21  **Speaker of the House of Representatives** | CERTIFICATE  I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5318** as passed by the Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE SENATE BILL 5318**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senator Warnick; by request of Department of Agriculture)

AN ACT Relating to fertilizer fees; amending RCW 15.54.275, 15.54.325, 15.54.350, and 15.54.362; creating a new section; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 15.54.275 and 2013 c 144 s 8 are each amended to read as follows:

(1) No person may distribute a bulk fertilizer in this state until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes bulk fertilizer in Washington state. An application for each location must be filed on forms provided by the business licensing system established under chapter 19.02 RCW and must be accompanied by an annual fee of ((~~twenty-five~~)) fifty dollars per location. The license expires on the business license expiration date.

(2) An application for license must include the following:

(a) The name and address of licensee.

(b) Any other information required by the department by rule.

(3) The name and address shown on the license must be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state.

(4) If an application for license renewal provided for in this section is not filed prior to the business license expiration date, a delinquency fee of ((~~twenty-five~~)) fifty dollars must be assessed and added to the original fee and must be paid by the applicant before the renewal license is issued. The assessment of this delinquency fee does not prevent the department from taking any other action as provided for in this chapter. ~~The penalty does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior license.~~))

**Sec.**  RCW 15.54.325 and 2020 c 20 s 1002 are each amended to read as follows:

(1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product.

(2) An application for registration must be made on a form furnished by the department and must include the following:

(a) The product name;

(b) The brand and grade;

(c) The guaranteed analysis;

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

(e) A label for each product being registered;

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

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) If a waste-derived fertilizer or micronutrient fertilizer, information to ensure the product complies with chapter 70A.300 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

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

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

(4) Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for a new registration must be accompanied by a fee of one hundred fifty dollars for each product.

(6) Application for renewal of registration is due July 1st of each registration period and must be accompanied by a renewal fee of one hundred twenty dollars for each product. If an application for renewal is not received by the department by the due date, a late fee of ((~~ten~~)) fifty dollars per product is added to the original fee and must be paid by the applicant before the renewal registration may be issued. ((~~A late fee does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of the prior registration.~~)) Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation.

**Sec.**  RCW 15.54.350 and 1993 c 183 s 6 are each amended to read as follows:

(1) There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants or nonlicensees an inspection fee of ((~~fifteen~~)) twenty cents per ton of lime and ((~~thirty~~)) thirty-five cents per ton of all other commercial fertilizer distributed during the year beginning July 1st and ending June 30th.

(2) Distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant or licensee who distributes to a nonregistrant or nonlicensee is responsible for paying the inspection fee, unless the payment of fees has been made by a prior distributor of the fertilizer.

**Sec.**  RCW 15.54.362 and 2008 c 292 s 3 are each amended to read as follows:

(1) Every registrant or licensee who distributes commercial fertilizer in this state must file a semiannual report on forms provided by the department stating the number of net tons of each commercial fertilizer distributed in this state.

(a) For the period January 1st through June 30th of each year, the report is due on July 31st of that year; and

(b) For the period July 1st through December 31st of each year, the report is due on January 31st of the following year.

(2) Upon permission of the department, a person distributing in the state less than one hundred tons for each six-month period during any annual reporting period of July 1st through June 30th may submit an annual report on a form provided by the department that is due on the July 31st following the period. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

((~~(2)~~)) (3) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state must include the inspection fees with each semiannual or annual report. If in an annual reporting period a registrant or licensee distributes less than ((~~eighty-three~~)) one hundred forty-three tons of commercial fertilizer or less than ((~~one hundred sixty-seven~~)) two hundred fifty tons of commercial lime or equivalent combination of the two, the registrant or licensee must pay the minimum inspection fee of ((~~twenty-five~~)) fifty dollars.

((~~(3)~~)) (4) The department may, upon request, require registrants or licensees to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

((~~(4)~~)) (5) If the semiannual or annual report indicates that zero tons of commercial fertilizer were distributed during the reporting period, the person responsible for completing the report must pay a filing fee of twelve dollars and fifty cents for a semiannual report or twenty-five dollars for an annual report.

(6)(a) If a complete report is not received by the due date, the person responsible for filing the report must pay a late fee of ((~~twenty-five~~)) fifty dollars.

(b) If the appropriate inspection fees are not received by the due date, the person responsible for paying the inspection fee must pay a late fee equal to ten percent of the inspection fee owed or ((~~twenty-five~~)) fifty dollars, whichever is greater.

((~~(c) Payment of a late fee does not prevent the department from taking any other action authorized by this chapter for the violation.~~

~~(5)~~)) (7) It is a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is authorized and which shall be as an action at law in the name of the director of the department.

(8) Payment of late fees or filing fees provided for under this section does not prevent the department from taking any other action authorized by this chapter for the violation.

NEW SECTION. **Sec.**  All new or renewal applications for registration under this act received on or after the effective date of this section are subject to the provisions of this act, including all fees required by this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2021.

**--- END ---**