

No. 1977-86

AN ACT

HB 1197

Amending the act of May 29, 1956 (1955 P.L.1795, No.598), entitled "An act regulating the sale and distribution of mixed fertilizers and fertilizer materials; imposing powers and duties on the Secretary of Agriculture and prescribing penalties," further providing for the regulation of fertilizers, including soil conditioners and plant growth substances within the scope of regulation by the act and changing penalties.

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

Section 1. The title, act of May 29, 1956 (1955 P.L.1795, No.598), known as the "Pennsylvania Fertilizer Law of 1956," is amended to read:

AN ACT

Regulating the sale and distribution of mixed fertilizers **[and]**, fertilizer materials, *soil conditioners and plant growth substances; providing for permanent registration of brands and grades of fertilizers, soil conditioners and plant growth substances; providing for licensing of persons who manufacture or mix certain fertilizers, soil conditioners and plant growth substances or whose name appears on the label; requiring labels on fertilizers, soil conditioners and plant growth substances; providing for inspection fees and for the cancellation of licenses;* imposing powers and duties on the Secretary of Agriculture and prescribing penalties.

Section 2. Section 1 of the act is amended to read:

Section 1. Short Title.—This act shall be known and may be cited as the "Pennsylvania Fertilizer, **[Law of 1956] Soil Conditioner and Plant Growth Substance Law.**"

Section 3. Section 2 of the act, amended April 3, 1968 (P.L.79, No.34) and August 12, 1971 (P.L.331, No.85), is amended to read:

Section 2. Definitions.—As used in this act:

(1) "Fertilizer material" means any substance containing nitrogen, **[phosphoric acid, potash] phosphorus, potassium** or any recognized plant nutrient, element or compound which is used or sold for its plant nutrient content, or claimed plant nutrients, or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(2) "Mixed fertilizers" includes any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

(3) **["Commercial fertilizer"] "Fertilizer"** includes mixed fertilizer or fertilizer materials.

(4) "Specialty fertilizer" includes any fertilizer distributed primarily for use on crops grown for noncommercial purposes such as home gardens and lawns, and may include fertilizers used for research or experimental purposes.

(5) "Bulk fertilizer" includes **[commercial]** fertilizer delivered to the purchaser in the solid or liquid state, in a nonpackaged form to which a label cannot be attached.

(6) "Brand" includes any term, design or trade mark used in connection with one or several grades of fertilizer, *soil conditioners or plant growth substances*.

(7) "Grade" means the minimum percentage of total nitrogen, available phosphoric acid, and soluble potash stated in the order given in this definition, and, when applied to mixed fertilizers, shall be in whole numbers only.

(8) "Official sample" means any sample of **[commercial]** fertilizer, *soil conditioner or plant growth substance* taken by the secretary *to effect the provisions of this act*.

(9) "Secretary" includes the Secretary of Agriculture or his duly authorized deputy, agent or representative.

(10) "Ton" means a net weight of two thousand pounds avoirdupois *or 907 kilograms*.

(11) "Percent" or "Percentage" means the percentage by weight.

(12) "Distributor" includes any person who offers for sale, sells, barter, or otherwise supplies **[commercial]** fertilizers, *soil conditioners or plant growth substances*.

(12.1) The term "person" includes an individual **[of either a] or any** partnership, corporation, association, **[broker, jobber, company,] or other** legal entity, importer, **[society, and every] broker, jobber or any** agent, officer, or **[employer] employe** of any thereof. **[The term imparts both the singular and plural as the case may be.]**

(13) "Sell" or "Sale" includes exchange.

(14) "Custom blend" means a mixture of **[commercial fertilizer or]** fertilizer materials, each batch of which mixture is mixed according to the specific instructions of the final purchaser and includes such other terms as "customer formula" and "buyers' mix".

(15) "Facility" means each separate mill or plant, fixed or mobile or distributor of **[commercial]** fertilizer, **[or]** customer-formula fertilizer, *soil conditioner or plant growth substance*.

(16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer, *soil conditioner or plant growth substance*.

(17) "Soil conditioners" means those substances or mixture of substances intended for sale, offered for sale or sold for soil corrective purposes or claimed to be effective for promoting or stimulating the growth

of plants, increasing the productivity of soil, improving the quality of crops, or producing any chemical or physical change in the soil.

(18) "Plant growth substances" means those products which are sold for the promotion or alteration of plant growth.

(19) "Enforcing official" means the Secretary of Agriculture or his designee having responsibility for the administration and enforcement of the provisions of this act.

Section 4. Section 3 of the act, amended August 12, 1971 (P.L.331, No.85), is amended to read:

Section 3. Registration.—(a) Each brand and grade of **[commercial]** fertilizer, **soil conditioner and plant growth substance** shall be registered by the manufacturer or importer with the Department of Agriculture before being offered for sale, sold or distributed in this **[State] Commonwealth**. The application for registration shall be submitted to the secretary on forms furnished by the secretary and shall be accompanied by a fee of fifteen dollars (\$15) per brand.

Fees so 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 cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this act **[and other acts specified by the General Assembly]**.

The secretary may require a sample label to be submitted before registering any fertilizer, **soil conditioner or plant growth substance**. *The secretary may ask for proof from the registrant of any claims made by the registrant of the product on the label, on the application for registration, or, in any other manner other than guarantees of the analysis. Any research in support of such claims shall be performed by an institution approved by the secretary.* Upon approval by the secretary, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June 30 of each year, unless the secretary is notified on a yearly basis by the registrant on forms furnished by the secretary, listing the brands and grades the registrant wants continued and intends to continue selling in the next twelve month period. Those registered as of June 30, 1965, shall be considered to be permanently registered. The application **for specialty fertilizer** shall include the following information in the following order:

- (1) The net weight.
- (2) The brand and grade.
- (3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

[Total Nitrogen	percent
Available Phosphoric Acid	percent
Soluble Potash.	percent]
<i>(i) Total Nitrogen (N).%</i>	

- (ii) *Ammoniacal Nitrogen (if claimed or required)*.%
- (iii) *Nitrate Nitrogen (if claimed or required)*.%
- (iv) *Water Insoluble Nitrogen (if claimed or if the statement "organic" or "slow acting nitrogen" is used in the label)*.%
- (v) *Available Phosphoric Acid (P2 O5)*.%
- (vi) *Soluble Potash (K2 O)*.%
- (vii) *Additional Plant Nutrients as prescribed by regulation*.%
- (viii) *Potential Acidity or Basicity (if claimed or required)*.% orlbs.
- (ix) *Calcium Carbonate equivalent per ton*.%

(4) The name and address of the person guaranteeing the fertilizer.

(a.1) The application for soil conditioner or plant growth substances shall include the following information in the following order:

- (1) *The net weight or other measure prescribed by regulation.*
- (2) *The brand.*
- (3) *An accurate statement of composition and purpose.*
- (4) *The name and address of the licensee.*

(a.2) The application for fertilizer shall include the following:

- (1) *The net weight.*
- (2) *The brand and grade.*
- (3) *The guaranteed analysis showing the minimum percentage of plant food in the following order:*

Total Nitrogen.%

Available Phosphoric Acid.%

Soluble Potash.%

- (4) *The name and address of the person guaranteeing the fertilizer.*

(a.3) Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphoric acid, and the degree of fineness. In the case of bone, tankage, and other natural organic phosphate materials, only the total phosphoric acid, need be guaranteed. Additional plant food elements, determinable by chemical methods, may be guaranteed only by permission of the secretary, by and with the advice of the Director of the Agricultural Experiment Station. When any such additional plant foods are claimed, they shall be included in the guarantee, and shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the secretary. The secretary may permit the potential basicity or acidity (expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton) to be registered and guaranteed.

(b) A distributor shall not be required to register any brand of [commercial] fertilizer, *soil conditioner or plant growth substance* which is already registered under this act by another person.

(c) The plant nutrient content of each and every brand of **[commercial]** fertilizer, *soil conditioner or plant growth substances* must remain uniform for the period of registration, and, in no case, even at a subsequent registration, shall the percentage of any guaranteed plant food element be changed in such a manner that the crop-producing quality of the **[commercial]** fertilizer, *soil conditioner or plant growth substance* is lowered.

[(d) Any facility that manufactures, mixes or mixes to the customer's order any commercial fertilizer material offered for sale, sold or distributed, in Pennsylvania must first obtain a fertilizer manufacturing license from the Secretary of Agriculture.]

(d) Every person or business entity who owns or operates a manufacturing facility producing fertilizers, soil conditioners, or plant growth substances offered for sale, sold or distributed in Pennsylvania, or under whose name appears on the label of these products are offered for sale, sold or distributed in Pennsylvania shall obtain a license.

(e) Said licensee shall at all times produce **[an intimate and]** a uniform mixture of **[commercial]** fertilizer materials. When two or more fertilizer materials are delivered in the same load, they shall be **[intimately and]** uniformly mixed unless they are in separate compartments.

(f) Any person who mixes to the customer's order must furnish to the purchaser and consumer an invoice or delivery ticket showing:

(1) The name and address of the person guaranteeing the fertilizer;

(2) The weight and guaranteed analysis of each of the fertilizer materials used in the **[intimate]** mixture or delivered in each of the separate compartments in the load; and

(3) The guaranteed analysis of the mixture as required in section 3 (a) (3) above.

(g) [Any licensee required to be licensed in subsection (d) hereof, who sells only registered grades, shall pay a ten dollar (\$10) license fee as well as a registration fee for grades not previously registered, and all other licensees shall pay a twenty dollar (\$20) license fee.] The annual license fee as required by section 3 (d) shall be twenty-five dollars (\$25).

Fees so 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 cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this act **[and other acts specified by the General Assembly]**. Said license fee shall be paid annually on July 1.

(h) A distributor shall not be required to register a **[commercial]** fertilizer formulated according to specifications which are furnished by a consumer prior to mixing, but shall be required to label such fertilizer as provided in section 3 (f).

Section 5. Section 4 of the act, clause (c) added June 24, 1965 (P.L.144, No.98), is amended to read:

Section 4. Labeling.—(a) Any **[commercial]** fertilizer, *soil conditioner or plant growth substance* offered for sale or sold or distributed in this **[State]** *Commonwealth* in bags, **[barrels,]** or other containers, shall have placed on or affixed to the container in written or printed form the net weight and the information required **[by clauses (1), (2) and (3) of]** *in* subsection (a) of section 3 *for specialty fertilizer, fertilizer, soil conditioners or plant growth substances*, either (1) on tags affixed to the end of the package between the ears or the sewed end, or (2) directly on the package in which case, for bags containing fifty pounds or more, the grade shall appear also on the end or on the face of the package in type that is plainly legible.

(b) If distributed in bulk, a written or printed statement of the weight and the information required by **[clauses (1), (2) and (3) of subsection (a) of section 3]** *section 3 (a)*, shall accompany delivery and be supplied to the purchaser.

(c) Fertilizer materials mixed to customer's order shall be labeled in accordance with subsection (f) of section 3.

(d) Fertilizer in bulk storage shall be identified with a label attached to the storage bin or container giving the name and grade of the product.

Section 6. Section 5 of the act, amended August 12, 1971 (P.L.331, No.85), is amended to read:

Section 5. Inspection Fees; Reports.—**[(a) There shall be paid to the secretary for all commercial fertilizers offered for sale, sold or distributed in this State an inspection fee at the rate of ten cents (\$.10) per ton, or at a rate to be determined by the Secretary of Agriculture, which is adequate for the payment of the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this act. The maximum rate, as determined by the secretary, shall not exceed ten cents (\$.10) per ton. Inspection fees shall not be paid for sales to manufacturers or exchanges between them. Fees so 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 cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this act and other acts specified by the General Assembly.]**

On individual packages of commercial fertilizer containing twenty-five pounds or less, there shall be paid a semi-annual inspection fee of ten dollars (\$10) for each brand and grade sold or distributed. Where a person sells commercial fertilizer in packages of twenty-five pounds, or less and in packages over twenty-five pounds, this semi-annual inspection fee of ten dollars (\$10) shall apply to that portion sold in packages of twenty-five pounds or less, and that portion sold in packages over twenty-five pounds shall be subject to the same inspection fee of ten cents (\$.10) per ton as provided in this act.

(b) Payment of the inspection fee shall be evidenced by a statement of

commercial fertilizer distributed, together with documents showing that fees corresponding to the tonnage were received by the secretary.

(c) Every distributor, person, manufacturer or importer of commercial fertilizer in this State selling to a nonregistrant shall file, in a manner prescribed by the Secretary of Agriculture, not later than the last day of January and July of each year, a semi-annual statement, setting forth the number of net tons of commercial fertilizer distributed in this State during the preceding six-months period and, upon filing such statement, shall pay the inspection fee at the rate stated in subsection (a) of this section.

If the tonnage report is not filed by January 31 or July 31, a penalty amounting to ten percent minimum of ten dollars (\$10) 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.] (a) *The registrant whose name appears on the label of all fertilizers, soil conditioners and plant growth substances offered for sale, sold or distributed in this Commonwealth shall pay semi-annually and not later than the last day of January or July of each year an inspection fee at the rate of a maximum of ten cents (\$.10) per ton on packages of more than twenty-five pounds.*

On packages of twenty-five pounds or less there shall be paid annually and not later than the last day of January of each year to the secretary for each brand and grade of fertilizer, soil conditioners and plant growth substances an inspection fee of twenty-five dollars (\$25) per brand and grade. If the registrant whose name appears on the label sells or offers for sale or distributes fertilizers, soil conditioners and plant growth substances in this Commonwealth in both packages of less and more than twenty-five pounds the twenty-five dollars (\$25) should be paid for its brands and grades sold in packages of twenty-five pounds or less, and the ten cents (\$.10) per ton fee shall be paid for its packages of more than twenty-five pounds.

Fees so collected shall be paid into the State Treasury and shall be credited to the General Government Operations Appropriation to the Department of Agriculture for the payment of the cost of inspections, sampling and analyses and other expenses necessary for the administration of this act.

(b) *The person whose name appears on the label shall submit, along with an inspection fee, a report in a manner prescribed by the secretary listing the net tons of each brand and grade by counties of all fertilizers, soil conditioners and plant growth substances sold or distributed in this Commonwealth for the period of the inspection fee.*

The secretary or his authorized representative may examine the records of the submitting person to verify the information contained in the reports submitted under this section.

There is a penalty of ten dollars (\$10) or ten percent of the inspection fee,

whichever is greater, for any fee or report not submitted at the required time.

Section 7. Section 6 of the act, amended April 11, 1961 (P.L.74, No.31) and August 12, 1971 (P.L.331, No.85), is amended to read:

Section 6. Inspection, Sampling, Analysis.—(a) It shall be the duty of the secretary to sample, inspect, make analysis of, and test [**commercial**] fertilizers, *soil conditioners or plant growth substances* distributed within this [**State at**] *Commonwealth at reasonable* times and places and to such an extent as he may deem necessary to determine whether such [**commercial**] fertilizers, *soil conditioners or plant growth substances* are in compliance with the provisions of this act. The secretary may enter upon any public or private premises during regular business hours in order to have access to [**commercial**] fertilizers, *soil conditioners or plant growth substances* subject to the provisions of this act and the rules and regulations pertaining thereto.

(b) The methods of sampling, inspection and analysis shall be those adopted in accordance with rules and regulations promulgated by the Secretary of Agriculture. Such rules and regulations shall establish minimum standards for such sampling, inspection and analysis as well as the procedure and methods to be used in making them.

(c) The secretary, in determining for administrative purposes whether any [**commercial**] fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in clause (8) of section 2, and obtained and analyzed as provided for in subsection (b) of section 6.

(d) Upon request, the secretary shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

Section 8. Section 7 of the act, amended September 22, 1972 (P.L.882, No.203) and August 12, 1971 (P.L.331, No.85), is amended to read:

Section 7. Plant Nutrient Deficiency.—(a) If the analysis shows that any [**commercial**] fertilizer falls short of the guaranteed analysis in any one ingredient, a penalty of [**three**] *ten* times the value of the deficiency shall be assessed by the secretary against the manufacturer in accordance with tolerances that the Department of Agriculture shall promulgate within one year from this enactment. It is the legislative intent that the Department of Agriculture, so far as practicable, adopt the tolerances established in the current Model Regulations printed in the annual publications of the Association of American Plant Food Control Officials. Tolerances presently established in this act shall apply until the new tolerances have been duly promulgated by regulation.

Deficiencies in any other [**constituent**] *ingredient*, except those covered under this section, which the registrant is required to or may guarantee shall be evaluated by the secretary and a penalty of [**three**] *ten* times the value of the deficiency shall be assessed by the secretary; *provided, however, that such penalty shall not exceed the price paid by the purchaser.*

(b) All penalties assessed under this section shall be paid to the purchaser of the lot of **[commercial]** fertilizer represented by the sample analyzed within three months after the date of notice from the secretary to the registrant and receipts evidencing payment shall be promptly forwarded to the secretary by the registrant. If said purchaser cannot be found, the amount of the penalty shall be paid to the State Treasurer who shall deposit the same into the General Fund to be credited to the general government operations appropriation of the Department of Agriculture for the payment of the cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this act **[and other acts specified by the General Assembly]**.

Section 9. Sections 8, 9 and 10 of the act are amended to read:

Section 8. Commercial Value.—For the purpose of determining the commercial values to be applied under the provisions of section 7, the secretary shall determine and publish, annually, the values per pound of nitrogen, phosphoric acid, and potash in **[commercial]** fertilizer in this **[State] Commonwealth**. The values so determined and published shall be used in determining and assessing penalties.

Section 9. Minimum Plant Nutrient Content.—No superphosphate containing less than eighteen percent available phosphoric acid nor any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than twenty percent shall be distributed in this **[State] Commonwealth**, except for complete fertilizers containing twenty-five percent or more of their nitrogen in water-insoluble form **[of plant or animal origin]**, in which case the total nitrogen, available phosphoric acid, and soluble potash shall not total less than eighteen percent. The provisions of this section shall not apply to specialty fertilizers nor to any fertilizer materials in which the sources of nitrogen available phosphoric acid and soluble potash are derived solely from organic materials.

Section 10. False or Misleading Statements.—A **[commercial]** fertilizer, *soil conditioner or plant growth substance* is misbranded, if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its **[agricultural value] effects or results** are made on the container, or in any advertising matter accompanying or associated with the **[commercial]** fertilizer, *soil conditioner or plant growth substance*. It shall be unlawful to distribute a misbranded **[commercial]** fertilizer, *soil conditioner or plant growth substance*.

Section 10. Section 11 of the act is repealed.

Section 11. Sections 12, 13 and 14 of the act are amended to read:

Section 12. Publications.—The secretary shall publish at least annually in such forms as he may deem proper, information concerning the sales of **[commercial]** fertilizer, *soil conditioners or plant growth*

substances, together with such data on their production and use as he may consider advisable, and a report of the results of the analysis based on official samples of **[commercial]** fertilizers, *soil conditioners or plant growth substances* sold within the **[State] Commonwealth** as compared with the analyses guaranteed under sections 3 and 4. The information concerning production and use of **[commercial]** fertilizers, *soil conditioners or plant growth substances* shall be shown separately for the periods July 1 to December 31 and January 1 to June 30 of each year, and that no disclosure shall be made of the operations of any person.

Section 13. Rules and Regulations.—The secretary is authorized to prescribe and, after public hearing following due public notice, to enforce such rules and regulations relating to the distribution of **[commercial]** fertilizers, *soil conditioners or plant growth substances* as he may find necessary to carry into effect the provisions of this act.

Section 14. Short Weight.—If any lot of **[commercial]** fertilizer, *soil conditioners or plant growth substances* in the possession of the purchaser is found by the secretary to be short in weight, the registrant of said **[commercial]** fertilizer, *soil conditioners or plant growth substances* shall, within thirty days after official notice from the secretary, pay to the purchaser a penalty equal to twice the value of the actual shortage.

Section 12. Section 15 of the act, amended June 24, 1965 (P.L. 144, No. 98), is amended to read:

Section 15. Cancellation of Licenses and/or Registrations.—**[The secretary is authorized and empowered to cancel the license of any distributor or the registration of any brand of commercial fertilizer or to refuse to register any brand of commercial fertilizer as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this act or any rules and regulations promulgated thereunder. No license or registration shall be revoked or refused until the licensee or the registrant has been given the opportunity to appear for a hearing by the secretary.]** *After a hearing, the secretary may revoke, suspend or deny the issuance of a license or registration under this act if he finds that the applicant or holder has violated any provision of this act or of the regulations adopted hereto.*

Section 13. Section 16 of the act is amended to read:

Section 16. "Stop Sale" Orders.—The secretary may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of **[commercial]** fertilizer, *soil conditioner or plant growth substance* and to hold at a designated place when the secretary finds the **[commercial]** fertilizer, *soil conditioner or plant growth substance* is being offered or exposed for sale in violation of any of the provisions of this act. The order shall be effective until the law has been complied with and the **[commercial]** fertilizer, *soil conditioner or plant growth substance* is released in writing by the secretary or the violation has been otherwise

legally disposed of by written authority. The secretary shall release the **[commercial]** fertilizer, *soil conditioner or plant growth substance* so withdrawn when the requirements of the provisions of this act have been complied with and all costs and expenses incurred *by others* in connection with the withdrawal have been paid *by the person responsible for the violation*.

Section 14. Section 17 of the act, amended April 3, 1968 (P.L.79, No.34), is amended to read:

Section 17. Seizure, Condemnation and Sale.—Any lot of **[commercial fertilizer not in compliance with the provisions of this act]** *fertilizer, soil conditioner or plant growth substance adulterated with a material harmful to plant, fish, animal or human life* shall be subject to seizure **[on complaint of]** *and condemnation by* the secretary **[to a court of competent jurisdiction in the area in which the commercial fertilizer is located. In the event the court finds the commercial fertilizer to be in violation of this act and orders the condemnation of the commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the State, but in no instance shall the disposition of the commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer or for permission to process or relabeled the commercial fertilizer to bring it into compliance with this act. If compliance is not obtained within thirty days, the secretary may begin, or upon request of the distributor shall begin, procedures for condemnation].** *The disposal of such adulterated fertilizer, soil conditioner or plant growth substance shall be in a manner consistent with the law and other applicable laws of the Commonwealth.*

Section 15. Sections 18 and 19 of the act are amended to read:

Section 18. Penalties.—Any person who violates any of the provisions of this act or any rule, regulation or order made pursuant to this act shall, for the first or second offense, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than **[fifty dollars (\$50)]** *one hundred dollars (\$100)* nor more than **[one hundred dollars (\$100)]** *three hundred dollars (\$300)* and costs of prosecution and, in default of payment thereof, shall be sentenced to undergo imprisonment for not more than thirty days, and for a third or subsequent offense, if three offenses including the last offense are committed within one year *from the time of the first offense*, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine of not less than **[five hundred dollars (\$500)]** *one thousand dollars (\$1000)* nor more than **[one thousand dollars (\$1000)]** *two thousand five hundred dollars (\$2,500)* or to undergo imprisonment not exceeding one year, or both.

Section 19. Exchange Between Manufacturers.—Nothing in this act shall be construed to restrict or avoid sales or exchanges of **[commercial]**

fertilizers, *soil conditioners or plant growth substances* to each other by importers *or* manufacturers[, *or manipulators*] who mix fertilizer materials, *soil conditioners or plant growth substances* for sale or as preventing the free and unrestricted shipments of [commercial] fertilizers, *soil conditioners or plant growth substances* to manufacturers or manipulators who have registered their brands as required by the provisions of this act.

Section 16. This act shall take effect in 60 days.

APPROVED—The 1st day of December, A. D. 1977.

MILTON J. SHAPP