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1957 LAW

Arkansas Fertilizer Law

—AND—

Rules Governing Sale of the Same

An Act to Provide for and Regulate the Registration, Sale, Inspection and Analysis of Commercial Fertilizers, Acid Phosphates, Fertilizer Materials and Chemicals.



COMPILED BY

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Commissioner of Mines, Manufactures and Agriculture

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"An Act to Provide for and Regulate the Registration, Sale, Inspection and Analysis of Commercial Fertilizer; Acid Phosphates, Fertilizer Materials, and Chemicals, in the State of Arkansas."

Be It Enacted by the General Assembly of the State of Arkansas:

Section 1. That all manufacturers, jobbers and manipulators of commercial fertilizers and fertilizer materials, to be used in the manufacture of the same, who may desire to sell or offer for sale in the State of Arkansas such fertilizer and fertilizer materials, shall first file with the commissioner of mines, manufactures and agriculture of the State of Arkansas, upon forms furnished by said commissioner, the name of each brand of fertilizer, acid phosphate, fertilizer materials or chemicals which they may desire to sell in said State, either by themselves or their agents, together with the name and address of the manufacturer or manipulator, and also the guaranteed analysis thereof, stating the sources from which the phosphoric acid, nitrogen and potash are derived, and if the same fertilizer is sold under a different name or names, said fact shall be so stated, and the different brands which are identical shall be named.

Sec. 2. All persons, companies, manufacturers, dealers or agents, before selling or offering for sale in this State any commercial fertilizer or fertilizer materials, shall brand or attach to each bag, barrel or package, the name and address of the manufacturer, and the guaranteed analysis of the fertilizer, giving the valuable constituents of the

fertilizer in the minimum percentage only. These items shall be branded or printed on each package in the following order: First, weight of each package in pounds; second, brand, name or trade mark; third, guaranteed analysis, phosphoric acid, available—per cent; phosphoric acid, insoluble—per cent; nitrogen—per cent; potash, soluble; impure water—per cent.

In case the phosphoric acid is in the form of undissolved bone, it may be so stated, and in addition to the above the nitrogen may be expressed in its ammonia equivalent, and the potash in its equivalent as sulphate or muriate, and if clearly shown that such terms are used merely as equivalents, and not to represent additional plant food.

Sec. 3. If any commercial fertilizer or fertilizer material offered for sale in this State shall, upon official analysis, prove deficient in any of its ingredients, as guaranteed and branded upon the sacks or packages, and if by any reason of such deficiency the commercial value thereof shall fall 3 per cent below the guaranteed total commercial value of such fertilizer, or fertilizer materials, then any note or obligation given in payment thereof shall be collected by law only for the amount of the actual total commercial value, as ascertained by said official analysis.

Sec. 4. That the words "high grade" shall not appear upon any bag or other package of any complete fertilizer, which complete fertilizer contains by its guaranteed analysis less than 10 per cent available phosphoric acid, 1.65 per cent nitrogen (equivalent to 2 per cent ammonia), and 2 per cent of potash, or a grade of analysis of equal total commercial value; that the word "standard" shall not appear upon any bag or other package of any complete fertilizer which contains by its guaranteed analysis less than 8 per cent available phosphoric acid, 1.65 per cent nitrogen (equivalent to 2 per cent ammonia), and 2 per cent potash, or a grade or analysis of equal total commercial

value; that the words "high grade" shall not appear upon any bag or other package of any acid phosphate with potash which shall contain by its guaranteed analysis less than 13 per cent available phosphoric acid and 1 per cent potash, or a grade of analysis of equal total commercial value; that the word "standard" shall not appear upon any bag or other package of any acid phosphate with potash which shall contain by its guaranteed analysis less than 11 per cent available phosphoric acid and 1 per cent potash, or a grade or analysis of equal total commercial value; that the words "high grade" shall not appear upon any bag or other package of any plain acid phosphate which shall contain by its guaranteed analysis less than 14 per cent available phosphoric acid; and lastly, that the word "standard" shall not appear upon any bag or other package of any plain acid phosphate which shall contain by its guaranteed analysis less than 12 per cent available phosphoric acid. And it is further hereby provided that no complete fertilizer containing acid phosphate with potash, acid phosphate with nitrogen, or plain acid phosphate, shall be offered for sale in this State which contains less than 12 per cent of total plant food, namely, available phosphoric acid, nitrogen estimated as ammonia and potash, either singly or combination; provided, that in mixed fertilizers there shall not be claimed less than 1 per cent potash and nitrogen, equivalent to 1 per cent ammonia, when one or both are present in the same mixture, unless the words "low grade" appear upon the bag or package.

Sec. 5. That all manufacturers and manipulators, or agents representing them, who have registered their brands in compliance with Section 1 of this act, shall forward to the State treasurer a request for such tags, stating that said tags are to be used upon brands of fertilizer and fertilizer materials registered in accordance with this act, and said request shall be accompanied with the sum of 25 cents per ton, as an inspection fee,

whereupon it shall be the duty of said treasurer to credit the "Fertilizer Inspection Fund" with the amount paid in, issue triplicate receipts for the amount, giving one to the auditor, one to the commissioner of agriculture, and mailing one to the party requesting the tags; and then it shall be the duty of the commissioner of agriculture to mail the tags to said party or firm, as shown by his receipts from the treasurer. The party receiving the tags shall attach a tag to each bag, barrel or package of the fertilizer or fertilizer materials, which, when attached to said package, shall be prima facie evidence that the seller has complied with the requirements of this act. Any tags left in possession of the manufacturer shall not be used for another year, but shall be redeemed with new tags if returned within sixty days of the close of the department's fiscal year, which fiscal year shall be between the dates of October 1 and September 30, inclusive. The color of said tags shall be changed each fiscal year, and there shall not be printed upon said tag any brand, name or analysis, but it shall have only the name of the State, the words "guaranteed" and "fertilizer," "season of _____," and a fac simile of signature of commissioner of agriculture printed thereon.

Sec. 6. That it shall not be lawful for any manufacturer or company, either by themselves or their agents, to sell or offer for sale in this State any fertilizer or fertilizer material that has been registered with the commissioner of mines, manufactures and agriculture, as required by this act. The fact that the purchaser waives the inspection and the analysis thereof shall be no protection to said party selling or offering for sale the same, except that any manufacturer or manipulator of fertilizers, having one or more brands or kinds of fertilizers registered at the time, may sell without registration special fertilizers for experimental purposes, and upon request of any person or persons buying for their own use, and not to sell again, and pro-

vided all the other provisions of this act are complied with.

Sec. 7. The guaranteed analysis of each and every brand of fertilizer or fertilizer material must, without exception, remain uniform throughout the fiscal year for which it is registered.

Sec. 8. No person, company, dealer or agent shall sell, expose or offer for sale in this State any pulverized leather, raw, steamed, roasted or any other form, either as a fertilizer or fertilizer material, without first making full and explicit statement of the fact in registration with the commissioner of mines, manufactures and agriculture, and furnishing satisfactory proof that the nitrogen is sufficiently available for the purpose for which sold.

Sec. 9. That the commissioner of agriculture shall appoint an inspector of fertilizers, who shall hold their office for such time as such commissioner shall think best for carrying out the provisions of this act. For compensation for such services the commissioner of agriculture shall issue a voucher on the auditor, who shall in turn draw a warrant on the State treasurer for the amount. The greatest amount that shall be drawn in this manner shall be not more than \$125.00 per month and actual traveling expenses all told. The necessary printing and tags for use of the commissioner and other officials in carrying out the provisions of this act shall also be paid out of this fund on itemized bills, as hereinbefore provided.

Sec. 10. That each of the inspectors of fertilizers shall be provided with bottles of not less than eight (8) ounces capacity, in which to place samples of fertilizers and fertilizer materials, drawn by him, and it shall be the duty of each inspector of fertilizers to draw with such instruments as shall secure a core from the entire length of the package, such samples of fertilizers and fertilizer

materials as he may be directed by the commissioner of mines, manufactures and agriculture to inspect, or that he may find uninspected; and in the performance of his duties he shall carefully draw samples as follows: In lots of ten packages or less, from every package; in lots of ten to one hundred packages, from not less than ten packages; in lots of one hundred packages and over, from not less than 10 per cent of the entire number; and after thoroughly mixing the samples so drawn he shall, by the method known as "quartering," draw from such thoroughly mixed samples two subsamples, and with them fill two bottles, and shall plainly write on a label on said bottles the number of said samples, and shall also write on the labels, on one only of said bottles, the name of the manufacturers. He shall then seal said bottles and shall forward to the commissioner of mines, manufactures and agriculture the samples so drawn by him, stating the number of sacks from which the samples were so drawn, and a full report of the inspection written on a form prescribed by the commissioner of mines, manufactures and agriculture, which report must be numbered to agree with the number on the bottle, and in said report shall be given the name of the fertilizer or fertilizer material, the name of the manufacturer, the guaranteed analysis, the place where inspected, the date of inspection and the name of the inspector, and it shall be the duty of the inspector(s) to keep a complete record of all the inspections made by them on forms prescribed by said commissioner of mines, manufactures and agriculture, which report must be numbered to agree with the number on the bottle, and in said report shall be given the name of the fertilizer or fertilizer material, the name of the manufacturer, the guaranteed analysis, the place where inspected, the date of inspection and the name of the inspector, and it shall be the duty of the inspector(s) to keep a complete record of all inspections made by them on forms prescribed by the said commissioner of mines, manufactures and agriculture. Before en-

tering upon the discharge of their duties they shall also take and subscribe before some official authorized to administer same, an oath to faithfully discharge all duties which may be required of them in pursuance of this act.

Sec. 11. That the commissioner of mines, manufactures and agriculture shall arrange and contract, upon terms most advantageous to the State, with a reliable chemist, who shall have a chemical laboratory sufficient therefor to make analysis of all samples of fertilizer or fertilizer material that shall be delivered to him by said commissioner of mines, manufactures and agriculture for that purpose, and that said chemist shall enter bond to the State of Arkansas, to be approved by the commissioner of mines, manufactures and agriculture, in the sum of Five Thousand Dollars (\$5,000.00) for the faithful discharge of his duties, and before entering upon said duties he shall take and prescribe before some officer authorized to administer the same, an oath to faithfully discharge all the duties which may be required of him under this act, said bond and oath to be filed with the secretary of State.

Sec. 12. That a sample of all fertilizers or fertilizer materials drawn by the official inspectors and filed with the commissioner of mines, manufactures and agriculture shall be marked by number and delivered by said commissioner to the chemist who has been authorized to make the analysis thereof, who shall make a complete analysis of the same, and certify under same number as marked said analysis to said commissioner, which analysis shall be recorded as official and entered opposite the brand of fertilizer or fertilizer material which the mark and number represent, and only said official analysis of such fertilizer or fertilizer material, under the seal of said commissioner, shall be admissible as evidence in any of the courts of this State on the trial of any issue involved on the merits of such fertilizer or fertilizer material.

Sec. 13. The commissioner of mines, manufactures and agriculture shall have authority to establish rules and regulations in regard to the inspection, analysis and sale of fertilizers and fertilizer materials as shall not be inconsistent with the provisions of this act, and as in his judgment will best carry out the requirements thereof.

Sec. 14. That nothing in this act shall be construed to restrict or avoid sales of acid phosphates or any other fertilizer materials to each other by importers, manufacturers or manipulators who fix fertilizer materials for sale, or as preventing the free and unrestricted shipments of materials to manufacturers or manipulators who registered their brands as required by the provisions of this act.

Sec. 15. That any company, person or corporation shall immediately upon shipping any commercial fertilizer or fertilizer materials, mail to the commissioner of mines, manufactures and agriculture a duplicate bill of lading of said shipment.

Sec. 16. That any person selling or offering for sale any fertilizer or fertilizer material without having first complied with the provisions of this act shall be considered guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than One Hundred nor more than Five Hundred Dollars.

Sec. 17. That the commissioner of mines, manufactures and agriculture shall keep a correct account of all funds received by him from the sale of tags as herein provided, and shall also pay the same into the State treasury to the credit of a fund to be known as the "Fertilizer Inspection Fund."

Sec. 18. That any residue resulting from said inspection shall, at the expiration of each inspection year, be paid into the Common School Fund of the State.

Sec. 19. That all expenses incurred in arranging for and making the inspection provided for in this act, together with the salary of the inspector and the amount paid for the making of the analysis of fertilizers or fertilizer materials, shall be paid out of the Fertilizer Inspection Fund, and the treasurer is hereby authorized and directed to pay the same out of said fund upon warrants of the auditor, issued upon the certificate of the commissioner of mines, manufactures and agriculture.

Sec. 20. That all laws and parts of laws in conflict with this act be, and the same are, hereby repealed, and that this act shall take effect and be in force from and after October 1, 1907.

Approved May 27, 1907.

The following rules have been compiled by the Commissioner of Mines, Manufactures and Agriculture, under and by virtue of the authority contained in Section 13 of Act No. 389 of the General Assembly of 1907:

Rule No 1.

Before any fertilizer can be shipped into the State of Arkansas it is necessary that the manufacturer file in the office of the commissioner of mines, manufactures and agriculture, in the city of Little Rock, State of Arkansas, his or its affidavit setting forth the brands he or they expect to ship into the State of Arkansas as aforesaid. Parties filing such affidavit as aforesaid will be furnished with certificates over the signature of the commissioner of mines, manufactures and agriculture, authorizing him or it to do business in the State of Arkansas. It is and shall be further necessary, before shipments are made, that the manufacturer remit to the State treasurer at Little Rock, Ark., in Little Rock exchange or its equivalent, a tax of 25 cents per ton for each ton of fertilizer he expects to ship. The treasurer will then issue receipts in triplicate and forward one to the office of the commissioner of mines, manufactures and agriculture, which is authority and the only authority for the commissioner to issue the tags as aforesaid.

Rule No. 2.

Tags will be issued on the basis of one tag for each hundred pounds or unit thereof.

Rule No. 3.

No fertilizer can be shipped into this State without one of these tags attached to each bag or parcel. Also, the provision requiring the name of the brand, together with the weight and chemical analysis required by Section 2 of the fertilizer act, must be strictly complied with.

Rule No. 4.

Under the provisions of this act notice must be given the office of the commissioner of mines, manufactures and agriculture of each shipment, together with a copy of the bill of lading. Strict compliance with this section of the law will be demanded by this office.

INSPECTION.

Rule No. 5.

This department will from time to time, and as in the judgment of the commissioner of mines, manufactures and agriculture deemed necessary, take samples as provided for in the act above referred to, from the various shipments of fertilizer made and found throughout the State.

Rule No. 6.

It will be the policy of this department to scatter this inspection throughout the State as in the judgment of the commissioner of mines, manufactures and agriculture deemed necessary to bring about a strict compliance with the law in this case made and provided.

Rule No. 7.

Each inspector will be provided with the necessary apparatus and bottles for making this inspection, and shall also be armed with his authority for making such inspection, and will be expected to follow definitely, explicitly and without variation the itinerary as furnished him by the commissioner. He will be expected, however, to make inquiries at each place visited to ascertain if any fertilizer is being shipped into this State without the authority contained in this act. A failure to comply strictly with these rules by the inspector or inspectors will be just cause for the immediate discharge of any inspector or inspectors.

Rule No. 8.

No inspector will be permitted to divulge to any one his itinerary, nor shall he divulge the sample number of any fertilizer material obtained by him. Violation of this rule will mean immediate discharge of said offender.

Rule No 9.

Each inspector will be expected to send into this department daily, either by mail or express, all samples drawn by him on that day in bottles furnished by this department, labeled with the sample number only. He shall also make report of his days' works, setting forth fully the places visited, and also give the name and post-office address of the manufacturer, together with the sample number of the sample so taken. This will be furnished on blanks prepared by the Department of Agriculture.

ANALYSIS.

Rule No. 10.

Upon receipt of these inspectors' samples, they will be by this department forwarded to the chemist authorized and contracted with to make chemical analysis of fertilizers in this State, and it will be his duty to make the chemical analysis expediently and without delay, of the sample so received by him, and certify to this department on blanks furnished him, a full and detailed report of the chemicals contained in such fertilizers so sent him, referring to the sample or inspection number in his report.

Rule No. 11.

Strict compliance with these rules will be expected and demanded from the manufacturers and shippers of commercial fertilizers, the vendor of same, the fertilizer inspector or inspectors, the chemist employed by this department, and all attaches in the Department of the Commissioner of Mines, Manufactures and Agriculture. In no case

shall any deviation be made from these rules without authority in writing from the commissioner of mines, manufactures and agriculture.

Nothing in these rules shall be construed as conflicting with the fertilizer laws of Arkansas, and in cases not covered by these rules the law shall be the guide.

FRED H. PHILLIPS,

Commissioner of Mines, Manufactures and Agriculture

FERTILIZER TAG SCHEDULE OF THE OFFICE OF COMMISSIONER OF MINES, MANUFACTURES AND AGRICULTURE, STATE OF ARKANSAS.

\$.25 pays for	20 tags, good for	2,000 lbs.
\$.50 pays for	40 tags, good for	4,000 lbs.
\$.75 pays for	60 tags, good for	6,000 lbs.
\$ 1.00 pays for	80 tags, good for	8,000 lbs.
\$ 1.25 pays for	100 tags, good for	10,000 lbs.
\$ 2.50 pays for	200 tags, good for	20,000 lbs.
\$ 3.75 pays for	300 tags, good for	30,000 lbs.
\$ 5.00 pays for	400 tags, good for	40,000 lbs.
\$ 6.25 pays for	500 tags, good for	50,000 lbs.
\$ 12.50 pays for	1,000 tags, good for	100,000 lbs.
\$ 25.00 pays for	2,000 tags, good for	200,000 lbs.
\$ 37.50 pays for	3,000 tags, good for	300,000 lbs.
\$ 50.00 pays for	4,000 tags, good for	400,000 lbs.
\$ 62.50 pays for	5,000 tags, good for	500,000 lbs.
\$ 75.00 pays for	6,000 tags, good for	600,000 lbs.
\$ 87.50 pays for	7,000 tags, good for	700,000 lbs.
\$100.00 pays for	8,000 tags, good for	800,000 lbs.
\$112.50 pays for	9,000 tags, good for	900,000 lbs.
\$125.00 pays for	10,000 tags, good for	1,000,000 lbs.

Remittance must be made to the State treasurer, as tags will only be issued from this department upon triplicate receipt of the treasurer. See Section 5 of the Act of 1907.