

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 110

Introduced by Carlson, 38.

Read first time January 06, 2011

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 81-2,162.02,
2 81-2,162.04, 81-2,162.06, and 81-2,162.13, Reissue
3 Revised Statutes of Nebraska; to eliminate soil
4 conditioner registration in the Nebraska Commercial
5 Fertilizer and Soil Conditioner Act; to harmonize
6 provisions; to repeal the original sections; and to
7 outright repeal section 81-2,162.03, Reissue Revised
8 Statutes of Nebraska.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2,162.02, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 81-2,162.02 For purposes of the Nebraska Commercial
4 Fertilizer and Soil Conditioner Act, unless the context otherwise
5 requires:

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

8 (2) Department shall mean the Department of Agriculture;

9 (3) Commercial fertilizer shall mean any formula or
10 product distributed for further distribution or ultimate use as a
11 plant nutrient, intended to promote plant growth, containing one or
12 more plant nutrients recognized by the Association of American Plant
13 Food Control Officials in its official publication. The term
14 commercial fertilizer shall not be deemed to include unmanipulated
15 animal and vegetable manures but shall be deemed to include both
16 finished products and fertilizer ingredients capable of being used in
17 the formulation of a finished product;

18 (4) Bulk shall mean nonpackaged;

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

25 (6) Distribute shall mean to offer for sale, sell,

1 barter, or otherwise supply commercial fertilizers or soil
2 conditioners;

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

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

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

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

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

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

21 (13) Percent or percentage shall mean the percentage by
22 weight;

23 (14) Person shall include individual, cooperative,
24 partnership, limited liability company, association, firm, and
25 corporation;

1 (15) Sell or sale shall include exchange;

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

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

10 Sec. 2. Section 81-2,162.04, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-2,162.04 (1) Any packaged soil conditioner distributed
13 in this state, except custom-blended products, shall have placed on
14 or affixed to the package a label stating clearly and conspicuously
15 (a) the net weight or measure of the product, (b) the name of the
16 product, (c) the name and principal address of the person
17 guaranteeing or manufacturing the product, (d) the information
18 required by subdivisions (1)(c) and (d) of section 81-2,162.03, (e)
19 the total percentage of the active ingredients in the soil
20 conditioner, (d)—(e) the identification and percentage of each
21 individual active ingredient, (e)—(f) the total percentage of the
22 inactive ingredients, (f)—(g) the identification and percentage of
23 each individual inactive ingredient which comprises more than two
24 percent of the entire soil conditioner, and (g)—(h) under a category
25 entitled other inactive ingredients, the total percentage of the

1 remaining inactive ingredients which individually do not comprise two
2 percent or more of the soil conditioner.

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

8 (3) Whenever a soil conditioner is so comprised as to be
9 recognized by a name commonly understood by ordinary individuals,
10 such name shall be prominently and conspicuously displayed on the
11 label.

12 (4) Notwithstanding any other provision of the Nebraska
13 Commercial Fertilizer and Soil Conditioner Act, any soil conditioner
14 which is also a pesticide, labeled in conformance with the Pesticide
15 Act, shall be deemed to be labeled in conformance with the Nebraska
16 Commercial Fertilizer and Soil Conditioner Act.

17 Sec. 3. Section 81-2,162.06, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-2,162.06 (1) There shall be paid to the director, for
20 all commercial fertilizers and soil conditioners distributed in this
21 state to the ultimate user, except custom-blended products, an
22 inspection fee at the rate fixed by the director but not exceeding
23 ten cents per ton. The fee shall be paid by the person distributing
24 the product to the ultimate user.

25 (2) Payment of the inspection fee shall be evidenced by a

1 statement made with documents showing that fees corresponding to the
2 tonnage were received by the director.

3 (3) Every person who distributes commercial fertilizer or
4 soil conditioners to the ultimate user in this state shall file, not
5 later than the last day of January and July of each year, a
6 semiannual tonnage report on forms provided by the department setting
7 forth the number of net tons of commercial fertilizer and soil
8 conditioners distributed in this state during the preceding six-month
9 period, which report shall cover the periods from July 1 to December
10 31 and January 1 to June 30, and such other information as the
11 director shall deem necessary. All persons required to be licensed
12 pursuant to the Nebraska Commercial Fertilizer and Soil Conditioner
13 Act shall file such report regardless of whether any inspection fee
14 is due. Upon filing the report, such person shall pay the inspection
15 fee at the rate prescribed pursuant to subsection (1) of this
16 section. The minimum inspection fee required pursuant to this section
17 shall be five dollars, and no inspection fee shall be paid more than
18 once for any one product.

19 (4) If a person fails to report and pay the fee required
20 by subsection (3) of this section by January 31 and July 31, he or
21 she may be required by the department to pay a ~~penalty-late filing~~
22 fee of up to twenty-five percent in addition to the fee due if paid
23 during the period of February 1 to February 28 or August 1 to August
24 31 for the respective delinquency and an additional twenty-five
25 percent ~~penalty-late filing fee~~ thereafter. Failure to make an

1 accurate statement of tonnage or to pay the inspection fee or comply
2 as provided in this subsection shall constitute sufficient cause for
3 the cancellation of all ~~product registrations, licenses, or both~~ on
4 file for such person. The purpose of the late filing fee is to cover
5 the administrative costs associated with collecting fees and all
6 money collected as a late filing fee shall be remitted to the State
7 Treasurer for credit to the Fertilizers and Soil Conditioners
8 Administrative Fund.

9 (5) No information furnished to the department under this
10 section shall be disclosed in such a way as to reveal the operation
11 of any person.

12 Sec. 4. Section 81-2,162.13, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-2,162.13 The director is authorized and empowered to
15 cancel the ~~registration or license~~ of any person manufacturing or
16 distributing any commercial fertilizer or soil conditioner ~~or to~~
17 ~~refuse to register any soil conditioner~~ upon satisfactory evidence
18 that the ~~registrant, licensee, or guarantor~~ has used fraudulent or
19 deceptive practices in the evasions or attempted evasions of the
20 provisions of the Nebraska Commercial Fertilizer and Soil Conditioner
21 Act or any rules and regulations promulgated thereunder. No license
22 ~~or registration~~ shall be revoked or refused until the ~~registrant,~~
23 ~~licensee, or guarantor~~ has been given the opportunity to appear for a
24 hearing before the director.

25 Sec. 5. Original sections 81-2,162.02, 81-2,162.04,

1 81-2,162.06, and 81-2,162.13, Reissue Revised Statutes of Nebraska,
2 are repealed.

3 Sec. 6. The following section is outright repealed:

4 Section 81-2,162.03, Reissue Revised Statutes of Nebraska.