

3863

2011-2012 Regular Sessions

I N A S S E M B L Y

January 28, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Aging

AN ACT to amend the agriculture and markets law, in relation to regu-
lation of fertilizer products

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 143 of the agriculture and markets law is amended
2 by adding four new subdivisions t, u, v and w to read as follows:

3 T. "AGRICULTURAL LAND" MEANS LAND USED IN AGRICULTURAL PRODUCTION FOR
4 THE SALE OF CROPS, LIVESTOCK OR LIVESTOCK PRODUCTS.

5 U. "SEPTAGE" MEANS THE CONTENTS OF A SEPTIC TANK, CESSPOOL OR OTHER
6 INDIVIDUAL SEWAGE TREATMENT FACILITY WHICH RECEIVES DOMESTIC SEWAGE
7 WASTES.

8 V. "SLUDGE" MEANS THE ACCUMULATED SEMISOLIDS OR SOLIDS RESULTING FROM
9 TREATMENT OF WASTEWATERS FROM PUBLICLY OR PRIVATELY OWNED OR OPERATED
10 SEWAGE TREATMENT PLANTS, BUT DOES NOT INCLUDE THE TREATED EFFLUENT FROM
11 A WASTEWATER TREATMENT PLANT, OR FOOD PROCESSING WASTES GENERATED FROM A
12 FOOD PROCESSING ESTABLISHMENT LICENSED PURSUANT TO THE PROVISIONS OF
13 ARTICLE TWENTY-C OF THIS CHAPTER.

14 W. "SLUDGE PRODUCTS" MEANS PRODUCTS MADE FROM SEPTAGE OR SLUDGE GENER-
15 ATED IN THIS STATE OR ANOTHER STATE, AND INTENDED AS A SOIL AMENDMENT
16 FOR AGRICULTURAL LAND.

17 S 2. Section 144 of the agriculture and markets law is amended by
18 adding a new subdivision e to read as follows:

19 E. A DETAILED ANALYSIS OF ALL MATERIALS CONTAINED IN THE FERTILIZER
20 PRODUCT.

21 S 3. Section 146-a of the agriculture and markets law is amended by
22 adding a new subdivision c to read as follows:

23 C. THE COMMISSIONER SHALL ANALYZE SAMPLES OF ALL COMMERCIAL FERTILIZ-
24 ERS FOR THE PRESENCE OF SOLID WASTES, HAZARDOUS WASTES OR HAZARDOUS
25 SUBSTANCES, AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ONE HUNDRED FORTY-SIX-B OF THIS ARTICLE. THE COMMISSIONER SHALL ANNUALLY
2 REPORT THE RESULTS OF THE SAMPLING AND ANALYSIS TO THE GOVERNOR AND THE
3 LEGISLATURE.

4 S 4. Section 146-b of the agriculture and markets law, as added by
5 chapter 695 of the laws of 1974, is amended to read as follows:

6 S 146-b. Misbranded or adulterated fertilizer. No commercial fertiliz-
7 er shall be distributed in this state if it is deemed to be misbranded
8 or adulterated.

9 (a) A commercial fertilizer shall be deemed to be misbranded:

10 (1) if its labelling is false or misleading in any particular; [or]

11 (2) if it purports to be or is represented as a commercial fertilizer,
12 or is represented as containing a plant nutrient or commercial fertiliz-
13 er unless such plant nutrient or commercial fertilizer conforms to the
14 definition of identity, if any, prescribed by regulation of the commis-
15 sioner; in the adopting of such regulations the commissioner shall give
16 due regard to commonly accepted definitions and official fertilizer
17 terms such as those employed by the association of American plant food
18 control officials[.]; OR

19 (3) IF ITS LABELLING DOES NOT CONTAIN A DETAILED STATEMENT OF ALL
20 INGREDIENTS CONTAINED IN THE PRODUCT.

21 (b) A commercial fertilizer shall be deemed to be adulterated:

22 (1) if it contains any deleterious or harmful ingredient in sufficient
23 amount to render it injurious to beneficial plant life when applied in
24 accordance with directions for use on the label, or if adequate warning
25 statements or directions for use, which may be necessary to protect
26 plant life are not shown upon the label;

27 (2) if its composition falls below or differs from that which it is
28 purported to possess by its labelling; [or]

29 (3) if it contains unwanted crop seed or weed seed[.]; OR

30 (4) IF IT CONTAINS ANY SUBSTANCE REGULATED AS A SOLID WASTE, AS
31 DEFINED IN SECTION 27-0701 OF THE ENVIRONMENTAL CONSERVATION LAW, EXCEPT
32 YARD WASTES, FOOD WASTES, SEPTAGE, SLUDGE AND SLUDGE PRODUCTS; A HAZARD-
33 OUS WASTE AS DEFINED IN SUBDIVISION THREE OF SECTION 27-0901 OF THE
34 ENVIRONMENTAL CONSERVATION LAW, INCLUDING K061 WASTES GENERATED BY STEEL
35 COMPANIES AND TREATED WASTES; OR A HAZARDOUS SUBSTANCE AS DEFINED IN
36 SECTION 37-0103 OF THE ENVIRONMENTAL CONSERVATION LAW.

37 (C) A COMMERCIAL FERTILIZER THAT HAS BEEN ADULTERATED WITH ANY
38 SUBSTANCE REGULATED AS A SOLID WASTE, HAZARDOUS WASTE OR HAZARDOUS
39 SUBSTANCE, AS DESCRIBED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF THIS
40 SECTION SHALL NOT BE STORED, TRANSPORTED OR USED IN THE STATE.

41 (D) ANY PERSON, CORPORATION OR ASSOCIATION WHO VIOLATES THE PROVISIONS
42 OF PARAGRAPH FOUR OF SUBDIVISION (B) OF THIS SECTION SHALL BE SUBJECT TO
43 A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST
44 VIOLATION AND FIVE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION. EACH
45 DAY DURING WHICH THE PROHIBITED ACTIVITY OCCURS SHALL BE DEEMED A SEPA-
46 RATE VIOLATION.

47 (E) ANY PERSON, CORPORATION OR ASSOCIATION WHO VIOLATES THE PROVISIONS
48 OF SUBDIVISION (C) OF THIS SECTION BY STORING OR TRANSPORTING COMMERCIAL
49 FERTILIZER CONTAINING A SOLID WASTE, HAZARDOUS WASTE OR HAZARDOUS
50 SUBSTANCE, AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF THIS
51 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE
52 HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR
53 EACH SUBSEQUENT VIOLATION. EACH DAY DURING WHICH THE PROHIBITED ACTIV-
54 ITY OCCURS SHALL BE DEEMED A SEPARATE VIOLATION.

55 S 5. Section 146-e of the agriculture and markets law, as added by
56 chapter 695 of the laws of 1974, is amended to read as follows:

1 S 146-e. Stop sale orders. The commissioner may issue and enforce a
2 written or printed "stop sale, use or removal" order to the owner or
3 custodian of any lot of commercial fertilizer and to hold at a desig-
4 nated place when the commissioner finds said commercial fertilizer is
5 being offered or exposed for sale in violation of any of the provisions
6 of this [act] ARTICLE until the law has been complied with and said
7 commercial fertilizer is released in writing by the commissioner, or
8 said violation has been otherwise legally disposed of by written author-
9 ity. The commissioner shall release the commercial fertilizer so with-
10 drawn when the requirements of the provisions of this [act] ARTICLE have
11 been complied with. IN THE CASE OF COMMERCIAL FERTILIZER WHICH HAS BEEN
12 ADULTERATED WITH SOLID WASTE, HAZARDOUS WASTE OR A HAZARDOUS SUBSTANCE
13 AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ONE HUNDRED
14 FORTY-SIX-B OF THIS ARTICLE, THE COMMISSIONER SHALL ISSUE AND ENFORCE AN
15 IMMEDIATE WRITTEN OR PRINTED "STOP SALE, USE OR REMOVAL" ORDER TO THE
16 OWNER OR CUSTODIAN OF THE COMMERCIAL FERTILIZER.
17 S 6. This act shall take effect on the sixtieth day after it shall
18 have become a law.