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320

ENROLLED BILL

House Bill No. 320

(By Mr. Cottrill, by request)

Passed March 14, 1931

In Effect Ninety days from Passage

Originated in the House
Takes effect
Passage
Clerk of the House of Delegates

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Chairman House Committee
Chairman Senate Committee

ENROLLED BILL

(H. B. No. 320)

[Passed March 14, 1931; in effect ninety days from passage.]

AN ACT to amend and re-enact article fifteen, chapter nineteen of the code of West Virginia relating to commercial fertilizers.

Be it enacted by the Legislature of West Virginia:

Section 1. The word "fertilizer," as used in this act, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean any article, substance or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals when sold as such without brand, name or trademark, all forms of agricultural lime, and bacterial preparations when sold with or without brand, name or trademark.

Sec. 2. Every bag, barrel or other package of fertilizer sold, offered or exposed for sale in this state shall have branded thereon or conspicuously attached thereto a statement showing:

(a) The name, brand or trademark of the fertilizer; (b)

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5 The net weight of the package; (c) The name and address of the
6 manufacturer; (d) The guaranteed analysis of the fertilizer
7 and a quantitative statement of the materials from which each
8 of the constituents is derived as set out in the affidavit required
9 in section three of this article. The analysis shall set forth the
10 minimum percentage of total nitrogen, available phosphoric
11 acid and water soluble potash, except that in case of bone meal,
12 animal manures and tankage, untreated phosphate rock and
13 basic slag phosphates the minimum per cent of total phosphoric
14 acid may be given.

Sec. 3. Every manufacturer who shall sell, offer or expose
2 for sale, or distribute, in this state any commercial fertilizer,
3 shall, before the same is sold, offered or exposed for sale, obtain
4 from the commissioner of agriculture a certificate of registration
5 for each brand of fertilizer to be sold, offered or exposed for sale.
6 The commissioner of agriculture shall have full power, and is
7 hereby authorized and required to cancel and withdraw any cer-
8 tificate upon satisfactory evidence that any rules and regulat-
9 tions covering the sale of commercial fertilizer have been vio-
10 lated by the holder of the same. The commissioner shall not
11 issue any certificate of registration except upon the filing with

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12 the commissioner of agriculture of a certified copy of the state-
13 ment specified in section two of this article for each brand of
14 commercial fertilizer, accompanied by a fee of twenty dollars
15 for each brand, which moneys shall become a part of the general
16 revenue of the state. All certificates so issued shall become null
17 and void on December thirty-one, next succeeding date of is-
18 suance thereof.

Sec. 4. The commissioner of agriculture shall have the power
2 to refuse to accept any affidavit for any fertilizer or material to
3 be used as a fertilizer under a brand or trade name, or with
4 any information or statement accompanying same which is mis-
5 leading or deceptive or tends to mislead or deceive as to its
6 quality or the constituents or materials of which it is composed.
7 Any registration of any fertilizer may be cancelled by the com-
8 missioner whenever it is shown that any statement upon which
9 said registration was made or upon which the fertilizer is sold
10 is false or misleading. He shall also have the power to refuse
11 to register more than one commercial fertilizer under the same
12 name or brand when offered by the same manufacturer, jobber,
13 importer, firm, association, corporation or person. Should any
14 commercial fertilizer be registered in this state and it is after-



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15 ward discovered that such registration is in violation of any of
 16 the provisions of this article, the commissioner shall have the
 17 power to cancel such registration. The commissioner shall have
 17a the power to refuse to allow any manufacturer, importer, job-
 18 ber, firm, association, corporation or person to lower the guaran-
 19 teed analysis or change the ingredients of any brand of his or
 20 their commercial fertilizer during the term for which registered
 21 unless satisfactory reasons are presented for making such change.
 22 *Provided, however,* That the commissioner shall refuse to regis-
 23 ter any fertilizer unless the same contains sixteen per cent or
 24 more of total available plant food, except that untreated phos-
 25 phate rock, basic slag phosphates, bone meal, animal tankage
 26 and animal manures when sold with brand name or trade-mark
 27 may be registered and sold without containing the minimum of
 28 sixteen per cent total available plant food.

Sec. 5. Whenever a manufacturer, importer, jobber, firm,
 2 association, corporation or person manufacturing or selling a
 3 brand of commercial fertilizer shall have filed the statement
 4 required by section three and the same has been registered by the
 5 commissioner, no other agent, importer, jobber, firm, associa-
 6 tion, corporation or person shall be required to file for registry

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7 such statement for such brand.

Sec. 6. The provisions of this article shall not apply to fer-
2 tilizer materials sold to fertilizer manufacturers to be prepared
3 or treated by them and resold.

Sec. 7. The commissioner of agriculture, in person or by
2 deputy, shall take samples of any fertilizer on sale in this state
3 and shall cause such samples to be analyzed according to the
4 methods of the association of official agricultural chemists, offi-
5 cial at the time, and publish the results of analysis from time
6 to time. Any purchaser of fertilizer within the state may take
7 a sample of the same, in accordance with such rules and regula-
8 tions as the commissioner of agriculture may establish, and for-
9 ward the same for analysis, and if the commissioner has reason
10 to believe that the fertilizer from which the sample is taken is not
11 as guaranteed in the statement attached to such fertilizer, he
12 shall cause the sample to be analyzed free of charge and certify
13 the result of the analysis to the person forwarding such sample.

Sec. 8. The enforcement of the provisions of this article shall
2 be vested in the state department of agriculture, and the com-
3 missioner of agriculture is authorized to make and enforce such
4 rules and regulations as may be necessary to carry out the intent

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5 and purpose of this article. The commissioner is authorized, in
6 person or by deputy, to enter, during business hours, any store
7 room or other place where fertilizers are sold, offered or exposed
8 for sale for the purpose of taking samples therefrom for analysis.

Sec. 9. The commissioner of agriculture shall promptly re-
2 port to the prosecuting attorney of the county in which the of-
3 fense was committed any violations of this article and all failures
4 to comply therewith.

Sec. 10. Any person who shall sell, offer or expose for sale
2 any fertilizer without first having secured certificate of regis-
3 tration as provided by section three of this act, or without hav-
4 ing branded on or attached to the bag, barrel or other package
5 containing such fertilizer the statement required by section two
6 of this article, or any fertilizer containing less than sixteen per
7 cent of total available plant food, or who shall receive or remove
8 any fertilizer without its having been registered or branded as
9 provided by this article, shall be guilty of a misdemeanor, and
10 upon conviction thereof, shall be fined not less than twenty nor
11 more than one hundred dollars for the first offense, and not less
12 than fifty nor more than five hundred dollars for each subsequent
13 offense.

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Sec. 11. The provisions of this act shall become effective
2 January one, one thousand nine hundred thirty-two. All acts
3 or parts of acts inconsistent with this act are hereby repealed.

Joseph D. Smith
Chairman Senate Committee.

J. Alfred Taylor
Speaker of the House of Delegates.

W. H. Hines
Clerk of the House of Delegates.

W. B. Weeks
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *approved*
this *21st* day of *March* 1931.

W. E. Caffery
Governor.

Clarence W. Meadows
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia *MAR 21 1931*
GEORGE W. STAFF,
Secretary of State.