

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H3/18/21

A Bill

HOUSE BILL 1679

5 By: Representative Hillman
6

For An Act To Be Entitled

8 AN ACT TO AMEND LAWS RELATED TO PLANT INDUSTRIES
9 REGARDING PESTICIDE CONTROL, FERTILIZER REGISTRATION,
10 AND LIME VENDOR LICENSING; AND FOR OTHER PURPOSES.
11

Subtitle

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13
14 TO AMEND LAWS RELATED TO PLANT INDUSTRIES
15 REGARDING PESTICIDE CONTROL, FERTILIZER
16 REGISTRATION, AND LIME VENDOR LICENSING.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 2-16-418(b) and (c), concerning the
22 protection of trade secrets and other information related to pesticides, are
23 amended to read as follows:

24 (b) Notwithstanding any other provision of this subchapter, the ~~State~~
25 ~~Plant Board~~ Department of Agriculture shall not make public any information
26 which, in its judgment, contains or relates to trade secrets or commercial or
27 financial information obtained from a person and is privileged or
28 confidential, except that, when necessary to carry out the provisions of this
29 subchapter, information relating to formulas of products acquired by
30 authorization of this subchapter may be revealed to any state or federal
31 agency consulted or in findings of fact issued by the ~~board~~ State Plant
32 Board.

33 (c)(1) If the board proposes to release for inspection information
34 which the applicant or registrant believes to be protected from disclosure
35 under subsection (b) of this section, it shall notify the applicant or
36 registrant, in writing, *by certified mail*.



1 (2) The board shall not, after ~~mailing~~ issuing the notice as
2 provided in this subsection, make available for inspection the data until
3 thirty (30) days after receipt of the notice by the applicant or registrant.

4 (3) During this period, the applicant or registrant may
5 institute an action in an appropriate court for a declaratory judgment as to
6 whether the information is subject to protection under subsection (b) of this
7 section.

8
9 SECTION 2. Arkansas Code § 2-19-202(a)(1), concerning the registration
10 required for fertilizer brands and materials, is amended to read as follows:

11 (a)(1) All manufacturers, jobbers, and manipulators of commercial
12 fertilizers and of fertilizer materials to be used in the manufacture of
13 fertilizer, who may desire to sell or offer for sale in Arkansas fertilizer
14 and fertilizer materials, shall first file for registration with the State
15 Plant Board, upon forms furnished by the ~~board~~ Department of Agriculture. The
16 forms shall include the name of the brand of each fertilizer, fertilizer
17 materials, or chemicals which they may desire to sell in the state, either by
18 themselves or their agents, together with the names and addresses of the
19 manufacturers or manipulators, and such other information as may be required
20 by the board in its rules.

21
22 SECTION 3. Arkansas Code § 2-19-202(a)(3), concerning approval of
23 registrations, is amended to read as follows:

24 (3) All registrations must be approved by the ~~board~~ department
25 or its authorized agent before being effective.

26
27 SECTION 4. Arkansas Code § 2-19-202(d)(1)(B)(iii), concerning
28 exemptions from the special agricultural crop fertilizer and specialty
29 fertilizer minimum unit of primary plant food requirement, is amended to read
30 as follows:

31 (iii) The ~~board~~ department or its designee shall
32 evaluate the formulation based on criteria established by rules of the board;
33 and

34
35 SECTION 5. Arkansas Code § 2-19-206(b) and (c), concerning the penalty
36 for deficiency from guaranteed analysis related to fertilizers, are amended

1 to read as follows:

2 (b)(1) Penalties assessed under this section and under such rules as
3 may be enacted under it, except those exceeding the actual value of the
4 shortages found, shall be paid to the consumer of the lot of deficient
5 fertilizer within thirty (30) days after the date of notice from the ~~board~~
6 Department of Agriculture to the manufacturer or agent, receipts to be taken
7 and promptly forwarded to the ~~board~~ department.

8 (2) The value of the deficiencies, if any, exceeding the actual
9 shortages, and the actual value of the shortages when the consumer cannot be
10 found, shall be paid to the ~~board~~ department within forty-five (45) days
11 after the date of notice from the ~~board~~ department to the manufacturer or his
12 or her agent and shall be deposited into the ~~Feed and Fertilizer Fund~~ Plant
13 Board Fund of the State Treasury.

14 (c)(1) The ~~board~~ department shall ascertain the market value of the
15 materials from the manufacturers of fertilizer and fertilizer materials
16 specified in this subchapter to be used in the manufacture of fertilizer and
17 fertilizer materials and from other reliable sources. This determination
18 shall be done to fix units of value on them to be used in determining the
19 amount of damages due when the official analysis shows a deficiency from the
20 guaranteed analysis as specified in this subchapter.

21 (2) The board is authorized to cancel the present registration
22 or refuse to register for the next season any fertilizer or fertilizer
23 materials offered for sale by any manufacturer, jobber, or manipulator who
24 fails or refuses to comply with this section.

25

26 SECTION 6. Arkansas Code § 2-19-207 is amended to read as follows:

27 2-19-207. Sampling fertilizers.

28 The inspectors for the ~~State Plant Board~~ Department of Agriculture
29 shall obtain samples of fertilizer or fertilizer materials in the following
30 manner:

31 (1) They shall draw samples with a core instrument that shall
32 not be less than twelve inches (12") in length in a manner that will procure
33 a representative sample from such shipments of fertilizer or fertilizer
34 materials as they may be directed by the board or that they may find
35 uninspected;

36 (2) Where there are ten (10) packages or less, they shall take

1 samples from every package; where there are ten (10) or more packages, they
2 shall take samples from ten (10) packages, plus a sample for each additional
3 ton. In no case do more than twenty (20) packages need to be sampled;

4 (3) After thoroughly mixing the samples so drawn, they shall
5 fill a container to be approved by the board with a portion of the mixed
6 sample for chemical analysis or inspection; and

7 (4) Accompanying these samples, a report shall be made giving
8 the name of the commodity inspected, number of packages represented by
9 sample, the name of the manufacturer, the guaranteed analysis, the place
10 where inspected, the date of inspection, and the name of the inspector.

11
12 SECTION 7. Arkansas Code § 2-19-208 is amended to read as follows:
13 2-19-208. Analysis of fertilizers.

14 (a)(1) Samples of fertilizer or fertilizer materials obtained by the
15 inspectors shall be delivered to the ~~State Plant Board~~ Department of
16 Agriculture which shall deliver the samples to the chief department chemist
17 who shall make or cause to be made a complete analysis thereof.

18 (2) Analyses are to be made according to methods adopted by the
19 AOAC International or other generally recognized methods.

20 (b)(1) He or she shall file his or her analysis with the ~~board~~
21 department, and it shall be recorded as official.

22 (2) The official analysis of fertilizer or fertilizer materials
23 under the seal of the ~~board~~ department shall be deemed prima facie evidence
24 in any court of this state on the trial of any issue involved on the merits
25 of the fertilizer or fertilizer materials represented by the sample.

26 (3) Three (3) copies of the official analysis shall be made:

27 (A) One (1) shall be sent:

28 (i) To the manufacturer; and

29 (ii) To the purchaser; and

30 (B) One (1) kept on file in the office of the ~~board~~
31 department.

32
33 SECTION 8. Arkansas Code § 2-19-209 is amended to read as follows:
34 2-19-209. ~~Monthly tonnage~~ Tonnage reports.

35 (a)(1)(A) All manufacturers and manipulators or agents representing
36 them who have registered their brands in compliance with § 2-19-202 shall

1 forward to the ~~State Plant Board~~ Department of Agriculture each month a
2 report that shall reach its office on or before the twentieth day of the
3 month in which the tonnage report is due, on the forms and in the number of
4 copies to be prescribed by the ~~State Plant Board~~ department.

5 (B) The report shall include a sworn statement of the
6 total tonnage of all commercial fertilizers and fertilizer materials shipped
7 or caused to be shipped for sale or consumption in this state, or which have
8 been made, mixed, manufactured, or compounded in this state for sale or
9 consumption in this state.

10 (2)(A)(i) The report shall be accompanied with the sum of two
11 dollars and forty cents (\$2.40) per ton or fractional ton.

12 (ii) A fee of two dollars and forty cents (\$2.40)
13 will accompany each monthly report of tonnage which amounts to less than one
14 (1) ton.

15 (B) The ~~State Plant Board~~ department shall issue receipt
16 for the amount received and shall deposit the sums received as follows:

17 (i) Sixty-two cents (62¢) of the two-dollar-and-
18 forty-cent fee per ton or fractional ton inspected shall be deposited with
19 the Treasurer of State as special revenues and shall be credited to the Plant
20 Board Fund to be used for the maintenance, operation, support, and
21 improvement of the ~~board~~ State Plant Board programs; and

22 (ii)(a) One dollar and seventy-eight cents (\$1.78)
23 of the two-dollar-and-forty-cent fee per ton or fractional ton inspected
24 shall be remitted to the Board of Trustees of the University of Arkansas and
25 shall be credited to a fund to be known as the "University of Arkansas,
26 Division of Agriculture, Soil Testing and Research Fund" to be maintained in
27 accounts in one (1) or more financial institutions in the State of Arkansas.
28 This amount shall be expended exclusively for soil testing service and soil
29 fertility research by the Board of Trustees of the University of Arkansas
30 under appropriations made by the General Assembly. It shall be expended in
31 support of one (1) or more soil testing laboratories and soil fertility
32 research activities at the main experiment station, branch experiment
33 stations, or subbranch experiment stations, as determined and designated by
34 the Vice President for Agriculture of the University of Arkansas.

35 (b)(1) The Board of Trustees of the University
36 of Arkansas shall provide for the investment of any funds in the University

1 of Arkansas, Division of Agriculture, Soil Testing and Research Fund that are
2 not needed for current operations of the soil testing laboratories and soil
3 fertility service and research activities and shall credit the interest
4 earned on that investment to the credit of the University of Arkansas,
5 Division of Agriculture, Soil Testing and Research Fund.

6 (2) The investment shall be of the type
7 and nature authorized for the investment of average daily State Treasury
8 balances by the State Board of Finance.

9 (b)(1) The ~~State Plant Board~~ department or its agents shall have the
10 right, at any time, to inspect or audit the books of any manufacturer and
11 manipulator or their agents to determine the correctness of the monthly
12 reports required under this section.

13 (2) Refusal to allow this inspection or audit shall be deemed a
14 violation of this subchapter, and the violator shall be subject to the
15 penalties provided in this subchapter.

16 (3) For a late report or for failure to report the entire amount
17 sold, the tonnage fee on the late reported or unreported amount shall be
18 enhanced by ten percent (10%) if less than fifteen (15) days late, twenty
19 percent (20%) if less than thirty-one (31) days late, and doubled if more
20 than thirty (30) days late. Penalties shall be deposited into the Plant Board
21 Fund; otherwise, registrations may be cancelled by the State Plant Board.

22
23 SECTION 9. Arkansas Code § 2-19-210(b), concerning the authority to
24 stop the sale of fertilizer or fertilizer materials is amended to read as
25 follows:

26 (b) The ~~board~~ Department of Agriculture or its authorized
27 representatives shall have authority to stop the sale of any fertilizer or
28 fertilizer material when the sale is found in violation of this subchapter,
29 or of the rules of the board made in accordance with this subchapter, or when
30 it has reason to suspect that the sale is in violation of this subchapter or
31 of the board's rules.

32
33 SECTION 10. Arkansas Code § 2-19-211 is amended to read as follows:
34 2-19-211. Use of penalties from fertilizer tonnage fees.

35 All penalties received by the ~~State Plant Board~~ Department of
36 Agriculture for failure to pay or report fertilizer tonnage fees shall be

1 remitted to the Board of Trustees of the University of Arkansas, to be
2 credited to the University of Arkansas, Division of Agriculture, Soil Testing
3 and Research Fund in the same manner as prescribed by § 2-19-209 and to be
4 used for the same purposes as described in § 2-19-209.

5
6 SECTION 11. Arkansas Code § 2-19-306 is amended to read as follows:

7 2-19-306. Registration ~~and vendor's license.~~

8 ~~(a)Registration.~~

9 ~~(1)~~ Before any liming material is sold or offered for sale or
10 distribution in this state, the manufacturer, importer, or other guarantor,
11 which is a person or firm ~~who~~ that places or mixes liming materials of more
12 than one (1) manufacturer in a stockpile, shall register each ~~such~~ liming
13 material with the State Plant Board.

14 ~~(2)(b)~~ The registration shall contain the statement referred to
15 in § 2-19-303 or the rules provided for therein and be accompanied by a fee
16 of fifteen dollars (\$15.00) for each liming material.

17 ~~(3)(c)~~ Registrations shall expire June 30 of each year.

18 ~~(b)Vendor's License.~~

19 ~~(1)~~ ~~It shall be unlawful for any person or firm to engage in the~~
20 ~~spreading of liming material on properties belonging to others unless~~
21 ~~application for a license shall be in the form prescribed by the board. The~~
22 ~~form shall state the name and address of the applicant and total number of~~
23 ~~spreader trucks or other similar vehicles to be used by the applicant.~~

24 ~~(2)~~ ~~The application shall be accompanied by a fee of fifteen~~
25 ~~dollars (\$15.00) for the license plus a fee of three dollars (\$3.00) for each~~
26 ~~spreader truck or similar vehicle.~~

27 ~~(3)~~ ~~Licenses shall expire June 30 of each year.~~

28
29 SECTION 12. Arkansas Code § 17-37-220(a), concerning hearings and
30 appeals related to pest control services licensing, is amended to read as
31 follows:

32 (a) When any person is refused a license or his or her license is not
33 renewed, or when the State Plant Board contemplates invalidation of his or
34 her license, he or she shall have the right of a hearing before the board or
35 an authorized committee of the board by filing a written request for a
36 hearing with the ~~board by registered or certified mail~~ Department of

1 Agriculture.

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SECTION 13. Arkansas Code § 19-6-301(47), concerning the special revenues of the state deposited into the State Treasury, is amended to read as follows:

(47) Liming material registration fees, ~~and vendor's licenses~~ and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas Agricultural Liming Materials Act", §§ 2-19-301 – 2-19-308;

/s/Hillman