

HOUSE BILL NO. 31

INTRODUCED BY K. WAITSCHIES, R. DEVLIN, T. ZOOK
 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FERTILIZER LAWS; INCREASING FERTILIZER REGISTRATION FEES; REQUIRING ANALYTICAL INFORMATION WITH FERTILIZER REGISTRATION APPLICATIONS; REVISING THE MONTANA COMMERCIAL FERTILIZER LAWS TO ALLOW FOR AN INCREASE IN THE INSPECTION FEE PER TON OF ANHYDROUS AMMONIA AND TO PROVIDE THE MINIMUM AND MAXIMUM AMOUNTS TO WHICH THE FEE MAY BE ADJUSTED BY RULE; ELIMINATING THE MANDATORY HEARING BEFORE INSPECTION FEES CAN BE CHANGED BY RULE; AMENDING SECTIONS 80-10-201 AND 80-10-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-10-201, MCA, is amended to read:

"80-10-201. Registration. (1) Each brand and grade of fertilizer and each soil amendment except unmanipulated animal and vegetable manures ~~shall~~ must be registered by or on behalf of the manufacturer before distribution in this state. The application for registration ~~shall~~ must be submitted to the department on a form furnished or approved by the department and ~~shall~~ must be accompanied by a nonrefundable fee of ~~\$40~~ \$20 per grade for each fertilizer and for each soil amendment with exception of specialty fertilizers, which ~~shall~~ must be registered at a nonrefundable fee of ~~\$25~~ \$35 each. Upon approval, the department shall furnish a copy of the registration to the applicant. All registrations expire on December 31 of each year.

(2) (a) The application for registration ~~shall~~ must include:

- (i) the brand and grade;
- (ii) the guaranteed analysis;
- (iii) the source of each plant food element guaranteed;
- (iv) the name and address of the registrant;
- (v) a copy or facsimile of each label and of promotional material when requested by the department; and
- (vi) analytical information on nutrient ingredients and nonnutrient ingredients as required by rule.

(b) ~~Further, the~~ The department shall require the applicant to furnish replicated data, performed by a reputable investigator whose work is recognized as acceptable by the director of the agricultural experiment

station or his designee, verifying any claims for effectiveness or agricultural value of any fertilizer or soil amendment product ~~which~~ that is not generally recognized as having the values claimed at the use rates recommended.

(3) A distributor may not be required to register any brand or grade of commercial fertilizer ~~which~~ that is already registered under this section by another person.

(4) ~~No~~ A manufacturer may not reregister ~~his~~ a product until full payment of the assessment fees provided for in 80-10-103 and 80-10-207 has been received by the department."

Section 2. Section 80-10-207, MCA, is amended to read:

"80-10-207. Fees. (1) (a) A manufacturer registering under 80-10-201(1) shall pay to the department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and unmanipulated animal and vegetable manures, provided that sales to manufacturers or exchanges between them are exempt. The fees are:

(i) for inspection of fertilizers other than anhydrous ammonia, 20 cents per ton. The department may by rule ~~after hearing~~ adjust the inspection fee ~~not to exceed a maximum of 25 cents per ton~~ to maintain adequate funding for the administration of this part. The fee may not be less than 20 cents per ton or more than 25 cents per ton. A change in fee becomes effective on the first day of a reporting period. All manufacturers must be given notice of a change in fees before the effective date.

(ii) for inspection of anhydrous ammonia, ~~20~~ 65 cents per ton. The department may by rule ~~after hearing~~ adjust the anhydrous ammonia inspection fee ~~not to exceed a maximum of 65 cents per ton~~ to maintain adequate funding for the administration and enforcement of part 5 of this chapter. The fee may not be less than 65 cents per ton or more than \$1.30 per ton. A change in fee becomes effective on the first day of a reporting period. All registrants and manufacturers of anhydrous ammonia must be given notice of a change in fees before the effective date of the fee adjustment.

(iii) for assessment, the fee prescribed in 80-10-103. The assessment fee must be used to fund educational and experimental programs as provided in 80-10-103 through 80-10-106.

(b) If fertilizer or soil amendment material is added to fertilizer for which a fee has been paid under subsection (1)(a), a fee must be paid under that subsection, but only on the added fertilizer or soil amendment.

(2) There must be paid to the department on all soil amendments distributed in this state an inspection fee of 10 cents per ton subject to the following provisions:

(a) sales to manufacturers or exchanges between them are exempt; and

(b) when less than 50 tons of registered soil amendment is sold in a 6-month period, there must be paid

to the department a fee of \$5 for each soil amendment for each 6-month period in lieu of the fee of 10 cents per ton. Inspection fees must be used by the department for administration of this part.

(3) (a) (i) Each licensee who distributes a soil amendment or commercial fertilizer, except specialty fertilizer and unmanipulated manures, to an unlicensed or unregistered person in this state shall file with the department on forms furnished or approved by the department a semiannual statement for the periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer or soil amendment distributed in this state during the 6-month period. The report is due on or before the 30th day of the month following the close of each period.

(ii) Each manufacturer who registers or a person who registers on the manufacturer's behalf a soil amendment or commercial fertilizer in this state, except specialty fertilizer and unmanipulated manures, shall file with the department on forms furnished or approved by the department a monthly statement setting forth the number of net tons of each registered commercial fertilizer and soil amendment distributed in this state during the month and to whom it was distributed. The report is due on or before the 30th day of the following month. The manufacturer or person registering on behalf of the manufacturer shall pay the fees set forth in subsection (1) at that time.

(b) If the tonnage report required by subsection (3)(a)(ii) is not filed and the payment of fees is not made within 30 days after the end of the period, a collection fee amounting to 10% of the amount due but not less than \$10 must be assessed against the manufacturer and the amount of fees due constitutes a debt and becomes the basis of a judgment against the manufacturer.

(4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection and money collected as penalties must be deposited in the state treasury to the credit of the state special revenue fund for the purpose of administering this chapter, including the cost of equipment and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments manufactured or distributed in this state. Reserve funds may be invested by the department with interest credited to the state special revenue fund.

(5) All fees collected under subsection (1)(a)(ii) must be deposited in the state treasury to the credit of the state special revenue fund, anhydrous ammonia account, for the administration and enforcement of part 5 of this chapter and the rules adopted under part 5. The department may direct the board of investments to invest the funds collected under subsection (1)(a)(ii) of this section pursuant to the provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia account in the state special revenue fund."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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