

Senate Study Bill 2220

Conference Committee Text

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1 1 Section 1. Section 8.60, subsection 6, Code 1995, is
1 2 amended to read as follows:
1 3 6. Fertilizer fund created in section 200.9, Code
1 4 Supplement 1993, and moneys collected for the administration
1 5 of chapter 201A relating to the regulation of limestone
1 6 products which were deposited in the fertilizer fund pursuant
1 7 to section 201.13, Code 1993 and Code 1995.
1 8 Sec. 2. Section 200.8, subsection 3, Code 1995, is amended
1 9 to read as follows:
1 10 3. If there is an unencumbered balance of funds from the
1 11 amount of the fees deposited in the general fund pursuant to
1 12 sections 200.9 and

~~201.13~~

- 201A.11 on June 30 of any fiscal
1 13 year equal to or exceeding three hundred fifty thousand
1 14 dollars, the secretary of agriculture shall reduce the per ton
1 15 fee provided for in subsection 1 and the annual license fee
1 16 established pursuant to section

~~201.3~~

- 201A.11 for the next
1 17 fiscal year in such amount as will result in an ending
1 18 estimated balance of such funds for June 30 of the next fiscal
1 19 year of three hundred fifty thousand dollars.
1 20 Sec. 3. NEW SECTION. 201A.1 TITLE.
1 21 This chapter shall be known and may be cited as the "Iowa
1 22 Agricultural Liming Material Act".
1 23 Sec. 4. NEW SECTION. 201A.2 DEFINITIONS.
1 24 As used in this chapter, unless the context otherwise
1 25 requires:
1 26 1. "Agricultural liming material" means a product having
1 27 calcium and magnesium compounds capable of neutralizing soil
1 28 acidity.
1 29 2. "Brand" means the term, designation, trade name,
1 30 product name, or other specific designation under which
1 31 individual agricultural liming material is offered for sale.
1 32 3. "Bulk" means material which is in a nonpackaged form.
1 33 4. "Effective calcium carbonate equivalent" means the
1 34 acid-neutralizing capacity of an agricultural liming material.
1 35 Sec. 5. NEW SECTION. 201A.3 LICENSE REQUIRED.
2 1 Agricultural liming material shall not be distributed in
2 2 this state unless the manufacturer of the agricultural liming
2 3 material obtains a license for each facility owned by the
2 4 manufacturer for distribution in this state. The manufacturer
2 5 shall obtain the license prior to the facility's manufacture
2 6 of the agricultural liming material. The license shall expire
2 7 on January 1 of each year, and may be renewed for a period
2 8 expiring on January 1 of the following year. The manufacturer
2 9 shall apply for the license on forms prescribed and according
2 10 to procedures required by the department. An application for
2 11 a license, including a license renewal, must be accompanied by
2 12 a license fee established by the department, which shall not
2 13 exceed forty dollars.
2 14 Sec. 6. NEW SECTION. 201A.4 LABELING AND ADVERTISING.
2 15 1. Agricultural liming material shall not be sold, offered

2 16 for sale, or exposed for sale in this state unless a label
2 17 accompanies the agricultural liming material which provides
2 18 the following information:

2 19 a. The name and address of the principal office of the
2 20 manufacturer or distributor.

2 21 b. The brand or trade name of the agricultural liming
2 22 material.

2 23 c. The identification of the type of the agricultural
2 24 liming material.

2 25 d. The undried net weight of the agricultural liming
2 26 material.

2 27 e. The effective calcium carbonate equivalent of the
2 28 agricultural liming material as determined according to rules
2 29 adopted by the department.

2 30 2. The label must be plainly readable. If the
2 31 agricultural liming material is in packaged form, the label
2 32 must be affixed to the outside of the package in a conspicuous
2 33 manner. The label shall be printed, stamped, or otherwise
2 34 marked in a manner required by the department. If the
2 35 agricultural liming material is in bulk form, the label may be
3 1 contained on a delivery slip.

3 2 3. The label or advertising which provides information
3 3 regarding the agricultural liming material shall not be false
3 4 or misleading to the purchaser, including information relating
3 5 to the quality, analysis, type, or composition of the
3 6 agricultural liming material.

3 7 4. If the agricultural liming material is adulterated
3 8 after it has been packaged, labeled, or loaded, but prior to
3 9 delivery to a purchaser, the vendor shall provide a notice of
3 10 the adulteration, which shall be placed on the agricultural
3 11 liming material as an additional label as provided in this
3 12 section.

3 13 5. For each brand of agricultural liming material sold in
3 14 bulk, a statement shall be conspicuously posted at the
3 15 location where the agricultural liming material is delivered
3 16 for resale or where purchase orders for deliveries of the
3 17 agricultural liming material are placed. The statement shall
3 18 include the effective calcium carbonate equivalent of the
3 19 agricultural liming material as determined according to rules
3 20 adopted by the department.

3 21 Sec. 7. NEW SECTION. 201A.5 INSPECTION AND
3 22 INVESTIGATION.

3 23 The department shall inspect agricultural liming material
3 24 distributed in this state and investigate persons engaged in
3 25 the business of manufacturing, distributing, selling, offering
3 26 for sale, or exposing for sale agricultural liming material in
3 27 this state. Inspections and investigations shall be performed
3 28 as determined necessary or practicable by the department, in
3 29 order to ensure compliance with this chapter. The inspection
3 30 may include the sampling, analysis, and testing of
3 31 agricultural liming material, as provided by rules adopted by
3 32 the department. The department may enter premises of a
3 33 business engaged in the manufacture, distribution, sale, offer
3 34 for sale, or exposure for sale of agricultural liming material
3 35 in this state. The business shall provide timely, convenient,
4 1 and free access to its agricultural liming material and to its
4 2 books, records, accounts, papers, documents, and any computer
4 3 or other recordings relating to the business, during normal
4 4 business hours. The business shall facilitate the examination
4 5 and aid in the examination to every extent feasible.

4 6 Sec. 8. NEW SECTION. 201A.6 CERTIFICATION OF EFFECTIVE
4 7 CALCIUM CARBONATE EQUIVALENT - REPORTING.

4 8 The department shall certify the effective calcium
4 9 carbonate equivalent for all agricultural liming material, as
4 10 provided by rules adopted by the department. The department
4 11 may establish a fee for analyzing samples of agricultural
4 12 liming material. The department shall issue a report at least

4 13 once every three months which lists the agricultural liming
4 14 material certified by the department. The report shall list
4 15 the manufacturers of the agricultural liming material, the
4 16 locations of facilities used to manufacture the agricultural
4 17 liming material, and the identification of the type of the
4 18 agricultural liming material produced by the manufacturer.

4 19 Sec. 9. NEW SECTION. 201A.7 TOXIC MATERIALS PROHIBITED.

4 20 A person shall not sell, offer for sale, or expose for sale
4 21 agricultural liming material which includes material which is
4 22 toxic to plants, animals, human, or aquatic life, or which
4 23 causes soil or water contamination, as provided by rules
4 24 adopted by the department.

4 25 Sec. 10. NEW SECTION. 201A.8 RULES.

4 26 The department shall adopt rules pursuant to chapter 17A
4 27 required to administer and enforce the provisions of this
4 28 chapter.

4 29 Sec. 11. NEW SECTION. 201A.9 ENFORCEMENT ACTIONS.

4 30 If the department finds that agricultural liming material
4 31 is being manufactured, used, sold, offered for sale, or
4 32 exposed for sale in violation of this chapter, the department
4 33 may enforce the provisions of this chapter by doing any of the
4 34 following:

4 35 1. Issuing and enforcing a stop order to prevent the
5 1 manufacture, sale, or removal of agricultural liming material.
5 2 The order may require that the owner or custodian hold the
5 3 agricultural liming material at a place designated in the
5 4 order. The stop order shall be in writing and served upon the
5 5 person owning or controlling the manufacture or sale of the
5 6 agricultural liming material. The department shall provide
5 7 for the termination of the stop order upon compliance with the
5 8 provisions of this chapter. The termination of the stop order
5 9 shall be in writing and served upon the person as provided for
5 10 in the stop order. The department may place conditions upon
5 11 the termination of the stop order, including the payment of
5 12 reasonable expenses incurred by the department in issuing and
5 13 enforcing the stop order.

5 14 2. Obtaining a court order upon petition filed in district
5 15 court for the county where the agricultural liming material is
5 16 being manufactured, sold, offered for sale, or exposed for
5 17 sale. The court may be petitioned by the department, or, upon
5 18 request by the department, the attorney general or the county
5 19 attorney. The court shall hear from all parties in the case.
5 20 The court may issue an order for any of the following:

5 21 a. The seizure of the agricultural liming material. The
5 22 court shall issue an order, if the court finds that the
5 23 petition is supported by facts that agricultural liming
5 24 material is being manufactured, sold, offered for sale, or
5 25 exposed for sale in violation of this chapter, and the
5 26 agricultural liming material must be condemned because it
5 27 fails to meet standards required in this chapter. If
5 28 warranted, the court shall order that the agricultural liming
5 29 material be disposed of in a manner provided by rules adopted
5 30 by the department, which may include reprocessing or
5 31 relabeling the agricultural liming material in order to ensure
5 32 that it complies with this chapter. The court may provide
5 33 that any party to the case dispose of the agricultural liming
5 34 material.

5 35 b. A temporary or permanent injunction against a person
6 1 violating the provisions of this chapter. The court shall
6 2 issue an order, if the court finds that the petition is
6 3 supported by facts that agricultural liming material is being
6 4 manufactured, sold, offered for sale, or exposed for sale in
6 5 violation of this chapter. In order to obtain injunctive
6 6 relief, the department shall not be required to post a bond or
6 7 prove the absence of an adequate remedy at law, unless the
6 8 court for good cause otherwise orders. The court may order
6 9 any form of prohibitory or mandatory relief that is

6 10 appropriate under principles of equity
6 11 Sec. 12. NEW SECTION. 201A.10 VIOLATIONS.
6 12 1. A person violating this chapter or rules adopted by the
6 13 department under this chapter is guilty of a simple
6 14 misdemeanor.
6 15 2. The department shall provide for the prosecution of a
6 16 violation of this chapter by referring the violation to the
6 17 county attorney in the county where the violation occurs. The
6 18 department shall compile evidence of the violation for
6 19 prosecution. The county attorney shall prosecute any case
6 20 determined by the county attorney to be meritorious without
6 21 delay. The department shall not refer a violation to the
6 22 county attorney until the department provides the person
6 23 subject to the violation with an opportunity to be heard by
6 24 the department according to procedures adopted by the
6 25 department. A right to a hearing is not a contested case
6 26 proceeding as provided in chapter 17A. The department is not
6 27 required to refer a minor violation to a county attorney, and
6 28 may instead issue a warning to the person subject to the minor
6 29 violation.

6 30 Sec. 13. NEW SECTION. 201A.11 FEES AND APPROPRIATION.
6 31 Fees collected under this chapter shall be deposited in the
6 32 general fund of the state and shall be subject to the
6 33 requirements of section 8.60. Moneys deposited under this
6 34 section to the general fund shall be used only by the
6 35 department for the purpose of administering and enforcing the
7 1 provisions of this chapter, including inspection, sampling,
7 2 analysis, and the preparation and publishing of reports.

7 3 Sec. 14. REPEAL. Chapter 201, Code and Code Supplement
7 4 1995, is repealed.

7 5 Sec. 15. EFFECTIVE DATE AND APPLICABILITY.

7 6 1. Except as provided in subsection 2, this Act takes
7 7 effect on January 1, 1997. However, until January 1, 1998, a
7 8 person holding an inventory of packaged agricultural liming
7 9 material on January 1, 1997, may continue to sell that
7 10 inventory as labeled under chapter 201 as the chapter existed
7 11 on December 31, 1997.

7 12 2. The department may adopt rules to provide for the
7 13 administration and enforcement of this Act prior to January 1,
7 14 1997. However, the rules must take effect not earlier than
7 15 January 1, 1997.

7 16 EXPLANATION

7 17 This bill creates a new chapter referred to as the "Iowa
7 18 Agricultural Liming Material Act", which replaces current
7 19 chapter 201, which regulates the sale of limestone for
7 20 agricultural purposes. The bill defines "agricultural liming
7 21 material" as a product having calcium and magnesium compounds
7 22 capable of neutralizing soil acidity. The department of
7 23 agriculture and land stewardship regulates the sale of
7 24 limestone for agricultural purposes.

7 25 The bill regulates sale of agricultural liming material in
7 26 a bulk and packaged form. It requires the manufacturer of
7 27 agricultural liming material to receive a license by the
7 28 department for each facility manufacturing the agricultural
7 29 liming material. A license fee of up to \$40 is imposed on the
7 30 manufacturer. The license expires on January 1 of each year.

7 31 The bill requires that agricultural liming material be
7 32 labeled. The label must include the name and address of the
7 33 principal office of the manufacturer or distributor, the brand
7 34 or trade name of the agricultural liming material, the
7 35 identification of the type of the agricultural liming
8 1 material, the undried net weight of the agricultural liming
8 2 material, and the effective calcium carbonate equivalent of
8 3 the agricultural liming material as determined according to
8 4 rules adopted by the department.

8 5 The bill requires the department to inspect agricultural
8 6 liming material distributed in this state and investigate

8 7 persons engaged in the business of manufacturing,
8 8 distributing, selling, offering for sale, or exposing for sale
8 9 agricultural liming material. The bill requires the
8 10 department to certify the effective calcium carbonate
8 11 equivalent for agricultural liming material.
8 12 The bill prohibits the sale of agricultural liming material
8 13 which includes materials which are toxic.
8 14 The bill provides for enforcement actions, if the
8 15 department finds a violation of the chapter. The department
8 16 is authorized to issue and enforce a stop order or to obtain a
8 17 court order for the seizure of the agricultural liming
8 18 material, or for a temporary or permanent injunction.
8 19 A person violating the bill's provisions is guilty of a
8 20 simple misdemeanor. The department is authorized to refer a
8 21 violation to a county attorney for prosecution.
8 22 The bill provides for the deposit of fees into the state
8 23 general fund for the use of the department for purposes of
8 24 administering and enforcing the bill's provisions.
8 25 The bill takes effect on January 1, 1997.
8 26 LSB 4316SC 76
8 27 da/jj/8