

No. 1978-9

AN ACT

HB 1326

To regulate the sale and distribution for agricultural purposes of ground limestone, burned and hydrated lime and related products in the Commonwealth of Pennsylvania; conferring powers and imposing duties on the Secretary of Agriculture; establishing fees; making an appropriation and prescribing penalties.

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

Section 1. Short title.

This act shall be known and may be cited as the "Agricultural Liming Materials Act."

Section 2. Enforcing official.

This act shall be administered by the Pennsylvania Secretary of Agriculture hereinafter referred to as the "secretary."

Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Agricultural liming materials." A product whose calcium and magnesium compounds are capable of neutralizing soil acidity.

"Brand." The term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale.

"Bulk." In nonpackaged form.

“Burnt lime.” A material made from limestone which consists predominantly of calcium oxide or combination of calcium oxide with magnesium oxide.

“Calcium carbonate equivalent.” The acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.

“Effective neutralizing power.” A relative value using the calcium oxide content, magnesium oxide content and fineness, to express the effectiveness of a limestone in neutralizing soil acidity.

“Fineness.” The percentage by weight of the material which will pass United States Standard sieves of specified sizes. (The secretary shall promulgate regulations relating to fineness and shall be guided by ASTM specification for sieve sizes).

“Hydrated lime.” A material made from burnt lime which consists predominantly of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.

“Industrial by-product.” Any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.

“Label.” Any written or printed matter on or attached to the package or on the delivery slips which accompanies bulk shipments.

“Limestone.” A material consisting predominantly of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

“Marl.” A granular or loosely consolidated earthy material composed predominantly of seashell fragments and calcium carbonate.

“Percent” or “percentage.” By weight.

“Person.” Individual, partnership, association, firm or corporation.

“Secretary.” The Secretary of Agriculture or his authorized agent.

“Ton.” A net weight of 2,000 pounds avoirdupois or 907 kilograms.

“Weight.” The weight of material as offered for sale.

Section 4. Labeling.

(a) Agricultural liming materials sold, offered or exposed for sale in the Commonwealth shall have affixed to each package in a conspicuous manner on the outside thereof a plainly printed, stamped or otherwise marked label or tag, or, in the case of bulk sales, a delivery slip setting forth at least the following information:

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

(2) The brand or trade name of the material.

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

(4) The net weight of the agricultural liming material.

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

(6) Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists. Minimum calcium carbonate equivalents as prescribed by regulation.

(7) The minimum percent by weight passing through United States Standard sieves as prescribed by regulations.

(b) 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 quality, analysis, type or composition of the agricultural liming material.

(c) If any material is added to any agricultural liming material, subsequent to packaging, labeling or loading thereof and before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of such added material.

(d) At every site from which agricultural liming materials are delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be conspicuously posted a copy of the delivery slip required by this section for each brand of material.

(e) The secretary may, after a public hearing, require by regulation thereafter that the minimum percentage of calcium oxide and magnesium oxide shall be expressed in the following form:

Total Calcium (Ca)	percent
Total Magnesium (Mg)	percent

The secretary may not impose such regulatory standards if they conflict with labeling requirements of other states and if they would thereby constitute an economic hardship on the industry due to dual labeling requirements. The effective date of said regulation shall not be less than 18 months following the adoption of regulations. For a period of two years following the effective date of the regulations the equivalent of calcium and magnesium may also be shown in the form of calcium oxide and magnesium oxide.

Section 5. Effective neutralizing power.

The Secretary of Agriculture may by rules and regulations establish standards and procedures to be utilized in the determination of the effective neutralizing power of agricultural liming materials. Any agricultural liming material that is below the standard of effective neutralizing power established by the secretary shall not be sold or offered for sale in the Commonwealth as an agricultural liming material unless it is labeled "substandard." Such labeling shall not be smaller than the largest labeling found elsewhere on the package and shall be prominently visible to the buyer.

Section 6. Licensing.

No agricultural liming materials shall be manufactured or distributed in this Commonwealth until a license has been obtained by both the manufacturer and the person whose name appears on the label of the agricultural liming material. The annual license fee shall be \$25 payable on or before July 1 of each year or prior to the distribution in such year.

Section 7. Denial or revocation of a license.

The secretary may refuse to issue or may revoke a license issued pursuant to this act if he finds, after a hearing, that the applicant or the license holder has violated any provisions of this act or the rules and regulations adopted hereunder.

Section 8. Inspection fee; report of tonnage.

(a) Each licensee whose name appears on the label of agricultural liming material shall file, with the secretary, a semiannual statement not later than the last day of January and July of each year in a form prescribed by the secretary setting forth the number of net tons of agricultural liming material distributed in this Commonwealth during the prior six months' period. Upon filing such statement the licensee whose name appears on the label shall pay an inspection fee at the rate of 3¢ per ton, except that no semiannual payment shall be less than \$12.50. Failure to make an accurate statement of tonnage or to pay the control fee shall constitute sufficient cause for the revocation of the license.

(b) Sales of agricultural liming materials to manufacturers or exchanges between them are hereby exempted from the control fee.

(c) If the tonnage report is not filed by February 15 or August 15, a penalty amounting to 10% of the inspection fee or \$10, whichever is greater, shall be added to the amount of the inspection fee when payment is made. This penalty fee shall not prevent the secretary from taking other actions as provided in this act.

Section 9. Inspection, sampling, analysis.

(a) It shall be the duty of the secretary to sample, inspect, make analyses of and test agricultural liming materials distributed within this Commonwealth and to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary is authorized to enter upon any public or private premises or carriers at any reasonable time in order to have access to the agricultural liming materials and to the records directly pertaining to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary, and he shall be guided by the Association of Analytical Chemists procedures.

(c) The secretary shall publish annually the results of the official analysis of agricultural liming material samples.

Section 10. Stop-sale orders.

When the secretary finds that agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this act, the secretary may issue a written or printed "Stop sale, use, or removal" order to the owner or custodian of such agricultural liming material. The secretary shall not release the agricultural liming material so withdrawn until the requirements of the provisions of this act have been complied with and all costs and expense incurred in connection with the withdrawal have been paid by the violator.

Section 11. Prohibited acts.

(a) No agricultural liming material shall be sold or offered for sale in this Commonwealth unless it complies with provisions of this act and the secretary's rules and regulations.

(b) No agricultural liming material shall be sold or offered for sale in this Commonwealth which contains toxic materials in quantities injurious to plants or animals.

Section 12. Rules and regulations.

The secretary is empowered to promulgate and enforce such reasonable rules and regulations relating to the sale of agricultural liming materials as is deemed necessary to carry out the provisions of this act.

Section 13. Penalties.

(a) Any person violating any of the provisions of this act or the rules and regulations issued thereunder, upon conviction thereof in a summary proceeding, shall be fined not less than \$100 nor more than \$300 for the first violation, and not less than \$500 nor more than \$1,000 for subsequent violations. In all prosecutions under this act involving the composition of a lot of agricultural liming materials, a certified copy of the official analysis signed by the secretary shall be accepted as prima facie evidence of the composition.

(b) Public notice shall be made of violations resulting in convictions.

Section 14. Disposition of fees and fines.

All licensing and inspection fees and fines, when collected, shall be paid into the State Treasury, and shall be credited to the general government operations appropriation of the Department of Agriculture for the payment of the costs of inspection, sampling, analysis and other expenses necessary for the administration of this act.

Section 15. Repeal.

The act of August 8, 1961 (P.L.971, No.435), known as the "Pennsylvania Agricultural Lime Act," is repealed.

Section 16. Effective date.

This act shall take effect immediately. However, registrants shall be allowed not more than one year to use existing inventories of labeled or labeling materials.

APPROVED—The 17th day of March, A. D. 1978.

MILTON J. SHAPP