
ENGROSSED SUBSTITUTE SENATE BILL 5800

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senator Rasmussen; by request of Department of
Agriculture)

Read first time 03/03/99.

1 AN ACT Relating to the two-year registration of fertilizer products
2 and the immediate stop sale, stop use, withdrawal from distribution,
3 and seizure of unlawful commercial fertilizers; amending RCW 15.54.325,
4 15.54.330, 15.54.440, and 15.54.450; providing an effective date; and
5 declaring an emergency.

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

7 **Sec. 1.** RCW 15.54.325 and 1998 c 36 s 4 are each amended to read
8 as follows:

9 (1) No person may distribute in this state a commercial fertilizer
10 until it has been registered with the department by the producer,
11 importer, or packager of that product. A bulk fertilizer does not
12 require registration if all commercial fertilizer products contained in
13 the final product are registered.

14 (2) An application for registration shall be made on a form
15 furnished by the department and shall ~~((be accompanied by a fee of~~
16 ~~twenty-five dollars for each product. Labels for each product shall~~
17 ~~accompany the application. All companies planning to mix customer-~~
18 ~~formula fertilizers shall include the statement "customer-formula grade~~
19 ~~mixes" under the column headed "product name" on the product~~

1 registration application form. All customer formula fertilizers sold
2 under one brand name shall be considered one product.

3 ~~(3) An application for registration shall~~) include the following:

4 (a) The product name;

5 (b) The brand and grade;

6 (c) The guaranteed analysis;

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

8 (e) Labels for each product being registered;

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

12 (g) Identification of the fertilizer components in the commercial
13 fertilizer product and verification that all the components are
14 registered. If any of the components are not registered, then the
15 application must include the concentration of each metal in each
16 fertilizer component, for which standards are established under RCW
17 15.54.800;

18 (h) Waste-derived fertilizers and micronutrient fertilizers shall
19 include at a minimum, information to ensure the product complies with
20 chapter 70.105 RCW and the resource conservation and recovery act, 42
21 U.S.C. Sec. 6901 et seq.; and

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

23 ~~((+4))~~ (3) All companies planning to mix customer-formula
24 fertilizers shall include the statement "customer-formula grade mixes"
25 under the column headed "product name" on the product registration
26 application form. All customer-formula fertilizers sold under one
27 brand name shall be considered one product.

28 (4) All registrations issued by the department for registrants
29 whose names begin with the letters A through M expire on June 30th of
30 even-numbered years. All registrations issued by the department for
31 registrants whose names begin with the letters N through Z expire on
32 June 30th of odd-numbered years, unless otherwise specified in rule
33 adopted by the director.

34 (5) An application for registration shall be accompanied by a fee
35 of fifty dollars for each product, except that an applicant whose
36 registration expires in even-numbered years shall pay a fee of twenty-
37 five dollars for each product for the registration period ending June
38 30, 2000.

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

12 **Sec. 2.** RCW 15.54.330 and 1998 c 36 s 5 are each amended to read
13 as follows:

14 (1) The department shall examine the commercial fertilizer product
15 registration application form and labels for conformance with the
16 requirements of this chapter. If the application and appropriate
17 labels are in proper form and contain the required information, the
18 particular commercial fertilizer products shall be registered by the
19 department and a certificate of registration shall be issued to the
20 applicant. ((All registrations expire June 30th of each year.))

21 (2) In reviewing the commercial fertilizer product registration
22 application, the department may consider experimental data,
23 manufacturers' evaluations, data from agricultural experiment stations,
24 product review evaluations, or other authoritative sources to
25 substantiate labeling claims. The data shall be from statistically
26 designed and analyzed trials representative of the soil, crops, and
27 climatic conditions found in the northwestern area of the United
28 States.

29 (3) In determining whether approval of a labeling statement or
30 guarantee of an ingredient is appropriate, the department may require
31 the submission of a written statement describing the methodology of
32 laboratory analysis utilized, the source of the ingredient material,
33 and any reference material relied upon to support the label statement
34 or guarantee of ingredient.

35 (4) Before registering a waste-derived fertilizer or micronutrient
36 fertilizer, the department shall obtain written approval from the
37 department of ecology as provided in RCW ((15.54.800)) 15.54.820. Once
38 a waste-derived fertilizer or micronutrient fertilizer has been

1 approved by the department of ecology, its subsequent use in another
2 product during that registration cycle shall not require department of
3 ecology review. This subsection shall apply to new and renewal
4 registration applications for periods beginning July 1, 1999, and
5 thereafter.

6 **Sec. 3.** RCW 15.54.440 and 1987 c 45 s 23 are each amended to read
7 as follows:

8 (1) Commercial fertilizers that are not registered in Washington
9 state, or that fail to meet the Washington standards for total metals
10 pose an emergency situation because they may contain certain metals at
11 levels which are harmful to Washington soils and plants and may contain
12 substances which are harmful to the public without its knowledge.
13 Commercial fertilizers that are not registered, or that fail to meet
14 the Washington standards for total metals are subject to immediate stop
15 sale, stop use, or withdrawal from distribution in this state and/or
16 seizure and disposal.

17 (2) The department may issue and enforce a written ((or printed))
18 "stop sale," "stop use," or ((removal)) "withdrawal from distribution"
19 order to the distributor, owner, or custodian of any lot of commercial
20 fertilizer to hold ((said)) the commercial fertilizer at a designated
21 place when the department has reasonable cause to believe such
22 fertilizer is being offered or exposed for sale in violation of any of
23 the provisions of this chapter((, until this chapter has been complied
24 with and said commercial fertilizer is released by order in writing of
25 the department)).

26 (3) The department may issue and enforce a written immediate "stop
27 sale," "stop use," or "withdrawal from distribution" order to any
28 distributor, owner, or custodian of commercial fertilizer in the state
29 for any commercial fertilizer that:

30 (a) Is not registered in Washington state; or

31 (b) According to the department, fails to meet the Washington
32 standards for total metals, as established in RCW 15.54.800 or the
33 rules adopted under this chapter.

34 (4) The department shall release the commercial fertilizer ((so
35 withdrawn)) stopped or withdrawn under subsection (2) or (3) of this
36 section when the distributor, owner, or custodian has complied with the
37 provisions of this chapter and the rules adopted under it and the
38 department has issued a written release order. If compliance is not or

1 cannot be obtained, the department may institute proceedings under RCW
2 15.54.450 or may agree in writing with the distributor, owner, or
3 custodian of the commercial fertilizer to an alternative disposition of
4 the commercial fertilizer.

5 (5) All costs associated with any "stop sale," "stop use," or
6 "withdrawal from distribution" incurred by the distributor, owner, or
7 custodian of a commercial fertilizer are the responsibility of the
8 distributor, owner, or custodian. Such costs shall not be the
9 responsibility of a distributor, owner, or custodian who is either the
10 final user of the commercial fertilizer or whose role is limited to
11 that of a transporter of the commercial fertilizer, but instead shall
12 be the responsibility of other distributors, owners, or custodians.

13 **Sec. 4.** RCW 15.54.450 and 1967 ex.s. c 22 s 33 are each amended to
14 read as follows:

15 (1) Any lot of commercial fertilizer not in compliance with the
16 provisions of this chapter shall be subject to seizure on complaint of
17 the department to a court of competent jurisdiction in the area in
18 which ((said)) the commercial fertilizer is located.

19 (2) Any commercial fertilizer that is not registered in the state,
20 or that fails to meet the Washington standards for total metals is
21 subject to seizure on complaint of the department in the name of the
22 state to Thurston county superior court or other court of competent
23 jurisdiction.

24 (3) In the event the court finds ((the said commercial fertilizer
25 to be in violation of)), upon application by the department under
26 subsection (1) or (2) of this section, that a commercial fertilizer
27 violates this chapter or the rules adopted under it and orders the
28 condemnation of ((said)) the commercial fertilizer, ((it)) the
29 commercial fertilizer shall be disposed of in any manner consistent
30 with the quality of the commercial fertilizer and the laws of the
31 state: PROVIDED, That in no instance shall the disposition of ((said))
32 the commercial fertilizer be ordered by the court without first giving
33 the claimant an opportunity to apply to the court for release of
34 ((said)) the commercial fertilizer or for permission to process or
35 relabel ((said)) the commercial fertilizer to bring it into compliance
36 with this chapter and the rules adopted under it.

37 (4) All costs associated with disposal are the responsibility of
38 the distributor, owner, or custodian of the commercial fertilizer.

1 Disposal costs shall not be the responsibility of a distributor, owner,
2 or custodian who is either the final user of the commercial fertilizer
3 or whose role is limited to that of a transporter of the commercial
4 fertilizer, but instead shall be the responsibility of other
5 distributors, owners, or custodians.

6 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 July 1, 1999.

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