
SUBSTITUTE SENATE BILL 5701

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen and Swecker)

Read first time 02/26/97.

1 AN ACT Relating to commercial soil amendments; amending RCW
2 15.54.270, 15.54.275, 15.54.325, 15.54.340, 15.54.436, 15.54.800, and
3 70.95.240; and adding a new section to chapter 70.95 RCW.

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

5 **Sec. 1.** RCW 15.54.270 and 1993 c 183 s 1 are each amended to read
6 as follows:

7 Terms used in this chapter have the meaning given to them in this
8 chapter unless the context clearly indicates otherwise.

9 (1) "Brand" means a term, design, or trademark used in connection
10 with the distribution and sale of one or more grades of commercial
11 fertilizers.

12 (2) "Bulk fertilizer" means commercial fertilizer distributed in a
13 nonpackage form such as, but not limited to, tote bags, tote tanks,
14 bins, tanks, trailers, spreader trucks, and railcars.

15 (3) "Calcium carbonate equivalent" means the acid-neutralizing
16 capacity of an agricultural liming material expressed as a weight
17 percentage of calcium carbonate.

18 (4) "Commercial fertilizer" means a substance containing one or
19 more recognized plant nutrients and that is used for its plant nutrient

1 content or that is designated for use or claimed to have value in
2 promoting plant growth, and shall include limes, gypsum, and
3 manipulated animal and vegetable manures. It also means a substance
4 that is generated as a by-product from the manufacturing of wood
5 products and that is intended to improve the physical characteristics
6 of the soil. It does not include unmanipulated animal and vegetable
7 manures and other products exempted by the department by rule.

8 (5) "Customer-formula fertilizer" means a mixture of commercial
9 fertilizer or materials of which each batch is mixed according to the
10 specifications of the final purchaser.

11 (6) "Department" means the department of agriculture of the state
12 of Washington or its duly authorized representative.

13 (7) "Director" means the director of the department of agriculture.

14 (8) "Distribute" means to import, consign, manufacture, produce,
15 compound, mix, or blend commercial fertilizer, or to offer for sale,
16 sell, barter, exchange, or otherwise supply commercial fertilizer in
17 this state.

18 (9) "Distributor" means a person who distributes.

19 (10) "Grade" means the percentage of total nitrogen, available
20 phosphoric acid, and soluble potash stated in whole numbers in the same
21 terms, order, and percentages as in the "guaranteed analysis," unless
22 otherwise allowed by a rule adopted by the department. Specialty
23 fertilizers may be guaranteed in fractional units of less than one
24 percent of total nitrogen, available phosphorus or phosphoric acid, and
25 soluble potassium or potash. Fertilizer materials, bone meal, manures,
26 and similar materials may be guaranteed in fractional units.

27 (11) "Guaranteed analysis."

28 (a) Until the director prescribes an alternative form of
29 "guaranteed analysis" by rule the term "guaranteed analysis" shall mean
30 the minimum percentage of plant nutrients claimed in the following
31 order and form:

32	Total nitrogen (N)	percent
33	Available phosphoric acid (P205)		percent
34	Soluble potash (K20)	percent

35 The percentage shall be stated in whole numbers unless otherwise
36 allowed by the department by rule.

37 The "guaranteed analysis" may also include elemental guarantees for
38 phosphorus (P) and potassium (K).

1 (b) For unacidulated mineral phosphatic material and basic slag,
2 bone, tankage, and other organic phosphatic materials, the total
3 phosphoric acid or degree of fineness may also be guaranteed.

4 (c) Guarantees for plant nutrients other than nitrogen, phosphorus,
5 and potassium shall be as allowed or required by rule of the
6 department. The guarantees for such other nutrients shall be expressed
7 in the form of the element.

8 (d) The guaranteed analysis for limes shall include the percentage
9 of calcium or magnesium expressed as their carbonate; the calcium
10 carbonate equivalent as determined by methods prescribed by the
11 association of official analytical chemists; and the minimum percentage
12 of material that will pass respectively a one hundred mesh, sixty mesh,
13 and ten mesh sieve. The mesh size declaration may also include the
14 percentage of material that will pass additional mesh sizes.

15 (e) In commercial fertilizer, the principal constituent of which is
16 calcium sulfate (gypsum), the percentage of calcium sulfate
17 ($\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$) shall be given along with the percentage of total sulfur.

18 (f) The guaranteed analysis for wood by-products must include the
19 name and percentage of each soil amending ingredient and the total
20 percentage of all other ingredients.

21 (12) "Label" means the display of all written, printed, or graphic
22 matter, upon the immediate container, or a statement accompanying a
23 fertilizer.

24 (13) "Labeling" includes all written, printed, or graphic matter,
25 upon or accompanying a commercial fertilizer, or advertisement,
26 brochures, posters, television, and radio announcements used in
27 promoting the sale of such fertilizer.

28 (14) "Licensee" means the person who receives a license to
29 distribute a fertilizer under the provisions of this chapter.

30 (15) "Lime" means a substance or a mixture of substances, the
31 principal constituent of which is calcium or magnesium carbonate,
32 hydroxide, or oxide, singly or combined.

33 (16) "Manipulation" means processed or treated in any manner,
34 including drying to a moisture content less than thirty percent.

35 (17) "Manufacture" means to compound, produce, granulate, mix,
36 blend, repackage, or otherwise alter the composition of fertilizer
37 materials.

38 (18) "Official sample" means a sample of commercial fertilizer
39 taken by the department and designated as "official" by the department.

1 (19) "Packaged fertilizer" means commercial fertilizers, either
2 agricultural or specialty, distributed in nonbulk form.

3 (20) "Person" means an individual, firm, brokerage, partnership,
4 corporation, company, society, or association.

5 (21) "Percent" or "percentage" means the percentage by weight.

6 (22) "Registrant" means the person who registers commercial
7 fertilizer under the provisions of this chapter.

8 (23) "Specialty fertilizer" means a commercial fertilizer
9 distributed primarily for nonfarm use, such as, but not limited to, use
10 on home gardens, lawns, shrubbery, flowers, golf courses, municipal
11 parks, cemeteries, greenhouses, and nurseries.

12 (24) "Ton" means the net weight of two thousand pounds avoirdupois.

13 (25) "Total nutrients" means the sum of the percentages of total
14 nitrogen, available phosphoric acid, and soluble potash as guaranteed
15 and as determined by analysis.

16 **Sec. 2.** RCW 15.54.275 and 1993 c 183 s 2 are each amended to read
17 as follows:

18 (1) No person may distribute a commercial fertilizer in this state,
19 except packaged fertilizers, until a license to distribute has been
20 obtained by that person. An annual license is required for each out-
21 of-state or in-state location that distributes nonpackaged commercial
22 fertilizer in Washington state. An application for each location shall
23 be filed on forms provided by the master license system and shall be
24 accompanied by an annual fee of twenty-five dollars per location. The
25 license shall expire on the master license expiration date.

26 (2) An application for license shall include the following:

27 (a) The name and address of licensee.

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

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

32 (4) Prior to issuance of a license to distribute commercial
33 fertilizer for material that is defined as solid waste under RCW
34 70.95.030, the department shall obtain written approval from the
35 department of ecology. The department of ecology shall issue written
36 approval, as provided in section 8 of this act, when it finds that the
37 material characteristics and management methods will not pose
38 unacceptable hazards to human health and the environment.

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

11 **Sec. 3.** RCW 15.54.325 and 1993 c 183 s 3 are each amended to read
12 as follows:

13 (1) No person may distribute in this state a packaged fertilizer
14 until it is registered with the department by the distributor whose
15 name appears on the label. An application for each packaged fertilizer
16 product shall be made on a form furnished by the department and shall
17 be accompanied by an initial fee of twenty-five dollars for the first
18 product and ten dollars for each additional product. Labels for each
19 product shall accompany the application. All companies planning to mix
20 packaged customer-formula fertilizers shall include the statement
21 "customer-formula grade mixes" under the column headed "product name"
22 on the product registration application form. All customer-formula
23 fertilizers sold under one brand name shall be considered one product.
24 Upon the approval of an application by the department, a copy of the
25 registration shall be furnished to the applicant. All registrations
26 expire on June 30th of each year except that for the period beginning
27 January 1, 1994, the registration shall expire on June 30, 1995.

28 (2) An application for registration shall include the following:

- 29 (a) The product name;
30 (b) The brand and grade;
31 (c) The guaranteed analysis;
32 (d) Name and address of the registrant;
33 (e) Labels for each product being registered;
34 (f) Any other information required by the department by rule.

35 (3) Prior to the registration of a commercial fertilizer that is
36 defined as solid waste under RCW 70.95.030, the department shall obtain
37 written approval from the department of ecology. The department of
38 ecology shall issue written approval, as provided in section 8 of this

1 act, when it finds that the material characteristics and management
2 methods will not pose unacceptable hazards to human health and the
3 environment.

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

14 **Sec. 4.** RCW 15.54.340 and 1993 c 183 s 5 are each amended to read
15 as follows:

16 (1) Any packaged fertilizer distributed in this state in containers
17 shall have placed on or affixed to the package a label setting forth in
18 clearly legible and conspicuous form the following information:

19 (a) The net weight;

20 (b) The product name, brand, and grade. The grade is not required
21 if no primary nutrients are claimed;

22 (c) The guaranteed analysis;

23 (d) The name and address of the registrant or licensee. The name
24 and address of the manufacturer, if different from the registrant or
25 licensee, may also be stated; (~~and~~)

26 (e) For wood by-products intended to improve the physical
27 characteristics of the soil, the label must include the purpose of the
28 product and directions for application; and

29 (f) Other information as required by the department by rule.

30 (2) If a commercial fertilizer is distributed in bulk, a written or
31 printed statement of the information required by subsection (1) above
32 shall accompany delivery and be supplied to the purchaser at the time
33 of delivery.

34 (3) Each delivery of a customer-formula fertilizer shall be subject
35 to containing those ingredients specified by the purchaser, which
36 ingredients shall be shown on the statement or invoice with the amount
37 contained therein, and a record of all invoices of customer-formula
38 grade mixes shall be kept by the registrant or licensee for a period of

1 twelve months and shall be available to the department upon request:
2 PROVIDED, That each such delivery shall be accompanied by either a
3 statement, invoice, a delivery slip, or a label if bagged, containing
4 the following information: The net weight; the brand; the guaranteed
5 analysis which may be stated to the nearest tenth of a percent or to
6 the next lower whole number; the name and address of the registrant or
7 licensee, or manufacturer, or both; and the name and address of the
8 purchaser.

9 **Sec. 5.** RCW 15.54.436 and 1993 c 183 s 12 are each amended to read
10 as follows:

11 The department may cancel the license to distribute commercial
12 fertilizer or registration of any packaged fertilizer product or refuse
13 to license a distributor or register any packaged fertilizer product as
14 provided in this chapter due to:

15 (1) An incomplete or insufficient license or registration
16 application;

17 (2) The misbranding or adulteration of a commercial fertilizer;
18 (~~(or)~~)

19 (3) A violation of this chapter or rules adopted under this
20 chapter; or

21 (4) Evidence of unacceptable hazards to human health or the
22 environment that were not known during the approval process specified
23 in RCW 15.54.275(4) and 15.54.325(3).

24 If the department cancels or refuses to renew an existing license
25 or registration due to the misbranding or adulteration of a commercial
26 fertilizer or due to a violation of this chapter or a rule adopted
27 hereunder, the licensee/registrator or applicant may request a hearing
28 as provided for in chapter 34.05 RCW.

29 **Sec. 6.** RCW 15.54.800 and 1993 c 183 s 14 are each amended to read
30 as follows:

31 (1) The director shall administer and enforce the provisions of
32 this chapter and any rules adopted under this chapter. All authority
33 and requirements provided for in chapter 34.05 RCW apply to this
34 chapter in the adoption of rules.

35 (2) The director may adopt appropriate rules for carrying out the
36 purpose and provisions of this chapter, including but not limited to
37 rules providing for:

- 1 (a) Definitions of terms;
- 2 (b) Determining standards for labeling and registration of
3 commercial fertilizers (~~(and agricultural minerals and limes)~~);
- 4 (c) The collection and examination of commercial fertilizers (~~(and~~
5 ~~agricultural mineral and limes)~~);
- 6 (d) Recordkeeping by registrants and licensees;
- 7 (e) Regulation of the use and disposal of commercial fertilizers
8 for the protection of ground water and surface water; and
- 9 (f) The safe handling, transportation, storage, display, and
10 distribution of commercial fertilizers.

11 **Sec. 7.** RCW 70.95.240 and 1993 c 292 s 3 are each amended to read
12 as follows:

13 (1) After the adoption of regulations or ordinances by any county,
14 city, or jurisdictional board of health providing for the issuance of
15 permits as provided in RCW 70.95.160, it shall be unlawful for any
16 person to dump or deposit or permit the dumping or depositing of any
17 solid waste onto or under the surface of the ground or into the waters
18 of this state except at a solid waste disposal site for which there is
19 a valid permit. This section shall not:

20 (a) Prohibit a person from dumping or depositing solid waste
21 resulting from his own activities onto or under the surface of ground
22 owned or leased by him when such action does not violate statutes or
23 ordinances, or create a nuisance; or

24 (b) Apply to a person using solid wastes on the land as a
25 commercial fertilizer under the licensing requirements of chapter 15.54
26 RCW if the department has issued written approval as provided in
27 section 8 of this act.

28 (2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120
29 for a person to litter in an amount less than or equal to one cubic
30 foot.

31 (b) It is a class 1 civil infraction as defined in RCW 7.80.120 for
32 a person to litter in an amount greater than one cubic foot. Unless
33 suspended or modified by a court, the person shall also pay a litter
34 cleanup fee of twenty-five dollars per cubic foot of litter. The court
35 may, in addition to or in lieu of part or all of the cleanup fee, order
36 the person to pick up and remove litter from the property, with prior
37 permission of the legal owner or, in the case of public property, of
38 the agency managing the property.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW
2 to read as follows:

3 The department shall issue written approval to the department of
4 agriculture that a material defined as solid waste in RCW 70.95.030
5 should be issued a commercial fertilizer license under RCW 15.54.275,
6 or registered as packaged fertilizer under RCW 15.54.325, if the
7 material characteristics and management methods will not pose
8 unacceptable hazards to human health and the environment. The written
9 approval must certify, to the degree practicable, that the use of the
10 material as a commercial fertilizer is consistent with the following:

11 (1) The biosolids standards set forth in rule or guidance under
12 chapter 70.95J RCW, municipal sewage sludge;

13 (2) Chapter 70.105D RCW, model toxics control act;

14 (3) Chapter 90.48 RCW, water pollution control;

15 (4) Chapter 70.94 RCW, Washington clean air act; and

16 (5) Other factors intended to protect human health and the
17 environment.

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