WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

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ENROLLED

HOUSE BILL No. 940

(By Mrs. Neal and Mr. Su.)

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PASSED February 17, 1975
In Effect July 1, 1975
ENROLLED

H. B. 940

(By Mrs. Neal and Mr. See)

[Passed February 17, 1975; in effect July 1, 1975.]

AN ACT to amend and reenact article fifteen-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to agricultural liming materials; definitions; required registration and fees therefor; required labeling; toxic materials prohibiting as adulterant; semiannual reporting required and tonnage fees assessed; inspection, sampling and analysis required; providing for stop sale and seizure orders and registration cancellation; deficiency assessments; regulations; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article fifteen-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 15A. WEST VIRGINIA AGRICULTURAL LIMING MATERIALS LAW.


1 As used in this article:

2 (a) “Brand” means the term, designation, trademark, product name or other specific designation under which individual liming materials are offered for sale.

3 (b) “Bulk” means liming materials in nonpackaged form.

4 (c) “Burnt lime” means a material, made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
(d) "Calcium carbonate equivalent" means the acid neutralizing capacity of agricultural liming material expressed as the weight percentage of calcium carbonate.

(e) "Commissioner" means the commissioner of agriculture of the state of West Virginia or his duly authorized agent.

(f) "Fineness" means the percentage by weight of the material which will pass United States standard sieves of specified sizes.

(g) "Hydrated lime" means a material, made from burnt lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and magnesium hydroxide, or both magnesium oxide and magnesium hydroxide.

(h) "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.

(i) "Limestone" means a material consisting essentially of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

(j) "Liming materials" means a product whose calcium and magnesium compounds are used in agriculture because of their capability in neutralizing soil acidity.

(k) "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.

(l) "Percent or percentage" means percent or percentage by weight.

(m) "Person" means any individual, partnership, association, fiduciary, firm, corporation or any organized group of persons whether incorporated or not.

(n) "Slag" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.

(o) "Ton" means a weight of two thousand pounds avoirdupois.
§19-15A-2. Registration of brands; registration fees.

(a) No agricultural liming material shall be sold or offered for sale in the state unless it has been registered with the commissioner.

(b) Application for registration shall be made to the commissioner on forms approved or supplied by the commissioner. Each separately identified liming product shall be registered before being distributed in the state.

(c) The commissioner shall collect a fifteen dollar registration fee for each brand registered.

(d) All registrations shall expire at the end of the calendar year of issue unless sooner revoked by the commissioner as provided in section six of this article.


(a) No person shall sell, offer to sell, or expose for sale in the state any agricultural liming materials which do not have affixed to the outside of each package in a conspicuous manner a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery invoice including at least the following:

(1) The name and principal business address of the manufacturer or distributor.

(2) The brand name of the liming material.

(3) The identification of the product as to the type of liming material.

(4) The net weight of the liming material.

(5) The minimum percentage of calcium oxide and magnesium oxide or calcium carbonate and magnesium carbonate.

(6) The calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists.
19 (7) The minimum percent by weight passing through United States standard sieves.

21 (b) A copy of the statement provided for in subsection (a) shall be posted for each brand sold in bulk at each site where purchase orders are accepted or from which deliveries for such liming materials are made.

25 (c) No information or statement shall appear on any package, label, delivery invoice or advertisement which gives a false or misleading impression to the purchaser as to the quality, analysis, type or composition of the liming material.

29 (d) When liming material has been adulterated subsequent to packaging, labeling or loading thereof and before delivery has been made to the consumer, conspicuous, plainly worded notice to that effect shall be affixed by the vendor to the package or delivery invoice to identify the kind and degree of adulteration therein: Provided, That no liming material shall be sold or offered for sale in the state which contains toxic materials in quantities injurious to plants or animals when applied according to directions.

38 (e) If the commissioner should find, after public hearing following due notice, that a requirement for listing the percentage of calcium and magnesium in elemental form would help in reducing among the states conflicting labeling requirements and would not impose an economic hardship on purchasers of liming materials, he may issue regulations which shall require the minimum percentage of calcium oxide and magnesium oxide or calcium carbonate and magnesium carbonate to be expressed as:

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\begin{align*}
\text{Total calcium (Ca)} & \quad \text{------- percent} \\
\text{Total magnesium (Mg)} & \quad \text{------- percent}
\end{align*}
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49 However, the effective date of such regulation shall be at least six months after the date of issue and for an additional two year period the equivalent of calcium and magnesium may also be shown in the form of calcium oxide and magnesium oxide or calcium carbonate and magnesium carbonate.


1 (a) Within thirty days following the thirtieth day of June
and the thirty-first day of December of each year, each registrant shall submit on a form furnished by the commissioner a summary of tons of each liming material sold by him in the state during the previous six months period. Such statement shall be accompanied by payment of an inspection fee at the rate of three cents per ton. A penalty of ten percent of the fees due shall be assessed a registrant whose report is not received within the specified period.

(b) The commissioner shall publish and distribute at least annually to each liming material registrant and other interested persons, a composite report showing the net tons of liming material sold in this state during the preceding period. This report shall in no way divulge information that can be related to the business of any individual registrant.


(a) It shall be the duty of the commissioner to inspect, sample, analyze and test liming materials distributed within the state as he may deem necessary to determine whether such liming materials are in compliance with the provisions of this article and for this purpose the commissioner is authorized to enter upon any public or private premises or carriers during regular business hours to inspect and sample liming materials, and to inspect records related to their distribution.

(b) The methods of analysis and sampling shall be those approved by the association of official analytical chemists and the American society for testing and materials.

(c) The results of official analyses of liming materials shall be distributed by the commissioner as he may deem necessary to carry out the enforcement of this article.

(d) The commissioner shall on request, provide the registrant with a portion of the official sample.


(a) The commissioner is authorized to cancel the registration of any brand of liming material and to refuse the application for registration of any brand of liming material upon be-
ing presented satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this article or any regulation issued thereunder: Provided, That no registration shall be revoked or refused until the registrant has been given an opportunity to appear for a hearing before the commissioner.

(b) The commissioner may issue a "stop sale, use, or removal" order to the owner or custodian of any lot of liming material when he finds said liming material is being offered or exposed for sale in violation of any of the provisions of this article or the regulations issued thereunder and such order shall remain in effect until it has been rescinded in writing by the commissioner: Provided, That the commissioner shall not rescind any "stop sale, use or removal" order until the requirements of this article have been complied with and all costs and expenses incurred in connection therewith have been paid.

(c) Any liming material found to be in violation of the provisions of this article shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the county in which such liming material is located. If the court orders the condemnation of such material it shall be disposed of in a manner consistent with the quality of the liming material and the laws of the state. In no instance shall the disposition of said liming material be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said liming material or for permission to process or relabel said liming material to bring it in compliance with this article.


A registrant shall pay to the commissioner a penalty assessed in accordance with the provisions of this section for each lot of liming material found to be deficient in its guaranteed analysis. For the purpose of assessing such penalties, the commissioner shall establish values by regulation for the neutralizing qualities and fineness of liming materials and such penalties shall be computed by multiplying times three the extent of the deficiency found by the established value. Such penalty is to be paid to the
user consumer if he be known, with receipts for same being mailed or delivered to the commissioner as evidence of the penalty having been paid. If said user consumer is not known the penalty shall be paid to the commissioner.

§19-15A-8. **Regulations.**

1 The commissioner is authorized to issue, after public hearing following due notice such, and in accordance with the provisions of chapter twenty-nine-a of this code, regulations in addition to any others mentioned elsewhere in the article, as he deems necessary to implement the full intent and meaning of this article including, but not limited to minimum acceptable sieve analysis classifications and minimum acceptable calcium carbonate equivalents for agricultural limestone, burnt lime, hydrated lime, marl and slag.

§19-15A-9. **Lime fund.**

1 All fees collected by the commissioner under the provisions of this article shall be placed in a special fund with the state treasurer to be known as the lime inspection fund and shall be expended on order of the commissioner.

§19-15A-10. **Penalties.**

1 Any person violating any of the provisions of this article or the regulations issued thereunder shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than two hundred dollars for the first offense and not less than two hundred nor more than five hundred dollars for each subsequent offense.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Originated in the House.
Takes effect July 1, 1975.

J.T. Holland  
Clerk of the Senate

The within approved this the 26th day of February, 1975.

Aubrey R. Thayer  
Governor
PRESENTED TO THE
GOVERNOR

Date 2/20/75
Time 3:40 p.m.