

# VIRGINIA ACTS OF ASSEMBLY -- 2012 RECONVENED SESSION

## CHAPTER 796

*An Act to amend and reenact § 3.2-3607 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-104.2:1, relating to nitrogen application rates; labeling.*

[H 1210]

Approved April 18, 2012

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-3607 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding a section numbered 10.1-104.2:1 as follows:**

§ 3.2-3607. Product registration and label requirements; exemptions.

A. In addition to licensing requirements:

1. Any person who is the guarantor of and who distributes in the Commonwealth any specialty fertilizer shall: (i) apply for registration for such specialty fertilizer with the Commissioner on forms furnished by the Commissioner; (ii) pay to the Commissioner by July 1 of each registration year a registration fee of \$50 for each grade under a given brand prior to distributing the fertilizer in the Commonwealth; and (iii) provide labels for each grade under a given brand with the application.

2. Any person who is the guarantor and who distributes in the Commonwealth a soil amendment or horticultural growing medium shall: (i) apply for registration for such soil amendment or horticultural growing medium with the Commissioner on forms furnished by the Commissioner; (ii) 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 or horticultural growing medium prior to distributing the product in the Commonwealth; and (iii) provide labels for each product name or brand with the application.

B. The Commissioner shall furnish a certificate of registration to the applicant after approval of the registration.

C. Any person applying for registration of a specialty fertilizer, soil amendment or horticultural growing medium shall include with the application the following information:

1. For specialty fertilizer, the grade under a given brand; for soil amendments or horticultural growing media, the product name or brand;

2. The guaranteed analysis;

3. The name and address of the registrant; and

4. The quantity statement.

D. The Commissioner may require verification of any labeling claims for and any composition of any regulated product.

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

F. Beginning December 31, 2013, no lawn maintenance fertilizer containing more than zero percent phosphorus or other compounds containing phosphorus, such as phosphate, shall be registered with the Commissioner or offered for sale, distribution, or use in the Commonwealth. This prohibition does not include lawn fertilizer, manipulated manure, yard waste compost, products derived from sewage sludge, soils containing fertilizer, fertilizer products intended primarily for gardening, tree, shrub, and indoor plant application, including nurseries, or reclaimed water. The provisions of this section shall not restrict the continued sale by retailers of any prohibited fertilizer from any existing inventories in stock on December 31, 2013.

G. *Beginning July 1, 2014, only lawn maintenance fertilizer that, when applied in accordance with its directions for use, results in the application of nitrogen at rates that are consistent with the nitrogen application rates recommended for turfgrass in the Virginia Nutrient Management Standards and Criteria shall be registered with the Commissioner or offered for sale, distribution, or use in the Commonwealth. The provisions of this subsection shall not restrict the continued sale by retailers of any prohibited fertilizer from existing inventories in stock on July 1, 2014.*

H. The Commissioner shall give the guarantor or distributor of any unregistered regulated product in commerce in the Commonwealth a grace period of 15 working days from issuance of notification within which to register the regulated product. Any person required to register any regulated product who fails to register the regulated product within the grace period or fails to comply with registration renewal requirements shall pay to the Commissioner a \$50 late fee in addition to the registration fee. The Commissioner may issue a stop sale, use, removal or seizure order upon any regulated product until the registration is issued.

§ 10.1-104.2:1. *Nitrogen application rates; regulations.*

A. *The Department shall adopt regulations that amend the application rates in the Virginia Nutrient Management Standards and Criteria by incorporating into such regulations the recommended*

*application rates for nitrogen in lawn fertilizer and lawn maintenance fertilizer and the recommended application rates for "slow or controlled release fertilizer" and "enhanced efficiency lawn fertilizer," as such terms are defined and adopted or proposed for adoption by the American Association of Plant Food Control Officials, as described in the Virginia Department of Agriculture and Consumer Services' December 2011 "Report on the Use of Slowly Available Nitrogen in Lawn Fertilizer and Lawn Maintenance Fertilizer."*

*B. Such regulations shall follow a fast-track regulatory process established pursuant to § 2.2-4012.1 of the Administrative Process Act and shall be adopted no later than July 1, 2014.*