

FEB 25 1998

HOUSE FILE 2441  
BY COMMITTEE ON AGRICULTURE

WAYS AND MEANS

**WITHDRAWN** (SUCCESSOR TO HSB 527)

*4-2-98 (P.1191)*

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act regulating bulk dry animal nutrient products, providing  
2 for fees and an appropriation, providing penalties, and  
3 providing for an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 2441*

1 Section 1. NEW SECTION. 200A.1 TITLE.

2 This chapter shall be known and may be cited by the short  
3 title of "Bulk Dry Animal Nutrient Products Law".

4 Sec. 2. NEW SECTION. 200A.2 PURPOSE.

5 The purpose of this chapter is to regulate certain bulk dry  
6 animal manure for use as a fertilizer or soil conditioner,  
7 which is unmanipulated and therefore not subject to regulation  
8 under chapter 200.

9 Sec. 3. NEW SECTION. 200A.3 DEFINITIONS.

10 As used in this chapter, unless the context otherwise  
11 requires:

12 1. "Advertise" means to present a commercial message in  
13 any medium including but not limited to print, radio,  
14 television, sign, display, label, tag, or articulation.

15 2. "Bulk dry animal nutrient product" or "bulk product"  
16 means an animal nutrient product delivered to a purchaser in  
17 bulk form to which a label cannot be attached.

18 3. "Department" means the department of agriculture and  
19 land stewardship.

20 4. "Distribute" means to offer for sale, sell, hold out  
21 for sale, exchange, barter, or supply or furnish a bulk dry  
22 animal nutrient product on a commercial basis.

23 5. "Distributor" means a person who distributes a bulk dry  
24 animal nutrient product.

25 6. "Dry animal nutrient product" means any unmanipulated  
26 animal manure composed primarily of animal excreta, if all of  
27 the following apply:

28 a. The manure contains one or more recognized plant  
29 nutrients which are used for their plant nutrient content.

30 b. The manure promotes plant growth.

31 c. The manure does not flow perceptibly under pressure.

32 d. The manure is not capable of being transported through  
33 a mechanical pumping device designed to move a liquid.

34 e. The constituent molecules of the manure do not flow  
35 freely among themselves but do show the tendency to separate

1 under stress.

2 7. "Guaranteed analysis" means the minimum percentage of  
3 plant nutrients claimed and reported to the department  
4 pursuant to section 200A.6.

5 8. "Official sample" means any sample of a bulk dry animal  
6 nutrient product taken by the department, according to  
7 procedures established by the department consistent with this  
8 chapter.

9 9. "Percent" or "percentage" means percentage by weight.

10 10. "Purchaser" means a person to whom a dry animal  
11 nutrient product is distributed.

12 11. "Ton" means a net weight of two thousand pounds  
13 avoirdupois.

14 Sec. 4. NEW SECTION. 200A.4 RULEMAKING.

15 The department shall adopt all rules necessary to  
16 administer this chapter, including but not limited to rules  
17 regulating licensure, labeling, registration, distribution,  
18 and storage of bulk dry animal nutrient products. A violation  
19 of this chapter includes a violation of any rule adopted  
20 pursuant to this section as provided in chapter 17A.

21 Sec. 5. NEW SECTION. 200A.5 LICENSE.

22 A person who distributes a bulk dry animal nutrient product  
23 in this state must first obtain a license from the department.  
24 A license application must be submitted to the department on a  
25 form furnished by the department according to procedures  
26 required by the department. A license shall expire on July 1  
27 of each year.

28 Sec. 6. NEW SECTION. 200A.6 REGISTRATION.

29 1. A person shall not distribute a bulk dry animal  
30 nutrient product, unless the bulk product is registered with  
31 the department under this section. The department shall  
32 register each bulk product which complies with the  
33 requirements of this chapter. If the department determines  
34 that a registration application does not comply with the  
35 requirements of this chapter, the department shall notify the

1 applicant of the department's determination and the reasons  
2 why the application failed to comply with the requirements of  
3 this chapter. The department shall provide the applicant with  
4 an opportunity to make the necessary corrections before  
5 resubmitting the application.

6 2. A registration application must be submitted to the  
7 department on a form furnished by the department according to  
8 procedures required by the department. A completed  
9 application shall include all of the following:

10 a. An accompanying label setting forth the guaranteed  
11 analysis of the bulk product, in the following form:

12 Total Nitrogen (N) \_\_\_\_\_ percent

13 Available Phosphate (P) or  
14 P[2]O[5] or both \_\_\_\_\_ percent

15 Soluble Potassium (K) or  
16 K[2]O or both \_\_\_\_\_ percent

17 Registration and guarantee of water soluble phosphate (P)  
18 or (P[2]O[5]) shall be permitted.

19 b. A description of how the distributor plans to obtain  
20 the acres necessary for proper application of the bulk product  
21 which is not distributed.

22 c. Evidence of favorable effects and safety of the bulk  
23 product necessary to satisfy the department according to rules  
24 adopted by the department.

25 d. Additional data about a bulk product necessary to  
26 support claims made about the product, if required by the  
27 department.

28 3. A distributor shall not be required to register any  
29 bulk product which is already registered under this chapter by  
30 another person.

31 4. Upon request of the department, the advisory committee  
32 created in section 206.23 may advise and assist the department  
33 regarding the registration of bulk dry animal nutrient  
34 products under the provisions of this chapter.

35 Sec. 7. NEW SECTION. 200A.7 DISTRIBUTION STATEMENT

1 REQUIRED.

2 1. The distribution of a bulk dry animal nutrient product  
3 must be accompanied by a written or printed distribution  
4 statement which may be prepared on a form furnished by the  
5 department. The distribution statement shall include all of  
6 the following information:

7 a. The bulk product's guaranteed analysis in the same form  
8 as required pursuant to section 200A.6.

9 b. The name and address of the bulk product's purchaser.

10 c. A notice to the bulk product's purchaser stating the  
11 number of acres needed to apply the purchased bulk product  
12 based on the average corn yields in the county where the bulk  
13 product is to be applied.

14 d. A warning that application of a bulk product should not  
15 exceed the nitrogen levels necessary to obtain optimum crop  
16 yields for the crop being grown based on crop nitrogen usage  
17 rate factors.

18 2. Before transferring possession of a bulk product, the  
19 distributor shall present the purchaser with an acknowledgment  
20 for the purchaser's signature or initials indicating that the  
21 purchaser has read the distribution statement and understands  
22 the number of acres required to apply the product according to  
23 the information in the distribution statement.

24 Sec. 8. NEW SECTION. 200A.8 DISTRIBUTION REPORTS.

25 1. A person required to be licensed pursuant to section  
26 200A.5 shall file a distribution report with the department on  
27 forms furnished by the department reporting information  
28 regarding the person's distribution of bulk products.

29 2. The report shall be filed with the department not later  
30 than the last day of January and the last day of July  
31 excluding weekends and state-recognized holidays as provided  
32 in section 1C.2.

33 3. The report shall include all of the following:

34 a. The number of tons of bulk products distributed by the  
35 person in the state during the preceding six-month period.

1 The report shall include the number of tons distributed to  
2 each county named in the report and the grade of the  
3 distributed bulk product.

4 b. The name and address of each purchaser and the number  
5 of tons purchased.

6 c. An inspection fee as provided in section 200A.9.

7 Sec. 9. NEW SECTION. 200A.9 FEES.

8 1. A person required to obtain a license as provided in  
9 section 200A.5 shall pay a ten-dollar fee for each place from  
10 which a bulk product is distributed in this state.

11 2. a. The first person who distributes a bulk product,  
12 who is required to be licensed pursuant to section 200A.5,  
13 shall pay an inspection fee twice each year. The inspection  
14 fee shall be paid at the time of filing each distribution  
15 report as required in section 200A.8. The amount of the fee  
16 shall be calculated based on the number of tons of bulk dry  
17 animal nutrient product distributed by the person as reported  
18 in the distribution report.

19 b. The rate for inspection fees shall be established by  
20 the department not more than once each year and shall be not  
21 more than twenty cents per ton.

22 c. An inspection fee shall not be imposed upon a  
23 purchaser, regardless of whether the purchaser subsequently  
24 distributes the product.

25 3. An inspection fee is delinquent after ten days  
26 following the date that a distribution report and fee are due  
27 as provided in section 200A.8. A delinquency penalty of not  
28 more than ten percent of the amount due shall be assessed  
29 against the person who is delinquent. However, the penalty  
30 shall be at least fifty dollars. The amount of fees and  
31 delinquency penalties due shall constitute a debt and become  
32 the basis of a judgment against the delinquent person.

33 Sec. 10. NEW SECTION. 200A.10 EXAMINATIONS.

34 1. The department shall maintain a laboratory with the  
35 equipment and employees necessary to conduct examinations of

1 bulk dry animal nutrient products and to effectively  
2 administer and enforce this chapter.

3 2. The department, or a person authorized as an agent by  
4 the department, shall examine bulk products distributed in  
5 this state. An examination may include taking samples,  
6 conducting inspections and tests, and analyzing the bulk  
7 product.

8 3. The department shall conduct the examinations to the  
9 extent that the department determines necessary in order to  
10 conclude whether a bulk product is in compliance with the  
11 provisions of this chapter.

12 a. The department may enter upon any public or private  
13 premises during regular business hours in a manner consistent  
14 with the laws of this state and the United States, including  
15 Article I, section 8, of the Constitution of the State of  
16 Iowa, and the fourth amendment to the Constitution of the  
17 United States, for purposes of carrying out an examination.

18 b. The methods for examination shall be the official  
19 methods of the association of official agricultural chemists  
20 in all cases where methods have been adopted by the  
21 association.

22 c. A sworn statement by the state chemist or the state  
23 chemist's deputy stating the results of an analysis of an  
24 official sample from a lot of a bulk dry animal nutrient  
25 product shall constitute prima facie evidence of the  
26 correctness of the analysis of that lot in courts of this  
27 state.

28 d. The department, in determining for administrative  
29 purposes whether a bulk product is deficient in guaranteed  
30 active ingredients, shall rely upon the official sample  
31 obtained and analyzed by the state chemist or the state  
32 chemist's deputy.

33 e. The results of an official analysis of a bulk product  
34 which has been found to be in violation of any provision of  
35 this chapter shall be forwarded by the department to the

1 registrant. Upon request, the department shall furnish the  
2 registrant a portion of any official sample.

3 Sec. 11. NEW SECTION. 200A.11 PROHIBITED ACTS.

4 1. A person shall not distribute a bulk dry animal  
5 nutrient product containing any substance used as filler  
6 material, if any of the following applies:

7 a. The filler injures plant growth or is deleterious to  
8 soil.

9 b. The person distributing the bulk product misrepresents  
10 or deceives the person receiving the bulk product regarding  
11 the attributes of the filler material or its effect upon plant  
12 growth or soil condition.

13 2. A person shall not advertise a bulk product by making  
14 false or misleading statements regarding the bulk product.

15 3. A person shall not misbrand a bulk product by providing  
16 a distribution statement to a purchaser which fails to  
17 identify a substance promoting plant growth according to the  
18 bulk product's guaranteed analysis as provided in section  
19 200A.6.

20 4. The burden of proof regarding a claim made by a person  
21 distributing a bulk product, including but not limited to the  
22 positive effects of the bulk product on plant growth, shall be  
23 the responsibility of the distributor.

24 5. A distributor shall not store a bulk product in a  
25 manner which pollutes the waters of the state.

26 Sec. 12. NEW SECTION. 200A.12 ENFORCEMENT.

27 In enforcing this chapter the department may do any of the  
28 following:

29 1. a. Take disciplinary action concerning a registration  
30 of a bulk dry animal nutrient product as provided in section  
31 200A.6 or the license of a person distributing a bulk product  
32 as provided in section 200A.5. The department may do any of  
33 the following:

34 (1) Cancel the registration or deny an application for  
35 registration.

1 (2) Suspend or terminate the license or deny an  
2 application for a license.

3 b. The disciplinary action must be based upon evidence  
4 satisfactory to the department that the registrant, licensee,  
5 or applicant has used fraudulent or deceptive practices in  
6 violation of this chapter or has willfully disregarded the  
7 requirements of this chapter.

8 2. Issue and enforce a "stop sale, use, or removal" order  
9 against the owner or distributor of any lot of a bulk product.

10 a. The order may require that the bulk product be held at  
11 a designated place until released by the department.

12 b. The department shall release the bulk product pursuant  
13 to a release order upon satisfaction that legal issues  
14 compelling the issuance of the "stop sale, use, or removal  
15 order" have been resolved and all expenses incurred by the  
16 department in connection with the bulk product's removal have  
17 been paid to the department.

18 3. Seize and dispose of any lot of a bulk product which is  
19 not in compliance with the provisions of this chapter, upon  
20 petition to the district court in the county or adjoining  
21 county in which the bulk product is located.

22 a. If the court finds that the bulk product is in  
23 violation of this chapter, the court may order the  
24 condemnation of the bulk product. However, the court shall  
25 not order the seizure and disposition of a bulk product  
26 without first providing the owner of the bulk product with an  
27 opportunity to apply to the court for release of the bulk  
28 product, consent to reprocess the bulk product, or consent to  
29 amend a legal record to accurately describe the composition of  
30 the bulk product, including a distribution statement as  
31 provided in section 200A.7.

32 b. The department shall, as provided in the court order,  
33 dispose of the bulk product in a manner consistent with the  
34 quality of the bulk product and the laws of this state.

35 4. Apply to the district court in the county where a

1 violation of this chapter occurs for a temporary or permanent  
2 injunction restraining a person from violating or continuing  
3 to violate this chapter, notwithstanding the existence of  
4 other remedies at law. The injunction shall be issued without  
5 a bond.

6 5. This section does not require the department to  
7 institute a proceeding for a minor violation if the department  
8 concludes that the public interest will be best served by a  
9 suitable written warning.

10 Sec. 13. NEW SECTION. 200A.13 VIOLATIONS.

11 1. A person violating a provision of this chapter is  
12 guilty of a simple misdemeanor.

13 2. a. If, after a departmental investigation, it appears  
14 that a person is in violation of this chapter, the department  
15 shall notify the person of the violation and provide the  
16 person with an opportunity to be heard under rules adopted by  
17 the department consistent with chapter 17A contested case  
18 proceedings.

19 b. If, after a hearing, the department determines that a  
20 violation has occurred, the department may report the  
21 violation to the appropriate county attorney for prosecution.  
22 The report shall include a certified copy of evidence  
23 presented during the hearing. This section does not require  
24 the department to report a minor violation for prosecution if  
25 the department concludes that the public interest will be best  
26 served by a suitable written warning.

27 c. A county attorney who receives a report of a violation  
28 from the department shall institute and prosecute the case in  
29 district court without delay.

30 Sec. 14. NEW SECTION. 200A.14 EXCHANGE BETWEEN  
31 PRODUCERS.

32 Nothing in this chapter shall be construed to restrict or  
33 prohibit any of the following:

34 1. The distribution of a bulk product to importers,  
35 manufacturers, or manipulators who mix bulk dry animal

1 nutrient products for distribution.

2 2. The shipment of a bulk product to a person licensed as  
3 a distributor pursuant to section 200A.5 who has registered  
4 the bulk product as provided in section 200A.6.

5 Sec. 15. NEW SECTION. 200A.15 USE OF FEES.

6 Fees and delinquency penalties collected by the department  
7 pursuant to this chapter, including section 200A.9, shall be  
8 deposited in the general fund of the state. An amount of  
9 money equal to the amount collected in fees and delinquency  
10 penalties shall be credited to and used only by the department  
11 for the administration or enforcement of this chapter in the  
12 same manner as moneys provided to departments under section  
13 8.60. However, the department may allocate moneys to the Iowa  
14 agricultural experiment station for research, work projects,  
15 and investigations as needed for the specific purpose of  
16 improving the regulatory functions to improve the enforcement  
17 of this chapter.

18

#### EXPLANATION

19 This bill creates a new chapter 200A referred to as the  
20 "Bulk Dry Animal Nutrient Products Law". The bill regulates  
21 certain bulk dry animal manure for use as a fertilizer or soil  
22 conditioner and especially the distribution of the manure,  
23 which is unmanipulated and therefore not subject to regulation  
24 under chapter 200 (regulating processed fertilizers and soil  
25 conditioners).

26 According to the bill, a bulk dry animal nutrient product  
27 (or bulk product) is limited to unmanipulated animal manure  
28 composed primarily of animal excreta which contains one or  
29 more recognized plant nutrients which are used for their plant  
30 nutrient content; promotes plant growth; does not flow  
31 perceptibly under pressure; is not capable of being  
32 transported through a mechanical pumping device designed to  
33 move a liquid; and has constituent molecules that do not flow  
34 freely among themselves but do show the tendency to separate  
35 under stress. The bill regulates this material in bulk form

1 to which a label cannot be attached.

2 The bill authorizes the department of agriculture and land  
3 stewardship to adopt rules necessary to administer the  
4 regulations, including but not limited to rules regulating  
5 licensing, labeling, registration, distribution, and storage  
6 of the bulk dry animal manure.

7 The bill provides that a person who distributes a bulk dry  
8 animal nutrient product in this state must first obtain a  
9 license from the department. The person is required to pay a  
10 \$10 license fee for each place from which a bulk product is  
11 distributed in this state. The bill also provides that a  
12 person cannot distribute the bulk product unless the bulk  
13 product is registered with the department. A registration  
14 application must include an accompanying label setting forth  
15 the bulk product's guaranteed analysis, a description of how  
16 the distributor plans to obtain the acres necessary for proper  
17 application of the bulk product which is not distributed,  
18 evidence regarding the effects and safety of the bulk product,  
19 and any additional data as required by the department.

20 The bill requires that the distribution of a bulk dry  
21 animal nutrient product be accompanied by a distribution  
22 statement which includes information about the product's  
23 guaranteed analysis, the name and address of the bulk  
24 product's purchaser, and a notice to the bulk product's  
25 purchaser stating the number of acres needed to apply the bulk  
26 product based on the average corn yields in the county where  
27 the bulk product is to be applied. It must also include a  
28 warning that application of the bulk product should not exceed  
29 the nitrogen levels necessary to obtain optimum crop yields  
30 for the crop being grown.

31 The bill requires that a person required to be licensed  
32 under the bill must file a distribution report with the  
33 department twice each year. The report must include  
34 information regarding the number of tons of bulk dry animal  
35 nutrient product distributed in the state during the preceding

1 six-month period, the name and address of each purchaser, and  
2 an inspection fee. The amount of the inspection fee is  
3 established by the department based on the number of tons of  
4 manure distributed. The rate cannot be not more than 20 cents  
5 per ton. The bill also imposes a delinquency penalty upon  
6 persons who are late filing the distribution report and fee.

7 The bill provides for the examination of samples to ensure  
8 compliance with the provisions of the bill, procedures for  
9 collecting and examining samples, and the use of samples in  
10 legal proceedings.

11 The bill prohibits distributing a bulk dry animal nutrient  
12 product if the bulk product contains a filler material that  
13 may harm plants or the soil. It also prohibits distributors  
14 from making false claims regarding a bulk product, including  
15 misbranding a bulk product in a distribution statement. The  
16 bill prohibits a distributor from storing the bulk product in  
17 a manner which pollutes the waters of the state.

18 The bill includes a number of enforcement mechanisms which  
19 allow the department to take disciplinary action concerning a  
20 registration of a bulk dry animal nutrient product or the  
21 license of a person distributing the bulk product. According  
22 to the bill, the department may cancel the registration or  
23 deny an application for registration; suspend or terminate a  
24 license or deny an application for a license; issue and  
25 enforce a "stop sale, use, or removal" order; seize and  
26 dispose of any lot of a bulk product upon court order; and  
27 apply for injunctive relief.

28 The bill provides that a person in violation of the  
29 chapter's provisions is subject to prosecution by a county  
30 attorney. The department may file a report with the county  
31 attorney certifying evidence against the alleged violator.

32 The bill provides that its provisions do not affect the  
33 distribution of bulk dry animal nutrient products distributed  
34 to importers, manufacturers, or manipulators who mix the bulk  
35 product for distribution or the shipment of the bulk product

1 to a licensee who has registered the bulk product.

2 The bill provides that fees and delinquency penalties  
3 collected by the department pursuant to the bill are deposited  
4 in the general fund of the state. The bill also provides that  
5 an amount of money equal to the amount collected in fees and  
6 delinquency penalties is credited to and shall be used by the  
7 department in the same manner as moneys provided to  
8 departments under old trust funds for purposes necessary for  
9 the administration or enforcement of this bill.

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Meyer, ch.  
Bogges  
Scherrman

HSB 527

Agriculture

Succeeded By

HOUSE FILE

SF/HF ~~507~~ 2441

BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON EDDIE)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act regulating bulk dry animal nutrient products, providing  
2 for fees and an appropriation, providing penalties, and  
3 providing for an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 200.5, subsection 1, Code 1997, is  
2 amended to read as follows:

3 1. Each brand and grade of commercial fertilizer and each  
4 soil conditioner shall be registered before being offered for  
5 sale, sold, or otherwise distributed in this state, ~~except~~  
6 that. However, a commercial fertilizer formulated according  
7 to special specifications furnished by a consumer to fill the  
8 consumer's order shall not be required to be registered, but  
9 shall be labeled as provided in subsection 3 of section 200.6.  
10 The application for registration shall be submitted to the  
11 secretary on forms furnished by the secretary and shall be  
12 accompanied by a label setting forth the guaranteed analysis  
13 which shall be the same as that appearing on the registered  
14 product. If the brand or grade of commercial fertilizer or  
15 soil conditioner originated exclusively from a bulk dry animal  
16 nutrient product as provided in chapter 200A, the guaranteed  
17 analysis shall be the same as the guaranteed analysis which  
18 appears on the label for the bulk dry animal nutrient product  
19 registered pursuant to section 200A.6.

20 Sec. 2. NEW SECTION. 200A.1 TITLE.

21 This chapter shall be known and may be cited by the short  
22 title of "Bulk Dry Animal Nutrient Products Law".

23 Sec. 3. NEW SECTION. 200A.2 PURPOSE.

24 The purpose of this chapter is to regulate certain bulk dry  
25 animal manure for use as a fertilizer or soil conditioner,  
26 which is unmanipulated and therefore not subject to regulation  
27 under chapter 200.

28 Sec. 4. NEW SECTION. 200A.3 DEFINITIONS.

29 As used in this chapter, unless the context otherwise  
30 requires:

31 1. "Advertise" means to present a commercial message in  
32 any medium including but not limited to print, radio,  
33 television, sign, display, label, tag, or articulation.

34 2. "Bulk dry animal nutrient product" or "bulk product"  
35 means an animal nutrient product delivered to a purchaser in

1 bulk form to which a label cannot be attached.

2 3. "Department" means the department of agriculture and  
3 land stewardship.

4 4. "Distribute" means to offer for sale, sell, hold out  
5 for sale, exchange, barter, or supply or furnish a bulk dry  
6 animal nutrient product on a commercial basis.

7 5. "Distributor" means a person who distributes a bulk dry  
8 animal nutrient product.

9 6. "Dry animal nutrient product" means any unmanipulated  
10 animal manure composed primarily of animal excreta, if all of  
11 the following apply:

12 a. The manure contains one or more recognized plant  
13 nutrients which are used for their plant nutrient content.

14 b. The manure promotes plant growth.

15 c. The manure does not flow perceptibly under pressure.

16 d. The manure is not capable of being transported through  
17 a mechanical pumping device designed to move a liquid.

18 e. The constituent molecules of the manure do not flow  
19 freely among themselves but do show the tendency to separate  
20 under stress.

21 7. "Guaranteed analysis" means the minimum percentage of  
22 plant nutrients claimed and reported to the department  
23 pursuant to section 200A.6.

24 8. "Official sample" means any sample of a bulk dry animal  
25 nutrient product taken by the department, according to  
26 procedures established by the department consistent with this  
27 chapter.

28 9. "Percent" or "percentage" means percentage by weight.

29 10. "Purchaser" means a person to whom a dry animal  
30 nutrient product is distributed.

31 11. "Ton" means a net weight of two thousand pounds  
32 avoirdupois.

33 Sec. 5. NEW SECTION. 200A.4 RULEMAKING.

34 The department shall adopt all rules necessary to  
35 administer this chapter, including but not limited to rules

1 regulating licensure, labeling, registration, distribution,  
2 and storage of bulk dry animal nutrient products. A violation  
3 of this chapter includes a violation of any rule adopted  
4 pursuant to this section as provided in chapter 17A.

5 Sec. 6. NEW SECTION. 200A.5 LICENSE.

6 A person who distributes a bulk dry animal nutrient product  
7 in this state must first obtain a license from the department.  
8 A license application must be submitted to the department on a  
9 form furnished by the department according to procedures  
10 required by the department. A license shall expire on July 1  
11 of each year.

12 Sec. 7. NEW SECTION. 200A.6 REGISTRATION.

13 1. A person shall not distribute a bulk dry animal  
14 nutrient product, unless the bulk product is registered with  
15 the department under this section. The department shall  
16 register each bulk product which complies with the  
17 requirements of this chapter. If the department determines  
18 that a registration application does not comply with the  
19 requirements of this chapter, the department shall notify the  
20 applicant of the department's determination and the reasons  
21 why the application failed to comply with the requirements of  
22 this chapter. The department shall provide the applicant with  
23 an opportunity to make the necessary corrections before  
24 resubmitting the application.

25 2. A registration application must be submitted to the  
26 department on a form furnished by the department according to  
27 procedures required by the department. A completed  
28 application shall include all of the following:

29 a. An accompanying label setting forth the guaranteed  
30 analysis of the bulk product, in the following form:

- |                               |               |
|-------------------------------|---------------|
| 31 Total Nitrogen (N)         | _____ percent |
| 32 Available Phosphate (P) or |               |
| 33 P[2]O[5] or both           | _____ percent |
| 34 Soluble Potassium (K) or   |               |
| 35 K[2]O or both              | _____ percent |

1 Registration and guarantee of water soluble phosphate (P)  
2 or (P[2]0[5]) shall be permitted.

3 b. A description of how the distributor plans to obtain  
4 the acres necessary for proper application of the bulk product  
5 which is not distributed.

6 c. The names and addresses of any known purchasers of the  
7 bulk product.

8 d. Evidence of favorable effects and safety of the bulk  
9 product necessary to satisfy the department according to rules  
10 adopted by the department.

11 e. Additional data about a bulk product necessary to  
12 support claims made about the product, if required by the  
13 department.

14 3. A distributor shall not be required to register any  
15 bulk product which is already registered under this chapter by  
16 another person.

17 4. Upon request of the department, the advisory committee  
18 created in section 206.23 may advise and assist the department  
19 regarding the registration of bulk dry animal nutrient  
20 products under the provisions of this chapter.

21 Sec. 8. NEW SECTION. 200A.7 DISTRIBUTION STATEMENT  
22 REQUIRED.

23 1. The distribution of a bulk dry animal nutrient product  
24 must be accompanied by a written or printed distribution  
25 statement which may be prepared on a form furnished by the  
26 department. The distribution statement shall include all of  
27 the following information:

28 a. The bulk product's guaranteed analysis in the same form  
29 as required pursuant to section 200A.6.

30 b. The name and address of the bulk product's purchaser.

31 c. A notice to the bulk product's purchaser stating the  
32 number of acres needed to apply the purchased bulk product  
33 based on the average corn yields in the county where the bulk  
34 product is to be applied.

35 d. A warning that application of a bulk product should not

1 exceed the nitrogen levels necessary to obtain optimum crop  
2 yields for the crop being grown based on crop nitrogen usage  
3 rate factors.

4 2. Before transferring possession of a bulk product, the  
5 distributor shall present the purchaser with an acknowledgment  
6 for the purchaser's signature or initials indicating that the  
7 purchaser has read the distribution statement and understands  
8 the number of acres required to apply the product according to  
9 the information in the distribution statement.

10 3. A distribution statement shall be kept as part of the  
11 distributor's and purchaser's business records as provided by  
12 the department.

13 Sec. 9. NEW SECTION. 200A.8 DISTRIBUTION REPORTS.

14 1. A person required to be licensed pursuant to section  
15 200A.5 shall file a distribution report with the department on  
16 forms furnished by the department reporting information  
17 regarding the person's distribution of bulk products.

18 2. The report shall be filed with the department not later  
19 than the last day of January and the last day of July  
20 excluding weekends and state-recognized holidays as provided  
21 in section 1C.2.

22 3. The report shall include all of the following:

23 a. The number of tons of bulk products distributed by the  
24 person in the state during the preceding six-month period.

25 The report shall include the number of tons distributed to  
26 each county named in the report and the grade of the  
27 distributed bulk product.

28 b. The name and address of each purchaser and the number  
29 of tons purchased.

30 c. An inspection fee as provided in section 200A.9.

31 Sec. 10. NEW SECTION. 200A.9 FEES.

32 1. A person required to obtain a license as provided in  
33 section 200A.5 shall pay a ten-dollar fee for each place from  
34 which a bulk product is distributed in this state.

35 2. a. The first person who distributes a bulk product,

1 who is required to be licensed pursuant to section 200A.5,  
2 shall pay an inspection fee twice each year. The inspection  
3 fee shall be paid at the time of filing each distribution  
4 report as required in section 200A.8. The amount of the fee  
5 shall be calculated based on the number of tons of bulk dry  
6 animal nutrient product distributed by the person as reported  
7 in the distribution report.

8 b. The rate for inspection fees shall be established by  
9 the department not more than once each year and shall be not  
10 more than twenty cents per ton.

11 c. An inspection fee shall not be imposed upon a  
12 purchaser, regardless of whether the purchaser subsequently  
13 distributes the product.

14 3. An inspection fee is delinquent after ten days  
15 following the date that a distribution report and fee are due  
16 as provided in section 200A.8. A delinquency penalty of not  
17 more than ten percent of the amount due shall be assessed  
18 against the person who is delinquent. However, the penalty  
19 shall be at least fifty dollars. The amount of fees and  
20 delinquency penalties due shall constitute a debt and become  
21 the basis of a judgment against the delinquent person.

22 Sec. 11. NEW SECTION. 200A.10 EXAMINATIONS.

23 1. The department shall maintain a laboratory with the  
24 equipment and employees necessary to conduct examinations of  
25 bulk dry animal nutrient products and to effectively  
26 administer and enforce this chapter.

27 2. The department, or a person authorized as an agent by  
28 the department, shall examine bulk products distributed in  
29 this state. An examination may include taking samples,  
30 conducting inspections and tests, and analyzing the bulk  
31 product.

32 3. The department shall conduct the examinations to the  
33 extent that the department determines necessary in order to  
34 conclude whether a bulk product is in compliance with the  
35 provisions of this chapter.

1 a. The department may enter upon any public or private  
2 premises during regular business hours in a manner consistent  
3 with the laws of this state and the United States, including  
4 Article I, section 8, of the Constitution of the State of  
5 Iowa, and the fourth amendment to the Constitution of the  
6 United States, for purposes of carrying out an examination.

7 b. The methods for examination shall be the official  
8 methods of the association of official agricultural chemists  
9 in all cases where methods have been adopted by the  
10 association.

11 c. A sworn statement by the state chemist or the state  
12 chemist's deputy stating the results of an analysis of an  
13 official sample from a lot of a bulk dry animal nutrient  
14 product shall constitute prima facie evidence of the  
15 correctness of the analysis of that lot in courts of this  
16 state.

17 d. The department, in determining for administrative  
18 purposes whether a bulk product is deficient in guaranteed  
19 active ingredients, shall rely upon the official sample  
20 obtained and analyzed by the state chemist or the state  
21 chemist's deputy.

22 e. The results of an official analysis of a bulk product  
23 which has been found to be in violation of any provision of  
24 this chapter shall be forwarded by the department to the  
25 registrant. Upon request, the department shall furnish the  
26 registrant a portion of any official sample.

27 Sec. 12. NEW SECTION. 200A.11 PROHIBITED ACTS.

28 1. A person shall not distribute a bulk dry animal  
29 nutrient product containing any substance used as filler  
30 material, if any of the following applies:

31 a. The filler injures plant growth or is deleterious to  
32 soil.

33 b. The person distributing the bulk product misrepresents  
34 or deceives the person receiving the bulk product regarding  
35 the attributes of the filler material or its effect upon plant

1 growth or soil condition.

2 2. A person shall not advertise a bulk product by making  
3 false or misleading statements regarding the bulk product.

4 3. A person shall not misbrand a bulk product by providing  
5 a distribution statement to a purchaser which fails to  
6 identify a substance promoting plant growth according to the  
7 bulk product's guaranteed analysis as provided in section  
8 200A.6.

9 4. The burden of proof regarding a claim made by a person  
10 distributing a bulk product, including but not limited to the  
11 positive effects of the bulk product on plant growth, shall be  
12 the responsibility of the distributor.

13 5. A distributor shall not store a bulk product in a  
14 manner which pollutes the waters of the state.

15 Sec. 13. NEW SECTION. 200A.12 ENFORCEMENT.

16 In enforcing this chapter the department may do any of the  
17 following:

18 1. a. Take disciplinary action concerning a registration  
19 of a bulk dry animal nutrient product as provided in section  
20 200A.6 or the license of a person distributing a bulk product  
21 as provided in section 200A.5. The department may do any of  
22 the following:

23 (1) Cancel the registration or deny an application for  
24 registration.

25 (2) Suspend or terminate the license or deny an  
26 application for a license.

27 b. The disciplinary action must be based upon evidence  
28 satisfactory to the department that the registrant, licensee,  
29 or applicant has used fraudulent or deceptive practices in  
30 violation of this chapter or has willfully disregarded the  
31 requirements of this chapter.

32 2. Issue and enforce a "stop sale, use, or removal" order  
33 against the owner or distributor of any lot of a bulk product.

34 a. The order may require that the bulk product be held at  
35 a designated place until released by the department.

1 b. The department shall release the bulk product pursuant  
2 to a release order upon satisfaction that legal issues  
3 compelling the issuance of the "stop sale, use, or removal  
4 order" have been resolved and all expenses incurred by the  
5 department in connection with the bulk product's removal have  
6 been paid to the department.

7 3. Seize and dispose of any lot of a bulk product which is  
8 not in compliance with the provisions of this chapter, upon  
9 petition to the district court in the county or adjoining  
10 county in which the bulk product is located.

11 a. If the court finds that the bulk product is in  
12 violation of this chapter, the court may order the  
13 condemnation of the bulk product. However, the court shall  
14 not order the seizure and disposition of a bulk product  
15 without first providing the owner of the bulk product with an  
16 opportunity to apply to the court for release of the bulk  
17 product, consent to reprocess the bulk product, or consent to  
18 amend a legal record to accurately describe the composition of  
19 the bulk product, including a distribution statement as  
20 provided in section 200A.7.

21 b. The department shall, as provided in the court order,  
22 dispose of the bulk product in a manner consistent with the  
23 quality of the bulk product and the laws of this state.

24 4. Apply to the district court in the county where a  
25 violation of this chapter occurs for a temporary or permanent  
26 injunction restraining a person from violating or continuing  
27 to violate this chapter, notwithstanding the existence of  
28 other remedies at law. The injunction shall be issued without  
29 a bond.

30 5. This section does not require the department to  
31 institute a proceeding for a minor violation if the department  
32 concludes that the public interest will be best served by a  
33 suitable written warning.

34 Sec. 14. NEW SECTION. 200A.13 VIOLATIONS.

35 1. A person violating a provision of this chapter is

1 guilty of a simple misdemeanor.

2 2. a. If, after a departmental investigation, it appears  
3 that a person is in violation of this chapter, the department  
4 shall notify the person of the violation and provide the  
5 person with an opportunity to be heard under rules adopted by  
6 the department consistent with chapter 17A contested case  
7 proceedings.

8 b. If, after a hearing, the department determines that a  
9 violation has occurred, the department may report the  
10 violation to the appropriate county attorney for prosecution.  
11 The report shall include a certified copy of evidence  
12 presented during the hearing. This section does not require  
13 the department to report a minor violation for prosecution if  
14 the department concludes that the public interest will be best  
15 served by a suitable written warning.

16 c. A county attorney who receives a report of a violation  
17 from the department shall institute and prosecute the case in  
18 district court without delay.

19 Sec. 15. NEW SECTION. 200A.14 EXCHANGE BETWEEN  
20 PRODUCERS.

21 Nothing in this chapter shall be construed to restrict or  
22 prohibit any of the following:

23 1. The distribution of a bulk product to importers,  
24 manufacturers, or manipulators who mix bulk dry animal  
25 nutrient products for distribution.

26 2. The shipment of a bulk product to a person licensed as  
27 a distributor pursuant to section 200A.5 who has registered  
28 the bulk product as provided in section 200A.6.

29 Sec. 16. NEW SECTION. 200A.15 COMPLIANCE -- DEFENSE TO  
30 CERTAIN NUISANCE ACTIONS.

31 In a nuisance action or proceeding involving a site used  
32 for the storage, manufacture, distribution, or use of a bulk  
33 product by or on behalf of a person whose established date of  
34 ownership is subsequent to the established date of operation  
35 of the site, proof of compliance with the applicable

1 provisions of this chapter, including rules pursuant to  
2 section 200A.4, shall be an affirmative defense to a nuisance  
3 action or proceeding.

4 Sec. 17. NEW SECTION. 200A.16 LOCAL LEGISLATION --  
5 PROHIBITION.

6 1. As used in this section:

7 a. "Local governmental entity" means any political  
8 subdivision of this state or any state authority which is not  
9 the general assembly or under the direction of a principal  
10 central department as enumerated in section 7E.5, including a  
11 city as defined in section 362.2, a county as provided in  
12 chapter 331, or any special purpose district.

13 b. "Local legislation" means any ordinance, motion,  
14 resolution, amendment, regulation, or rule adopted by a local  
15 governmental entity.

16 2. The provisions of this chapter and rules adopted by the  
17 department pursuant to this chapter shall preempt local  
18 legislation adopted by a local governmental entity relating to  
19 the use, sale, distribution, storage, transportation,  
20 disposal, formulation, labeling, registration, or manufacture  
21 of a bulk dry animal nutrient product. A local governmental  
22 entity shall not adopt or continue in effect local legislation  
23 relating to the use, sale, distribution, storage,  
24 transportation, disposal, formulation, labeling, registration,  
25 or manufacture of a bulk dry animal nutrient product,  
26 regardless of whether a statute or rule adopted by the  
27 department applies to preempt the local legislation. Local  
28 legislation in violation of this section is void and  
29 unenforceable.

30 3. This section does not apply to local legislation of  
31 general applicability to commercial activity.

32 Sec. 18. NEW SECTION. 200A.17 USE OF FEES.

33 Fees and delinquency penalties collected by the department  
34 pursuant to this chapter, including section 200A.9, shall be  
35 deposited in the general fund of the state. An amount of

1 money equal to the amount collected in fees and delinquency  
 2 penalties shall be credited to and used only by the department  
 3 for the administration or enforcement of this chapter in the  
 4 same manner as moneys provided to departments under section  
 5 8.60. However, the department may allocate moneys to the Iowa  
 6 agricultural experiment station for research, work projects,  
 7 and investigations as needed for the specific purpose of  
 8 improving the regulatory functions to improve the enforcement  
 9 of this chapter.

10

EXPLANATION

11 This bill creates a new chapter 200A referred to as the  
 12 "Bulk Dry Animal Nutrient Products Law". The bill regulates  
 13 certain bulk dry animal manure for use as a fertilizer or soil  
 14 conditioner and especially the distribution of the manure,  
 15 which is unmanipulated and therefore not subject to regulation  
 16 under chapter 200 (regulating processed fertilizers and soil  
 17 conditioners).

18 According to the bill, a bulk dry animal nutrient product  
 19 (or bulk product) is limited to unmanipulated animal manure  
 20 composed primarily of animal excreta which contains one or  
 21 more recognized plant nutrients which are used for their plant  
 22 nutrient content; promotes plant growth; does not flow  
 23 perceptibly under pressure; is not capable of being  
 24 transported through a mechanical pumping device designed to  
 25 move a liquid; and has constituent molecules that do not flow  
 26 freely among themselves but do show the tendency to separate  
 27 under stress. The bill regulates this material in bulk form  
 28 to which a label cannot be attached.

29 The bill authorizes the department of agriculture and land  
 30 stewardship to adopt rules necessary to administer the  
 31 regulations, including but not limited to rules regulating  
 32 licensing, labeling, registration, distribution, and storage  
 33 of the bulk dry animal manure.

34 The bill provides that a person who distributes a bulk dry  
 35 animal nutrient product in this state must first obtain a

1 license from the department. The person is required to pay a  
2 \$10 license fee for each place from which a bulk product is  
3 distributed in this state. The bill also provides that a  
4 person cannot distribute the bulk product unless the bulk  
5 product is registered with the department. A registration  
6 application must include an accompanying label setting forth  
7 the bulk product's guaranteed analysis, a description of how  
8 the distributor plans to obtain the acres necessary for proper  
9 application of the bulk product which is not distributed, the  
10 name and address of any known purchaser of the bulk product,  
11 evidence regarding the effects and safety of the bulk product,  
12 and any additional data as required by the department.

13 The bill requires that the distribution of a bulk dry  
14 animal nutrient product be accompanied by a distribution  
15 statement which includes information about the product's  
16 guaranteed analysis, the name and address of the bulk  
17 product's purchaser, and a notice to the bulk product's  
18 purchaser stating the number of acres needed to apply the bulk  
19 product based on the average corn yields in the county where  
20 the bulk product is to be applied. It must also include a  
21 warning that application of the bulk product should not exceed  
22 the nitrogen levels necessary to obtain optimum crop yields  
23 for the crop being grown.

24 The bill requires that a person required to be licensed  
25 under the bill must file a distribution report with the  
26 department twice each year. The report must include  
27 information regarding the number of tons of bulk dry animal  
28 nutrient product distributed in the state during the preceding  
29 six-month period, the name and address of each purchaser, and  
30 an inspection fee. The amount of the inspection fee is  
31 established by the department based on the number of tons of  
32 manure distributed. The rate cannot be not more than 20 cents  
33 per ton. The bill also imposes a delinquency penalty upon  
34 persons who are late filing the distribution report and fee.

35 The bill provides for the examination of samples to ensure

1 compliance with the provisions of the bill, procedures for  
2 collecting and examining samples, and the use of samples in  
3 legal proceedings.

4 The bill prohibits distributing a bulk dry animal nutrient  
5 product if the bulk product contains a filler material that  
6 may harm plants or the soil. It also prohibits distributors  
7 from making false claims regarding a bulk product, including  
8 misbranding a bulk product in a distribution statement. The  
9 bill prohibits a distributor from storing the bulk product in  
10 a manner which pollutes the waters of the state.

11 The bill includes a number of enforcement mechanisms which  
12 allow the department to take disciplinary action concerning a  
13 registration of a bulk dry animal nutrient product or the  
14 license of a person distributing the bulk product. According  
15 to the bill, the department may cancel the registration or  
16 deny an application for registration; suspend or terminate a  
17 license or deny an application for a license; issue and  
18 enforce a "stop sale, use, or removal" order; seize and  
19 dispose of any lot of a bulk product upon court order; and  
20 apply for injunctive relief.

21 The bill provides that a person in violation of the  
22 chapter's provisions is subject to prosecution by a county  
23 attorney. The department may file a report with the county  
24 attorney certifying evidence against the alleged violator.

25 The bill provides that its provisions do not affect the  
26 distribution of bulk dry animal nutrient products distributed  
27 to importers, manufacturers, or manipulators who mix the bulk  
28 product for distribution or the shipment of the bulk product  
29 to a licensee who has registered the bulk product.

30 The bill protects a site used for the storage, manufacture,  
31 distribution, or use of bulk dry animal nutrient products from  
32 a nuisance suit if the site was established prior to the time  
33 of the person bringing the legal action.

34 The bill provides that the provisions of the chapter and  
35 rules adopted by the department preempt local legislation

1 adopted by a local governmental entity relating to the use,  
2 sale, distribution, storage, transportation, disposal,  
3 formulation, labeling, registration, or manufacture of a bulk  
4 dry animal nutrient product.

5 The bill provides that fees and delinquency penalties  
6 collected by the department pursuant to this chapter are  
7 deposited in the general fund of the state. The bill also  
8 provides that an amount of money equal to the amount collected  
9 in fees and delinquency penalties is credited to and shall be  
10 used by the department in the same manner as moneys provided  
11 to departments under old trust funds for purposes necessary  
12 for the administration or enforcement of this bill.

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