

House File 2727 - Introduced

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BY TUREK

A BILL FOR

1 An Act providing for the reporting of certain information
2 relating to the sale of fertilizers, providing penalties,
3 making penalties applicable, and including effective date
4 provisions.

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

unofficial

1 Section 1. NEW SECTION. **200.5A Report — pricing**
2 **information.**

3 1. If a manufacturer is required to be licensed under section
4 200.4 and sells a brand of fertilizer required to be registered
5 pursuant section 200.5 on a wholesale or retail basis to a
6 customer in this state, the manufacturer shall report to the
7 department each month pricing information, as required by the
8 department. The pricing information must at least include all
9 of the following:

10 a. (1) The current price per ton paid by the manufacturer
11 for each active ingredient used to manufacture each named
12 registered brand of fertilizer sold in this state.

13 (2) For purposes of subparagraph (1), an active ingredient
14 includes the minimum percentage of plant nutrients as stated on
15 the brand's label in the form of a guaranteed analysis.

16 b. The total quantity of each named registered brand of
17 fertilizer sold by the manufacturer to all customers in this
18 state and the total quantity of all named registered brands of
19 fertilizers sold by the licensee to all customers in this state.

20 c. The lowest and highest price for each named registered
21 brand sold by the manufacturer to customers in this state.

22 d. The terms of any agreement entered into by the licensee
23 and a customer for the discounted sale price of each named
24 registered brand of fertilizer sold in this state.

25 2. a. A manufacturer who violates subsection 1 is subject to
26 a civil penalty that may be administratively imposed, assessed,
27 and collected by the department acting in cooperation with the
28 attorney general.

29 b. The department shall establish by rule a schedule of
30 civil penalties to be imposed upon a manufacturer that is
31 determined to have violated subsection 1. The schedule shall
32 provide procedures and criteria for the administrative assessment
33 of penalties. In adopting the schedule, the department
34 shall consider among other factors determined relevant by the
35 department all of the following:

1 (1) The total volume of registered brands of fertilizers that
2 the manufacturer sells in this state.

3 (2) The costs saved or likely to be saved by the manufacturer
4 in not complying with subsection 1.

5 (3) The gravity of the manufacturer's violation of subsection
6 1.

7 (4) The degree of the manufacturer's willfulness in violating
8 subsection 1.

9 c. The department shall impose a civil penalty under this
10 subsection of not more than fifty thousand dollars for each
11 violation of subsection 1. Each day that a violation continues
12 shall be considered a separate offense.

13 Sec. 2. ADMINISTRATIVE RULES. The department may adopt
14 emergency rules under section 17A.4, subsection 3, and section
15 17A.5, subsection 2, paragraph "b", to administer this Act and
16 the rules shall be effective immediately upon filing unless a
17 later date is specified in the rules. Any rules adopted in
18 accordance with this section shall also be published as a notice
19 of intended action as provided in section 17A.4.

20 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
21 importance, takes effect upon enactment.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 BACKGROUND — GENERAL. The department of agriculture and land
26 stewardship (DALs) regulates the composition of soil inputs,
27 including nutrients such as fertilizers that are manufactured to
28 achieve optimum plant growth, under the Iowa fertilizer law (Code
29 section 200.1). DALs issues licenses to persons who manufacture,
30 offer for sale, sell, or distribute a fertilizer (Code section
31 200.4). Each brand of commercial fertilizer must be registered
32 with DALs (Code section 200.5). A fertilizer is subject to label
33 requirements (Code section 200.6), which include a guaranteed
34 analysis, which is the minimum percentage of plant nutrients.
35 DALs is authorized to adopt rules under the Iowa administrative

1 procedure Act (IAPA) in order to administer Code chapter 200.

2 BACKGROUND — APPLICABLE PENALTIES. DALs is authorized to take
3 administrative action against a licensee acting in violation
4 of the law, including by canceling the license (Code section
5 200.15), issuing a stop order (Code section 200.16), or seizing
6 a fertilizer (Code section 200.17). A person that violates
7 Code chapter 200 or rules adopted by DALs pursuant to that Code
8 chapter is guilty of a simple misdemeanor. A simple misdemeanor
9 is punishable by confinement for no more than 30 days and a fine
10 of at least \$105 but not more than \$855.

11 BILL'S PROVISIONS — GENERAL. This bill provides that a
12 fertilizer manufacturer that sells a registered brand to a
13 customer in this state must submit a monthly report to DALs
14 stating pricing information regarding the active ingredients used
15 to manufacture each brand, the total quantity of each brand and
16 the total quantity of all brands, the lowest and highest price
17 for each brand, and the terms of any agreement entered into
18 by the licensee and a customer for the discounted sale of a
19 brand. A manufacturer that violates the bill's provisions is
20 subject to a civil penalty that may be administratively imposed,
21 assessed, and collected by DALs acting in cooperation with the
22 attorney general. DALs is required to establish by rule a
23 schedule of civil penalties to be imposed upon a manufacturer
24 that is determined to have violated the provisions of the bill.
25 A manufacturer is subject to a civil penalty of not more than
26 \$50,000 for each day that a violation continues.

27 BILL'S PROVISIONS — ADMINISTRATIVE RULES AND EFFECTIVE
28 DATE. The bill authorizes DALs to adopt rules under the IAPA
29 under its emergency (double-barreled) rulemaking provisions to
30 administer the bill. The bill's provisions take effect upon
31 enactment.