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HOUSE BILL NO. 556

Offered January 11, 2006

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A BILL to amend and reenact §§ 3.1-106.6 and 3.1-249.52 of the Code of Virginia, relating to dual applicator license for pesticide and fertilizer.

 Patron—Oder

 Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 3.1-106.6 and 3.1-249.52 of the Code of Virginia are amended and reenacted as follows:**

§ 3.1-106.6. Licensing, permitting and registration.

A. The license year for all distributors and manufacturers, permit year for all contractor-applicators, registration year for any regulated product, and tonnage reporting year are July 1 through June 30 of the following year. Each license, permit or registration shall be issued to expire on June 30 of the year for which it is issued, provided that any license, permit or registration shall be valid through July 31 of the next ensuing license, permit or registration year or until the issuance of the renewal license, permit or registration, whichever event first occurs, if the holder thereof shall have filed a renewal application with the Commissioner on or before June 30 of the year for which the current license, permit, or registration was issued. The manufacturer or guarantor shall file the tonnage report and pay the inspection fee to the Commissioner on August 1 of the year following the license year.

B. Any person whose name appears upon the label of any regulated product as manufacturer or distributor shall obtain a license to distribute in the Commonwealth from the Commissioner prior to distributing said regulated product. The person who distributes regulated product shall file an application with the Commissioner on a form furnished or approved by the Commissioner, and pay to the Commissioner a license fee of fifty dollars.

C. Any person who distributes regulated product shall obtain a license prior to distributing any regulated product for each manufacturing location that it operates and that distributes any regulated product within the Commonwealth. The person who distributes regulated product shall apply for a license on a form furnished or approved by the Commissioner, and pay to the Commissioner a license fee of fifty dollars for each manufacturing location that distributes in the Commonwealth.

D. Any person who distributes regulated product shall include on the application the following:

1. The name and address of the applicant; and
2. The name and address of each of the applicant's distribution points in the Commonwealth.

E. The licensee shall show the name and address shown on the license on:

1. The labels of any regulated product, and pertinent invoices thereof, distributed by the licensee in the Commonwealth; and

2. All storage facilities for any regulated product distributed by the licensee in the Commonwealth.

F. The licensee shall inform the Commissioner in writing of additional distribution points established during the period of the license.

G. In addition to licensing requirements, any person whose name is on the label of and who distributes in the Commonwealth any specialty fertilizer packaged in containers of fifty pounds or less dry net weight, or five gallons or less liquid net volume, shall apply for registration for such specialty fertilizer with the Commissioner on forms furnished or approved by the Commissioner; shall pay to the Commissioner by July 1 of each registration year a registration fee of fifty dollars for each grade under a given brand prior to distributing said fertilizer in the Commonwealth; and shall provide labels for each grade under a given brand with the application. The Commissioner or his agent shall furnish a copy of the registration to the applicant after approval of the registration.

H. In addition to the licensing requirements, any person who distributes in the Commonwealth a soil amendment, soil conditioner, or horticultural growing medium shall apply for registration for such soil amendment, soil conditioner, or horticultural growing medium with the Commissioner on forms furnished or approved by the Commissioner; pay to the Commissioner by July 1 of each registration year a registration fee of \$100 for each product name or brand of soil amendment, soil conditioner or horticultural growing medium prior to distributing said product in the Commonwealth; and provide labels for each product name or brand with the application. The Commissioner or his agent shall furnish a copy of the registration to the applicant after approval of the registration.

I. Custom-media and horticultural growing media planted with live plant material are exempt from labeling and registration requirements and inspection fees.

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59 J. Any person applying for registration of a specialty fertilizer, soil amendment, soil conditioner, or
60 horticultural growing medium shall include with the application a label including the following
61 information:

- 62 1. For specialty fertilizer, the grade under a given brand; for soil amendments, soil conditioners, or
63 horticultural growing media, the product name or brand;
- 64 2. The guaranteed analysis;
- 65 3. The name and address of the registrant; and
- 66 4. The quantity statement.

67 K. The Commissioner or his agent may require verification of any labeling claims for any regulated
68 product.

69 L. If the Commissioner or his agent identifies any unregistered regulated product in commerce in the
70 Commonwealth during the registration year, the Commissioner or his agent shall give the guarantor a
71 grace period of fifteen working days from issuance of notification within which to register the regulated
72 product. Any person required to register any regulated product who fails to register the regulated product
73 within the grace period shall pay to the Commissioner a fifty dollar late fee in addition to the
74 registration fee. The Commissioner or his agent may issue a stop sale, use, removal or seizure order
75 upon any regulated product until the registration is issued.

76 M. No person, other than a licensee or an agent of a licensee, may distribute or apply any regulated
77 product for profit, unless (i) the person completes an application form furnished by the Commissioner,
78 pays the fifty-dollar annual fee required to be a contractor-applicator, and holds a permit from the
79 Commissioner to be a contractor-applicator; or (ii) the person is an employee or agent of a
80 contractor-applicator who holds a valid permit, in which case no permit is required and no fee is due
81 from such employee or agent. *A dual applicator license for the application of fertilizer and pesticides*
82 *can be obtained pursuant to subsection E of §3.1-249.52 (E).* The contractor-applicator shall guarantee
83 compliance with all provisions of this chapter to include an assurance of delivery of the grade of
84 fertilizer as described on the consumer's invoice.

85 N. Any person who engages in business as a manufacturer or contractor-applicator for a period of at
86 least thirty days or more, and who has failed to obtain a license or permit during that period, shall pay
87 to the Commissioner a fifty dollar late fee, in addition to the license or permit fee.

88 § 3.1-249.52. Application and certification of commercial applicators.

89 A. No person shall, in exchange for compensation of any kind other than the trading of personal
90 services between producers of agricultural commodities use, except under supervised conditions of
91 training for certification, or supervise the use of any pesticide without first obtaining certification as
92 either a commercial applicator or registered technician in accordance with regulations promulgated by
93 the Board. Application for a commercial applicator's or registered technician's certificate shall be made
94 in writing to the Commissioner. Each application for a certificate shall contain information regarding the
95 applicant's qualifications and proposed operations, the classification or classifications the applicant is
96 applying for, and shall include the following: (i) the full name of the applicant or if the applicant is a
97 member of a firm or partnership, the names of the principal officers of the association, corporation or
98 group; (ii) the principal business address of the applicant in the Commonwealth and elsewhere; and (iii)
99 any other information required by the Commissioner.

100 B. The Commissioner shall not issue a commercial applicator's or registered technician's certificate
101 until the individual who uses or supervises the use of any pesticide is certified by (i) presenting proof of
102 completion of a training course approved by the Board and appropriate to the desired classification and
103 (ii) passing a written examination.

104 C. Each commercial applicator and registered technician shall be required to renew his certification
105 biennially under the classification or subclassification for which such applicator is certified or technician
106 is registered, subject to payment of the required fee and presentation of proof of completion of a
107 Board-approved recertification course. However, reexamination or special examination may be required
108 by the Board of any person (i) whose certification has been suspended, revoked, or modified pursuant to
109 subsection C of § 3.1-249.63, (ii) if significant technological developments have occurred requiring
110 additional knowledge related to the classifications or subclassifications for which the person has been
111 certified or registered, (iii) when required by additional standards established by the United States
112 Environmental Protection Agency, (iv) when applying for a different classification of certification,
113 including upgrading from technician to applicator status, or (v) when required by regulations of the
114 Board. In the event that reexamination is required, the fee shall be no greater than that imposed for
115 initial certification.

116 D. If the Commissioner finds the applicant meets the qualifications established by the Board to apply
117 pesticides in any of the classifications he has applied for, and if the applicant is applying for a
118 certificate to engage in aerial application of such pesticides and has met all of the requirements of the
119 Federal Aviation Agency, the Department of Aviation of the Commonwealth, and any other applicable
120 federal or state laws or regulations to operate the equipment described in the application, the

Commissioner shall issue a certificate for classifications for which the applicant is qualified. The Commissioner may limit the certification of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a certificate is not issued as applied for, the Commissioner shall, within thirty days, inform the applicant in writing of the reasons therefor. Copies of such action shall be reported to the Board.

E. Any applicant seeking a commercial pesticide applicator's license may make a concurrent application for a fertilizer contractor applicator permit. Any applicant who meets the qualifications established pursuant to this section and subsection M of § 3.1-106.6 may be issued a dual applicator license. A dual applicator license shall allow any holder to apply both fertilizer and pesticide in the classifications designated in the license. The cost for the license shall not exceed the combined cost of the pesticide applicator license and the fertilizer applicator permit.