ENGROSSED SENATE
BILL NO. 479

By: Lawler of the Senate

and

McMullen of the House

[agriculture – lien –

effective date]

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 8-85.3, is amended to read as follows:

Section 8-85.3 As used in the Soil Amendment Act:

1. "Active ingredient" or "soil amending ingredient" means:

a. the ingredient or ingredients ~~which~~ that affect the physical, chemical, or other characteristics of the soil and improve soil condition, or

b. any natural or synthetic substance when applied to plants or seeds that is intended to improve crop production, germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants;

2. "Adulterated" means and shall apply to any soil amendment if:

a. it contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label; or if adequate warning statements and directions for use, necessary to protect plants, animals, or aquatic life are not shown on the label,

b. its composition falls below purported labeling requirements, or

c. it contains noxious weed seed;

3. "Bulk" means in nonpackaged form;

4. "Distribute" means to import, consign, manufacture, blend, offer for sale, sell, barter, or to supply soil amendments to any person in this state;

5. "Distributor" means any person who imports, consigns, manufactures, blends, sells, offers for sale, barters or supplies soil amendments in this state;

6. "Inert ingredient" or "other ingredient" means the ingredients with no beneficial effect that are present in the product;

7. "Label" means the display of written, printed, or graphic matter upon the immediate container of a soil amendment;

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

9. "Manufacturer" means any person who produces, compounds, mixes, or blends soil amendments;

10. "Misbranded" means and shall apply if:

a. any soil amendment bears a label that is false or misleading in any particular,

b. any soil amendment is distributed under the name of another soil amendment,

c. any material is represented as a soil amendment or is represented as containing a soil amendment, unless the soil amendment conforms to the definition of identity, if any, prescribed by rules,

d. the ~~percentage of~~ active ingredient in any soil amendment is not shown in the approved ingredient form, or

e. the labeling on any soil amendment is false or misleading in any particular;

11. "Name" means the specific designation under which the individual product is offered for sale;

12. "Percent" or "percentage" means ~~by~~ the portion of each one hundred (100) units of weight;

13. "Registrant" means any person who registers a soil amendment under the provisions of the Soil Amendment Act; and

14. "Soil amendment" means any substance which is intended to improve the physical, chemical, or other characteristics of the soil, horticultural growing media, or any natural or synthetic substance applied to plants or seeds that is intended to ~~or~~ improve crop production, germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants except the following: commercial fertilizers, agricultural liming materials, agricultural gypsum, unmanipulated animal manures, unmanipulated vegetable manures, and pesticides; provided~~,~~ that commercial fertilizer shall be included if it is represented to contain, as an active ingredient, a substance other than a recognized plant food element or is represented as promoting plant growth by other than supplying a recognized plant food element.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 8-85.4, is amended to read as follows:

Section 8-85.4 A. Each container of a soil amendment shall be labeled on the face or display side in a readable and conspicuous form to show the following information:

1. The net weight of the contents;

2. The name of the product;

3. The guaranteed analysis~~, including the name and the percentage of each active ingredient, and the percentage of inert ingredients~~;

4. A statement as to the purpose of the product;

5. Adequate directions for use; and

6. The name and address of the registrant.

B. Bulk lots shall be labeled by attaching a copy of the label to the invoice that shall be furnished to the purchaser.

C. The State Board of Agriculture may require proof of claims made for any soil amendment. If no claims are made, the Board may require proof of usefulness and value of the soil amendment. For evidence of proof the Board may rely on experimental data, evaluations, or advice supplied from sources including but not limited to the Director of the Agricultural Experiment Station. The experimental design shall be related to Oklahoma conditions for which the product is intended. The Board may accept or reject other sources of proof as additional evidence in evaluating soil amendments.

D. No soil amending ingredient may be listed or guaranteed on the labels or labeling of soil amendments without Board approval.

E. The Board may allow a soil amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided the Board to substantiate the value and usefulness of the soil amending ingredients. The Board may rely on outside sources including but not limited to the Director of the Agricultural Experiment Station for assistance in evaluating the data submitted.

F. ~~When~~ If the Board approves the listing of guarantee of a soil amending ingredient ~~is permitted to be listed or guaranteed~~, it ~~must~~ shall be ~~determinable by laboratory methods and is~~ subject to inspection and analysis.

G. The Board may prescribe methods and procedures of inspection and analysis of the soil amending ingredient. The Board may stipulate, by rule, the quantities of the soil amending ingredient or soil amending ingredients required in soil amendments.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 8-85.5, as amended by Section 8, Chapter 383, O.S.L. 2002 (2 O.S. Supp. 2004, Section 8-85.5), is amended to read as follows:

Section 8-85.5 A. Each soil amendment product shall be registered with the State Board of Agriculture before it is distributed in this state. Application for registration shall be submitted to the Board, on a form ~~prepared for that purpose~~, showing the information required on the label, as provided in Section 8-85.4 of this title and rules promulgated pursuant thereto, except net weight of product.

B. The registration fee shall be One Hundred Dollars ($100.00) for each product.

C. All registrations shall expire on December 31 of the year for which the soil amendment product is registered.

D. The applicant shall submit with the application for registration a copy of the label and a copy of all advertisements, brochures, posters, and television and radio announcements to be used in promoting the sale of the soil amendment.

E. If the Board finds any soil amendment ~~products~~ product that ~~have~~ has not been registered, the registration was falsely submitted, or the registration was late, the Board may establish and assess a penalty ~~of One Hundred Dollars ($100.00) per product shall be assessed~~. The penalty shall be assessed per product and be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

SECTION 4. AMENDATORY 2 O.S. 2001, Section 8-85.8, is amended to read as follows:

Section 8-85.8 It shall be a violation of the Soil Amendment Act for any person:

1. To distribute a soil amendment that is not registered with the State Board of Agriculture;

2. To distribute a soil amendment that is not labeled;

3. To distribute a soil amendment that is misbranded;

4. To distribute a soil amendment that is adulterated;

5. To fail to comply with a stop sale, stop use, or removal order; or

6. To ~~fail to pay the inspection fee~~ violate any other provision of the Soil Amendment Act.

SECTION 5. AMENDATORY 2 O.S. 2001, Section 8-85.10, is amended to read as follows:

Section 8-85.10 The State Board of Agriculture shall promulgate rules necessary to administer the Soil Amendment Act, including but not limited to methods of sampling, methods of analysis, designation of ~~ingredient forms~~ ingredients, and promulgate definitions of identity of products, acceptable ingredients for registration, and labeling formats.

SECTION 6. This act shall become effective November 1, 2005.

Passed the Senate the 14th day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

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Presiding Officer of the House of Representatives