

CHAPTER 24

**AGRICULTURE**

**HOUSE BILL 96-1284**

BY REPRESENTATIVES Lamm, Acquafresca, Chlouber, Dyer, Entz, Friednash, George, Kerns, Musgrave, Reeser, Salaz, Schwarz, Taylor, Jerke, and Gordon;  
also SENATOR Dennis.

**AN ACT**

**CONCERNING CHANGES TO THE "COMMERCIAL FERTILIZER, SOIL CONDITIONER, PLANT AMENDMENT, AND AGRICULTURAL LIMING MATERIAL ACT OF 1977".**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 35-12-103 (2), (16) (a) (I), (16) (b), and (20), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**35-12-103. Definitions.** As used in this article, unless the context otherwise requires:

(2) ~~"Applicator" means any person engaged in the business of applying specialty fertilizers, soil conditioners, plant amendments, agricultural liming materials, treated manures, or untreated manures in any form. It does not include a person applying fertilizers, soil conditioners, plant amendments, agricultural liming materials, treated manures, or untreated manures to his own land or crops.~~

(16)(a)(I) ~~"Guaranteed analysis" until the commissioner prescribes the alternative form of "guaranteed analysis", in accordance with the provisions of paragraph (b) of this subsection (16);~~ means the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N) . . . . . percent

Available ~~Phosphoric Acid~~ PHOSPHATE (P2O5) . . . . . percent

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

Soluble Potash (K<sub>2</sub>O) . . . . . percent

(b) ~~When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he thereafter may require by regulation that the "guaranteed analysis" shall be in the following form:~~

~~Total Nitrogen (N) . . . . . percent~~

~~Available Phosphorus (P) . . . . . percent~~

~~Soluble Potassium (K) . . . . . percent~~

~~The effective date of this regulation shall not be less than six months following its issuance, and, for a period of two years following the effective date of this regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. However, after the effective date of any regulation issued under the provisions of this paragraph (b) which requires that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.~~

~~(20) "Manipulator" means any person who treats manure, either animal or vegetable, as set forth in subsection (34) of this section. It does not include a person treating manures for application to his own land or crops.~~

**SECTION 2.** 35-12-104 (2) and (3), Colorado Revised Statutes, 1995 Repl. Vol., are repealed as follows:

**35-12-104. Registration.** (2) ~~Each manipulator as defined in section 35-12-103 (20) shall apply to the commissioner on forms furnished by the department for a permit to offer for sale, sell, or distribute treated manure, and he shall not engage in the business of manipulating prior to the time the permit is issued. The manipulator shall pay to the department an annual fee of five dollars for the permit, which shall expire on June 30 of each year.~~

~~(3) Each applicator as defined in section 35-12-103 (2) shall apply to the commissioner on forms furnished by the department for a permit to engage in such business and shall not engage in such business prior to the time the permit is issued. The applicator shall pay to the department an annual fee of two dollars for the permit, which shall expire on June 30 of each year.~~

**SECTION 3.** 35-12-105 (3) (f), Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

**35-12-105. Labels.** (3) Any packaged soil conditioner or plant amendment distributed in this state shall have placed or affixed on the container a label setting forth in clearly legible and conspicuous form the following information:

(f) A statement "NOT A PLANT FOOD PRODUCT", printed either on the back of the container or in a prominent location on the label and printed in easily legible type, which is the same size as that used to print the brand and product name and which is in contrast by typography, layout, or color with the other printed matter on the label.

**SECTION 4.** 35-12-106 (4), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-12-106. Inspection fees.** (4) Each registrant shall file an affidavit semiannually within forty-five days after each January 1 and each July 1 with the commissioner which discloses the pounds or tonnage of commercial fertilizer, soil conditioner, plant amendment, or agricultural liming material sold or distributed in the state during the preceding six-month period AND OTHER INFORMATION AS REQUIRED BY RULES ADOPTED BY THE DEPARTMENT OF AGRICULTURE. If the affidavit is not filed and the inspection fee is not paid within the forty-five-day period or if the report of pounds or tonnage is false, the commissioner may revoke the registration of such person, and, if the affidavit is not filed and the inspection fee is not paid within the forty-five-day period, a penalty of five dollars per day for each subsequent day shall be assessed. The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against such person.

**SECTION 5.** 35-12-107, Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

**35-12-107. County tonnage reports.** ~~(1) Basic suppliers doing business in Colorado or selling to Colorado nonregistrants shall submit a summary report in form approved by the commissioner on or before the twentieth day of each month covering shipments made during the preceding month or shall submit a copy of the shipping invoices within five business days after shipment. This report shall contain the following information:~~

~~(a) County of consignee;~~

~~(b) Analysis of fertilizer material, soil conditioner, plant amendment, or agricultural liming material.~~

~~(2) No information furnished under this section shall be disclosed by any employee of the department to any unauthorized person.~~

~~(3) The reporting requirements of subsection (1) of this section shall not apply to untreated animal manure, untreated vegetable manure, untreated peat moss, or untreated peat humus.~~

**SECTION 6.** 35-12-109 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-12-109. Deviation from guaranteed analysis - penalties.** (1) If an official analysis shows that a commercial fertilizer is deficient in one or more of its guaranteed primary plant nutrients, nitrogen, available phosphoric acid, and soluble potash, beyond the investigational allowance AND COMPENSATIONS as established by

regulation ~~or~~ AND if the overall index value of the fertilizer is below the level established by regulation, THE DEFICIENCY SHALL BE EVALUATED AND a penalty of three times the commercial value of such deficiency in the lot of such fertilizer represented by the sample shall be assessed by the commissioner against the registrant.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 1996