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AB-1811 Fertilizer: organic input material: registration: inspections. (2015-2016)

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Assembly Bill No. 1811

CHAPTER 448

An act to amend Sections 14557, 14601, 14603, and 14681 of, and to add Section 14604 to, the Food and Agricultural Code, relating to fertilizer.

[Approved by Governor September 22, 2016. Filed with Secretary of State September 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1811, Dodd. Fertilizer: organic input material: registration: inspections.

Existing law generally regulates fertilizing materials, as defined and which includes organic input material, and provides for the licensure of individuals who manufacture or distribute fertilizing materials. Existing law requires organic input material manufacturers to be inspected at least once per year. Existing law, for purposes of those provisions, defines "provisional registration" to mean that under certain circumstances, a label for renewal on an auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, organic input material, or specialty fertilizer, alone or in any combination, may be registered for a limited period of time while labels are being corrected and reprinted.

This bill would provide that such a label for renewal may be registered for a limited period of time while labels are being corrected and reprinted or during registration renewal.

Existing law requires that each differing label, other than weight or package size, as described, for specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material, and packaged soil amendment be registered, and requires that all registrations be renewed in January of an even-numbered year, and be valid until December 31 of the following odd-numbered year, if issued in January of that same year.

This bill would delete those provisions regarding the date for renewal of those registrations and would instead authorize the Department of Food and Agriculture to develop a schedule for all registration to be submitted to the department for approval and would require that registrations be valid for 2 years.

Existing law authorizes the Secretary of Food and Agriculture to perform site inspections of organic input material manufacturing processes used to validate label nutrient guarantees, claims, and compliance with specified federal standards during the registration process, and to accept inspections performed by a 3rd-party organization recognized by the National Organic Program for out-of-state organic input material manufacturers. Existing law requires all inspection records obtained by the 3rd-party organization to be made available to the secretary upon request.

This bill would eliminate the requirement that organic input material manufacturers be inspected at least once per year, and would delete the limitation that the secretary is authorized to perform site inspections of organic input material manufacturing processes only during the registration process. The bill would provide that those site inspections give priority to inspecting high-risk products and manufacturers. The bill would authorize the Department of Food and Agriculture to accept inspections performed by a 3rd-

party organization approved by the secretary for organic input material manufacturers. The bill would require all inspection records obtained by a contracted 3rd-party organization to be made available to the secretary upon request.

This bill would authorize the secretary to grant a provisional registration for a period not exceeding 6 months for a registered product undergoing renewal. The bill would make various changes to the dates during which registration and renewals are valid.

Existing law prohibits a person from distributing a misbranded fertilizing material under specified conditions, including, among other things, if the misbranded fertilizing material is deemed to be distributed under the name of another fertilizing material.

This bill would revise that condition to prohibit distribution of a misbranded fertilizing material deemed to be distributed under the name of another fertilizing material, as determined by the department.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14557 of the Food and Agricultural Code is amended to read:

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

SEC. 2. Section 14601 of the Food and Agricultural Code is amended to read:

14601. (a) Each differing label, other than weight or package size, such as changes in the guaranteed analysis, derivation statement, or anything that implies a different product, for specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material, and packaged soil amendment shall be registered. The department may develop a schedule for all registrations to be submitted to the department for approval, and registrations shall be valid for two years. The registration fee shall not exceed two hundred dollars (\$200) per product, except for organic input material.

(b) Notwithstanding subdivision (a), the registration fee for organic input material shall not exceed five hundred dollars (\$500) per product, as the registration of organic input material labels require additional departmental resources and review time to ensure that nutrient guarantees and claims are scientifically feasible and meet National Organic Program standards. Funds generated from the registration of organic input material shall be deposited into the Organic Input Materials Account in the Department of Food and Agriculture Fund and, notwithstanding Section 221, shall be available upon appropriation by the Legislature.

(c) The secretary may, based on the findings and recommendations of the board, reduce the registration fees to a lower rate that provides sufficient revenue to carry out this chapter.

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

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

(f) The secretary may perform site inspections of organic input material manufacturing processes used to validate label nutrient guarantees, claims, and compliance with National Organic Program standards giving priority to inspecting high-risk products and manufacturers. The department may accept inspections performed by a third-party organization approved by the secretary for organic input material manufacturers. All inspection records obtained by a contracted third-party organization shall be made available to the secretary upon request. When a contracted third-party organization is conducting a site inspection, the organization shall notify the department of when the inspection is going to take place no less than 72 hours in advance of the inspection. Department representatives may be present at the inspection.

(g) (1) The secretary, after hearing, may cancel the registration of, or refuse to register, any specialty fertilizer, packaged agricultural mineral, packaged soil amendment, organic input material, or auxiliary soil and plant substance, which the secretary determines is detrimental or injurious to plants, animals, public safety, or the environment when it is applied as directed, which is known to be of little or no value for the purpose for which it is intended, or for which any false or misleading claim is made or implied. The secretary may cancel the registration of any product of any person who violates this chapter.

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

SEC. 3. Section 14603 of the Food and Agricultural Code is amended to read:

14603. Each application for renewal shall be accompanied by a fee not to exceed two hundred dollars (\$200) for each product label. If a registration is not renewed within one calendar month following expiration, a penalty of fifty dollars (\$50) per product label shall be added to the fee.

SEC. 4. Section 14604 is added to the Food and Agricultural Code, to read:

14604. The secretary may grant a provisional registration for a period not exceeding six months for a registered product undergoing renewal. All fees shall be paid before the issuance of any provisional registration.

SEC. 5. Section 14681 of the Food and Agricultural Code is amended to read:

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

(a) If its labeling is false or misleading in any particular way.

(b) If it is distributed under the name of another fertilizing material, as determined by the department.

(c) If it is not labeled as required by regulations adopted pursuant to this chapter.

(d) If it purports to be, or is represented as, a fertilizing material, or is represented as containing a primary or secondary plant nutrient or micronutrients, or both, unless the plant nutrients conform to the definition of identity, if any, prescribed by regulation. In adopting these regulations, due regard shall be given to commonly accepted definitions and official fertilizer terms such as those prescribed by the Association of American Plant Food Control Officials.