



PENNSYLVANIA

**SOIL AND PLANT AMENDMENT ACT**

Act of December 13, 2001  
Chapter 69

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## AN ACT

Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, adding provisions relating to the labeling, sale and distribution of fertilizer and of soil and plant amendments; providing for the powers and duties of the Department of Agriculture; establishing the Agronomic Regulatory Account; prescribing penalties; and making a repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

### CHAPTER 69 SOIL AND PLANT AMENDMENT

**SECTION 1** - Title 3 of the Pennsylvania Consolidated Statutes is amended by adding chapters to read:

- 6901. Short title.
- 6902. Definitions.
- 6903. Licensing.
- 6904. Registration.
- 6905. Labels and labeling.
- 6906. Inspection fees.
- 6907. Tonnage reports.
- 6908. Inspection, sampling and analysis.
- 6909. Misbranding.
- 6910. Adulteration.
- 6911. Short weight.
- 6912. Refusal, suspension or revocation of registration or license.
- 6913. Stop-sale orders.
- 6914. Seizure and condemnation.
- 6915. Appeal process.
- 6916. Cooperation with other entities.
- 6917. Rules and regulations.
- 6918. Unlawful conduct.
- 6919. Interference with officer or employee of department.
- 6920. Enforcement and penalties.
- 6921. Disposition of funds.

**§ 6901. Short title.** – This chapter shall be known and may be cited as the “Pennsylvania Soil and Plant Amendment Act.”

**§ 6902. Definitions.** –The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- (1) “*Active ingredient.*” A soil amending or plant amending ingredient that is not a plant nutrient.

- (2) “*Brand.*” The term, designation, trademark, product name or other specific designation under which individual soil amendments or plant amendments are offered for sale.
- (3) “*Consumer.*” A person who purchases a soil amendment or plant amendment for the end use of the product.
- (4) “*Department.*” The Department of Agriculture of the Commonwealth.
- (5) “*Distribute.*” To import, consign, offer for sale, sell, barter or otherwise supply soil amendments and plant amendments in this Commonwealth
- (6) “*Facility.*” Each separate mill or plant manufacturing a soil amendment or plant amendment.
- (7) “*Guarantor.*” The person whose name and address appears on the label of a soil amendment or plant amendment.
- (8) “*Label.*” The display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil amendment or plant amendment.
- (9) “*Labeling.*” All written, printed or graphic matter, upon or accompanying any soil amendment or plant amendment or advertisements, brochures, posters or electronic media used in promoting the distribution of such soil amendment or plant amendment.
- (10) “*Manufacture.*” To produce, mix, blend, repackage or further process a soil amendment, plant amendment, soil-amending ingredient or plant-amending ingredient for distribution.
- (11) “*Minimum percentage.*” That percent of soil-amending ingredient or plant-amending ingredient that must be present in a product before the product will be accepted for registration.
- (12) “*Official sample.*” A sample of soil amendment or plant amendment taken by the department or its agent to effect the provisions of this chapter and designated as official.
- (13) “*Other ingredients.*” Non-soil-amending or non-plant-amending inert ingredients present in soil amendments or plant amendments.
- (14) “*Person.*” An individual, partnership, association, firm, corporation or any other legal entity.
- (15) “*Plant amendment.*” Any substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants, except fertilizer, soil amendments, agricultural liming materials, unmanipulated animal and vegetable manure, pesticides and other materials which may be exempted by regulation.
- (16) “*Plant-amending ingredient.*” A substance that will improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plant.
- (17) “*Secretary.*” The Secretary of Agriculture of the Commonwealth or the secretary’s designee.

(18) “*Soil amendment.*” Any substance which is intended to change the chemical or physical characteristics of soil. The term does not include fertilizers, agriculture liming materials, unmanipulated animal and vegetable manures, pesticides and other materials exempted by regulation.

(19) “*Soil-amending ingredient.*” A substance which changes the chemical or physical characteristics of soil.

(20) “*Tolerance.*” A permitted variation from the guarantee of an official sample of soil amendment or plant amendment.

**§ 6903. Licensing. –**

(a) General rule. –Every person engaged in the manufacture of a soil amendment, plant amendment, soil-amending ingredient or plant-amending ingredient to be distributed in this Commonwealth and every guarantor of such products shall, on or before July 1 of each year or prior to manufacture or distribution, apply for and obtain an annual license for each guarantor and each facility, located in this Commonwealth. The application for licensure must be on the form prescribed by the department and shall be accompanied by a \$25 application fee. All licenses shall expire on June 30 of each year.

(b) Labeling and typical analysis. –The department may also require an applicant for a license or a current licensee to submit the labeling that the person is using or intends to use for their soil amendments or plant amendments. The department may also require an applicant or licensee to provide a typical analysis of selected components that may be in the soil amendment or plant amendment.

**§ 6904. Registration. –**

(a) Application. –Each brand and separately identified soil amendment and plant amendment product shall be registered by the guarantor with the department before being offered for sale, sold or distributed in this Commonwealth. An application for registration shall be submitted to the department on a form prescribed by the department and shall be accompanied by a fee of \$25 per product. Labels and labeling shall accompany the application. Upon approval of an application by the department, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June 30 of each year.

(b) Contents of application. –An application for registration shall include:

- (1) The brand name.
- (2) The active ingredients:
  - (i) Name and percentage of soil-amending ingredients.
  - (ii) Name and percentage of plant-amending ingredients.

- (3) The total percentage of other ingredients.
  - (4) The purpose of the product.
  - (5) The directions for application.
  - (6) The name and address of the guarantor.
  - (7) The net weight.
- (c) Exemption. –A distributor shall not be required to register a brand of soil amendment or plant amendment which is already registered under this chapter by another person, providing the label does not differ in any material respect.
- (d) Minimum percentage to be established. –The department may by regulation establish the minimum percentage of soil-amending ingredients or plant amending ingredients that must be present before a soil amendment or plant amendment may be registered and distributed.
- (e) Late fee. –If the application for renewal of the soil amendment or plant amendment registration required in this section is not filed prior to June 30 of each year, a penalty of \$25 or 10% of the registration fee, whichever is greater, may be assessed and added to the original fee and shall be paid by the applicant before the renewal soil amendment or plant amendment registration is issued. The penalty shall not apply if the applicant furnished an affidavit that the applicant has not distributed the soil amendment or plant amendment subsequent to the expiration of the applicant’s prior registration.

**§ 6905. Labels and labeling. –**

- (a) General rule. –Any soil amendment or plant amendment distributed in a container in this Commonwealth shall have placed on or affixed to the container a label setting forth in legible and conspicuous form:
- (1) The brand name.
  - (2) The active ingredients:
    - (iii) Name and percentage of soil-amending ingredient.
    - (iv) Name and percentage of plant-amending ingredient.
  - (3) The total percentage of other ingredients.
  - (4) The purpose of the product.
  - (5) The directions for application.
  - (6) The name and address of the guarantor.
  - (7) The net weight.
- (b) Bulk shipments. –In the case of bulk shipments of soil or plant amendments, the information required by subsection (a) shall accompany delivery and shall be provided in writing to the purchaser at time of delivery.
- (c) False or misleading information prohibited. –No information or statement shall appear on any package, label, delivery slip or advertising matter which is false or misleading to the purchaser as to the use, value, quality, analysis, type or composition of the soil amendment or plant amendment.

- (d) Proof of labeling claims. –The department may require proof of any labeling claims made for a soil amendment or plant amendment. Any research in support of such claims shall be performed by an institution approved by the department utilizing acceptable scientific methodology.
- (e) Ingredient identification. –When a soil-amending ingredient or plant amending ingredient is identified on a label, it must be determinable by laboratory methods such as those set forth in section 6908(b) (relating to inspection, sampling and analysis).
- (f) Volume labeling authorized. –The department may allow labeling by volume rather than weight in subsection (a). The department may allow payment of inspection fees on a calculated equivalent of volume to tons.
- (g) Bulk storage. –Soil amendments and plant amendments in bulk storage intended for distribution shall be identified with a label attached to the storage bin or container giving the brand and name of the product.

**§ 6906. Inspection fees. –**

- (a) Amounts. –

(1) The guarantor whose name appears on the label of a soil amendment or plant amendment distributed in this Commonwealth shall pay semiannually and not later than January 31 and July 31 of each year an inspection fee at the rate of \$0.15 per ton. In no case shall the inspection fee paid semiannually amount to less than \$25.

(2) On packages of 15 pounds or less, there shall be paid, in lieu of the inspection fee of \$0.15 per ton provided for in paragraph (1), annually and not later than January 31 of each year, an inspection fee of \$25 for each brand and grade of soil amendment or plant amendment distributed.

(3) If the guarantor whose name appears on the label distributes soil amendments or plant amendments in this Commonwealth in both packages of less and more than 15 pounds, the \$25 inspection fee shall be paid for its brands sold in packages of 15 pounds or less, and the \$0.15 per ton fee shall be paid for its packages of more than 15 pounds.

- (b) Adjustment to fees by secretary. –

(1) Notwithstanding the provisions of subsection (a), if the secretary determines following notice to the registrants and licensees that moneys derived from the registration and inspection fees are either greater or less than that required to administer this chapter, the secretary may reduce or increase the inspection fee so as to maintain revenues sufficient to administer this chapter.

(2) An inspection fee so established may not be changed by more than \$0.02 in one year and may not exceed \$0.25 per ton.

(3) The secretary shall announce the adjustment of fees by publishing a notice in the Pennsylvania Bulletin. The adjusted fees shall take effect 60 days after publication of such notice in the Pennsylvania Bulletin.

**§ 6907. Tonnage reports. –**

(a) General rule. –The guarantor whose name appears on the label shall submit, along with an inspection fee, a report in a manner prescribed by the department listing by county the net tons of each brand of soil amendment or plant amendment distributed in this Commonwealth for the period covered by the inspection fee.

(b) Multiple guarantors. –When more than one guarantor is involved in the distribution of a soil amendment or plant amendment, the guarantor who distributed the soil amendment or plant amendment last shall report the tonnage and pay the inspection fee unless the report and payment have been made by a prior distributor.

(c) Late fee. –A penalty of \$25 or 10% of the inspection fee, whichever is greater, shall be imposed for any fee or report not submitted at the required time.

(d) Examination permitted. –The department or its authorized representative may examine the records of the guarantor to verify the information contained in the reports filed with the department. Reports containing fraudulent or incorrect information shall be considered a violation of this chapter for which the department may assess a penalty.

(e) Confidentiality of information. –

(1) No proprietary information furnished to the department under this section shall be disclosed in such a way as to knowingly or intentionally divulge a trade secret of any person subject to the provisions of this chapter.

(2) This subsection shall not apply to information furnished to a court or administrative tribunal in accordance with law.

**§ 6908. Inspection, sampling and analysis. –**

(a) General rule. –The department shall sample, inspect, make analysis of and test soil amendments and plant amendments distributed within this Commonwealth and shall inspect the storage of soil amendments and plant amendments at any time and place and to such an extent as the department may deem necessary to determine whether such soil amendments and plant amendments are in compliance with the provisions of this chapter. The department or its agent may enter upon any public or private premises or carriers during regular business hours in order

to have access to soil amendments and plant amendments subject to provisions of this chapter and the records relating to this chapter.

(b) Laboratory methodology. –The department shall establish by regulation the methods of soil and plant amendment sampling and analysis. In promulgating such regulations the department shall consider methods such as those adopted by the Association of Official Analytical Chemists International. In cases not covered by such methods or in cases where improved methods are available, the department may issue a temporary order defining the method to be utilized. The method defined in the temporary order shall be effective upon publication in the Pennsylvania Bulletin. The temporary order shall remain in effect for a period not to exceed one year, unless reissued, or until such order is promulgated as a regulation.

(c) Deficiency determination. –The department, in determining whether any soil amendment or plant amendment is deficient, shall be guided solely by the official sample, obtained and analyzed as provided for in subsections (a) and (b).

(d) Retention of official samples. –Official samples maintained by the department and that require imposition of a penalty shall be retained for a minimum of 90 days from issuance of the penalty report. Upon request, the department shall furnish to the guarantor a portion of any sample found subject to penalty or other legal action. Such requests must be made within 30 day of notification of sample violations.

**§ 6909. Misbranding.** –No person shall distribute a misbranded soil amendment or plant amendment. A soil amendment or plant amendment shall be deemed to be misbranded if:

- (1) its labeling is false or misleading in any particular manner;
- (2) it is distributed under the name of another soil amendment or plant amendment product;
- (3) it is not labeled as required in section 6905 (relating to labels and labeling) and in accordance with regulations prescribed under this chapter;
- (4) it purports to be or is represented as a soil amendment or plant amendment or is represented as containing a soil amendment or plant amendment unless such soil amendment or plant amendment conforms to the definition of identity, if any, prescribed by regulation of the department; or
- (5) it does not conform to ingredient form, minimums, labeling and tolerances prescribed by regulation.

**§ 6910. Adulteration.** –

(a) General rule. –No person shall distribute and adulterated soil amendment or plant amendment product. A soil amendment or plant amendment shall be deemed to be adulterated if:

(1) it contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with its intended use or directions for use on the label;

(2) adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown upon the label;

(3) its composition falls below or differs from that which it is purported to possess by its labeling; or

(4) it contains viable weed seed in amounts exceeding the limits which the department establishes by regulation.

(b) Exception. –A soil amendment or plant amendment shall not be considered adulterated under this section if the quantity of the substance in the soil amendment or plant amendment does not ordinarily render it injurious.

**§ 6911. Short weight.** –If any soil amendment or plant amendment in the possession of a consumer is found by the department to be short in weight, the guarantor of that soil amendment or plant amendment shall, within 30 days after official notice from the department, submit to the consumer a penalty payment of two times the value of the actual shortage.

**§ 6912. Refusal, suspension or revocation of registration or license.** –The department may refuse, suspend or revoke the registration of any soil amendment or plant amendment or refuse, suspend or revoke the license of any person where the registrant or licensee has not complied with the provisions of this chapter or of any person who has used fraudulent or deceptive practices in the evasion of the provisions of this chapter.

**§ 6913. Stop-sale orders.** –

(a) General rule. –The department may issue and enforce a written or printed stop-sale, use or removal order to the owner or custodian of any lot of soil amendment or plant amendment and to hold at a designated place when the department finds the soil amendment or plant amendment is being offered or exposed for sale in violation of any of the provisions of this chapter. The order shall remain in effect until the law has been complied with and the soil amendment or plant amendment is released in writing by the department or the violation has been otherwise legally disposed of by written authority.

(b) Release by department. –The department shall release the soil amendment or plant amendment held under a stop-sale order when the requirements of the provisions of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid by the person responsible for the violation.

**§ 6914. Seizure and condemnation.** –A lot of soil amendment or plant amendment not in compliance with the provisions of this chapter shall be subject to seizure and condemnation by the department, provided that in no instance shall the disposition of the soil amendment or plant

amendment be ordered by the department without first giving the claimant an opportunity for a hearing as provided for in section 6915 (relating to appeal process) or for opportunity to apply for permission to process or relabel the soil amendment or plant amendment to bring it into compliance with this chapter.

**§ 6915. Appeal process.**—All appeals shall be taken and hearings conducted in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedures of Commonwealth agencies) and 7 Subch. A (relating to judicial review of commonwealth agencies).

**§ 6916. Cooperation with other entities.**—The department may cooperate with and enter into an agreement with governmental agencies of the Federal Government, agencies of this Commonwealth and any other state in order to carry out the purpose and provisions of this chapter.

**§ 6917. Rules and regulations.**—The department shall promulgate and enforce rules and regulations necessary for administration and implementation of this chapter.

**§ 6918. Unlawful conduct.**—It shall be unlawful for any person to fail to comply with or to cause or assist in the violation of any order or any of the provisions of this chapter or the rules and regulations adopted under this chapter.

**§ 6919. Interference with officer or employee of department.**—A person who willfully or intentionally interferes with an employee or officer of the department in the performance of that employee's or officer's duties or activities authorized under this chapter commits a misdemeanor of the third degree and shall, upon conviction, be subject to a term of imprisonment of not more than one year or a fine of not more than \$2,500, or both.

**§ 6920. Enforcement and penalties. -**

(a) Criminal penalties. —Unless otherwise specified, any person who violates any of the provisions of this chapter or a rule or regulation adopted thereunder or any order issued pursuant thereto:

(1) For the first offense, commits a summary offense and shall, upon conviction, be sentenced for each offense, to pay a fine of not less than \$50 nor more than \$100 and costs of prosecution or to serve a term of imprisonment for not more than 90 days, or both.

(2) For a subsequent offense committed within three years of a prior conviction for any violation of this chapter or any rule, regulation or order made under this chapter, commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$1,000 and costs of prosecution or to serve a term of imprisonment for not more than two years, or both.

(b) Trade secrets. —

(1) Any person who uses to that person's own advantage or reveals to anyone other than the department, administrative tribunal or the courts when relevant in any judicial proceeding any information acquired under the authority of this chapter concerning any method, records, formulations or processes which as a trade secret is entitled to protection under the law commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than \$500 or to serve a term of imprisonment for not less than one year, or both.

(2) This subsection shall not be construed to prohibit the department from exchanging information of a regulatory nature with governmental agencies of the Federal Government, agencies of this Commonwealth or any other state in order to implement the purpose and provisions of this chapter.

(c) Civil penalties. –

(1) In addition to proceeding under any other remedy available at law or in equity for a violation of this chapter, the department may assess a civil penalty of not more than \$2,500 upon any person for each violation of this chapter. The civil penalty assessed shall be payable to the department and shall be collectible in any manner provided by law for the collection of debt.

(2) No civil penalty shall be assessed unless the person assessed the penalty has been given notice and opportunity for a hearing on the penalty assessment in accordance with provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(d) Certified copy of official analysis. –In prosecutions under this chapter involving the composition of a lot of soil amendment or plant amendment, a certified copy of the official analysis signed by the secretary or the secretary's designee shall be accepted as prima facie evidence of the composition.

(e) De minimis violations. –Nothing in this chapter shall be construed as requiring the department to report a violation and to institute seizure proceedings as a result of a de minimis violation of this chapter when the department concludes that the public interest will be best served by a suitable notice of warning in writing.

**§ 6921. Disposition of funds.** –Moneys received from license fees, registration fees, inspection fees, fines and penalties shall be paid into the Agronomic Regulatory Account established in section 6725 (relating to disposition of funds). All moneys in the Agronomic Regulatory Account are hereby appropriated to the department for the purposes of this chapter and Chapter 67 (relating to fertilizer).

**SECTION 2.** –

(A) A license granted or registration made under the act of May 29, 1956 (1955 P.L.1795, NO.598), known as the Pennsylvania Fertilizer, Soil Conditioner and Plant Growth Substance

Law, in effect on the effective date of this act shall remain valid and in effect until its scheduled expiration date.

(B) Except to the extent that they are inconsistent with any provisions of this act, regulations promulgated under the act of May 29, 1956 (1955 P.L.1795, NO.598), known as the Pennsylvania Fertilizer, Soil Conditioner and Plant Growth Substance Law, in effect on the effective date of this act shall continue in effect unless subsequently modified by regulations promulgated by the department under this act.

(C) All funds made available to the department pursuant to the act of May 29, 1956 (1955 P.L.1795, NO.598), known as the Pennsylvania Fertilizer, Soil Conditioner and Plant Growth Substance Law, which remain unexpended, uncommitted and unencumbered as of the effective date of this act, shall be transferred to the Agronomic Regulatory Account.

**SECTION 3.** –The act of May 29, 1956 (1955 P.L.1795, NO.598), known as the Pennsylvania Fertilizer, Soil Conditioner and Plant Growth Substance Law, is repealed.

**SECTION 4.** –This act shall take effect in 60 days.