



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2010

Introduced 2/10/2011, by Sen. Michael W. Frerichs

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Fertilizer Act of 1961. Makes changes to the definitions. Provides for labeling requirements for fertilizers or custom blends. Provides that it shall be unlawful for misbranding or for the adulteration of a fertilizer within the State. Provides that the Director may refuse to register a fertilizer or cancel or suspend a fertilizer registration, custom blend, or fertilizer if certain specified claims are made. Permits the Director to issue and serve a written stop sale, stop use, or regulate removal upon an owner, operator, manager, or agent in charge of fertilizer. Creates the Nutrient Research and Education Council (NREC) for the purpose of pursuing nutrient research and providing educational programs to ensure the adoption and implementation of practices that optimize nutrient use efficiency, ensure soil fertility, and address environmental concerns with regard to fertilizer use. Provides that the Department has the authority issue subpoenas, temporary restraining orders, preliminary or permanent injunctions against any person from violating or continuing to violate any provision of the Act. Provides for penalties based on type of violation. Makes other corresponding changes. Effective January 1, 2012.

LRB097 08213 CEL 48338 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Fertilizer Act of 1961 is amended  
5 by changing Sections 2, 3, 4, 5, 6, 6a, 6b, 7, 8, 10, 11, 12,  
6 13, 14, 15, 16, 17, 18, 18a, 19, 20, and 21 and by adding  
7 Section 21.5 as follows:

8 (505 ILCS 80/2) (from Ch. 5, par. 55.2)

9 Sec. 2. Enforcing official. The Director of the Department  
10 of Agriculture, hereinafter referred to as the "Director",  
11 shall administer this Act. ~~This Act shall be administered by~~  
12 ~~the Director of the Department of Agriculture, hereinafter~~  
13 ~~referred to as the "Director".~~

14 (Source: Laws 1961, p. 3085.)

15 (505 ILCS 80/3) (from Ch. 5, par. 55.3)

16 Sec. 3. Definitions of words and terms. When used in this  
17 Act unless the context otherwise requires:

18 "Anhydrous ammonia" means the compound formed by the  
19 combination of 2 gaseous elements, nitrogen and hydrogen, in  
20 the proportion of one part of nitrogen to 3 parts of hydrogen  
21 (NH<sub>3</sub>) by volume. Anhydrous ammonia is a fertilizer of ammonia  
22 gas in compressed and liquified form. It is not aqueous ammonia

1 which is a solution of ammonia gas in water and which is  
2 considered a low-pressure nitrogen solution.

3 "Blender" means any person or system engaged in the  
4 business of blending fertilizer. This includes both mobile and  
5 fixed equipment used to achieve this function.

6 "Blending" means the physical mixing or combining of: one  
7 or more fertilizer materials and one or more filler materials;  
8 2 or more fertilizer materials; 2 or more fertilizer materials  
9 and filler materials, including mixing through the  
10 simultaneous or sequential application of any of the outlined  
11 combinations listed in this definition, to produce a uniform  
12 mixture.

13 "Brand" means a term, design, or trademark used in  
14 connection with one or several grades of commercial  
15 fertilizers.

16 "Bulk" means any fertilizer distributed in a non-packaged  
17 form.

18 "Custom blend" means a fertilizer blended according to  
19 specifications provided to a blender in a soil test nutrient  
20 recommendation or to meet the specific consumer request prior  
21 to blending.

22 ~~(a) The term "fertilizer material" means any substance~~  
23 ~~containing nitrogen, phosphorus, potash or any other~~  
24 ~~recognized plant nutrient element or compound which is used~~  
25 ~~primarily for its plant nutrient content or for compounding~~  
26 ~~mixed fertilizers except unmanipulated animal and vegetable~~

1 ~~manures.~~

2 ~~(b) The term "mixed fertilizer" means any combination or~~  
3 ~~mixture of fertilizer materials designed for use or claimed to~~  
4 ~~have value in promoting plant growth.~~

5 ~~(c) The term "commercial fertilizer" means mixed~~  
6 ~~fertilizer and/or fertilizer materials except the following~~  
7 ~~natural products: agricultural limestone, marl, sea solids and~~  
8 ~~unprocessed animal manure, which have not been manipulated so~~  
9 ~~as to alter or change them chemically and burnt or hydrated~~  
10 ~~lime, and sewage sludge produced by any sanitary district shall~~  
11 ~~not be subject to the provisions of this Act. Such term does~~  
12 ~~not include "custom mixes" as defined herein.~~

13 ~~(d) The term "anhydrous ammonia" means the compound formed~~  
14 ~~by the combination of two gaseous elements, nitrogen and~~  
15 ~~hydrogen, in the proportion of one part of nitrogen to three~~  
16 ~~parts of hydrogen (NH<sub>3</sub>) by volume. Anhydrous ammonia is a~~  
17 ~~commercial fertilizer of ammonia gas in compressed and~~  
18 ~~liquified form. It is not aqueous ammonia which is a solution~~  
19 ~~of ammonia gas in water and which is considered a low pressure~~  
20 ~~nitrogen solution.~~

21 ~~(e) The term "specialty fertilizer" means a commercial~~  
22 ~~fertilizer distributed primarily for nonfarm use, such as home~~  
23 ~~gardens, lawns, shrubbery, flowers, golf courses, municipal~~  
24 ~~parks, cemeteries, green houses and nurseries, and may include~~  
25 ~~commercial fertilizer used for research or experimental~~  
26 ~~purposes.~~

1       ~~(f) The term "bulk fertilizers" means commercial~~  
2 ~~fertilizer or custom mix distributed in a non-packaged form.~~

3       ~~(g) The term "custom mix" means a mixture of 2 or more~~  
4 ~~commercial fertilizers mixed at time of shipment to the~~  
5 ~~specific order of the consumer.~~

6       "Custom blender" ~~(h) The term "custom mixer"~~ means a person  
7 who produces and sells custom blends ~~mixes~~.

8       "Deficiency" means the amount of nutrient found by analysis  
9 less than that guaranteed that may result from a lack of  
10 nutrient ingredients or from lack of uniformity.

11       "Department" means the Illinois Department of Agriculture.

12       "Director" means the Director of Agriculture or a duly  
13 authorized representative.

14       "Distribute" means to import, consign, manufacture,  
15 produce, store, transport, custom blend, compound, or blend  
16 fertilizer or to transfer from one container to another for the  
17 purpose of selling, giving away, bartering, or otherwise  
18 supplying fertilizer in this State.

19       "Distributor operator" means any person who distributes.

20       "Fertilizer" means any substance containing one or more of  
21 the recognized plant nutrient nitrogen, phosphate, potash, or  
22 those defined under 8 Ill. Adm. Code 210.20 that is used for  
23 its plant nutrient content and that is designed for use or  
24 claimed to have value in promoting plant growth, except  
25 unmanipulated animal and vegetable manures, sea solids, marl,  
26 lime, limestone, wood ashes, and other products exempted by

1 regulation by the Director.

2 "Fertilizer material" means a fertilizer that either:

3 (A) contains important quantities of no more than one  
4 of the primary plant nutrients: nitrogen (N), phosphate  
5 (P2O5), and potash (K2O);

6 (B) has 85% or more of its plant nutrient content  
7 present in the form of a single chemical compound; or

8 (C) is derived from a plant or animal residue or  
9 by-product or natural material deposit that has been  
10 processed in such a way that its content of plant nutrients  
11 has not been materially changed except by purification and  
12 concentration.

13 ~~(i) The term "brand" means a term, design, or trade mark used~~  
14 ~~in connection with one or several grades of commercial~~  
15 ~~fertilizers.~~

16 ~~(j) The term "guaranteed analysis" means the minimum~~  
17 ~~percentages of plant nutrients claimed in the following order~~  
18 ~~and form:~~

- 19 ~~A. Total Nitrogen (N)..... %~~
- 20 ~~Available Phosphoric Acid (P2O5) ..... %~~
- 21 ~~Soluble Potash (K2O) ..... %~~

22 ~~B. For unacidulated mineral phosphatic materials and basic~~  
23 ~~slag, both total and available phosphoric acid and the degree~~  
24 ~~of fineness. For bone, tankage, and other organic phosphatic~~  
25 ~~materials, total phosphoric acid.~~

26 ~~C. Additional plant nutrients expressed as the elements,~~

1 ~~when permitted by regulation.~~

2 ~~D. Potential basicity or acidity expressed in terms of~~  
3 ~~calcium carbonate equivalent in multiples of 100 pounds per~~  
4 ~~ton, when required by regulation.~~

5 "Grade" ~~(k) The term "grade"~~ means the minimum percentage  
6 of total nitrogen, available phosphoric phosphate acid (P2O5)  
7 and soluble potash (K2O) stated in the whole numbers in the  
8 same terms, order, and percentages as in the guaranteed  
9 analysis, provided that specialty fertilizers may be  
10 guaranteed in fractional units of less than 1% of total  
11 nitrogen, available phosphate, and soluble potash and that  
12 fertilizer materials, bone meal, manures, and similar  
13 materials may be guaranteed in fractional units ~~order given in~~  
14 ~~this definition.~~

15 "Investigational allowance" means an allowance for  
16 variations inherent in the taking, preparation, and analysis of  
17 an official sample of fertilizer.

18 "Label" means the display of all written, printed, or  
19 graphic matter upon the immediate container or a statement  
20 accompanying a fertilizer.

21 "Labeling" means all (i) written, written, printed, or  
22 graphic matter upon or accompanying any fertilizer or (ii)  
23 advertisements, Internet, brochures, posters, and television  
24 and radio announcements used in promoting the sale of  
25 fertilizer.

26 "Local legislation" means, but is not limited to, any

1 ordinance, motion, resolution, amendment, regulation, or rule  
2 adopted by a political subdivision.

3 "Lot" means an identifiable quantity of fertilizer that can  
4 be sampled according to AOAC International procedures, such as,  
5 the amount contained in a single vehicle, the amount delivered  
6 under a single invoice, or in the case of bagged fertilizer,  
7 not more than 25 tons.

8 ~~(l) The term "official sample" means any sample of~~  
9 ~~commercial fertilizer or custom mix taken by the Director or~~  
10 ~~his agent and designated as "official" by the Director.~~

11 ~~(m) The term "ton" means a net weight of 2000 pounds~~  
12 ~~avoirdupois.~~

13 ~~(n) The term "per cent" or "percentage" means the~~  
14 ~~percentage by weight.~~

15 ~~(o) The term "person" means any individual, partnership,~~  
16 ~~association, firm and corporation.~~

17 ~~(p) The term "distribute" means to offer for sale, sell,~~  
18 ~~barter, store, handle, transport or otherwise supply~~  
19 ~~commercial fertilizers or custom mix. The term "distributor"~~  
20 ~~means any person who distributes.~~

21 ~~(q) Words importing the singular number may extend and be~~  
22 ~~applied to several persons or things and words importing the~~  
23 ~~plural number may include the singular.~~

24 ~~(r) The term "registrant" means the person who registers~~  
25 ~~commercial fertilizer or custom mix under the provisions of~~  
26 ~~this Act.~~



1       ~~(s) The term~~ "Low-pressure nitrogen solution" means a ~~low~~  
2 ~~pressure~~ solution containing 2 per cent or more by weight of  
3 free ammonia and/or having vapor pressure of 5 pounds or more  
4 per square inch gauge at 104° F.

5       "Mixed fertilizer" means any combination or mixture of  
6 fertilizer materials designed for use or claimed to have value  
7 in promoting plant growth.

8       "Official sample" means any sample of fertilizer taken by  
9 the Director or his agent and designated as official by the  
10 Director.

11       "On Farm Anhydrous Ammonia Storage Facility" means a site  
12 where anhydrous ammonia fertilizer is stored for  
13 non-commercial purposes.

14       "Per cent" or "percentage" means the percentage by weight.

15       "Person" means any individual, partnership, association,  
16 firm and corporation.

17       "Registrant" means the person who registers fertilizer and  
18 obtains a license under the provisions of this Act.

19       "Specialty fertilizer" means a fertilizer distributed  
20 primarily for nonfarm use, such as home gardens, lawns,  
21 shrubbery, flowers, golf courses, municipal parks, cemeteries,  
22 green houses and nurseries, and may include fertilizer used for  
23 research or experimental purposes.

24       "Ton" means a net weight of 2,000 pounds avoirdupois.

25       ~~(t) The term "Department"~~ means the Illinois Department of  
26 ~~Agriculture.~~

1       ~~(u) The term "Director" means the Director of the Illinois~~  
2       ~~Department of Agriculture or a duly authorized representative.~~

3       (Source: P.A. 83-586.)

4             (505 ILCS 80/4) (from Ch. 5, par. 55.4)

5             Sec. 4. Registration.

6             (a) Each brand and grade of ~~commercial~~ fertilizer shall be  
7       registered in the name of that person whose name appears upon  
8       the label before being distributed in this State. The  
9       application for registration shall be submitted with a label or  
10       facsimile of same to the Director on form furnished by the  
11       Director, and shall be accompanied by a fee of \$20 ~~\$10~~ per  
12       grade within a brand. Upon approval by the Director a copy of  
13       the registration shall be furnished to the applicant. All  
14       registrations expire on December 31 of each year.

15            The application shall include the following information:

- 16               (1) The net weight  
17               (2) The brand and grade  
18               (3) The guaranteed analysis  
19               (4) The name and address of the registrant.

20            (b) A distributor shall not be required to register any  
21       brand of ~~commercial~~ fertilizer or custom blend ~~mix~~ which is  
22       already registered under this Act by another person.

23            (c) The plant nutrient content of each and every ~~commercial~~  
24       fertilizer must remain uniform for the period of registration  
25       and, in no case, shall the percentage of any guaranteed plant

1 nutrient element be changed in such a manner that the  
2 crop-producing quality of the ~~commercial~~ fertilizer is  
3 lowered.

4 (d) Each distributor performing one or more acts of  
5 distribution as defined under Section 3 ~~custom mixer~~ shall  
6 register annually with the Director on forms furnished by the  
7 Director. The application for registration shall be  
8 accompanied by a fee of \$100 and shall remit an additional \$50  
9 per distribution site if the site is registered under the same  
10 business name ~~\$50, unless the custom mixer elects to register~~  
11 ~~each mixture, paying a fee of \$10 per mixture.~~ Upon approval by  
12 the Director, a copy of the registration shall be furnished to  
13 the applicant. All registrations expire on December 31 of each  
14 year.

15 (d-5) Each On Farm Anhydrous Ammonia Storage Facility  
16 operator shall register annually with the Director on forms  
17 furnished by the Director. The application for registration  
18 shall be accompanied by a fee of \$50 and shall remit an  
19 additional \$25 per site registered under the same farm operator  
20 name. Upon approval by the Director, a copy of the registration  
21 shall be furnished to the applicant. All registrations expire  
22 on December 31 of each year.

23 (e) A custom blend ~~mix~~ as defined in Section 3 ~~section~~  
24 ~~3(f)~~, prepared for one consumer shall not be co-mingled with  
25 the custom blended ~~mixed~~ fertilizer prepared for another  
26 consumer.

1 (f) All fees collected pursuant to this Section shall be  
2 paid to the Fertilizer Control Fund for activities related to  
3 the administration and enforcement of this Act ~~paid into the~~  
4 ~~State treasury.~~

5 (Source: P.A. 93-32, eff. 7-1-03.)

6 (505 ILCS 80/5) (from Ch. 5, par. 55.5)

7 Sec. 5. Labeling.

8 (a) Any ~~commercial~~ fertilizer or custom blend mix  
9 distributed in this State in non-bulk containers shall have  
10 placed on or affixed to the container a label setting forth in  
11 clearly legible form the following information: ~~required by~~  
12 ~~Items (1), (2), (3), and (4) of paragraph (a) of Section 4.~~

13 (1) net weight;

14 (2) brand and grade; provided, that the grade shall not  
15 be required when no primary nutrients are claimed;

16 (3) guaranteed analysis;

17 (4) directions for use for the fertilizer distributed  
18 to the end user; and

19 (5) name and address of the registrant.

20 In the case of bulk shipments as a brand or grade of  
21 fertilizer, this information in a written or printed form shall  
22 accompany delivery of each load and be supplied to the  
23 purchaser at time of delivery.

24 (b) (Blank). ~~If distributed in bulk as a brand or grade of~~  
25 ~~fertilizer, a written or printed statement of the information~~

1 ~~required by items (1), (2), (3), and (4) of paragraph (a) of~~  
2 ~~Section 4 shall accompany delivery of each load and be supplied~~  
3 ~~to the purchaser at time of delivery.~~

4 (c) If distributed in bulk as a custom blend ~~mixed~~  
5 fertilizer, a written or printed statement shall accompany  
6 delivery of each load and be supplied to the purchaser at time  
7 of delivery and must carry information as follows:

8 1. Weight of each ~~commercial~~ fertilizer used in the custom  
9 blend ~~mixing~~.

10 2. The guaranteed analysis of each ~~commercial~~ fertilizer  
11 used in the custom blend ~~mixing~~.

12 3. Total weight of fertilizer delivered in each load.

13 4. Name and address of the person selling the fertilizer.

14 (d) A custom blended ~~mixed~~ fertilizer shall be intimately  
15 and uniformly mixed. The Director, in determining for  
16 administrative purposes whether a custom blend ~~mix~~ is  
17 intimately and uniformly mixed, shall compute the analysis of  
18 the load of custom blended ~~mixed~~ fertilizer from the  
19 information required by Items (1), (2), and (3) of paragraph  
20 (c) of this section.

21 (e) Each lot of fertilizer shall display identification in  
22 a manner that includes, but is not limited to, numerical,  
23 alphabetical, date of manufacture, or a combination that  
24 distinguishes it from that of other lots distributed.

25 (f) Fertilizer materials not defined by AAPFCO may be used  
26 as fertilizer materials if the registrant furnishes an

1 acceptable definition, AOAC International or other appropriate  
2 method of analysis, heavy metal analysis, and agronomic data  
3 when deemed necessary.

4 (Source: Laws 1963, p. 2240.)

5 (505 ILCS 80/6) (from Ch. 5, par. 55.6)

6 Sec. 6. Inspection fees.

7 (a) There shall be paid to the Director for all ~~commercial~~  
8 fertilizers or custom blend ~~mix~~ distributed in this State an  
9 inspection fee at the rate of 15¢ ~~25¢~~ per ton. Sales to  
10 manufacturers or exchanges between them are hereby exempted  
11 from the inspection fee.

12 On individual packages of ~~commercial or custom mix or~~  
13 ~~specialty~~ fertilizers containing 5 pounds or less, or if in  
14 liquid form containers of 4,000 cubic centimeters or less,  
15 there shall be paid instead of the 15¢ ~~25¢~~ per ton inspection  
16 fee, an annual inspection fee of \$50 ~~\$25~~ for each grade within  
17 a brand sold or distributed. Where a person sells ~~commercial or~~  
18 ~~custom mix or specialty~~ fertilizers in packages of 5 pounds or  
19 less, or 4,000 cubic centimeters or less if in liquid form, and  
20 also sells in larger packages than 5 pounds or liquid  
21 containers larger than 4,000 cubic centimeters, this annual  
22 inspection fee of \$50 ~~\$25~~ applies only to that portion sold in  
23 packages of 5 pounds or less or 4,000 cubic centimeters or  
24 less, and that portion sold in larger packages or containers  
25 shall be subject to the same inspection fee of 15¢ ~~25¢~~ per ton

1 as provided in this Act. ~~The increased fees shall be effective~~  
2 ~~after June 30, 1989.~~

3 (b) Every person who distributes a ~~commercial~~ fertilizer or  
4 custom blend mix in this State shall file with the Director, on  
5 forms furnished by the Director, a semi-annual statement for  
6 the periods ending June 30 and December 31, setting forth the  
7 number of net tons of each grade of ~~commercial~~ fertilizers  
8 within a brand or the net tons of custom blend mix distributed.  
9 The report shall be due on or before the 30th ~~15th~~ day of the  
10 month following the close of each semi-annual period and upon  
11 the statement shall pay the inspection fee at the rate stated  
12 in paragraph (a) of this Section.

13 The 15¢ ~~One half of the 25¢~~ per ton inspection fee shall be  
14 paid into the Fertilizer Control Fund ~~and all other fees~~  
15 ~~collected under this Section shall be paid into the State~~  
16 ~~treasury.~~

17 If the tonnage report is not filed and the payment of  
18 inspection fee is not made within 30 days after the end of the  
19 semi-annual period, a collection fee amounting to 15% ~~10%~~  
20 (minimum \$15 ~~\$10~~) of the amount shall be assessed against the  
21 registrant. The amount of fees due shall constitute a debt and  
22 become the basis of a judgment against the registrant. Upon the  
23 written request to the Director additional time may be granted  
24 past the normal date of filing the semi-annual statement.

25 When more than one person is involved in the distribution  
26 of a ~~commercial~~ fertilizer, the last registrant who distributes

1 to the non-registrant (dealer or consumer) is responsible for  
2 reporting the tonnage and paying the inspection fee.

3 (Source: P.A. 93-32, eff. 7-1-03.)

4 (505 ILCS 80/6a) (from Ch. 5, par. 55.6a)

5 Sec. 6a. Nutrient Research and Education Council. The  
6 Director is hereby authorized to ensure that distributors remit  
7 a designated fertilizer tonnage assessment to the Nutrient  
8 Research and Education Council (NREC) for the purpose of  
9 pursuing nutrient research and providing educational programs  
10 to ensure the adoption and implementation of practices that  
11 optimize nutrient use efficiency, ensure soil fertility, and  
12 address environmental concerns with regard to fertilizer use.  
13 The NREC may also participate in relevant demonstration and  
14 cost-share programs to enhance adoption and meet objectives of  
15 nutrient efficiency and stewardship programs supported by the  
16 NREC.

17 The NREC shall be comprised of 9 persons, 3 representing  
18 the fertilizer industry, 3 persons representing grower  
19 organizations, one person representing the specialty  
20 fertilizer industry, one person representing the public at  
21 large and the Director or his or her designee. Members of the  
22 Council shall receive no compensation for their services, and  
23 the terms of the Council members, appointment process, and  
24 conduct of the meetings shall be outlined in the NREC bylaws  
25 and made available to the industry organizations.



1       The responsibilities of the NREC are to:

2           (1) prioritize nutrient research needs and solicit  
3       research proposals to generate findings and make  
4       recommendations to the Council based on the findings;

5           (2) evaluate the proposed budget for each research  
6       project and make recommendations as necessary;

7           (3) arrange for peer review of all research proposals  
8       for scientific merit and methods;

9           (4) report the findings of all research projects at  
10       industry conferences, publish the findings and implement  
11       educational programs to apply the research recommendations  
12       in agricultural production systems and in consumer use  
13       markets where appropriate;

14           (5) engage in outreach and field level trials and  
15       educational programs with growers and consumers and  
16       publicize these events; and

17           (6) where practical, cooperate with other programs  
18       with similar goals.

19       The Council shall set the fertilizer tonnage assessment for  
20       the purpose of funding the NREC at no less than 50 cents per  
21       ton and no greater than \$3.00 per ton to fund, administer,  
22       publish, and implement the research, education, and outreach  
23       programs designated each year by the Council. By December 31 of  
24       each year, the Council shall report to the Director the amount  
25       of the annual tonnage assessment to be collected the following  
26       year from distributors.

1       Assessments collected from distributors are payable  
2 directly to the NREC on a semi-annual basis. This payment shall  
3 coincide with the reporting of the tonnage data and the  
4 remittance of the inspection fee to the Department. If the NREC  
5 assessment is not made to the Council under this Section, then  
6 the Director may rescind the license of the distributor. The  
7 Council may enter into an agreement with the Director to  
8 establish random audits of distributors to assure accurate  
9 remittance of the NREC assessment. The NREC may also enter into  
10 contracts with other entities approved by the Council for the  
11 purposes of fulfilling the objectives of the NREC. The  
12 ~~Department is hereby authorized to establish a program and~~  
13 ~~expend appropriations for a fertilizer research and education~~  
14 ~~program dealing with the relationship of fertilizer use to soil~~  
15 ~~management, soil fertility, plant nutrition problems, and for~~  
16 ~~research on environmental concerns which may be related to~~  
17 ~~fertilizer usage; for the dissemination of the results of such~~  
18 ~~research; and for other designated activities including~~  
19 ~~educational programs to promote the correct and effective usage~~  
20 ~~of fertilizer materials.~~

21       ~~To assist in the development and administration of the~~  
22 ~~fertilizer research and education program, the Director is~~  
23 ~~authorized to establish a Fertilizer Research and Education~~  
24 ~~Council consisting of 9 persons. This council shall be~~  
25 ~~comprised of 3 persons representing the fertilizer industry, 3~~  
26 ~~persons representing crop production, and 2 persons~~

1 ~~representing the public at large. In the appointment of persons~~  
2 ~~to the council, the Director shall consult with representative~~  
3 ~~persons and recognized organizations in the respective fields~~  
4 ~~concerning such appointments. The Director or his~~  
5 ~~representative from the Department shall act as chairman of the~~  
6 ~~council. The Director shall call meetings thereof from time to~~  
7 ~~time or when requested by 3 or more appointed members of the~~  
8 ~~council.~~

9 ~~The responsibilities of the Fertilizer Research and~~  
10 ~~Education Council are to:~~

11 ~~(a) solicit research and education projects consistent~~  
12 ~~with the scope of the established fertilizer research and~~  
13 ~~education program;~~

14 ~~(b) review and arrange for peer review of all research~~  
15 ~~proposals for scientific merit and methods, and review or~~  
16 ~~arrange for the review of all proposals for their merit,~~  
17 ~~objective, methods and procedures;~~

18 ~~(c) evaluate the proposed budget for the projects and~~  
19 ~~make recommendations as necessary; and~~

20 ~~(d) monitor the progress of projects and report at~~  
21 ~~least once each 6 months on each project's accomplishments~~  
22 ~~to the Director and Board of Agricultural Advisors.~~

23 ~~The Fertilizer Research and Education Council shall at~~  
24 ~~least annually recommend projects to be approved and funded~~  
25 ~~including recommendations on continuation or cancellation of~~  
26 ~~authorized and ongoing projects to the Board of Agricultural~~

1 ~~Advisors, which is created in Section 5-525 of the Departments~~  
2 ~~of State Government Law (20 ILCS 5/5-525). The Board of~~  
3 ~~Agricultural Advisors shall review the proposed projects and~~  
4 ~~recommendations of the Fertilizer Research and Education~~  
5 ~~Council and recommend to the Director what projects shall be~~  
6 ~~approved and their priority. In the case of authorized and~~  
7 ~~ongoing projects, the Board of Agricultural Advisors shall~~  
8 ~~recommend to the Director the continuation or cancellation of~~  
9 ~~such projects.~~

10 ~~When the Director, the Board of Agricultural Advisors, and~~  
11 ~~the Fertilizer Research and Education Council approve a project~~  
12 ~~and subject to available appropriations, the Director shall~~  
13 ~~grant funds to the person originating the proposal.~~

14 (Source: P.A. 91-239, eff. 1-1-00.)

15 (505 ILCS 80/6b) (from Ch. 5, par. 55.6b)

16 Sec. 6b. The amount annually deposited in the Fertilizer  
17 Control Fund shall be appropriated ~~for the operation of the~~  
18 ~~Fertilizer Research and Education Program~~ by the General  
19 Assembly to the Department for activities related to the  
20 enforcement of this Act.

21 ~~These moneys shall be used for expenses consistent with~~  
22 ~~carrying out the purpose and intent of the program, which~~  
23 ~~include council expenses, peer review, and contracts to persons~~  
24 ~~for research or education projects and costs associated with~~  
25 ~~general operating expenses, such as administrative support,~~

1 ~~travel, commodities, and printing. The Department shall~~  
2 ~~receive 3% of the annual amount deposited in the Fertilizer~~  
3 ~~Control Fund.~~

4 (Source: P.A. 91-754, eff. 7-1-00.)

5 (505 ILCS 80/7) (from Ch. 5, par. 55.7)

6 Sec. 7. Inspection, sampling, analysis.

7 (a) It is the duty of the Director, who may act through his  
8 authorized agent, to sample, inspect, make analysis of, and  
9 test ~~commercial~~ fertilizers and custom ~~mixes~~ distributed  
10 within this State at a time and place and to such an extent as  
11 the Director ~~he~~ considers necessary to determine whether such  
12 ~~commercial~~ fertilizers ~~or custom mixes~~ are in compliance with  
13 the provisions of this Act. The Director, individually or  
14 through his agent, is authorized to enter upon any public or  
15 private premises during regular business hours in order to have  
16 access to ~~commercial~~ fertilizers ~~or custom mixes~~ and to records  
17 relating to their distribution subject to the provisions of  
18 this Act and the rules and regulations pertaining thereto.

19 (b) The methods of analysis and sampling shall be those  
20 adopted by the official agency from sources such as those of  
21 the Association of Official Analytical ~~Agricultural~~ Chemists.

22 (c) The Director, in determining for administrative  
23 purposes whether any ~~commercial~~ fertilizer ~~or custom mix~~ is  
24 deficient in plant food, shall be guided solely by the official  
25 sample as defined in ~~paragraph (k) of Section 3,~~ and obtained

1 and analyzed as provided for in this Section ~~paragraph (b) of~~  
2 ~~Section 7.~~

3 (d) The results of official analysis of any ~~commercial~~  
4 ~~fertilizer or custom mix~~ which has been found to be subject to  
5 penalty or other legal action shall be forwarded by the  
6 Director to the registrant at least 10 days before the report  
7 is submitted to the purchaser. If during that period no  
8 adequate evidence to the contrary is made available to the  
9 Director, the report shall become official. Upon request the  
10 Director shall furnish to the registrant a portion of any  
11 sample found subject to penalty or other legal action.

12 (Source: P.A. 77-106.)

13 (505 ILCS 80/8) (from Ch. 5, par. 55.8)

14 Sec. 8. Plant food deficiency.

15 If any ~~commercial~~ fertilizer ~~or custom mix~~ offered for sale  
16 in this State proves, upon official analysis, to be deficient  
17 from its guaranteed analysis, penalty shall be assessed against  
18 the manufacturer or custom blender ~~mixer~~ in accordance with the  
19 following provisions:

20 (1) When the value for a single ingredient fertilizer  
21 containing nitrogen, available phosphate, or soluble potash is  
22 found to be deficient from the guarantee to the extent of 3% to  
23 5% of the total value ~~For a single ingredient fertilizer~~  
24 ~~containing nitrogen or phosphate or potash: when the value of~~  
25 ~~this ingredient is found to be deficient from the guarantee to~~

1 ~~the extent of 3% and not over 5% of the total value,~~ the  
2 registrant shall be liable for the actual deficiency in value.  
3 When the deficiency exceeds 5% of the total value, the penalty  
4 shall be 3 times the actual value of the shortage.

5 (2) For multiple ingredient fertilizers containing 2 or  
6 more of the single ingredients: nitrogen or phosphate or  
7 potash, penalties shall be assessed according to (a) or (b) as  
8 herein stated. When a multiple ingredient fertilizer is subject  
9 to a penalty under both (a) and (b) only the larger penalty  
10 shall be assessed.

11 (a) When the total combined values of the nitrogen or  
12 available phosphate ~~phosphoric acid~~ or potash is found to be  
13 deficient to the extent of 3% to 5% ~~3% and not over 5%~~, the  
14 registrant shall be liable for the actual deficiency in total  
15 value. When the deficiency exceeds 5% of the total value, the  
16 penalty shall be 3 times the actual value of the shortage.

17 (b) When either the nitrogen, available phosphate  
18 ~~phosphoric acid~~, or potash value is found deficient from the  
19 guarantee to the extent of 20% up to the maximum of 4 units (4%  
20 plant food), the registrant shall be liable for the value of  
21 such shortages.

22 (3) Deficiencies in any other constituent or constituents  
23 covered under Section 3, paragraph (i), items B, C, and D of  
24 this Act which the registrant is required to or may guarantee  
25 shall be evaluated by the Director and penalties therefor shall  
26 be prescribed by the Director.

1 (a) Nothing contained in this Section shall prevent any  
2 person from appealing to a court of competent jurisdiction for  
3 judgment as to the justification of such penalties.

4 (b) All penalties assessed under this Section shall be paid  
5 to the consumer of the lot of ~~commercial~~ fertilizer or custom  
6 blend mix purchased, and which is represented by the sample  
7 analyzed, within 3 months after the date of notice from the  
8 Director to the registrant. Receipts shall be taken therefor  
9 and promptly forwarded to the Director. If such consumers  
10 cannot be found, the amount of the penalty shall be paid to the  
11 Director who shall deposit the same in the General Revenue Fund  
12 in the State Treasury.

13 (Source: Laws 1963, p. 2240.)

14 (505 ILCS 80/10) (from Ch. 5, par. 55.10)

15 Sec. 10. Minimum plant food content.

16 No superphosphate containing less than 18% available  
17 phosphate ~~phosphoric acid~~ nor any mixed fertilizer or custom  
18 blend mix, other than a custom blend mix consisting in part of  
19 unacidulated mineral phosphatic materials, in which the sum of  
20 the guarantees for the nitrogen, available phosphate  
21 ~~phosphoric acid~~, and soluble potash totals less than 20% shall  
22 be distributed in this State. Specialty fertilizers are exempt  
23 from minimum plant food requirements for mixed fertilizers and  
24 custom blends mixes.

25 (Source: Laws 1961, p. 3085.)



1 (505 ILCS 80/11) (from Ch. 5, par. 55.11)

2 Sec. 11. Misbranding or adulteration. ~~False or misleading~~  
3 ~~statements.~~

4 (a) It is unlawful for any person to distribute a  
5 fertilizer that is misbranded or adulterated within this State.

6 A fertilizer shall be deemed misbranded if:

7 (1) its labeling is false or misleading in any  
8 particular;

9 (2) it is distributed under the name of another  
10 fertilizer product;

11 (3) it is not labeled as required by this Act or its  
12 rules; or

13 (4) it purports to be or is represented as a  
14 fertilizer, or is represented as containing a plant  
15 nutrient or fertilizer, unless such plant nutrient or  
16 fertilizer conforms to the definition of identity, if any,  
17 prescribed by regulation of the Director; in adopting such  
18 regulations the Director shall give due regard to commonly  
19 accepted definitions and official fertilizer terms such as  
20 those issued by the Association of American Plant Food  
21 Control Officials.

22 (b) A fertilizer shall be deemed adulterated if:

23 (1) it contains any deleterious or harmful substance in  
24 sufficient amount to render it injurious to beneficial  
25 plant life, animals, humans, aquatic life, soil, or water

1 when applied in accordance with directions for use on the  
2 label; or, if adequate warning statements or directions for  
3 use which may be necessary to protect plant life, animals,  
4 humans, aquatic life, soil, or water are not shown upon the  
5 label;

6 (2) its composition falls below or differs from that  
7 which it is purported to possess by its labeling; or

8 (3) it contains unwanted crop seed or weed seed. A  
9 ~~commercial fertilizer or custom mix is misbranded if it~~  
10 ~~carries any false or misleading statement upon or attached~~  
11 ~~to the container, or if false or misleading statements~~  
12 ~~concerning its agricultural value are made on the container~~  
13 ~~or in any advertising matter accompanying or associated~~  
14 ~~with the commercial fertilizer or custom mix. It is~~  
15 ~~unlawful to distribute a misbranded commercial fertilizer~~  
16 ~~or custom mix only after a notice of hearing has been~~  
17 ~~issued, served, a hearing held, and opportunity is given~~  
18 ~~for the defendant to appeal to a court of competent~~  
19 ~~jurisdiction from the decision of the hearing, if he so~~  
20 ~~elects, within a period of 10 days after such hearing.~~

21 (Source: Laws 1961, p. 3085.)

22 (505 ILCS 80/12) (from Ch. 5, par. 55.12)

23 Sec. 12. Tonnage reports and other fertilizer; records.

24 (a) Any person distributing fertilizer to a non-registrant  
25 in this State shall provide the Director with a summary report

1 on or before the 10th day of each month covering the shipments  
2 made during the preceding month of tonnage on a form, provided  
3 by the Director, for that purpose. If requested by the NREC,  
4 the person distributing fertilizer must also provide to the  
5 Director additional information pertinent to nutrient  
6 practices or fertilizer sales.

7 Specialty fertilizer sold in packages weighing 5 pounds or  
8 less or in container of 4000 cubic centimeters or less, shall  
9 be reported but no inspection fee will be charged. No  
10 information furnished under this Section shall be disclosed by  
11 the Department in such a way as to divulge the operation of any  
12 person.

13 (b) Persons engaged in the sale of ammonium nitrate shall  
14 obtain the following information upon its distribution:

15 (1) the date of distribution;

16 (2) the quantity purchased;

17 (3) the license number of the purchaser's valid State  
18 or federal driver's license, or an equivalent number taken  
19 from another form of picture identification approved for  
20 purchaser identification by the Director; and

21 (4) the purchaser's name, current physical address,  
22 and telephone number.

23 Any retailer of ammonium nitrate may refuse to sell  
24 ammonium nitrate to any person attempting to purchase ammonium  
25 nitrate (i) out of season, (ii) in unusual quantities, or (iii)  
26 under suspect purchase patterns.

1 (c) Records created under subsection (b) of this Section  
2 shall be maintained for a minimum of 2 years. Such records  
3 shall be available for inspection, copying, and audit by the  
4 Department as provided under this Act.

5 (Source: P.A. 95-219, eff. 8-16-07.)

6 (505 ILCS 80/13) (from Ch. 5, par. 55.13)

7 Sec. 13. Publications.

8 The Director shall publish at least semi-annually and in  
9 such forms as he may deem proper:

10 (a) Information concerning the distribution of ~~commercial~~  
11 fertilizers and custom blends ~~mixes~~ by counties.

12 (b) Results of analysis based on official samples of  
13 ~~commercial~~ fertilizers and custom blends ~~mixes~~ distributed  
14 within the state as compared with the analysis guaranteed under  
15 Sections 4 and 5.

16 (Source: Laws 1961, p. 3085.)

17 (505 ILCS 80/14) (from Ch. 5, par. 55.14)

18 Sec. 14. Rules and regulations.

19 (a) For the enforcement of this Act, the Director is  
20 authorized, after due notice and public hearing, to prescribe  
21 and to enforce such rules and regulations relating to the  
22 distribution of fertilizers, ~~commercial fertilizer~~ or custom  
23 blends and the equipment, containers and storage of anhydrous  
24 ammonia, and low pressure nitrogen solutions ~~mix~~ as ~~he~~ may be

1 ~~find~~ necessary to carry into effect the full intent and meaning  
2 of this Act, including public safety and protection of the  
3 environment.

4 (b) The official definitions of fertilizers and official  
5 fertilizer terms as adopted and published by the Association of  
6 American Plant Food Control Officials and any amendments or  
7 supplements thereto are the official definitions of  
8 fertilizers and official fertilizer terms, except insofar as  
9 specifically defined in Section 3 or amended, modified, or  
10 rejected by a rule adopted by the Director.

11 (c) A unit of local government may not regulate the  
12 registration, packaging, labeling, sale, storage,  
13 distribution, use, and application of fertilizers used in  
14 agricultural production in a manner more restrictive than the  
15 regulation of fertilizer by the State under this Act.

16 (Source: Laws 1961, p. 3085.)

17 (505 ILCS 80/15) (from Ch. 5, par. 55.15)

18 Sec. 15. Short weight.

19 If any ~~commercial~~ fertilizer or custom blend mix in the  
20 possession of the consumer is found by the Director to be short  
21 in weight, the registrant of such ~~commercial~~ fertilizer or  
22 custom blend mix shall, within 30 days after official notice  
23 from the Director, pay to the consumer a penalty equal to 4  
24 times the value of the actual shortage.

25 (Source: Laws 1961, p. 3085.)

1 (505 ILCS 80/16) (from Ch. 5, par. 55.16)

2 Sec. 16. Cancellation, suspension, or refusal of  
3 registrations and licenses. ~~Cancellation of registrations.~~

4 The Director may refuse to register a fertilizer or cancel  
5 or suspend a fertilizer registration, custom blend, or  
6 fertilizer license if:

7 (1) the composition of the fertilizer does not warrant  
8 the claims made;

9 (2) the fertilizer does not comply with the provisions  
10 of this Act or its rules;

11 (3) the labeling or other materials required for  
12 registration do not comply with the provisions of this Act  
13 or its rules;

14 (4) the registrant used fraudulent or deceptive  
15 practices to secure registration;

16 (5) it is determined that a fertilizer poses a risk of  
17 unreasonable adverse effects to man or the environment; or

18 (6) the registrant does not comply with the provisions  
19 of this Act or its rules.

20 The registrant has the right to appear for a hearing before  
21 the Director to appeal any revocation, suspension, or refusal  
22 of registration or license under this Section. ~~The Director is~~  
23 ~~authorized and empowered to cancel the registration of any~~  
24 ~~brand of commercial fertilizer or custom mix or to refuse to~~  
25 ~~register any brand of commercial fertilizer or custom mix as~~

1 ~~herein provided, upon satisfactory evidence that the~~  
2 ~~registrant has used fraudulent or deceptive practices in the~~  
3 ~~evasions or attempted evasions of the provisions of this Act or~~  
4 ~~any rules and regulations promulgated thereunder; however, no~~  
5 ~~registration shall be revoked or refused until the registrant~~  
6 ~~has been given the opportunity to appear for a hearing by the~~  
7 ~~Director.~~

8 (Source: Laws 1961, p. 3085.)

9 (505 ILCS 80/17) (from Ch. 5, par. 55.17)

10 Sec. 17. Stop sale; use or removal order.

11 (a) Whenever the Director finds that a fertilizer is being  
12 distributed in violation of this Act or its rules, he or she  
13 may issue and serve a written order to stop sale, stop use, or  
14 regulate removal upon an owner, operator, manager, or agent in  
15 charge of the fertilizer.

16 (b) The Director shall provide the registrant, if different  
17 from the person served under subsection (a), with a copy of any  
18 order when corrective action appears to be the responsibility  
19 of the registrant.

20 (c) If an owner, operator, manager, or agent is not  
21 available for service of an order upon him or her, the Director  
22 shall attach the order to the fertilizer and notify the  
23 registrant.

24 (d) The Director shall remove or vacate an order by written  
25 notice when the violated provisions of this Act or its rules

1 have been complied with, the conditions specified have been  
2 met, or the violation has been otherwise disposed of by either  
3 administrative or judicial action and all costs and expenses  
4 incurred in connection with the withdrawal have been paid.

5 (e) When the Director finds that a fertilizer being  
6 distributed in this State may be injurious to plants, animals,  
7 or man when used in accordance with label directions, he or she  
8 may issue an order to remove the fertilizer from the State and  
9 establish requirements to effect the expeditious removal of the  
10 fertilizer without adverse effects to man or the environment.

11 ~~"Stop sale" orders.~~

12 ~~The Director or his authorized agent may issue and enforce~~  
13 ~~a written or printed "stop sale, use, or removal" order to the~~  
14 ~~owner or custodian of any lot of commercial fertilizer or~~  
15 ~~custom mix and to hold such lot at a designated place when the~~  
16 ~~Director finds such commercial fertilizer or custom mix is~~  
17 ~~being offered or exposed for sale in violation of any of the~~  
18 ~~provisions of this Act until the law has been complied with and~~  
19 ~~such commercial fertilizer or custom mix is released in writing~~  
20 ~~by the Director or such violation has been otherwise legally~~  
21 ~~disposed of by written authority.~~

22 ~~The Director shall release the commercial fertilizer or~~  
23 ~~custom mix so withdrawn when the requirements of the provisions~~  
24 ~~of this Act have been complied with and all costs and expenses~~  
25 ~~incurred in connection with the withdrawal have been paid.~~

26 (Source: P.A. 77-106.)



1 (505 ILCS 80/18) (from Ch. 5, par. 55.18)

2 Sec. 18. Seizure, condemnation and sale.

3 Any lot of ~~commercial~~ fertilizer or custom blend ~~mix~~ not in  
4 compliance with the provisions of this Act shall be subject to  
5 seizure on complaint of the Director or blend his authorized  
6 agent to the circuit court of the county in which such  
7 ~~commercial~~ fertilizer or custom blend ~~mix~~ is located. In the  
8 event the court finds such ~~commercial~~ fertilizer or custom  
9 blend ~~mix~~ to be in violation of this Act and orders the  
10 condemnation of such ~~commercial~~ fertilizer or custom blend ~~mix~~,  
11 it shall be disposed of in any manner consistent with the  
12 quality of the ~~commercial~~ fertilizer or custom blend ~~mix~~ and  
13 the laws of the State. However, in no instance shall the  
14 disposition of such ~~commercial~~ fertilizer or custom blend ~~mix~~  
15 be ordered by the court without first giving the claimant an  
16 opportunity to apply to the court for release of such  
17 ~~commercial~~ fertilizer or custom blend ~~mix~~ or for permission to  
18 process or re-label the ~~commercial~~ fertilizer or custom blend  
19 ~~mix~~ to bring it into compliance with this Act.

20 (Source: P.A. 77-106.)

21 (505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

22 Sec. 18a. Location and operation.

23 (a) Before installing commercial fertilizer facilities for  
24 the distribution or storage of anhydrous ammonia or

1 low-pressure nitrogen solutions, the owner shall apply to the  
2 Department for approval of the location of the facilities.  
3 Distribution and storage facilities shall be in compliance with  
4 local zoning ordinances and the minimum distance requirements  
5 for safe storage of anhydrous ammonia or low-pressure nitrogen  
6 solutions as established by Department rule. Existing storage  
7 tanks installed prior to the effective date of this amendatory  
8 Act of 1983 shall be exempt from the requirements for location  
9 approval. Prior to any expansion or modification of such  
10 existing storage tanks, written approval shall be obtained from  
11 the Department and such tanks shall meet current requirements  
12 as established by Department rule.

13 (b) Authorized Department personnel may enter upon any  
14 public or private premises during reasonable business hours and  
15 inspect facilities, equipment and vehicles used in the storage  
16 and distribution of anhydrous ammonia and low-pressure  
17 nitrogen solutions and observe operations as necessary to  
18 determine compliance with the provisions of this Act and the  
19 rules promulgated hereunder. Department personnel may enter  
20 the premises at any time when the health, safety or welfare of  
21 the public is threatened by escaping gas, spills, fire, damaged  
22 or faulty equipment, accident or act of God.

23 (c) The Department shall adopt rules and regulations  
24 setting forth minimum safety standards covering the design,  
25 construction, location, installation and operation of  
26 equipment for storage, handling, use and transportation of

1 anhydrous ammonia and low pressure nitrogen solutions. Such  
2 rules and regulations shall consist of those reasonably  
3 necessary for the safety of the public, including persons  
4 handling or using such materials, and shall be in substantial  
5 conformity with the current nationally accepted safety  
6 standards.

7 (d) The Director or his authorized agent may issue and  
8 enforce a written stop use order to the owner or custodian of  
9 the facility upon a violation of this Act or the rules and  
10 regulations. The Director shall terminate the stop use order  
11 upon compliance with the requirements of this Act and rules and  
12 regulations.

13 (e) The Department may adopt rules and regulations setting  
14 forth the requirements for the containment of fertilizer  
15 products at commercial facilities, which may include, but would  
16 not be limited to, the design, inspection, construction,  
17 location, installation, and operation for the storage and  
18 handling use of bulk liquid fertilizer, bulk dry fertilizer,  
19 and low-pressure nitrogen solutions as may be necessary for the  
20 protection of ground water, the environment, and public safety.  
21 The Department may establish fees for the inspection of such  
22 containment facilities.

23 (Source: P.A. 85-1327.)

24 (505 ILCS 80/19) (from Ch. 5, par. 55.19)

25 Sec. 19. Violations and prosecutions. ~~Violations.~~

1 (a) If it appears from the examination of any commercial  
2 fertilizer or custom mix that any of the provisions of this Act  
3 or the rules and regulations issued thereunder have been  
4 violated, the Director or his or her authorized agent shall  
5 cause notice of the violations to be given to the registrant,  
6 distributor or possessor from whom the sample was taken. Any  
7 person so notified shall be given opportunity to be heard under  
8 such rules and regulations as may be prescribed by the  
9 Director. If it appears after such hearing, either in the  
10 presence or absence of the person so notified, that any of the  
11 provisions of this Act or rules and regulations issued  
12 thereunder have been violated, the Director may certify the  
13 facts to the proper prosecuting attorney.

14 It shall be unlawful for any person to distribute, store,  
15 transport or use anhydrous ammonia or low-pressure ~~nitrogen~~  
16 solutions in violation of this Act or the rules and regulations  
17 promulgated thereunder or to violate a stop use order issued by  
18 the Director.

19 (b) Any person convicted of violating any provisions of  
20 this Act or any of the rules or regulations issued thereunder,  
21 or who impedes, obstructs, hinders or otherwise prevents or  
22 attempts to prevent the Director, or his or her duly authorized  
23 agent, in the performance of his or her duty in connection with  
24 the provisions of this Act, shall be guilty of a business  
25 offense punishable by a fine not less than \$1,000 plus all  
26 costs for each violation ~~to exceed \$1,000~~. In all prosecutions

1 under this Act involving the composition of a commercial  
2 fertilizer or custom mix, a certified copy of the official  
3 analysis signed by the Director shall be accepted as prima  
4 facie evidence of the composition.

5 (c) Nothing in this Act shall be construed as requiring the  
6 Director or his or her representative to report for prosecution  
7 or for the institution of seizure proceedings as a result of  
8 minor violations of the Act if he or she believes that a  
9 suitable notice of warning in writing will serve the public  
10 interests ~~that the public interests will be served by a~~  
11 ~~suitable notice of warning in writing.~~

12 (d) It shall be the duty of each State's attorney to whom  
13 any violation is reported to cause appropriate proceedings to  
14 be instituted and prosecuted in the circuit court without  
15 delay.

16 (e) (Blank). ~~The Director is authorized to apply for and~~  
17 ~~the court is authorized to grant a temporary restraining order~~  
18 ~~or a preliminary or permanent injunction restraining any person~~  
19 ~~from violating or continuing to violate any of the provisions~~  
20 ~~of this Act or any rule or regulation promulgated under the Act~~  
21 ~~notwithstanding the existence of other remedies. The~~  
22 ~~injunction shall be entered without bond.~~

23 (Source: P.A. 83-1362.)

24 (505 ILCS 80/20) (from Ch. 5, par. 55.20)

25 Sec. 20. Hearing; notice; injunction.

1       (a) The Department, over the signature of the Director, is  
2 authorized to issue subpoenas and bring before the Department  
3 any person or persons in this State to take testimony orally,  
4 by deposition, or by exhibit, in the same manner prescribed by  
5 law in judicial proceedings and civil cases in the circuit  
6 courts of this State. The Director is authorized to issue  
7 subpoenas duces tecum for records relating to a fertilizer  
8 distributor's or registrant's business.

9       (b) The Department, over the signature of the Director, may  
10 apply to any court for a temporary restraining order or a  
11 preliminary or permanent injunction restraining any person  
12 from violating or continuing to violate any provision of this  
13 Act or its rules. An injunction issued under this Section shall  
14 be issued without bond.

15       (c) When an administrative hearing is held, the hearing  
16 officer, upon determination of a violation of this Act, shall  
17 levy and the Department shall collect administrative penalties  
18 in addition to any initial penalty levied by this Act on a per  
19 occurrence basis as follows:

20           (1) A penalty of \$1000 shall be imposed for the  
21 following violations:

22                   (A) neglect or refusal, after notice in writing, to  
23 comply with provisions of this Act or its rules or any  
24 lawful order of the Director; or

25                   (B) sale, transport, disposal, or distribution of  
26 a fertilizer that has been placed under stop-sale

1 order.

2 (2) A penalty of \$500 shall be imposed for the  
3 following violations:

4 (A) thwarting or hindering the Director in the  
5 performance of his or hers duties by misrepresenting or  
6 concealing facts or conditions; or

7 (B) distribution of a fertilizer that is  
8 mislabeled or adulterated.

9 (3) A penalty of \$200 shall be imposed for the  
10 following violations:

11 (A) distribution of a fertilizer that does not have  
12 an accompanying label attached or displayed;

13 (B) failure to comply with any provisions of this  
14 Act or its rules; or

15 (C) distribution in this State of any fertilizer  
16 containing noxious weed seed.

17 All penalties collected by the Department under this  
18 Section shall be deposited into the Fertilizer Control Fund.  
19 Any penalty not paid within 60 days of notice from the  
20 Department shall be submitted to the Attorney General's office  
21 for collection. ~~Exchanges between manufacturers.~~

22 ~~Nothing in this Act shall be construed to restrict or avoid~~  
23 ~~sales or exchanges of commercial fertilizers to each other by~~  
24 ~~importers, manufacturers or manipulators who mix fertilizer~~  
25 ~~materials for sale or as preventing the free and unrestricted~~  
26 ~~shipments of commercial fertilizer to manufacturers or~~

1 ~~manipulators who have registered their brands as required by~~  
2 ~~the provisions of this Act.~~

3 (Source: Laws 1961, p. 3085.)

4 (505 ILCS 80/21) (from Ch. 5, par. 55.21)

5 Sec. 21. Exchanges between manufacturers  
6 Constitutionality. Nothing in this Act shall be construed to  
7 restrict or avoid sales or exchanges of fertilizers to each  
8 other by importers, manufacturers or blenders who mix  
9 fertilizer materials for sale or as preventing the free and  
10 unrestricted shipments of fertilizer to manufacturers or  
11 manipulators who have registered their brands as required by  
12 the provisions of this Act.

13 ~~If any clause, sentence, paragraph or part of this Act~~  
14 ~~shall for any reason be adjudged invalid by any court of~~  
15 ~~competent jurisdiction, such judgment shall not affect, impair~~  
16 ~~or invalidate the remainder thereof but shall be confined in~~  
17 ~~its operation to the clause, sentence, paragraph or part~~  
18 ~~thereof directly involved in the controversy in which such~~  
19 ~~judgment shall have been rendered.~~

20 (Source: Laws 1961, p. 3085.)

21 (505 ILCS 80/21.5 new)

22 Sec. 21.5. Constitutionality. If any clause, sentence,  
23 paragraph, or part of this Act shall for any reason be adjudged  
24 invalid by any court of competent jurisdiction, the judgment



1 shall not affect, impair, or invalidate the remainder thereof  
2 but shall be confined in its operation to the clause, sentence,  
3 paragraph, or part thereof directly involved in the controversy  
4 in which the judgment shall have been rendered.

5 Section 99. Effective date. This Act takes effect January  
6 1, 2012.

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17	505 ILCS 80/15	from Ch. 5, par. 55.15
18	505 ILCS 80/16	from Ch. 5, par. 55.16
19	505 ILCS 80/17	from Ch. 5, par. 55.17
20	505 ILCS 80/18	from Ch. 5, par. 55.18
21	505 ILCS 80/18a	from Ch. 5, par. 55.18a
22	505 ILCS 80/19	from Ch. 5, par. 55.19
23	505 ILCS 80/20	from Ch. 5, par. 55.20
24	505 ILCS 80/21	from Ch. 5, par. 55.21
25	505 ILCS 80/21.5 new	