

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE AUGUST 19, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 856**

**Introduced by Assembly Member Caballero  
(Coauthor: Assembly Member Tom Berryhill)**

February 26, 2009

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An act to amend Sections 14528, 14532, 14533, *14557, 14558, 14591, 14601, 14611, 14623, 14631, 14641, 14642,* 14651, 14652, 14655, 14681, and 14682 of, ~~and~~ to add Sections 14550.5, 14583.5, 14651.5, *and 14661, and 14683* to, *and to repeal Section 14632 of,* the Food and Agricultural Code, relating to fertilizer, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 856, as amended, Caballero. Fertilizing material: organic input material.

Existing law generally regulates fertilizing materials, as defined, and provides for the licensure of individuals who manufacture or distribute fertilizing materials.

This bill would include organic input material, as defined, within the definition of fertilizing material.

Existing law provides that there is in the Department of Food and Agriculture a Fertilizer Inspection Advisory Board consisting of 9 persons appointed by the Secretary of Food and Agriculture and composed as specified and with specified functions.

This bill would require the secretary, by January 1, 2012, and in consultation with the board, to review certain issues relating to organic input materials and to post the review in a report on the department's Internet Web site.

*Existing law requires every person who manufactures or distributes fertilizing materials, before engaging in that activity, to obtain a license from the secretary for each plant and business location that he or she operates. Existing law requires a license fee not to exceed \$200, and authorizes the secretary to reduce the license fee, as provided.*

*This bill would require the secretary, prior to issuing a license, to require verification that the applicant is a manufacturer or distributor of fertilizing material. The bill would increase the license fee to an amount not to exceed \$300.*

*By increasing the amount of fee revenue to be deposited into a continuously appropriated fund, the Department of Food and Agriculture Fund, from certain license applicants, this bill would make an appropriation.*

*Existing law requires the registration of each differing label, other than weight or package size, for specialty fertilizer and certain other substances. Existing law requires the registration fee not to exceed \$200 per product.*

*This bill would also require registration of each differing label for organic input material, would require the registration fee for organic input material not to exceed \$500 per product, and would require the funds generated from the registration of organic input materials to be deposited into the Organic Input Materials Account, which the bill would create in the Department of Food and Agriculture Fund, and be available only upon appropriation by the Legislature. The bill would provide that registrations may not be issued without a current license. The bill would require the inspection of organic input material manufacturers at least once per year, as provided.*

*Because a violation of provisions relating to fertilizing materials is a misdemeanor, by changing the definition of a crime this bill would impose a state-mandated local program.*

*Existing law requires a tonnage report to be submitted to the secretary semiannually, as provided, and requires the secretary to impose a*

*penalty of \$200 on any person who fails to submit a report on or before the due dates.*

*This bill would provide that any tonnage report that is more than 90 days past due is a cause for revocation of the license.*

*Existing law requires every lot, parcel, or package of fertilizing material to have attached to it, or the shipment to be physically accompanied by, a label as required by the secretary, and makes a violation of these provisions an infraction or misdemeanor, as provided. Existing law authorizes the secretary to require proof of labeling statements and claims made for any fertilizing material and to cancel the approval of, or refuse to approve, a fertilizing material label if the secretary determines that adequate proof of label claims does not exist.*

*This bill would delete the specific penalty for a violation of the labeling provisions. The bill would instead require the secretary to cancel the approval of, or refuse to approve, a fertilizing material label if adequate proof of label claims does not exist. By changing the penalty for a crime, this bill would impose a state-mandated local program.*

*Existing law provides that the secretary shall have free access at reasonable times to records, premises, or conveyances used in the manufacture, transportation, importation, distribution, storage, or application of any fertilizing material.*

*This bill would also provide that the secretary has access to production processes used for those purposes.*

*Existing law provides that the secretary shall, at the times and to the extent necessary for the enforcement of these provisions relating to fertilizing material, among other things, take samples of, or make analyses or examinations of, any substance.*

*This bill would also permit the secretary to inspect the fertilizing material manufacturing facilities and take samples at various stages of production for specified purposes.*

*Existing law makes a violation of provisions relating to fertilizing materials a misdemeanor punishable by a fine of not more than \$500 for the first violation and not less than \$500 for each subsequent violation.*

*This bill would increase those fine amounts to not more than \$1,000 for the first violation and not less than \$1,000 for each subsequent violation.*

*This bill would require the Department of Food and Agriculture to levy a civil penalty against any person who violates the provisions relating to fertilizing materials, as provided.*

This bill would provide that the department shall be entitled to receive reimbursement from any violator for any reasonable attorney's fees and other related costs in enforcement of these provisions relating to fertilizing materials.

By authorizing a new source of revenue to be deposited into a continuously appropriated fund, the Department of Food and Agriculture Fund, this bill would make an appropriation.

*Existing law provides that it is unlawful for any person to manufacture or distribute in this state any fertilizing material without complying with the provisions relating to fertilizing materials or its regulations.*

*This bill would provide that it is unlawful for any person to adulterate, misbrand, or alter any fertilizing material with the result that the fertilizing material would be inconsistent with the label claims, and would make the violation of this provision a misdemeanor punishable by specified fines. By creating a new crime, this bill would impose a state-mandated local program. The bill would also authorize the secretary to prohibit a person who violates this provision or a certain other provision relating to the distribution of adulterated fertilizing material from obtaining a license to sell organic input materials for 3 years.*

Existing law provides that the movement, distribution, or sale of all or part of any product that has been quarantined by the secretary, unless the movement, distribution, or sale has the prior approval of the secretary, is a misdemeanor punishable by a fine of not more than \$500 and a fine of not less than \$1,000 for a 2nd or subsequent violation.

This bill would also make a violation of that provision subject to a civil penalty and would increase those misdemeanor fine amounts to not more than \$5,000 for the first violation and not less than \$10,000 for a 2nd or subsequent violation.

Existing law prohibits a person from distributing an adulterated fertilizing material and provides specified conditions under which a fertilizing material will be deemed to be adulterated.

This bill would include as another condition if an organic input material contains ingredients that, in type or amount, do not comply with certain federal standards requirements.

Because a violation of provisions relating to fertilizing materials is a misdemeanor, by changing the definition of a crime this bill would impose a state-mandated local program.

~~This bill would make it unlawful for any person to knowingly adulterate an organic input material with ingredients that, in type or~~

~~amount, do not comply with certain federal standards requirements, and would make the violation of this provision a misdemeanor punishable by specified fines. By creating a new crime, this bill would impose a state-mandated local program. The bill would also authorize the secretary to prohibit a person who violates this provision from obtaining a license to sell organic input materials for 3 years.~~

This bill would also make conforming, clarifying, and technical changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14528 of the Food and Agricultural Code  
2 is amended to read:

3 14528. “Discontinued manufacturing” means an auxiliary soil  
4 and plant substance, packaged agricultural mineral, packaged soil  
5 amendment, organic input material, and specialty fertilizer that is  
6 no longer manufactured, but is still offered for sale.

7 SEC. 2. Section 14532 of the Food and Agricultural Code is  
8 amended to read:

9 14532. “Farm use” means that the fertilizing material is used  
10 primarily for application to crops produced for commercial value.

11 SEC. 3. Section 14533 of the Food and Agricultural Code is  
12 amended to read:

13 14533. “Fertilizing material” means any commercial fertilizer,  
14 agricultural mineral, auxiliary soil and plant substance, organic  
15 input material, or packaged soil amendment.

16 SEC. 4. Section 14550.5 is added to the Food and Agricultural  
17 Code, to read:

18 14550.5. “Organic input material” means any bulk or packaged  
19 commercial fertilizer, agricultural mineral, auxiliary soil and plant  
20 substance, specialty fertilizer, or soil amendment, excluding  
21 pesticides, that is to be used in organic crop and food production  
22 and that complies with the requirements of the National Organic

1 Program standards, as specified in Part 205 (commencing with  
2 Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title  
3 7 of the Code of Federal Regulations.

4 *SEC. 5. Section 14557 of the Food and Agricultural Code is*  
5 *amended to read:*

6 14557. “Provisional registration” means that under certain  
7 circumstances, a label for renewal on an auxiliary soil and plant  
8 substance, packaged agricultural mineral, packaged soil  
9 amendment, *organic input material*, or specialty fertilizer, alone  
10 or in any combination, may be registered for a limited period of  
11 time while labels are being corrected and reprinted.

12 *SEC. 6. Section 14558 of the Food and Agricultural Code is*  
13 *amended to read:*

14 14558. “Registrant” means any person who has registered a  
15 packaged agricultural mineral, auxiliary soil and plant substance,  
16 packaged soil amendment, *organic input material*, or specialty  
17 fertilizer.

18 ~~SEC. 5.~~

19 *SEC. 7. Section 14583.5 is added to the Food and Agricultural*  
20 *Code, to read:*

21 14583.5. (a) The secretary, by January 1, 2012, and in  
22 consultation with the board, shall review the definition of organic  
23 input materials in Section 14550.5 and identify oversight and  
24 implementation issues that may arise or have arisen on account of  
25 that definition. The review shall also include an examination of  
26 materials not currently regulated under this definition that may  
27 warrant oversight by the department so as to protect the state’s  
28 agricultural industry, including the organic industry, and  
29 recommendations for any necessary statutory changes.

30 (b) The secretary shall post the review required pursuant to  
31 subdivision (a) in a report on the Internet Web site of the  
32 department.

33 *SEC. 8. Section 14591 of the Food and Agricultural Code is*  
34 *amended to read:*

35 14591. (a) Every person who manufactures or distributes  
36 fertilizing materials shall, before he or she engages in the activity,  
37 obtain a license from the secretary for each plant and business  
38 location ~~which~~ that he or she operates. *Prior to issuing a license,*  
39 *the secretary shall require verification that the applicant is a*  
40 *manufacturer or distributor of fertilizing material compliant with*

1 *this chapter*. All licenses shall be renewed in January of each  
2 odd-numbered year, and shall be valid until December 31 of the  
3 following even-numbered year, if issued in January of that same  
4 year. However, a person who only distributes or who makes retail  
5 sales of packaged agricultural minerals, packaged commercial  
6 fertilizers, packaged soil amendments, *organic input material*, or  
7 packaged auxiliary soil and plant substances, alone or in any  
8 combination, which bear the registered label of another licensed  
9 person, is not required to obtain the license.

10 (b) Every person who manufactures or distributes, or intends  
11 to manufacture or distribute, ammonium nitrate as defined in  
12 Section 14512.5, in this state, shall inform the secretary of that  
13 activity or intent when applying for a license. The license obtained  
14 by that person shall identify him or her as a manufacturer or  
15 distributor of ammonium nitrate.

16 (c) The license fee shall not exceed ~~two hundred dollars (\$200)~~  
17 *three hundred dollars (\$300)*. The secretary may, based on the  
18 findings and recommendations of the board, reduce the license fee  
19 to a lower rate that provides sufficient revenue to carry out this  
20 chapter.

21 *SEC. 9. Section 14601 of the Food and Agricultural Code is*  
22 *amended to read:*

23 14601. (a) Each differing label, other than weight or package  
24 size, such as changes in the guaranteed analysis, derivation  
25 statement, or anything that implies a different product, for specialty  
26 fertilizer, packaged agricultural mineral, auxiliary soil and plant  
27 substance, *organic input material*, and packaged soil amendment  
28 shall be registered. All registrations shall be renewed in January  
29 of an even-numbered year, and shall be valid until December 31  
30 of the following odd-numbered year, if issued in January of that  
31 same year. The registration fee shall not exceed two hundred dollars  
32 (\$200) per product, *except for organic input material*. ~~The~~

33 (b) *Notwithstanding subdivision (a), the registration fee for*  
34 *organic input material shall not exceed five hundred dollars (\$500)*  
35 *per product, as the registration of organic input material labels*  
36 *require additional departmental resources and review time to*  
37 *ensure that nutrient guarantees and claims are scientifically*  
38 *feasible and meet National Organic Program standards. Funds*  
39 *generated from the registration of organic input material shall be*  
40 *deposited into the Organic Input Materials Account in the*

1 *Department of Food and Agriculture Fund and, notwithstanding*  
2 *Section 221, shall be available upon appropriation by the*  
3 *Legislature.*

4 (c) *The secretary may, based on the findings and*  
5 *recommendations of the board, reduce the registration-fee fees to*  
6 *a lower rate that provides sufficient revenue to carry out this*  
7 *chapter.* ~~The~~

8 (d) *Registrations may not be issued without a current license.*

9 (e) *The secretary may require proof of labeling statements and*  
10 *other claims made for any specialty fertilizer, agricultural mineral,*  
11 *packaged soil amendment, organic input material, or auxiliary*  
12 *soil and plant substance, before the secretary registers any such*  
13 *product. As evidence of proof, the secretary may rely on*  
14 *experimental data, evaluations, or advice furnished by scientists,*  
15 *including scientists affiliated with the University of California,*  
16 *and may accept or reject additional sources of proof in the*  
17 *evaluation of any fertilizing material. In all cases, experimental*  
18 *proof shall relate to conditions in California under which the*  
19 *product is intended for use.*

20 (f) *Organic input material manufacturers shall be inspected at*  
21 *least once per year. The secretary may perform site inspections*  
22 *of organic input material manufacturing processes used to validate*  
23 *label nutrient guarantees, claims, and compliance with National*  
24 *Organic Program standards during the registration process. The*  
25 *secretary may accept inspections performed by a third-party*  
26 *organization recognized by the National Organic Program for*  
27 *out-of-state organic input material manufacturers. All inspection*  
28 *records obtained by the third-party organization shall be made*  
29 *available to the secretary upon request. When a third-party*  
30 *organization is conducting a site inspection, the organization shall*  
31 *notify the department of when the inspection is going to take place*  
32 *no less than 72 hours in advance of the inspection. Department*  
33 *representatives may be present at the inspection.*

34 ~~The~~

35 (g) (1) *The secretary, after hearing, may cancel the registration*  
36 *of, or refuse to register, any specialty fertilizer, packaged*  
37 *agricultural mineral, packaged soil amendment, organic input*  
38 *material, or auxiliary soil and plant substance, which the secretary*  
39 *determines is detrimental or injurious to plants, animals, public*  
40 *safety, or the environment when it is applied as directed, which is*

1 known to be of little or no value for the purpose for which it is  
2 intended, or for which any false or misleading claim is made or  
3 implied. The secretary may cancel the registration of any product  
4 of any person who violates this chapter.

5 ~~The~~

6 (2) *The* proceedings to determine whether to cancel or refuse  
7 registration of any of those products shall be conducted pursuant  
8 to Chapter 5 (commencing with Section 11500) of Part 1 of  
9 Division 3 of Title 2 of the Government Code. ~~The director~~  
10 *secretary* shall have all the powers that are granted pursuant to  
11 Chapter 5.

12 *SEC. 10. Section 14611 of the Food and Agricultural Code is*  
13 *amended to read:*

14 14611. (a) Any licensee whose name appears on the label who  
15 sells or distributes bulk fertilizing materials, as defined in Sections  
16 14517 and 14533, to unlicensed purchasers, shall pay to the  
17 secretary an assessment not to exceed two mills (\$0.002) per dollar  
18 of sales for all fertilizing materials. Any licensee whose name  
19 appears on the label of packaged fertilizing materials, as defined  
20 in Sections 14533 and 14551, shall pay to the secretary an  
21 assessment not to exceed two mills (\$0.002) per dollar of sales.  
22 The secretary may, based on the findings and recommendations  
23 of the board, reduce the assessment rate to a lower rate that  
24 provides sufficient revenue to carry out this chapter.

25 (b) In addition to the assessment provided in subdivision (a),  
26 the secretary may impose an assessment in an amount not to exceed  
27 one mill (\$0.001) per dollar of sales for all sales of fertilizing  
28 materials, to provide funding for research and education regarding  
29 the use and handling of ~~commercial and organic fertilizers~~  
30 *fertilizing material*, including, but not limited to, any environmental  
31 effects.

32 *SEC. 11. Section 14623 of the Food and Agricultural Code is*  
33 *amended to read:*

34 14623. The tonnage report shall be submitted to the secretary  
35 semiannually not later than January 31 and July 31 of each year.  
36 The secretary shall impose a penalty in the amount of two hundred  
37 dollars (\$200) on any person who does not submit the report on  
38 or before those dates. *Any tonnage report that is more than 90*  
39 *days past due is a cause for revocation of the license.*

1     *SEC. 12. Section 14631 of the Food and Agricultural Code is*  
2 *amended to read:*

3     14631. Every lot, parcel, or package of fertilizing material  
4 distributed into or within this state shall have attached to it, or the  
5 shipment shall be physically accompanied by, a label as required  
6 by the secretary, by regulation. The secretary may require proof  
7 of labeling statements and claims made for any fertilizing material.  
8 As evidence of proof, the secretary may rely on experimental data,  
9 evaluations, or advice furnished by scientists, including scientists  
10 affiliated with the University of California, and may accept or  
11 reject additional sources of proof. The secretary ~~may~~ *shall* cancel  
12 the approval of, or refuse to approve, a fertilizing material label if  
13 the secretary determines that adequate proof of label claims ~~do~~  
14 *does* not exist. The secretary, after hearing, may cancel the license  
15 of any person who distributes a fertilizing material with a label for  
16 which approval has been canceled or a label that has not been  
17 approved by the secretary.

18     *SEC. 13. Section 14632 of the Food and Agricultural Code is*  
19 *repealed.*

20     ~~14632. The sale or distribution of any lot, parcel, or package~~  
21 ~~of fertilizing material without the label specified in Section 14631~~  
22 ~~or the regulations adopted pursuant to that section, is an infraction~~  
23 ~~punishable by a fine of not more than two hundred fifty dollars~~  
24 ~~(\$250) if at least one notice of warning has been issued by the~~  
25 ~~director for a prior violation within a 12-month period. A second~~  
26 ~~or subsequent violation of this section within a 12-month period~~  
27 ~~is a misdemeanor punishable by a fine of not less than one hundred~~  
28 ~~dollars (\$100) and not more than one thousand dollars (\$1,000).~~

29     *SEC. 14. Section 14641 of the Food and Agricultural Code is*  
30 *amended to read:*

31     14641. The secretary shall have free access at reasonable times  
32 to all records, premises, *production processes*, or conveyances  
33 ~~which~~ *that* are used in the manufacture, transportation, importation,  
34 distribution, storage, or application of any fertilizing material.

35     *SEC. 15. Section 14642 of the Food and Agricultural Code is*  
36 *amended to read:*

37     14642. The secretary shall, at the times and to the extent  
38 necessary for the enforcement of this chapter, do all of the  
39 following:

40     (a) Take samples of any substance.

- 1 (b) Make analyses or examinations of any substance.
- 2 (c) Conduct investigations concerning the use, sale, adulteration,
- 3 or misbranding of any substance.

4 (d) *Inspect the fertilizing material manufacturing facilities and*  
5 *take samples at various stages of production to verify label and*  
6 *labeling claims and production processes.*

7 ~~SEC. 6.~~

8 *SEC. 16.* Section 14651 of the Food and Agricultural Code is  
9 amended to read:

10 14651. (a) Unless otherwise specified in this chapter, any  
11 violation of this chapter, or the regulations adopted pursuant to  
12 this chapter, is a misdemeanor, punishable by a fine of not more  
13 than one thousand dollars (\$1,000) for the first violation and not  
14 less than one thousand dollars (\$1,000) for each subsequent  
15 violation.

16 (b) The secretary may, after hearing, refuse to issue or renew,  
17 or may suspend or revoke, a license or registration for any violation  
18 of this chapter or any regulation that is adopted pursuant to this  
19 chapter.

20 (c) Upon calling a hearing, the secretary shall hand deliver or  
21 mail a notice of the hearing to the licensee or registrant specifying  
22 the time and place of the hearing at least 10 days prior to the  
23 hearing. The hearing officer may do any of the following:

24 (1) Administer oaths and take testimony.

25 (2) Issue subpoenas requiring the attendance of the licensee,  
26 registrant, or witnesses, together with books, records,  
27 memorandums, papers, and all other documents that may be  
28 pertinent to the case.

29 (3) Compel from the licensee or registrant and any witness the  
30 disclosure of all facts known to him or her regarding the case. In  
31 no instance shall any employee of Feed, Fertilizer, Livestock Drugs  
32 and Egg Regulatory Services serve as the hearing officer in any  
33 hearing conducted pursuant to this section.

34 (d) Any person who is denied a license, whose license is not  
35 renewed, or whose license is suspended or revoked pursuant to  
36 this section may appeal to the secretary.

37 ~~SEC. 7.~~

38 *SEC. 17.* Section 14651.5 is added to the Food and Agricultural  
39 Code, to read:

1 14651.5. (a) The department shall levy a civil penalty against  
2 any person who violates this chapter in an amount of not more  
3 than five thousand dollars (\$5,000) for each violation. The amount  
4 of the penalty assessed for each violation shall be based upon the  
5 nature of the violation, the seriousness of the effect of the violation  
6 upon the effectuation of the purposes and provisions of this chapter,  
7 and the impact of the penalty on the violator, including the deterrent  
8 effect on future violations.

9 (b) Upon a finding that the violation is minor or unintentional,  
10 in lieu of a civil penalty, the secretary may issue a notice of  
11 warning.

12 (c) A person against whom a civil penalty is levied shall be  
13 afforded an opportunity for a hearing before the secretary, upon a  
14 request made within 30 days after the date of issuance of the notice  
15 of penalty. At the hearing, the person shall be given the right to  
16 present evidence on his or her own behalf. If no hearing is  
17 requested, the civil penalty shall constitute a final and  
18 nonreviewable order.

19 (d) If a hearing is held, review of the decision of the secretary  
20 may be sought by the person against whom the civil penalty is  
21 levied within 30 days of the date of the final order of the secretary  
22 pursuant to Section 1094.5 of the Code of Civil Procedure.

23 (e) A civil penalty levied by the department pursuant to this  
24 section may be recovered in a civil action brought in the name of  
25 the state.

26 *SEC. 18. Section 14652 of the Food and Agricultural Code is*  
27 *amended to read:*

28 14652. (a) It is unlawful for any person to manufacture or  
29 distribute in this state any fertilizing material without complying  
30 with this chapter or the regulations adopted pursuant to this chapter.

31 (b) *It is unlawful for any person to adulterate, misbrand, or*  
32 *alter any fertilizing material with the result that the fertilizing*  
33 *material would be inconsistent with the label claims. Any violation*  
34 *of this subdivision is a misdemeanor punishable by a fine as*  
35 *follows:*

36 (1) *Not more than five thousand dollars (\$5,000) for the first*  
37 *violation that is not a knowing violation.*

38 (2) *Not more than fifteen thousand dollars (\$15,000) for each*  
39 *subsequent unknowing violation.*

1 (3) *Not less than fifteen thousand dollars (\$15,000) for each*  
2 *knowing violation.*

3 (c) *Any person found in violation of subdivision (b) of this*  
4 *section or subdivision (e) of Section 14682 may also be prohibited*  
5 *by the secretary from obtaining a license to sell organic input*  
6 *materials for three years.*

7 ~~SEC. 8.~~

8 *SEC. 19.* Section 14655 of the Food and Agricultural Code is  
9 amended to read:

10 14655. (a) Any lot of fertilizing material for which a hold  
11 order or notice is issued shall be held by the person having control  
12 of the material and shall not be distributed or moved except under  
13 the specific directions of the secretary, pending final disposition  
14 pursuant to this chapter. This does not prevent the person who has  
15 control of the material from inspecting any seized material or from  
16 taking a reasonable sample for evidence while in the presence of  
17 a person designated by the secretary.

18 (b) The movement, distribution, or sale of all or part of any  
19 product by the person having control of the material that has been  
20 quarantined by the secretary, unless the movement, distribution,  
21 or sale has the prior approval of the secretary, is a violation subject  
22 to a civil penalty as specified in Section 14651.5, or a misdemeanor  
23 punishable by a fine of not more than five thousand dollars  
24 (\$5,000). A second or subsequent violation of this subdivision is  
25 a misdemeanor punishable by a fine of not less than ten thousand  
26 dollars (\$10,000).

27 ~~SEC. 9.~~

28 *SEC. 20.* Section 14661 is added to the Food and Agricultural  
29 Code, to read:

30 14661. (a) The department shall be entitled to receive  
31 reimbursement from any person who is found in violation of this  
32 chapter for any reasonable attorney's fees and other related costs,  
33 including, but not limited to, investigative costs, involved in  
34 enforcement of this chapter.

35 (b) The department shall use all funds received pursuant to this  
36 chapter for the purposes of this chapter.

37 ~~SEC. 10.~~

38 *SEC. 21.* Section 14681 of the Food and Agricultural Code is  
39 amended to read:

1 14681. No person shall distribute misbranded fertilizing  
2 materials. A fertilizing material shall be deemed to be misbranded  
3 under any of the following conditions:

- 4 (a) If its labeling is false or misleading in any particular way.
- 5 (b) If it is distributed under the name of another fertilizing  
6 material.
- 7 (c) If it is not labeled as required by regulations adopted pursuant  
8 to this chapter.
- 9 (d) If it purports to be, or is represented as, a fertilizing material,  
10 or is represented as containing a primary or secondary plant nutrient  
11 or micronutrients, or both, unless the plant nutrients conform to  
12 the definition of identity, if any, prescribed by regulation. In  
13 adopting these regulations, due regard shall be given to commonly  
14 accepted definitions and official fertilizer terms such as those  
15 prescribed by the Association of American Plant Food Control  
16 Officials.

17 ~~SEC. 11.~~

18 *SEC. 22.* Section 14682 of the Food and Agricultural Code is  
19 amended to read:

20 14682. No person shall distribute an adulterated fertilizing  
21 material. A fertilizing material shall be deemed to be adulterated  
22 under any of the following conditions:

- 23 (a) If it contains any deleterious or harmful ingredient in  
24 sufficient amounts to render it injurious to beneficial plant life  
25 when applied in accordance with directions for use on the label,  
26 or if adequate warning statements or directions for use that may  
27 be necessary to protect plant life are not indicated on the label.
- 28 (b) If its composition falls below or differs from that which it  
29 is purported to possess by its labeling.
- 30 (c) If it contains unwanted crop seed or weed seed.
- 31 (d) If it is a threat to public safety.
- 32 (e) If an organic input material contains ingredients that, in type  
33 or amount, do not comply with the requirements of the National  
34 Organic Program standards, as specified in Part 205 (commencing  
35 with Section 205.1) of Subchapter M of Chapter I of Subtitle B of  
36 Title 7 of the Code of Federal Regulations.

37 ~~SEC. 12.~~ Section 14683 is added to the Food and Agricultural  
38 Code, to read:

39 14683. It is unlawful for any person to knowingly adulterate  
40 an organic input material with ingredients that, in type or amount,

1 do not comply with the requirements of the National Organic  
2 Program standards, as specified in Part 205 (commencing with  
3 Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title  
4 7 of the Code of Federal Regulations. Any violation of this section  
5 is a misdemeanor punishable by a fine of not more than fifteen  
6 thousand dollars (\$15,000) for the first violation and not less than  
7 fifteen thousand dollars (\$15,000) for each subsequent violation.  
8 In addition, any person found in violation of this section may be  
9 prohibited by the secretary from obtaining a license to sell organic  
10 input materials for three years.

11 ~~SEC. 13.~~

12 *SEC. 23.* No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

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