

S-4/2/98 Ways & Means
2. 4-7-98 Amend/Do Pass w/SSSS55

MAR 25 1998

WAYS & MEANS CALENDAR

HOUSE FILE 2542
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2441)

(SUCCESSOR TO HSB 527)

Passed House, ^(P.1189) Date 4/2/98
Vote: Ayes 98 Nays 0

Passed Senate, ^(P.1197) Date 4-13-98
Vote: Ayes 46 Nays 0

^(P.1566) Passed 4/14/98
Vote 97-0
Approved April 22, 1998

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:

5
6

HOUSE FILE 2542

S-5555

1 Amend House File 2542, as passed by the House, as
2 follows:
3 1. Page 10, by striking lines 8 through 13 and
4 inserting the following: "deposited in the general
5 fund of the state. However, the department may
6 allocate moneys to the Iowa".

By COMMITTEE ON WAYS AND MEANS
JOANN DOUGLAS, Chairperson

Adopted 4/13/98 (P.1197)

S-5555 FILED APRIL 7, 1998

SENATE AMENDMENT TO HOUSE FILE 2542

H-9134

1 Amend House File 2542, as passed by the House, as
2 follows:
3 1. Page 10, by striking lines 8 through 13 and
4 inserting the following: "deposited in the general
5 fund of the state. However, the department may
6 allocate moneys to the Iowa".

RECEIVED FROM THE SENATE

H-9134 FILED APRIL 13, 1998

House Concurred 4/14/98 (P.1565)

HF 2542

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.

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

Meyer, ch.

Bogges

Scherrman

HSB 527

Agriculture

HOUSE FILE _____

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:

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

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]0[5] or both	_____ percent
34 Soluble Potassium (K) or	
35 K[2]0 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.

EXPLANATION

10
 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.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

HOUSE FILE 2542

AN ACT

REGULATING BULK DRY ANIMAL NUTRIENT PRODUCTS, PROVIDING FOR FEES AND AN APPROPRIATION, PROVIDING PENALTIES, AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The manure contains one or more recognized plant nutrients which are used for their plant nutrient content.
- b. The manure promotes plant growth.
- c. The manure does not flow perceptibly under pressure.
- d. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
- e. The constituent molecules of the manure do not flow freely among themselves but do show the tendency to separate under stress.

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

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

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

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

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

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

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

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

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

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

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

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

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

Total Nitrogen (N)	_____ percent
Available Phosphate (P) or P[2]O[5] or both	_____ percent
Soluble Potassium (K) or K[2]O or both	_____ percent

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The report shall include all of the following:

a. The number of tons of bulk products distributed by the person in the state during the preceding six-month period. The report shall include the number of tons distributed to each county named in the report and the grade of the distributed bulk product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. The results of an official analysis of a bulk product which has been found to be in violation of any provision of

this chapter shall be forwarded by the department to the registrant. Upon request, the department shall furnish the registrant a portion of any official sample.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Apply to the district court in the county where a violation of this chapter occurs for a temporary or permanent

injunction restraining a person from violating or continuing to violate this chapter, notwithstanding the existence of other remedies at law. The injunction shall be issued without a bond.

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

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

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

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

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

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

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

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

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

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

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

Fees and delinquency penalties collected by the department pursuant to this chapter, including section 200A.9, shall be deposited in the general fund of the state. However, the department may allocate moneys to the Iowa agricultural experiment station for research, work projects, and investigations as needed for the specific purpose of improving the regulatory functions to improve the enforcement of this chapter.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2542, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 22 1998

TERRY E. BRANSTAD
Governor