

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:

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

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

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

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

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

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

1 relevant by the department all of the following:

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

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

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

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

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

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

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

23 EXPLANATION

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

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

1 minimum percentage of plant nutrients. DALS is authorized to
2 adopt rules under the Iowa administrative procedure Act (IAPA)
3 in order to administer Code chapter 200.

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

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

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