

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in section 5 in subsection 3 in the next to the last line (page 2, line 21 in L.D.) by striking out the following: "fertilizer the" and inserting the following: 'fertilizer the'

Amend the bill by inserting after section 5 the following:

'Sec. 6. 7 MRSA §748, sub-§3 is enacted to read:

3. Establishment of allowances. The commissioner shall establish by rule allowances for deviations from the guaranteed analysis for plant nutrients and from the overall index value of a fertilizer. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by striking out all of section 6 and inserting the following:

'Sec. 6. 7 MRSA §750, sub-§2, as enacted by PL 2003, c. 452, Pt. B, §11 and affected by Pt. X, §2, is amended to read:

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than ~~\$100~~\$500 may be adjudged.

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than ~~\$200~~\$1,000 may be adjudged.

Sec. 7. 7 MRSA §751 is enacted to read:

§ 751. Assessments for deficiencies

In addition to any fine adjudged under section 750, an assessment for deficiencies in a fertilizer must be made in accordance with this section. For the purposes of this section, a deficiency occurs when an investigational analysis determines that the allowances established in rules adopted under section 748, subsection 3 have been exceeded.

1. Primary plant nutrients; overall index. An assessment of 2 times the commercial value of the deficiency or deficiencies as determined under subsection 3 must be made if:

A. The analysis determines that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients; or

B. The analysis determines that the overall index value is deficient.

When a fertilizer is subject to an assessment under both paragraphs A and B, the larger assessment applies.

2. Other deficiencies. When a fertilizer is labeled to guarantee or a bulk fertilizer is accompanied by a statement guaranteeing that the fertilizer contains recognized plant nutrients other than nitrogen, available phosphate or soluble potash, the commissioner may evaluate the fertilizer and prescribe an assessment for deficiencies in any of the claimed nutrients based on commercial values determined under subsection 3.

3. Determination of commercial value. For the purpose of determining the commercial value of fertilizer, the commissioner shall use the amount originally invoiced to the consumer per unit of nitrogen, available phosphate, soluble potash or other nutrients that the registrant is required to or may guarantee. The values derived from the invoice must be used in determining and the assessment.

4. Payment to consumer; commissioner. Assessments made under subsections 1 and 2 must be paid by the registrant to the consumer of the lot of fertilizer represented by the sample analyzed. The commissioner shall send notification of the amount of the assessment with the results of the analysis sent in accordance with section 745. Assessments must be made within 30 days of the date of the notification. If the consumer cannot be located, the registrant shall submit the assessment to the commissioner for deposit in the commercial fertilizer account under subsection 5.

5. Commercial fertilizer account. The commissioner shall deposit all assessments submitted to the commissioner in accordance with subsection 4 in a dedicated account established within the department. The account is a nonlapsing interest-bearing account. Funds from the account may only be used to pay costs of sampling and analyzing fertilizer.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes technical changes to the bill to clarify the process for making assessments to consumers when analysis of fertilizers indicates there is a deficiency in one or more nutrients. It also provides for assessments received by the Commissioner of Agriculture, Food and Rural Resources to be deposited in a dedicated account and used to pay costs for sampling and analyzing fertilizers.