

CHAPTER 85.

[H. B. 84.]

WASHINGTON FERTILIZER ACT.

AN ACT relating to fertilizers, agricultural minerals and lime, repealing certain antecedent laws relating to fertilizers, agricultural minerals and lime, repealing chapter 211, Laws of 1939, and providing penalties.

Be it enacted by the Legislature of the State of Washington:

Title of act. SECTION 1. This act shall be known and may be cited as the "Washington Fertilizer Act."

Definitions. SEC. 2. The following definitions apply to words and phrases used in this act:

"Fertilizer material." (1) "Fertilizer material" means any substance other than unmanipulated animal or vegetable manures containing not less than five per cent of nitrogen, phosphoric acid, or potash, singly or chemically combined, and may contain other plant food elements or compounds.

"Mixed fertilizer." (2) "Mixed fertilizer" means any physical combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

"Commercial fertilizer." (3) "Commercial fertilizer" means and includes mixed fertilizers, fertilizer materials and specialty fertilizers.

"Complete fertilizer." (4) "Complete fertilizer" means commercial fertilizer which contains nitrogen, phosphoric acid and potash.

"Specialty fertilizer." (5) The term "specialty fertilizer" means any fertilizer distributed primarily for use on non-commercial crops such as gardens, lawns, shrubs, and flowers; and may include fertilizers used for research or experimental purposes.

"Agricultural minerals." (6) "Agricultural minerals" means mineral substances, and mixtures of mineral and organic substances containing less than five per cent in available form of nitrogen, phosphoric acid, or potash, collec-

tively, or in combination designed for use principally as a source of plant food; provided that animal manures, limes, sand and soil shall not be considered as minerals.

(7) "Lime" means a substance or mixture of substances, the principal constituent of which is calcium and/or hydroxide, magnesium carbonate, or oxide, singly or combined. "Lime."

(8) "Brand" means a term, design or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers, agricultural minerals or lime. "Brand."

(9) "Grade" means the minimum percentage of total nitrogen, available phosphoric acid and soluble potash stated in the order given. "Grade."

(10) "Ton" means a net weight of two thousand pounds avoirdupois. "Ton."

(11) "Per cent" or "percentage" means the percentage by weight. It shall always be expressed in whole numbers. "Per cent" or "Percentage."

(12) "Ultimate dealer" means a person who sells commercial fertilizer, agricultural mineral or lime direct to the user. "Ultimate dealer."

(13) "Department" means the state department of agriculture of the state of Washington. "Department."

SEC. 3. Each brand of commercial fertilizer, agricultural mineral or lime shall be registered with the department before being sold or offered for sale in this state. The application for registration of a brand shall be made to the department and it shall be accompanied by a registration fee of twenty-five dollars for each brand. The application shall be made on forms provided by the department. Registration of brands of commercial fertilizer.

SEC. 4. The application for registration of a brand of commercial fertilizer shall include the following information: Same; application contents.

- (1) The name and address of the registrant.
- (2) The name and address of the manufacturer.

(3) Brand name.

(4) Declaration of grades intended to be sold.

Registration of grades of commercial fertilizer.

SEC. 5. Each grade of commercial fertilizer shall be registered with the department before being sold. No grade of commercial fertilizer can be offered for sale without a registered brand name.

Same: application contents.

SEC. 6. The application for registration of a grade of commercial fertilizer intended to be sold shall include the following information:

- (1) The name and address of the registrant.
- (2) The name and address of the manufacturer.
- (3) The brand name.

(4) The guaranteed analysis of total nitrogen, available phosphoric acid and soluble potash in terms of the minimum percentage of such materials in the particular grade. The minimum percentage shall be expressed in the following form:

Total nitrogen, N.per cent
Available phosphoric acid, P ₂ O ₅per cent
Soluble Potash, K ₂ Oper cent

(5) The source from which the nitrogen, phosphoric acid and potash are derived.

(6) In the case of bonemeal, tankage or other natural organic phosphatic materials sold as such, the guaranteed analysis of phosphatic materials may be in terms of total phosphoric acid.

Registration of agricultural mineral.

SEC. 7. The application for registration of an agricultural mineral shall include the following information:

- (1) The name and address of the registrant.
- (2) The name and address of the manufacturer.
- (3) The brand name.

(4) If an agricultural mineral is derived as a by-product of the manufacture of sugar or acetylene, or from the by-products of some other manufacturing process, the principal constituent of which by-product is a compound of calcium, the minimum

percentage of calcium in terms of calcium carbonate, calcium hydroxide or calcium oxide shall be given.

(5) In an agricultural mineral the principal ingredient of which is sulphur, the minimum percentage of sulphur shall be given.

(6) In an agricultural mineral the principal constituent of which is calcium sulphate, the percentage of calcium sulphate ($\text{CaSO}_4 \cdot 2 \text{H}_2\text{O}$) shall be given, and the per cent of total sulphur.

(7) In an agricultural mineral the principal constituent of which is calcium phosphate, such as rock phosphate, the guaranteed analysis of calcium phosphate shall be given in terms of the minimum percentage of available phosphoric acid, and total phosphoric acid.

(8) In the case of an agricultural mineral not specifically or generally mentioned in this section, the minimum percentage of all constituents claimed to be therein in terms of equivalents to be prescribed by the department, shall be given.

(9) In case of any physical mixture of two or more agricultural minerals, the minimum percentage of each of the principal constituents shall be given.

SEC. 8. The application for registration of lime shall include the following information:

Registration
of lime.

(1) The name and address of the manufacturer or producer.

(2) The name and address of the registrant.

(3) The brand name and the grade.

(4) The name of the particular form of dolomitic or calcic lime (ground limestone, burnt lime, lime hydrate, shells, marl).

(5) The guaranteed minimum percentage of calcium and/or magnesium expressed as their carbonates; the minimum total neutralizing power expressed in terms of calcium carbonate; the percent-

age of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve.

Examination
of appli-
cations.

Certificate of
registration.

Registration
expiration
date.

Testing of
guaranteed
food plant
elements.

Sales by bag,
barrel or
container;
label re-
quirements.

SEC. 9. The department shall examine the application for conformance with the requirements of this act. If the application is in proper form and contains the required information the particular brand and grade of commercial fertilizer, agricultural mineral or lime shall be registered by the department and a certificate of registration shall be issued to the applicant. The registration shall expire on the 31st day of December next following the registration or each annual renewal thereof.

SEC. 10. If plant food elements other than those mentioned in sections 6, 7, and 8 of this act are guaranteed to be present in a commercial fertilizer, agricultural mineral or lime, they shall be subject to sampling, inspection, and analysis in accordance with regulations promulgated by the department.

SEC. 11. All the information required by sections 6, 7 and 8 of this act to be submitted with the application for registration of each brand and grade shall be placed on each bag, barrel or container of commercial fertilizer, agricultural mineral or lime; however, if the registrant of the brand is not the manufacturer, the manufacturer's name and address need not be stated on the container. The information shall be placed on the bag, barrel, or container, with such prominence by reason of size and coloring of lettering as will reasonably assure its being seen by the purchaser under the conditions of retail sale by which it is sold, offered for sale or exposed for sale. No other form of label nor any other chemical term referring to nitrogen (N), phosphoric acid (P_2O_5), potash (K_2O), calcium hydroxide, calcium magnesium carbonate, calcium oxide, calcium carbonate, sulphur, calcium sulphate, calcium phosphate, dolomitic lime, calcic lime, ground

limestone, burnt lime, lime hydrate, shells, marl, magnesium carbonate shall be used than those specified in this act.

If a commercial fertilizer, agricultural mineral or lime is distributed or sold in bulk, the distributor or seller shall deliver to the purchaser a written or printed statement containing the information required to be on bags, barrels, or containers of such materials.

Sales in bulk; statement of contents.

SEC. 12. Each person who sells or offers for sale a commercial fertilizer or agricultural mineral in the state of Washington shall pay to the department an inspection fee of ten cents for each ton of commercial fertilizer or agricultural mineral sold by such person during the year beginning January 1, and ending December 31st. Each person who sells lime in the state of Washington shall pay to the department an inspection fee of two cents for each ton of lime sold during the year.

Inspection fee.

In computing the tonnage on which the inspection fee must be paid as required by this section, sales of commercial fertilizers, agricultural minerals or lime to fertilizer manufacturers, sales of commercial fertilizers, agricultural minerals and lime in packages weighing five pounds net or less, and sales of commercial fertilizers, agricultural minerals and lime for shipment to points outside this state, may be excluded.

Exempt transactions.

It is the intent of this act that only one person shall be responsible for payment of the inspection fee and when more than one person doing business in this state is involved in the commercial distribution of such materials, then the person who sells to the ultimate dealer is responsible for reporting the tonnage and paying the inspection fees; however, a manufacturer, jobber, broker or wholesaler who sells commercial fertilizer, agricultural mineral or

Persons liable.

lime directly to the user of such material must also pay the inspection fee on such materials.

Reports.

SEC. 13. (1) Each person made responsible by this act for the payment of inspection fees for commercial fertilizers, agricultural minerals or lime sold in this state shall file a report with the department on October 1st, January 1st, April 1st, and July 1st of each year of the number of tons of such materials sold during the three calendar months immediately preceding the date the report is due. The proper inspection fee shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty day period of grace immediately following the day the report and payment are due to file the report and pay the fee, and the department may, in its discretion, permit a further reasonable extension of time.

(2) The report required by this section shall be made under oath certifying to the correctness of the report.

(3) The report required by this section shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report; except that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person in any action, suit or proceeding instituted under the authority of this act including any civil action for collection of unpaid inspection fees, which action hereby is authorized and which shall be as an action at law in the name of the director of the department.

Inspection;
powers and
duties of
director.

SEC. 14. (1) It shall be the duty of the department to sample, inspect and analyze commercial fertilizers, agricultural minerals and lime sold or offered for sale within this state to determine compliance with the provisions of this act. The depart-

ment may enter upon any private business premises during the regular business hours in order to have access to any substance subject to the provisions of this act.

(2) The methods of sampling, inspection and analysis shall be designated by the department, such as but not limited to, those of the association of official agricultural chemists. Methods.

(3) Whenever the department takes an official sample of commercial fertilizer, agricultural mineral or lime for analysis, the owner or person in charge of the substance shall be notified, prior to taking the sample. Upon the request of the owner or person in charge of the sampled material, the department shall furnish such person one half of the official sample. The chemist making the analysis shall return to the director two certified copies of his findings, one of which shall be forwarded to the party in interest. Such findings shall be admissible in any proceeding involving this chapter as prima facie evidence of the facts therein set forth. Notice.
Sample available to owner.
Findings; copies.
Same; prima facie evidence.

SEC. 15. No superphosphate containing less than eighteen per cent of available phosphoric acid, nor any mixed fertilizer in which the sum of the percentage guarantees for the nitrogen, available phosphoric acid and soluble potash in the mixture is less than twenty per cent, shall be sold or offered for sale in this state; except for complete fertilizers containing twenty-five per cent or more of their nitrogen in water insoluble form of plant or animal origin, in which case the total percentage of nitrogen, available phosphoric acid and soluble potash shall not be less than eighteen per cent, and except for specialty fertilizers. Superphosphate and mixed fertilizer; restrictions on sale.

SEC. 16. For the purposes of this act, a commercial fertilizer, agricultural mineral or lime shall be deemed misbranded if it carries any false or misleading statement upon or attached to the container of Misbranded defined.

such substances, or on the purchaser's statement for materials sold in bulk. The term "false and misleading statements" shall include, but not be limited to statements relating to the agricultural value of the particular substance.

Specific un-
lawful acts.

SEC. 17. (1) It shall be unlawful for a person to sell or offer for sale a misbranded commercial fertilizer, agricultural mineral, or lime.

(2) It shall be unlawful for a person to fail, refuse or neglect to place upon or attach to each bag, barrel or container of commercial fertilizer, agricultural mineral or lime offered for sale, sold, or mixed or manipulated as a service all of the information required by this act to be so placed or attached.

(3) It shall be unlawful for a person to fail, refuse or neglect to deliver to a purchaser of commercial fertilizer, agricultural mineral or lime in bulk a statement containing the information required by this act.

(4) It shall be unlawful for a person to sell or offer for sale within this state a commercial fertilizer, agricultural mineral, or lime which has not been registered with the department.

Department
reports.

SEC. 18. The department shall publish at least once annually information concerning the production, sales and volume of commercial fertilizer, agricultural mineral and lime. The department shall also publish a report of the results of the official analysis of commercial fertilizer, agricultural minerals and lime as compared with the guaranteed analysis of the particular brand and grade of such fertilizer, mineral or lime; however, the information concerning production and use of commercial fertilizers, agricultural minerals and lime shall be shown separately for the periods of July 1 to December 31 and from January 1 to June 30 of each year, and no disclosure shall be made of the business operations of any person.

SEC. 19. The administration of this act is vested in the department. All rules and regulations for the administration and enforcement of this act shall only be promulgated by the department after public hearing. Notice of such hearing shall be given by publication of notice in a newspaper of general circulation at least ten days prior to the date of the hearing. The notice shall state the date, time and place of the hearing, and a brief summary of the regulations the department intends to promulgate.

Administra-
tion of act.

SEC. 20. Whenever the director finds, or has probable cause to believe, that an article subject to this chapter is in intrastate commerce, which was introduced into such commerce in violation of this act, or which is so adulterated or misbranded as to label, that its embargo under this section is required to protect the consuming or purchasing public from substantial injury, he is authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director finds that such article does not involve a violation of this chapter, such embargo shall be forthwith removed.

Embargo;
authorized.

SEC. 21. When the director has embargoed an article, he shall forthwith and without delay in no event later than ten days after the affixing of notice of its embargo, petition the superior court for an order affirming such embargo. Such court shall then have jurisdiction, for cause shown and after prompt hearing to any claimant of such article, to issue an order which directs the removal of such embargo or the destruction or the correction and release of such article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses, as is equitable and which the court deems appropriate in the circumstances. An

Same; court
proceedings.

order for correction and release may contain such provision for bond, as the court deems proper in the circumstances.

Same; consolidation of petitions.

SEC. 22. Two or more petitions under section 21, which are pending at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by the claimant.

Probable cause.

SEC. 23. No state court shall allow the recovery of damages from administrative action or for embargo under section 20, if the court finds that there was probable cause for such action.

Refusal or cancellation of registration.

SEC. 24. The department shall refuse registration, or cancel the registration, of any brand or grade of commercial fertilizer, agricultural mineral or lime, the sale or offering for sale of which would be in violation of any provisions of this act.

Penalty.

SEC. 25. (1) A person who violates any provision of this act shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under section 26.

Warnings.

(2) Nothing in this act shall be considered as requiring the department to report for prosecution, or to cancel the registration of a brand or grade, or to embargo goods for violations of this act, of a minor character, when the department believes that the public interest will be served and protected by a suitable notice of the violation in writing.

Duty of prosecuting attorneys.

(3) It shall be the duty of each prosecuting attorney to whom any violation is reported to institute and prosecute without delay.

Courts have concurrent jurisdiction.

(4) Justice courts and superior courts shall have concurrent jurisdiction for the enforcement of this act.

SEC. 26. There is created in the state treasury a special fund to be known as the fertilizer, agricultural mineral and lime fund in which shall be deposited all money hereafter collected under the provisions of this act.

Fertilizer, agricultural, mineral and lime fund.

SEC. 27. Chapter 211, Laws of 1939, as last amended by chapter 167, Laws of 1949, insofar as it relates to fertilizers, agricultural minerals and limes, is repealed.

Repealing clause.

SEC. 28. This act shall take effect the first day of January, 1954.

Effective date.

Passed the House February 7, 1953.

Passed the Senate March 9, 1953.

Approved by the Governor, March 17, 1953.

CHAPTER 86.

[H. B. 122.]

CITIES — PARK COMMISSIONERS — APPOINTMENT AND POWERS.

AN ACT relating to the appointment and powers of park commissioners in cities of the second, third and fourth class, and amending section 35.23.170, RCW.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 35.23.170, RCW, as derived from section 2, chapter 228, Laws of 1907, as last amended by section 1, chapter 121, Laws of 1925, extraordinary session, is amended to read as follows:

Amendment.

City councils of cities of the second, third and fourth class may provide by ordinance, for a board of park commissioners, not to exceed three in number, to be appointed by the mayor, with the consent of the city council, from citizens of recognized fitness for such position. No person shall be ineligible as a commissioner by reason of sex and no commissioner

Cities of 2nd, 3rd and 4th class; appointment of board of park commissioners authorized.

Eligibility and compensation.