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**SUBSTITUTE SENATE BILL 5318**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senator Warnick; by request of Department of Agriculture)

READ FIRST TIME 02/05/21.

1            AN ACT Relating to fertilizer fees; amending RCW 15.54.275,  
2 15.54.325, 15.54.350, and 15.54.362; creating a new section;  
3 providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 15.54.275 and 2013 c 144 s 8 are each amended to  
6 read as follows:

7            (1) No person may distribute a bulk fertilizer in this state  
8 until a license to distribute has been obtained by that person. An  
9 annual license is required for each out-of-state or in-state location  
10 that distributes bulk fertilizer in Washington state. An application  
11 for each location must be filed on forms provided by the business  
12 licensing system established under chapter 19.02 RCW and must be  
13 accompanied by an annual fee of (~~twenty-five~~) fifty dollars per  
14 location. The license expires on the business license expiration  
15 date.

16            (2) An application for license must include the following:

17            (a) The name and address of licensee.

18            (b) Any other information required by the department by rule.

19            (3) The name and address shown on the license must be shown on  
20 all labels, pertinent invoices, and storage facilities for fertilizer  
21 distributed by the licensee in this state.

1 (4) If an application for license renewal provided for in this  
2 section is not filed prior to the business license expiration date, a  
3 delinquency fee of (~~twenty-five~~) fifty dollars must be assessed and  
4 added to the original fee and must be paid by the applicant before  
5 the renewal license is issued. The assessment of this delinquency fee  
6 does not prevent the department from taking any other action as  
7 provided for in this chapter. ~~The penalty does not apply if the~~  
8 ~~applicant furnishes an affidavit that he or she has not distributed~~  
9 ~~this commercial fertilizer subsequent to the expiration of his or her~~  
10 ~~prior license.))~~

11 **Sec. 2.** RCW 15.54.325 and 2020 c 20 s 1002 are each amended to  
12 read as follows:

13 (1) No person may distribute in this state a commercial  
14 fertilizer until it has been registered with the department by the  
15 producer, importer, or packager of that product.

16 (2) An application for registration must be made on a form  
17 furnished by the department and must include the following:

18 (a) The product name;

19 (b) The brand and grade;

20 (c) The guaranteed analysis;

21 (d) Name, address, and phone number of the registrant;

22 (e) A label for each product being registered;

23 (f) Identification of those products that are (i) waste-derived  
24 fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer  
25 materials containing phosphate;

26 (g) The concentration of each metal, for which standards are  
27 established under RCW 15.54.800, in each product being registered,  
28 unless the product is (i) anhydrous ammonia or a solution derived  
29 solely from dissolving anhydrous ammonia in water, (ii) a customer-  
30 formula fertilizer containing only registered commercial fertilizers,  
31 or (iii) a packaged commercial fertilizer whose plant nutrient  
32 content is present in the form of a single chemical compound which is  
33 registered in compliance with this chapter and the product is not  
34 blended with any other material. The provisions of (g)(i) of this  
35 subsection do not apply if the anhydrous ammonia is derived in whole  
36 or in part from waste such that the fertilizer is a "waste-derived  
37 fertilizer" as defined in RCW 15.54.270. Verification of a  
38 registration relied on by an applicant under (g)(iii) of this  
39 subsection must be submitted with the application;

1 (h) If a waste-derived fertilizer or micronutrient fertilizer,  
2 information to ensure the product complies with chapter 70A.300 RCW  
3 and the resource conservation and recovery act, 42 U.S.C. Sec. 6901  
4 et seq.; and

5 (i) Any other information required by the department by rule.

6 (3) All companies planning to mix customer-formula fertilizers  
7 shall include the statement "customer-formula grade mixes" under the  
8 column headed "product name" on the product registration application  
9 form. All customer-formula fertilizers sold under one brand name  
10 shall be considered one product.

11 (4) Registrations are issued by the department for a two-year  
12 period beginning on July 1st of a given year and ending twenty-four  
13 months later on July 1st, except that registrations issued to a  
14 registrant who applies to register an additional product during the  
15 last twelve months of the registrant's period expire on the next July  
16 1st.

17 (5) An application for a new registration must be accompanied by  
18 a fee of one hundred fifty dollars for each product.

19 (6) Application for renewal of registration is due July 1st of  
20 each registration period and must be accompanied by a renewal fee of  
21 one hundred twenty dollars for each product. If an application for  
22 renewal is not received by the department by the due date, a late fee  
23 of ~~((ten))~~ fifty dollars per product is added to the original fee and  
24 must be paid by the applicant before the renewal registration may be  
25 issued. ~~((A late fee does not apply if the applicant furnishes an~~  
26 ~~affidavit that he or she has not distributed this commercial~~  
27 ~~fertilizer subsequent to the expiration of the prior registration.))~~  
28 Payment of a late fee does not prevent the department from taking any  
29 action authorized by this chapter for the violation.

30 **Sec. 3.** RCW 15.54.350 and 1993 c 183 s 6 are each amended to  
31 read as follows:

32 (1) There shall be paid to the department for all commercial  
33 fertilizers distributed in this state to nonregistrants or  
34 nonlicensees an inspection fee of ~~((fifteen))~~ twenty cents per ton of  
35 lime and ~~((thirty))~~ thirty-five cents per ton of all other commercial  
36 fertilizer distributed during the year beginning July 1st and ending  
37 June 30th.

38 (2) Distribution of commercial fertilizers for shipment to points  
39 outside this state may be excluded.

1 (3) When more than one distributor is involved in the  
2 distribution of a commercial fertilizer, the last registrant or  
3 licensee who distributes to a nonregistrant or nonlicensee is  
4 responsible for paying the inspection fee, unless the payment of fees  
5 has been made by a prior distributor of the fertilizer.

6 **Sec. 4.** RCW 15.54.362 and 2008 c 292 s 3 are each amended to  
7 read as follows:

8 (1) Every registrant or licensee who distributes commercial  
9 fertilizer in this state must file a semiannual report on forms  
10 provided by the department stating the number of net tons of each  
11 commercial fertilizer distributed in this state.

12 (a) For the period January 1st through June 30th of each year,  
13 the report is due on July 31st of that year; and

14 (b) For the period July 1st through December 31st of each year,  
15 the report is due on January 31st of the following year.

16 (2) Upon permission of the department, a person distributing in  
17 the state less than one hundred tons for each six-month period during  
18 any annual reporting period of July 1st through June 30th may submit  
19 an annual report on a form provided by the department that is due on  
20 the July 31st following the period. The department may accept sales  
21 records or other records accurately reflecting the tonnage sold and  
22 verifying such reports.

23 ~~((2))~~ (3) Each person responsible for the payment of inspection  
24 fees for commercial fertilizer distributed in this state must include  
25 the inspection fees with each semiannual or annual report. If in an  
26 annual reporting period a registrant or licensee distributes less  
27 than ~~((eighty-three))~~ one hundred forty-three tons of commercial  
28 fertilizer or less than ~~((one hundred sixty-seven))~~ two hundred fifty  
29 tons of commercial lime or equivalent combination of the two, the  
30 registrant or licensee must pay the minimum inspection fee of  
31 ~~((twenty-five))~~ fifty dollars.

32 ~~((3))~~ (4) The department may, upon request, require registrants  
33 or licensees to furnish information setting forth the net tons of  
34 commercial fertilizer distributed to each location in this state.

35 ~~((4))~~ (5) If the semiannual or annual report indicates that  
36 zero tons of commercial fertilizer were distributed during the  
37 reporting period, the person responsible for completing the report  
38 must pay a filing fee of twelve dollars and fifty cents for a  
39 semiannual report or twenty-five dollars for an annual report.

1        (6)(a) If a complete report is not received by the due date, the  
2 person responsible for filing the report must pay a late fee of  
3 (~~twenty-five~~) fifty dollars.

4        (b) If the appropriate inspection fees are not received by the  
5 due date, the person responsible for paying the inspection fee must  
6 pay a late fee equal to ten percent of the inspection fee owed or  
7 (~~twenty-five~~) fifty dollars, whichever is greater.

8        ~~((c) Payment of a late fee does not prevent the department from  
9 taking any other action authorized by this chapter for the violation.~~

10        ~~(5))~~ (7) It is a misdemeanor for any person to divulge any  
11 information provided under this section that would reveal the  
12 business operation of the person making the report. However, nothing  
13 contained in this subsection may be construed to prevent or make  
14 unlawful the use of information concerning the business operations of  
15 a person in any action, suit, or proceeding instituted under the  
16 authority of this chapter, including any civil action for the  
17 collection of unpaid inspection fees, which action is authorized and  
18 which shall be as an action at law in the name of the director of the  
19 department.

20        (8) Payment of late fees or filing fees provided for under this  
21 section does not prevent the department from taking any other action  
22 authorized by this chapter for the violation.

23        NEW SECTION.        **Sec. 5.** All new or renewal applications for  
24 registration under this act received on or after the effective date  
25 of this section are subject to the provisions of this act, including  
26 all fees required by this act.

27        NEW SECTION.        **Sec. 6.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of  
29 the state government and its existing public institutions, and takes  
30 effect June 1, 2021.

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