ENGROSSED HOUSE
BILL NO. 1008

By: Leist, Adkins, Balkman, Blackwell, Dorman, Hefner, McClain, Peterson, Pope, Roan, Roggow, Tibbs, Trebilcock, Walker and Wright of the House

and

Rabon of the Senate

An Act relating to agriculture; amending 2 O.S. 2001, Section 8-77.3, as amended by Section 4, Chapter 383, O.S.L. 2002 (2 O.S. Supp. 2002, Section 8-77.3), which relates to the Oklahoma Fertilizer Act; modifying definition; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 8-77.3, as amended by Section 4, Chapter 383, O.S.L. 2002 (2 O.S. Supp. 2002, Section 8-77.3), is amended to read as follows:

Section 8-77.3 As used in the Oklahoma Fertilizer Act:

1. "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizer;

2. "Broker" means a person who negotiates sales and purchases between a manufacturer, distributor, final consumer, or retailer of fertilizer;

3. "Bulk fertilizer" means fertilizer distributed in a nonpackaged form;

4. "Commercial fertilizer" means fertilizer sold in bulk quantities or packages greater than thirty (30) pounds;

5. "Custom blend" means fertilizer formulated according to specifications furnished by the final consumer;

6. "Custom blender" means a person who mixes or commingles fertilizer into a custom blend and who distributes the special blend <u>or a lawn care or tree service company that mixes or commingles</u>

fertilizer into a custom blend and who applies that special blend for the ultimate consumer. A custom blender shall not be required to register each grade of fertilizer formulated according to specifications which are furnished by or for the ~~final~~ ultimate consumer prior to mixing;

7. "Deficiency" means the amount of nutrient found by analysis less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity;

8. "Distribute" means to import, consign, manufacture, blend, offer for sale, sell, barter, commercially apply, or supply fertilizer in this state;

9. "Distributor" means any person who distributes fertilizer;

10. "Fertilizer" means any substance containing one or more recognized plant nutrients which are used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, and wood ashes;

11. "Fertilizer dealer" means any person operating a business that is engaged in the distribution or sale of fertilizer. The term "fertilizer dealer" shall not include an ultimate consumer who is engaged in the physical act of application of fertilizer or a retail store selling only bagged registered commercial fertilizer;

12. "Grade" means the percentage of total nitrogen, available phosphate, and soluble potash stated in whole numbers. Specialty fertilizer may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphate, and soluble potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units;

13. "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N) _____%

Available Phosphate (P2O5) _____%

Soluble Potash (K2O) _____%.

When any plant nutrients, substances, or compounds are guaranteed, they shall be subject to inspection and analysis;

14. "Guarantor" means the person responsible to the State Board of Agriculture for any claims or guarantees associated with the manufacture, distribution, and use of a fertilizer;

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

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

17. "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, or television and radio announcements used in promoting the sale of fertilizer;

18. "Licensee" means the person receiving a license to distribute fertilizer under the provisions of the Oklahoma Fertilizer Act;

19. "Manipulated manures" means substances composed primarily of animal excreta, plant remains, or mixtures of these substances which have been processed by natural or mechanical drying or composting and no other chemicals have been added;

20. "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials;

21. "Official sample" means any sample of fertilizer taken by an authorized agent of the Board;

22. "Percent" or "percentage" means the portion of each hundred units of weight;

23. "Primary nutrient" means total nitrogen, available phosphate, and soluble potash;

24. "Registrant" means the person registering fertilizer under the provisions of the Oklahoma Fertilizer Act;

25. "Specialty fertilizer" means fertilizer sold in packages of less than thirty (30) pounds;

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

27. "Ultimate consumer" means a person who receives fertilizer for personal use. The term "ultimate consumer" shall not include a person distributing fertilizer for profit to the general public; and

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

SECTION 2. 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 26th day of February, 2003.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2003.

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Presiding Officer of the Senate