

ENROLLED HOUSE
BILL NO. 1218

BY: BEGLEY, HAGER, ISAAC and
BRYANT of the HOUSE

and

WILLIAMS (Don) of the
SENATE

AN ACT RELATING TO AGRICULTURE; AMENDING 2 O.S.
1981, SECTION 8-61, AS AMENDED BY SECTION 1,
CHAPTER 60, O.S.L. 1987 (2 O.S. SUPP. 1990, SECTION
8-61), WHICH RELATES TO FERTILIZERS; MODIFYING AND
ADDING TO DEFINITIONS; EXEMPTING CERTAIN MANURES
FROM CERTAIN FEES AND REGULATIONS; PROVIDING
SPECIFICATIONS; PROVIDING FOR REVOCATION OF
EXEMPTION; PROVIDING FOR CODIFICATION; AND
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 1981, Section 8-61, as
amended by Section 1, Chapter 60, O.S.L. 1987 (2 O.S. Supp. 1990,
Section 8-61), is amended to read as follows:

Section 8-61. When used in this act:

1. "Fertilizer material" means any substance containing
nitrogen, phosphoric acid, potash, or any recognized plant food
element or compound including but not limited to anhydrous ammonia
which is used primarily for its plant food content or for
compounding mixed fertilizers, except unmanipulated manures, and
manipulated manures which are subject to the provisions of Section 2
of this act.

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

3. "Commercial fertilizer" includes mixed fertilizer and/or
fertilizer materials.

4. "Specialty fertilizer" means any commercial fertilizer
distributed primarily for use on lawns, home gardens, flowers,
shrubs, golf courses, or for any other nonagricultural use.

5. "Bulk fertilizer" means commercial fertilizer delivered to
the purchaser in the solid or liquid state, in a nonpackaged form.

6. "Brand" means a term designed or trademark used in
connection with one or several grades of commercial fertilizer.

7. "Grade" means the minimum percentage of total nitrogen,
available phosphoric acid, and soluble potash stated in the order
given in this definition and, when applied to mixed commercial
fertilizers, shall be in whole numbers only.

8. "Official sample" means any sample of commercial fertilizer
taken by the Board or any authorized agent thereof.

9. "Ton" means a net weight of two thousand (2,000) pounds
avoirdupois.

10. "Percent" or "percentage" means the percentage by weight.

11. "Person" includes any individual, partnership, association, firm, corporation, company, or organized group of persons whether or not incorporated or any other legal entity.

12. "Distributor" means any person who offers for sale, sells, barter, or otherwise supplies commercial fertilizer in this state except brokers or final users.

13. "Registrant" means the person, firm, or corporation registering commercial fertilizer pursuant to the provisions of this act.

14. "Manufacturer" means a person engaged in the business of preparing, mixing, commingling, or manufacturing commercial fertilizers.

15. "Label" means the written, printed, or graphic matter on or attached to the immediate container, or in the case of bulk goods, accompanying transportation of a lot of commercial fertilizer.

16. "Soil amendment" shall include any and every substance or mixture of substances not previously defined, manufactured, prepared, or sold for manurial, soil-enriching, or soil-corrective purposes or intended to be used for promoting or stimulating the growth of plants, increasing the productivity of plants, improving the quality of crops or producing any chemical, biological, or physical change. If a product is registered under such soil amendment, the product shall not be subject to the provisions of this act.

17. "Unmanipulated manures" means substances composed primarily of excreta, plant remains, or mixtures of such substances which have not been processed in any manner.

18. "Manipulated manures" means substances composed primarily of animal excreta, plant remains or mixtures of such substances which have been processed by natural or mechanical drying or composting but to which no chemicals have been added.

19. "Board" means the Oklahoma State Board of Agriculture.

~~19.~~ 20. "Use" means transportation, storage, mixing, application, and disposal of a commercial fertilizer or fertilizer container and any other specific instructions contained on the label or associated labeling.

~~20.~~ 21. "Application" means the advertising of services, recommendation for use, the preparation for application or the physical act of application of a commercial fertilizer.

~~21.~~ 22. "License" means a written document issued to a person by the Board which shows that the person has met all of the licensing requirements established by this act.

~~22.~~ 23. "Custom blend" means a fertilizer formulated according to specifications furnished by a final consumer.

~~23.~~ 24. "Custom blender" means a person who mixes or commingles commercial fertilizer into a custom blend and who distributes such special blend. A custom blender shall not be required to register each grade of fertilizer formulated according to specifications which are furnished by a final consumer prior to mixing, but shall be required to license his firm and to label such fertilizer as provided in Section 8-62 of this title.

~~24.~~ 25. "Manufacture" means the process of preparing, mixing, or commingling, or manufacturing a commercial fertilizer.

~~25.~~ 26. "Broker" means a person who negotiates sales and purchases between a manufacturer and a distributor, final consumer or a specialty fertilizer retailer, of the commercial fertilizer, whether he takes possession or not, and who does not alter, mix, or process fertilizer.

~~26.~~ 27. "Guarantor" means that person who is responsible to the Board for any claims or guarantees associated with the manufacture, distribution, and use of a commercial fertilizer.

~~27.~~ 28. "Fertilizer dealer" means any person operating a business that is engaged in the distribution, use, or sale of a commercial fertilizer who is required to obtain a license from the Board for each business location. The term fertilizer dealer shall not include an ultimate consumer who is engaged in the physical act of application of a commercial fertilizer or a retail store selling only bagged registered commercial fertilizer.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-61.a of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person operating a business that is engaged in the distribution, use, or sale of manipulated manures shall not be subject to the provisions of Sections 8-62 and 8-64 of Title 2 of the Oklahoma Statutes for the sale, use or distribution of such manipulated manures if:

1. the manipulated manures offered for sale, sold, or distributed in this state in bulk do not reflect by label or otherwise any warranties or guarantees of the contents of such manures other than the animal sources of the manures; and

2. the person engaged in the selling, use, or sale of manipulated manures does not in any manner make or offer any warranties or guarantees of the manipulated manures other than the animal sources of the manures. The provisions of this paragraph shall not prohibit a person engaged in the selling, use, or sale of manipulated manures from providing the consumer information regarding analysis of manipulated manures.

B. Any person violating the provisions of this section, in addition to any other penalties authorized by the fertilizer laws of this state, shall be subject to a revocation of the exemption offered by the provisions of this section.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 22nd day of April, 1991.

Speaker of the House of
Representatives

Passed the Senate the 8th day of April, 1991.

President of the Senate