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WEST VIRGINIA LEGISLATURE

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SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE FOR House Bill No. 4074

(By Delegates Kelley Yeager, Boggs, Ennis,
Willis, Campbell and Williams)



d. n. b.
16
Passed February 17, 2000

In Effect Ninety Days from Passage

FILED
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LEGISLATIVE SERVICES
DIVISION

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4074

(BY DELEGATES KELLEY, YEAGER, BOGGS, ENNIS,
WILLIS, CAMPBELL AND WILLIAMS)

M.P.S.

16

[Passed February ~~17~~, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections one through eighteen, article fifteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to updating the West Virginia fertilizer law; expanding regulation to products other than commercial fertilizer; providing definitions; permitting the commissioner of agriculture to set fees and certain administrative penalties by rule; registration; labels; tonnage reports; inspection, sampling and analysis; plant nutrient deficiencies; commercial value; misbranding; adulteration; publications; rules; short weight; cancellation of registrations; embargo orders; seizure, condemnation and sale of product; violations and criminal penalties; and exchanges between manufacturers.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. WEST VIRGINIA FERTILIZER LAW.

§19-15-1. Definitions of words and terms.

1 (a) "Brand" means a term, design or trademark used in
2 connection with one or several grades of regulated product.

3 (b) "Bulk fertilizer" means fertilizer delivered to the
4 purchaser either in solid or liquid state in a nonpackage form to
5 which a label cannot be attached.

6 (c) "Commissioner" means the commissioner of agriculture
7 of the state of West Virginia or his or her duly authorized agent.

8 (d) "Compost" means a biologically stable material derived
9 from the composting process.

10 (e) "Custom ^{medium} ~~media~~" means a horticultural growing medium
11 prepared to exact specifications of the person who will be
12 planting in the medium.

13 (f) "Department" means the department of agriculture of
14 the state of West Virginia.

15 (g) "Distribute" means to import, consign, to offer for sale,
16 sell, barter, warehouse or otherwise supply a regulated product
17 in this state.

18 (h) "Distributor" means any person who distributes a
19 regulated product in this state.

20 (i) "Embargo" means a written stop sale order issued by the
21 commissioner of agriculture prohibiting the sale, use of or
22 transportation of any regulated product in any manner until the
23 embargo is released by the commissioner.

24 (j) "Fertilizer" means any substance containing one or more
25 recognized plant nutrients, including natural organic fertilizer,
26 which is designed for use or claimed to have value in promoting
27 plant growth, except unmanipulated animal and vegetable
28 manures, marl, lime, limestone, wood ashes and gypsum, and
29 other products exempted by rule of the commissioner.

30 (k) "Fertilizer material" means a fertilizer which either:

*ad
5/20/18*

31 (1) Contains important quantities of no more than one of
32 the primary plant nutrients: (nitrogen (N), available phosphate
33 (P205) and soluble potash (K201), or

34 (2) Has eighty-five percent or more of its plant nutrient
35 content present in the form of a single chemical compound, or

36 (3) Is derived from a plant or animal residue or by-product
37 or a natural material deposit which has been processed in such
38 a way that its content of primary plant nutrients has not been
39 materially changed except by purification and concentration.

40 (l) "Grade" means the percentage of total nitrogen, avail-
41 able phosphate and soluble potash stated in whole numbers in
42 the same terms, order and percentages as in the guaranteed
43 analysis: *Provided*, That specialty fertilizers may be guaranteed
44 in fractional units of less than one percent of total nitrogen,
45 available phosphate and soluble potash: *Provided, however*,
46 That fertilizer materials, bone meal, manures and similar raw
47 materials may be guaranteed in fractional units.

48 (m) "Guaranteed analysis" means the minimum percentage
49 of plant nutrients claimed in the following order and form:

- 50 (1) Total nitrogen (N) percent
51 Available phosphate (P205) percent
52 Soluble potash (K201) percent

53 (2) For unacidulated mineral phosphatic materials and basic
54 slag, bone, tankage and other organic phosphatic materials, the
55 total available phosphate or degree of fineness may also be
56 guaranteed.

57 (3) Guarantees for other plant nutrients may be permitted
58 or required by rule of the commissioner and shall be expressed
59 in the form of the element. The sources of such other nutrients
60 (oxides, salt, chelates, etc.) may be required to be stated on the
61 application for registration and may be included as a parentheti-
62 cal statement on the label. Other beneficial substances or
63 compounds, determinable by laboratory methods, also may be
64 guaranteed by permission of the commissioner. When any plant

65 nutrients or other substances or compounds are guaranteed, they
66 shall be subject to inspection and analysis in accord with the
67 methods and rules prescribed by the commissioner.

68 (n) "Horticultural growing medium" means any substance
69 or mixture of substances promoted as or intended to function as
70 a commercial or consumer growing medium for the managed
71 growth of horticultural crops in containers.

72 (o) "Investigational allowance" means an allowance for
73 variations inherent in the collection, preparation and analysis of
74 an official sample of regulated product.

75 (p) "Label" means the display of all written, printed or
76 graphic matter upon the immediate container or statement
77 accompanying a regulated product.

78 (q) "Labeling" means all written, printed or graphic matter,
79 upon or accompanying any regulated product, or advertise-
80 ments, brochures, posters or electronic announcements used in
81 promoting the sale of regulated products.

82 (r) "Manufacture" means to produce, compound, mix,
83 blend, or in any way alter the chemical or physical characteris-
84 tics of a regulated product).

85 (s) "Manufacturer" means any person who manufactures a
86 regulated product.

87 (t) "Mixed fertilizer" means a fertilizer containing any
88 combination or mixture of fertilizer materials.

89 (u) "Natural organic fertilizer" means materials derived
90 from either plant or animal products containing one or more
91 elements other than carbon, hydrogen, and oxygen which are
92 essential for plant growth. These materials may be subjected to
93 biological degradation processes under normal conditions of
94 aging, rainfall, sun-curing, air drying, composting, rotting,
95 enzymatic, or anaerobic/aerobic bacterial action, or any
96 combination of these. These materials may not be mixed with
97 synthetic materials or changed in any physical or chemical
98 manner from their initial state except by manipulations such as

99 drying, cooking, chopping, grinding, shredding, hydrolysis or
100 pelleting.

101 (v) "Official sample" means any sample of regulated
102 product collected by the commissioner or his or her agent and
103 designated as "official" by the commissioner.

104 (w) "Percent" or "percentage" means the percentage by
105 weight.

106 (x) "Person" means an individual, partnership, association,
107 firm or corporation.

108 (y) "Primary nutrients" means nitrogen (N), available
109 phosphate (P2O5) and soluble potash (K2O).

110 (z) "Registrant" means the person who registers regulated
111 products under the provisions of this article.

112 (aa) "Regulated product" means any product governed by
113 this article, including any fertilizer, specialty fertilizer, soil
114 amendment and horticultural growing medium.

115 (bb) "Soil amendment" means any substance or mixture of
116 substances, imported, manufactured, prepared or sold for
117 manurial, soil enriching or soil corrective purposes, or intended
118 to be used for promoting or stimulating the growth of plants,
119 increasing the productivity of plants, improving the quality of
120 crops or producing any chemical or physical change in the soil.
121 The following are exempt from the definition of "soil amend-
122 ment": Fertilizer, unmanipulated animal manures, horticultural
123 growing medium, agricultural liming materials, unmixed mulch
124 and unmixed peat.

125 (cc) "Specialty fertilizer" means a fertilizer distributed
126 primarily for nonfarm use, such as home gardens, lawns,
127 shrubbery, flowers, house plants, golf courses, municipal parks,
128 cemeteries, greenhouses and nurseries.

129 (dd) "Synthetic" means any substance generated from
130 another material or materials by means of a chemical reaction.

131 (ee) "Ton" means a net weight of two thousand pounds
132 avoirdupois.

133 (ff) “Unmanipulated manure” means substances composed
134 of the excreta of domestic animals, or domestic fowls, which
135 has not been processed or conditioned in any manner, including,
136 but not limited to, processing or conditioning by drying,
137 grinding, pelleting, shredding, addition of plant food, mixing
138 artificially with any material or materials, other than those
139 which have been used for bedding, sanitary or feeding purposes
140 for animals or fowls, or by any other means.

§19-15-2. Registration.

1 (a) Any person or persons whose name appears upon the
2 label of any regulated product as manufacturer or distributor
3 shall obtain a permit to distribute in the state prior to distribut-
4 ing the regulated product. The application for registration shall
5 be submitted to the commissioner on forms furnished or
6 approved by the commissioner, and shall be accompanied by a
7 fee established by legislative rule.

8 (b) Each brand or grade of regulated product shall be
9 registered before being distributed in this state. The application
10 for registration shall be submitted to the commissioner on forms
11 furnished or approved by the commissioner, and shall be
12 accompanied by a fee established by legislative rule. Upon
13 approval by the commissioner a copy of the registration shall be
14 furnished to the applicant. All registrations expire on the
15 thirtieth day of June of the following year.

16 The application for fertilizer, soil amendment or horticul-
17 tural growing medium shall include the following information:

18 (1) The net weight;

19 (2) The brand and, in the case of fertilizer when primary
20 nutrients are claimed, the grade;

21 (3) The guaranteed analysis, or other information related to
22 ingredients, guaranteed analysis of ingredients, percentages of
23 ingredients, source of ingredients, physical components,
24 physical properties or nutrient analysis as the commissioner
25 may require;

26 (4) The purpose of the product;

27 (5) Directions for application; and

28 (6) The name and address of the registrant.

29 (c) A distributor is not required to register any regulated
30 product which is already registered under this article by another
31 person, providing the label does not differ in any respect.

32 (d) A distributor is not required to register each grade of
33 regulated product formulated according to specifications which
34 are furnished by a consumer prior to mixing, but is required to
35 register his or her firm in a manner and at a fee established by
36 legislative rule, and to label the regulated product as provided
37 in subsection (c), section three of this article.

38 (e) Any person applying for registration of a fertilizer or
39 specialty fertilizer, soil amendment or horticultural growing
40 medium shall include with the application a label and any
41 advertising literature.

42 (f) The commissioner may require proof of any claims
43 made for any regulated product. If no claims are made, he or
44 she may require proof of the usefulness and value of the
45 regulated product. For evidence of proof the commissioner may
46 rely on experimental data, evaluations or advice supplied from
47 such sources as the director of the agricultural experiment
48 station. The experimental design shall be related to state
49 conditions for which the product is intended. The commissioner
50 may accept or reject other sources of proof as additional
51 evidence in evaluating regulated products.

52 (g) If the commissioner identifies any unregistered regu-
53 lated product in commerce or any regulated product from any
54 nonregistered manufacturer or distributor during the registration
55 year, the commissioner shall give the grantor a grace period of
56 fifteen working days from issuance of notification within which
57 to register the regulated product or distributor. Any person
58 required to register regulated products or as a distributor, who
59 fails to register within the grace period shall pay to the commis-
60 sioner a penalty fee as established by legislative rule in addition
61 to the registration fee. The commissioner may issue an embargo
62 order on any regulated product until the registration is issued.

63 (h) Exemptions for horticultural growing medium:

64 (1) Distribution of horticultural growing media planted with
65 live plant material is exempt from the labeling and registration
66 requirements of this article.

67 (2) Distribution of custom media is exempt from the
68 registration requirements of this article, if it is prepared for a
69 single end user.

70 (3) Distribution of horticultural growing media containing
71 plant nutrients of three percent or less are exempt from the
72 requirements of this article.

§19-15-3. Labels.

1 (a) Any regulated product distributed in this state in
2 containers shall have placed on or affixed to the container a
3 label setting forth in clearly legible and conspicuous form the
4 information required by subdivisions (1), (2), (3), (4), (5) and
5 (6), subsection (b), section two of this article. When compost is
6 used as an ingredient, the label shall identify the source of the
7 compost. A label may be in multiple languages, but one
8 language must be English.

9 (b) In case of bulk shipments, the same information
10 required on a label, in written or printed form, shall accompany
11 delivery and be supplied to the purchaser at time of delivery.

12 (c) A regulated product formulated according to specifica-
13 tions which are furnished by a consumer prior to mixing shall
14 be labeled to show the net weight, guaranteed analysis of each
15 ingredient, guaranteed analysis of the finished product and the
16 name and address of the distributor.

§19-15-4. Inspection fees.

1 (a) There shall be paid to the commissioner for all fertiliz-
2 ers distributed in this state an inspection fee established by
3 legislative rule: *Provided*, That sales to manufacturers or
4 exchanges between them are hereby exempted. Fees collected
5 shall be used for the payment of the costs of inspection,
6 sampling and analysis, and other expenses necessary for the
7 administration of this article.

8 On individual packages of fertilizer containing ten pounds
9 or less, there shall be paid in lieu of a per ton inspection fee, an
10 inspection fee established by legislative rule for each brand and
11 grade sold or distributed. Where a person sells fertilizer in
12 packages over ten pounds the inspection fee for each brand or
13 grade shall apply only to that portion sold in packages of ten
14 pounds or less, and that portion sold in packages over ten
15 pounds shall be subject to the same per ton inspection fee
16 provided by rule.

17 (b) Every person who distributes a fertilizer in this state
18 shall:

19 File with the commissioner on forms furnished or approved
20 by the commissioner a quarterly statement for the periods
21 ending on the thirtieth day of September, the thirty-first day of
22 December, the thirty-first day of March and the thirtieth day of
23 June, setting forth the number of net tons of each fertilizer
24 distributed in this state during such quarter. The report shall be
25 due on or before the thirtieth day of the month following the
26 close of each quarter and upon such statement shall pay the
27 inspection fee at the rate stated in subsection (a) of this section.

28 If the tonnage report is not filed and the payment of
29 inspection fee is not made within thirty days after the end of the
30 quarter, a collection fee established by legislative rule shall be
31 assessed against the registrant, and the amount of fees due shall
32 constitute a debt and become the basis of a judgment against the
33 registrant.

34 (c) When more than one person is involved in the distribu-
35 tion of a fertilizer, the last person who has the fertilizer regis-
36 tered or distributes to a nonregistrant (dealer or consumer) is
37 responsible for reporting the tonnage and paying the inspection
38 fee, unless the report and payment is made by a prior distributor
39 of a fertilizer.

§19-15-5. Tonnage reports.

1 The person transacting, distributing or selling fertilizer to
2 a nonregistrant shall furnish the commissioner a report showing
3 the county of the consignee, the amounts (tons) of each grade

4 of fertilizer, and the form in which the fertilizer was distributed
5 (bags, bulk, liquid, etc.). This information shall be reported by
6 one of the following methods: (a) Submitting a summary report
7 approved by the commissioner on or before the fifteenth day of
8 each month covering shipments made during the preceding
9 month; or (b) by electronic transfer using the UFTRS system or
10 other electronic system approved by the commissioner. No
11 information furnished to the commissioner under this section
12 may be disclosed in such a way as to divulge the operation of
13 any person. The commissioner shall assess a late fee established
14 by legislative rule against the registrant who is responsible for
15 reporting if the monthly report is not filed by the due date.

§19-15-6. Inspection, sampling and analysis.

1 (a) It is the duty of the commissioner, who may act through
2 his or her authorized agent, to sample, inspect, make analyses
3 of, and test regulated products distributed within this state at
4 any time and place and to such an extent as he or she may
5 consider necessary to determine whether such regulated
6 products are in compliance with the provisions of this article.
7 The commissioner individually or through his or her agent is
8 authorized to enter upon any public or private premises or
9 carriers during operating hours in order to have access to
10 regulated products subject to the provisions of this article and
11 the rules pertaining thereto, and to the records relating to their
12 distribution.

13 (b) The methods of sampling and analysis to determine
14 plant food deficiencies in fertilizer or deficiencies in other
15 regulated products shall be those established by the Association
16 of American Plant Food Control Officials and AOAC Interna-
17 tional or other methods approved by the commissioner by
18 legislative rule.

19 (c) The commissioner, in determining for administrative
20 purposes whether any fertilizer is deficient in plant food, or
21 whether any other regulated product in compliance with this
22 article shall be guided solely by the official sample as defined
23 in subsection(v), section one of this article, and obtained and
24 analyzed as provided for in subsection (b) of this section.

25 (d) The results of official analysis of regulated products and
26 portions of official samples, shall be distributed by the commis-
27 sioner as provided by legislative rule. The results of official
28 analysis of fertilizers and portions of official samples shall be
29 distributed by the commissioner as provided by legislative rule.
30 Official samples establishing a penalty for nutrient deficiency
31 shall be retained for a minimum of thirty days from issuance of
32 a deficiency report.

§19-15-7. Deficiencies.

1 (a) *Penalty for nitrogen, available phosphate and soluble*
2 *potash.* — If the analysis shall show that a fertilizer is deficient
3 in one or more of its guaranteed primary plant nutrients (N-P-
4 K) beyond the “investigational allowances” established by rule,
5 or if the overall index value of the fertilizer is below the level
6 established by rule, a penalty of three times the commercial
7 value of such deficiency shall be assessed.

8 (b) *Penalty for soil amendment.* -- If the analysis shows
9 that any soil amendment falls short of the guaranteed analysis
10 in any one soil amending ingredient or in total soil amending
11 ingredients, a penalty shall be assessed in favor of the commis-
12 sioner. A penalty of three times the value of the total soil
13 amending ingredient deficiency shall be assessed when the total
14 deficiency is more than two percent under the calculated total
15 soil amending ingredient guarantee.

16 (c) *Penalty for other deficiencies.* — Deficiencies beyond
17 the investigational allowances established by rule in any other
18 constituent which the registrant is required to or may guarantee
19 shall be evaluated and penalties prescribed by the commis-
20 sioner.

21 (d) Nothing contained in this section shall prevent any
22 person from appealing to a court of competent jurisdiction
23 praying for judgment as to the justification of such penalties.

24 (e) All penalties assessed under this section shall be paid to
25 the consumer of the lot of regulated product represented by the
26 sample analyzed. Within three months after the date of notice
27 from the commissioner to the registrant, the penalty shall be

28 collected and promptly forwarded to the commissioner. If the
29 consumers cannot be found, the amount of penalty shall be paid
30 to the commissioner and deposited in the department of
31 agriculture's fees account.

32 (f) A deficiency in an official sample of mixed fertilizer
33 resulting from nonuniformity is not distinguishable from a
34 deficiency due to actual plant nutrient shortage and is properly
35 subject to official action.

36 (g) If, upon evidence satisfactory to the commissioner, a
37 person is found to have: (1) Altered the content of any regulated
38 product shipped to him by a registrant; or (2) mixed or commin-
39 gled regulated product from two or more suppliers so that the
40 result of either alteration changes the analysis of the regulated
41 product as originally guaranteed, then the person who has
42 altered, mixed or commingled shall become responsible for
43 obtaining a registration, as the case may be; shall be held liable
44 for all assessments; and shall be subject to other provisions of
45 this article, including, by way of example, but not by way of
46 limitation, seizure, condemnation and embargo.

§19-15-8. Commercial value.

1 For the purpose of determining the commercial values to be
2 applied under the provisions of section seven of this article, the
3 commissioner shall determine and publish annually the values
4 per unit of nitrogen, available phosphate and soluble potash in
5 fertilizers in this state. The commissioner shall determine from
6 the registrant's sales invoice the values charged for the soil
7 amending ingredients. If no invoice is available or if the invoice
8 fails to provide sufficient information the commissioner may
9 use other methods to determine values. The value so determined
10 and published shall be used in determining and assessing
11 penalty payments.

§19-15-9. Misbranding.

1 No person shall distribute misbranded regulated products.
2 A regulated product is considered to be misbranded:
3 (a) If its label is false or misleading in any particular;

4 (b) If it is distributed under the name of another regulated
5 product;

6 (c) If it is not labeled as required in section three of this
7 article and in accordance with rules prescribed under this
8 article; or

9 (d) If it purports to be, to contain or is represented as a
10 fertilizer, plant nutrient, soil amendment, or horticultural
11 growing medium, but is not according to the definition pre-
12 scribed by rule of the commissioner. In the adopting of legisla-
13 tive rules defining these terms the commissioner shall give
14 regard to commonly accepted definitions and official terms
15 such as those issued by the Association of American Plant Food
16 Control Officials (AAPFCO).

§19-15-10. Adulteration.

1 No person may distribute an adulterated regulated product.
2 A regulated product is considered to be adulterated:

3 (a) If it contains any deleterious or harmful ingredient in
4 sufficient amount to render it injurious to beneficial plant life,
5 animals, humans, aquatic life, soil or water when applied in
6 accordance with directions for use on the label, or if adequate
7 warning statements or directions for use, which may be
8 necessary to protect plant life, animals, humans, aquatic life,
9 soil or water are not shown upon the label;

10 (b) If its composition falls below or differs from that which
11 it is purported to possess by its labeling; or

12 (c) If it contains unwanted crop seed, weed seed or noxious
13 weed seed, as defined in article 16, chapter 19 of the West
14 Virginia Seed Law.

15 (d) If adulteration levels of one or more metals in regulated
16 products are in excess of those officially adopted by the
17 Association of American Plant Food Control Officials.

§19-15-11. Publications.

1 The commissioner shall publish at least annually and in
2 such forms as he or she may consider proper: (a) Information

3 concerning the distribution of regulated products; and (b)
4 results of analysis based on official samples of regulated
5 products distributed within the state as compared with the
6 analysis guaranteed under sections two and three of this article.

§19-15-12. Rules.

1 The commissioner may propose rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code. The commissioner may
4 enforce such rules relating to investigational allowances,
5 definitions, records, fees and the distribution of regulated
6 products as may be necessary to carry into effect the full intent
7 and meaning of this article, including protection of the environ-
8 ment.

§19-15-13. Short weight.

1 If any regulated product in the possession of the distributor
2 or retailer is found by the commissioner to be short in weight,
3 the registrant of the regulated product shall, within thirty days
4 after official notice from the commissioner, pay to the con-
5 sumer a penalty established by legislative rule.

§19-15-14. Cancellation of registrations.

1 The commissioner is authorized and empowered to cancel
2 the registration of any brand of regulated product or to refuse to
3 register any brand of regulated product upon satisfactory
4 evidence that the registrant has used fraudulent or deceptive
5 practices in evading or attempting to evade the provisions of
6 this article or any rule promulgated thereunder: *Provided*, That
7 no registration may be revoked or refused until the registrant is
8 given the opportunity to appear for a hearing conducted by the
9 commissioner.

§19-15-15. Embargo orders.

1 The commissioner may issue and enforce a written or
2 printed embargo order requiring the owner or custodian of any
3 lot of regulated product to hold it at a designated place, when
4 the commissioner finds the regulated product is being offered
5 or exposed for sale in violation of any of the provisions of this

6 article, until the law has been complied with and the regulated
7 product is released in writing by the commissioner, or until the
8 violation has been otherwise legally disposed of by written
9 authority. The commissioner shall release the regulated product
10 embargoed when the requirements of the provisions of this
11 article have been complied with and all costs and expenses
12 incurred in connection with the embargo have been paid.

§19-15-16. Seizure, condemnation and sale.

1 Any lot of regulated product not in compliance with the
2 provisions of this article is subject to seizure on complaint of
3 the commissioner to a court of competent jurisdiction in the
4 county or judicial circuit where the product is located. In the
5 event the court finds that the regulated product is in violation of
6 this article and orders its condemnation, the product may be
7 disposed of in any manner consistent with its quality and the
8 laws of the state: *Provided*, That in no instance may the
9 disposition of the regulated product be ordered by the court
10 without first giving the claimant an opportunity to apply to the
11 court for its release or for permission to process or relabel the
12 regulated product to bring it into compliance with this article.

§19-15-17. Violations.

1 (a) If it appears from the examination of any regulated
2 product that any of the provisions of this article or the rules
3 issued thereunder have been violated, the commissioner shall
4 cause notice of the violation to be given to the registrant,
5 distributor or possessor from whom the sample was collected.
6 Any person so notified shall be given an opportunity to be heard
7 under legislative rules proposed and promulgated by the
8 commissioner. If it appears after the hearing, either in the
9 presence or absence of the person so notified, that any of the
10 provisions of this article or rules issued thereunder have been
11 violated, the commissioner may prosecute in any court of
12 competent jurisdiction any person violating the provisions of
13 this article.

14 (b) Any person convicted of violating any provisions of this
15 article or rules issued thereunder is guilty of a misdemeanor

16 and, upon conviction thereof, shall be fined not less than one
17 hundred dollars nor more than two hundred dollars for the first
18 offense and not less than two hundred dollars nor more than
19 five hundred dollars for each subsequent offense.

20 (c) Nothing in this article may be construed as requiring the
21 commissioner or his or her agent to report for prosecution or for
22 the institution of seizure proceedings as a result of minor
23 violations of the article when he or she believes that the public
24 interest will be best served by a suitable notice of warning in
25 writing.

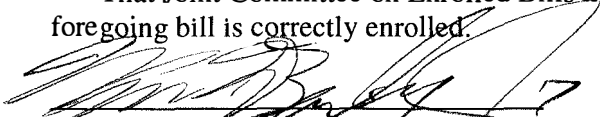
26 (d) It is the duty of each prosecuting attorney to whom any
27 violation is reported to cause appropriate proceedings to be
28 instituted and prosecuted in a court of competent jurisdiction
29 without delay.

30 (e) The commissioner is hereby authorized to apply for and
31 the court to grant a temporary or permanent injunction, to be
32 issued without bond, restraining any person from violating or
33 continuing to violate any provision of this article or rule
34 promulgated thereunder notwithstanding the existence of other
35 remedies at law.

§19-15-18. Exchanges between manufacturers.

1 Nothing in this article may be construed to restrict or avoid
2 sales or exchanges of regulated products between importers,
3 manufacturers or manipulators who mix regulated materials for
4 sale, or to prevent the free and unrestricted shipment of
5 regulated products to manufacturers or manipulators who have
6 registered their brands as required by the provisions of this
7 article.

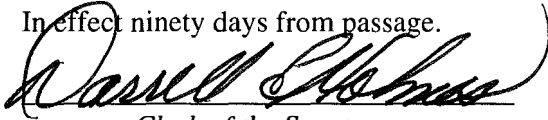
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

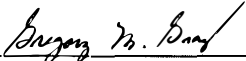

Chairman Senate Committee



Chairman House Committee


Originating in the House.

In effect ninety days from passage.

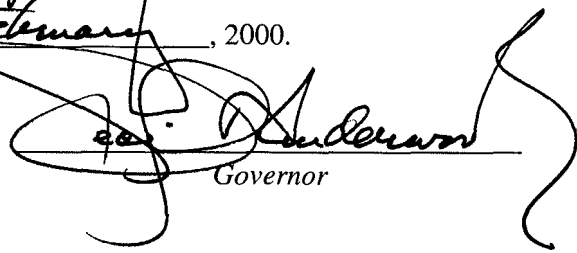

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 22nd
day of February, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 2/18/00

Time 4:50 pm