

LEGISLATIVE BILL 692

Approved by the Governor April 20, 1978

Introduced by Agriculture and Environment Committee, Schmit, 23; DeCamp, 40; Venditte, 7; R. Maresh, 32; Lamb, 43; Hefner, 19; Burrows, 30; Kahle, 37

AN ACT to amend section 81-2,162.05, Reissue Revised Statutes of Nebraska, 1943, and section 81-2,162.02, Revised Statutes Supplement, 1977, relating to agriculture; to change a definition; to provide labeling requirements on soil conditioners; to restrict the use of certain pesticides; to provide penalties; to repeal the original sections, and also section 2-2615, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-2,162.02, Revised Statutes Supplement, 1977, be amended to read as follows:

81-2,162.02. When used in this act, unless the context otherwise requires:

(1) Director shall mean the Director of Agriculture or his duly authorized agent;

(2) Department shall mean the Department of Agriculture;

(3) Commercial fertilizer shall mean any formula or product distributed, except unmanipulated animal and vegetable manures, which contains one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication, which nutrients are used for their plant nutrient content and are intended to promote plant growth;

(4) Bulk shall mean nonpackaged;

(5) Custom blended product shall mean any individually compounded commercial fertilizer or soil conditioner mixed, blended, offered for sale or sold in Nebraska to a person's specifications, when such person is the ultimate consumer; Provided, that the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 shall have been so registered;

(6) Distribute shall mean to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil conditioners;

(7) Fineness shall mean the percentage of weight of the material which will pass United States standard sieves of specified sizes;

(8) Label shall mean a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or soil conditioner is distributed, or a statement accompanying such product;

(9) Labeling shall mean the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or soil conditioner at any time or to which reference is made on the label;

(10) Official sample shall mean any sample of commercial fertilizer or soil conditioner taken by the director or his agent;

(11) Product shall mean both commercial fertilizers and soil conditioners;

(12) Ton shall mean a net weight of two thousand pounds avoirdupois;

(13) Per cent or percentage shall mean the percentage by weight;

(14) Person shall include individual, cooperative, partnership, association, firm, and corporation;

(15) Sell or sale shall include exchange;

(16) Soil conditioner shall mean any formula or product distributed, except unmanipulated animal and vegetable manures, which, when added to the soil, ~~or applied-to-plants,~~ is intended to (a) change the physical condition of the soil, or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics, but shall not mean a commercial fertilizer or agricultural liming material; and

(17) Specialty product shall mean a product for nonfarm use.

Sec. 2. That section 81-2,162.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.05. (1) Any packaged commercial fertilizer ~~or soil conditioner~~ distributed in this state, except custom blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously the net weight or measure of the product and the information required by subdivisions (c), (d), (e), and (g) of subsection (1) of section 81-2,162.03.

(2) If distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (c), (d), (e), and (g) of subsection (1) of section 81-2,162.03, shall accompany delivery and be supplied to the purchaser.

(3) Whenever a commercial fertilizer ~~or soil conditioner~~ is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Notwithstanding any other provision of this act, any commercial fertilizer ~~or soil conditioner~~ which is also a pesticide, labeled in conformance with the Nebraska Pesticides and Devices Act, shall be deemed to be labeled in conformance with this act.

Sec. 3. (1) Any packaged soil conditioner distributed in this state, except custom blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously the (a) net weight or measure of the product, (b) the information required by subdivisions (c) and (d) of subsection (1) of section 81-2,162.03, (c) the total percentage of the active ingredients in the soil conditioner, (d) the identification and percentage of each individual active ingredient, (e) the total percentage of the inactive ingredients, (f) the identification and percentage of each individual inactive ingredient which comprises more than two per cent of the entire soil conditioner, and (g) under a category entitled other inactive ingredients, the total percentage of the remaining inactive ingredients which individually do not comprise two per cent or more of the soil conditioner.

(2) If any soil conditioner is distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (c) and (d) of subsection (1) of section 81-2,162.03 and by subdivisions (c) through (g) of subsection (1) of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a soil conditioner is so comprised as to be recognized by a name commonly understood by

ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Notwithstanding any other provision of this act, any soil conditioner which is also a pesticide, labeled in conformance with the Nebraska Pesticides and Devices Act, shall be deemed to be labeled in conformance with this act.

Sec. 4. It shall be unlawful for any person to use or supervise the use of any restricted use pesticide, except as provided in section 2-2619, unless such person using or supervising the use of any restricted use pesticide is certified pursuant to sections 2-2613 to 2-2618.

Sec. 5. Any person who shall knowingly violate any provision of section 4 of this act shall be guilty of a Class V misdemeanor.

Sec. 6. That original section 81-2,162.05, Reissue Revised Statutes of Nebraska, 1943, and section 81-2,162.02, Revised Statutes Supplement, 1977, and also section 2-2615, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.