

## CHAPTER 37

AN ACT concerning the sale of certain commercial fertilizers and amending and supplementing P.L.1970, c.66.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1970, c.66 (C.4:9-15.3) is amended to read as follows:

### C.4:9-15.3 Definitions.

3. As used in this act:

(a) "Commercial fertilizer" means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale; except that it shall not be considered to include unmanipulated animal or vegetable manures, agricultural liming materials, or wood ashes.

(b) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, parks, cemeteries, greenhouses, and nurseries.

(c) "Customer formulated mix" means a commercial fertilizer prepared expressly for, and according to specifications furnished prior to mixing by, the customer.

(d) "Soil conditioner" means any substance intended or claimed to improve the chemical, physical or biological characteristics of the soil which is sold, offered for sale, or intended for sale; except that it shall not be considered to include decomposed organic material having an ash content not exceeding 25% by dry weight, unmanipulated animal or vegetable manures, agricultural liming materials, or any other materials that may be exempted by regulation.

(e) "Brand" means a term, design, or trademark used in connection with a soil conditioner or with one or more grades of commercial fertilizer.

(f) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meal, and similar raw materials may be guaranteed in fractional units.

(g) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed and set forth in the manner prescribed in subsection 10(c) of this act.

(h) "Index value" means an expression of the actual analysis of a fertilizer compared to the guaranteed analysis determined according to the following formula. Multiply the total nitrogen value by 3, the available phosphoric acid value by 2, and the soluble potash value by one, and then add these figures separately for the actual analysis and for the guaranteed analysis to obtain, respectively, the total actual value and the total guaranteed value. The index value is obtained by dividing the total actual value by the total guaranteed value.

(i) "Official sample" means any sample of commercial fertilizer or soil conditioner taken by an agent of the Department of Agriculture and designated as "official" by the department.

(j) "Person" includes any individual, partnership, association, firm, or corporation.

(k) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer or soil conditioner or who offers for sale, sells, barter, or otherwise supplies such products in this State.

(l) "Licensee" means a person who is licensed, or is required to be licensed, to distribute commercial fertilizers or soil conditioners under the provisions of this act.

(m) "Manufacturing facility" means any place where a commercial fertilizer or soil conditioner is manufactured, produced, compounded, mixed, blended, or in any way altered chemically or physically.

(n) "Label" means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

(o) "Labeling" means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such commercial fertilizer or soil conditioner.

(p) "Ton" means a net weight of 2,000 pounds avoirdupois.

(q) "Per cent" or "percentage" refers to the percentage by weight.

(r) "Department" means the New Jersey Department of Agriculture and includes the State Board of Agriculture, the Secretary of Agriculture, the State Chemist, and all employees and agents thereof.

(s) "State board" means the State Board of Agriculture of New Jersey.

(t) "Secretary" means the Secretary of Agriculture of New Jersey.

(u) "State Chemist" means the person appointed by the State board, subject to the supervision of the secretary, for the purpose of administering this act.

(v) "Restricted commercial fertilizer" means any commercial fertilizer that in the judgment of the State Chemist, in consultation with the Domestic Security Preparedness Task Force, has the potential to be used as a "destructive device" as defined in subsection c. of N.J.S.2C:39-1 or an "explosive" as defined in subsection e. of N.J.S.2C:39-1 or otherwise presents an unreasonable threat to public safety. "Restricted commercial fertilizer" shall include, but not be limited to, the chemical compound ammonium nitrate.

#### C.4:9-15.43 Record of sales of restricted commercial fertilizer.

2. a. Every manufacturer or distributor of a restricted commercial fertilizer shall record, on forms provided by the secretary, the number of a valid State or federal driver's license bearing a photograph, or other picture identification card number approved for buyer identification by the State Board of Agriculture, and make a clear copy of that identification, before offering for sale or selling restricted commercial fertilizer to that buyer.

b. Licensed manufacturers or distributors shall maintain for at least two years a record of all sales of restricted commercial fertilizer including:

(1) the date of sale or delivery of the fertilizer;

(2) the name, address and copy of the driver's license or picture identification card of the person to whom the fertilizer was sold or delivered;

(3) the amount of the fertilizer; and

(4) any other information as may be required by the State Board of Agriculture.

c. Licensed manufacturers or distributors shall annually compile and report the information required pursuant to subsection a. of this section to the State Board of Agriculture.

d. The State Board of Agriculture shall refuse to grant or renew a license of a manufacturer or distributor who fails to comply with the reporting requirements set forth in subsections a. and b. of this section.

e. A licensed manufacturer or distributor may refuse to offer for sale or sell restricted commercial fertilizer to buyers attempting to purchase ammonium nitrate out of season, in unusual quantities or under suspect purchase patterns.

f. The State Board of Agriculture, after consultation with the Domestic Security Preparedness Task Force, shall promulgate regulations implementing the provisions of this section.

#### C.4:9-15.44 Report of suspect purchase, theft, loss by distributors.

3. A distributor of restricted commercial fertilizer shall immediately report any suspect purchase pattern, theft or loss of inventory of a restricted commercial fertilizer to the appropriate law enforcement agency.

#### C.4:9-15.45 Immunity for refusal to sell, report of suspect purchases, certain circumstances.

4. Notwithstanding any provision of law to the contrary, any person who refuses to sell a restricted commercial fertilizer to any person, or any person who reports information to a law enforcement official or agency concerning the suspect purchase pattern of any person attempting to purchase a restricted commercial fertilizer shall be immune from any civil liability on account of the report, unless such person has acted in bad faith or with malicious purpose.

5. This act shall take effect on the first day of the fourth month following enactment.

Approved February 25, 2005.