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**SUBSTITUTE SENATE BILL 5800**

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**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 can contain certain metals at  
11 levels which are injurious to Washington soils and plants and may  
12 contain substances which are harmful to the public without its  
13 knowledge. Commercial fertilizers that are not registered, or that  
14 fail to meet the Washington standards for total metals are subject to  
15 immediate stop sale, stop use, or withdrawal from distribution in this  
16 state and/or 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.

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

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

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

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

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

35 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 July 1, 1999.

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