



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1761

Introduced 2/15/2019, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

505 ILCS 120/Act title	
505 ILCS 120/1	from Ch. 5, par. 2801-1
505 ILCS 120/10	from Ch. 5, par. 2801-10
505 ILCS 120/15	from Ch. 5, par. 2801-15
505 ILCS 120/20	from Ch. 5, par. 2801-20
505 ILCS 120/25	from Ch. 5, par. 2801-25
505 ILCS 120/30	from Ch. 5, par. 2801-30
505 ILCS 120/35	from Ch. 5, par. 2801-35
505 ILCS 120/40	from Ch. 5, par. 2801-40
505 ILCS 120/45	from Ch. 5, par. 2801-45
505 ILCS 120/50	from Ch. 5, par. 2801-50

Amends the Soil Amendment Act. Provides that the Act may be cited as the Soil, Plant, and Additive Act. Changes references in the Act from soil amendment to additive or amendment. Defines "active ingredient", "additive", "amendment", "inert ingredient", and "plant amendment". Makes other changes.

LRB101 07591 SLF 52638 b

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Soil Amendment Act is amended by changing
5 changing the title of the Act and Sections 1, 10, 15, 20, 25,
6 30, 35, 40, 45, and 50 as follows:

7 (505 ILCS 120/Act title)

8 An Act in relation to agriculture ~~soil amendments~~.

9 (505 ILCS 120/1) (from Ch. 5, par. 2801-1)

10 Sec. 1. Short title. This Act may be cited as the Soil,
11 Plant, and Additive Amendment Act.

12 (Source: P.A. 87-394.)

13 (505 ILCS 120/10) (from Ch. 5, par. 2801-10)

14 Sec. 10. Definitions. As used in this Act:

15 "Active ingredient" means a substance in a product, whether
16 a bacterial agent, mineral element, or chemical compound that
17 performs the claim or purpose for which the product is intended
18 but is not a fertilizer material or any chemical registered
19 with FIFRA.

20 "Additive" means a substance or a mixture of substances
21 incorporated with or on a fertilizer or fertilizer material or

1 parts thereof including anhydrous ammonia and low-pressure
2 nitrogen solutions as defined in Title 8, part 215 of the
3 Illinois Administrative Code for an enhanced efficiency
4 fertilizer or; (2) un-manipulated animal or vegetable manure,
5 or both, or organic by-products or organic products intended
6 for nutrient management; but is not a fertilizer material or
7 any chemical registered with FIFRA.

8 "Amendment" means either a soil amendment or plant
9 amendment.

10 "Brand" means a term, design, trademark, product name, or
11 other specific designation under which individual additives or
12 ~~soil~~ amendments are distributed.

13 "Bulk" means in a nonpackaged form.

14 "Department" means the Department of Agriculture.

15 "Director" means the Director of the Department of
16 Agriculture.

17 "Distribute" means offer or hold for sale, sell, barter,
18 give away, ship, deliver for shipment, receive and then
19 deliver, or offer to deliver an additive or ~~a soil~~ amendment in
20 this State.

21 "Distributor" means any person who distributes an additive
22 or ~~a soil~~ amendment in this State.

23 "FIFRA" means the Federal Insecticide, Fungicide, and
24 Rodenticide Act.

25 "Inert ingredient" means the non-active substance present
26 in an additive or amendments.

1 "Investigational allowance" means an allowance for
2 variations in analytical determination inherent in the taking,
3 preparation, and analysis of an official sample of an additive
4 or a soil amendment.

5 "Label" means all written, printed, or graphic material on
6 or attached to the immediate container or wrapping or the
7 statement accompanying an additive or a soil amendment.

8 "Labeling" means the label and all other written, printed,
9 or graphic material accompanying an additive or a soil
10 amendment or referring to it in any other media including web
11 sites and e-mails used to disseminate information to the public
12 in promoting the sale of an additive or a soil amendment.

13 "Minimum percentage" means the percent of active
14 ingredient or the soil amending ingredient that must be present
15 in a product before the product will be accepted for
16 registration or offered for sale.

17 "Official sample" means any sample of an additive or a soil
18 amendment taken by the Director or his or her agent or designee
19 and designated as "official" by the Director.

20 ~~"Other ingredient" means the non-soil amending substance~~
21 ~~present in soil amendment products.~~

22 "Percent" or "percentage" means a part of the whole by
23 weight.

24 "Person" means an individual, partnership, association,
25 fiduciary, corporation, or other organized group of persons
26 whether incorporated or not.

1 "Plant amendment" means any substance applied to plants or
2 seeds that is intended to improve germination, growth, yield,
3 product quality, reproduction, flavor, or other desirable
4 characteristics of plants other than fertilizer, an additive,
5 soil amendment, liming materials, animal and vegetable
6 manures, or other materials which may be exempted by
7 regulation, including, but not limited to, plant growth
8 regulators or stimulants, silicates, or vitamins. A chemical
9 registered as a pesticide under FIFRA is not a plant amendment
10 for purposes of this Act.

11 "Registrant" means the person who registers additives or
12 ~~soil~~ amendments under the provisions of this Act.

13 "Soil amendment" means any substance or material ~~about~~
14 ~~which it is claimed that it will and~~ is intended to improve the
15 physical, chemical, biochemical, biological, or other
16 characteristics of the soil or otherwise affect soil ~~and~~
17 ~~therefore is claimed~~ to enhance crop production capacity or
18 increase crop yield. The term does not include fertilizer
19 material, additive, plant amendment, agricultural limestone,
20 marl, burnt or hydrated lime, sewage sludge produced by a
21 sanitary district, or animal or vegetable manure that has not
22 been processed or manipulated to chemically alter it. The term
23 includes, but is not limited to, ~~several soil and plant~~
24 ~~additive materials defined and referred to as~~ soil
25 conditioners, ~~+~~ ~~or~~ wetting agents and surfactants, ~~+~~ ~~or~~
26 biological inoculants and activators; ~~or plant growth~~

1 ~~regulators and stimulants.~~ Any chemical registered with ~~as a~~
2 ~~pesticide under~~ FIFRA is not a soil amendment for purposes of
3 this Act.

4 ~~"Soil amending ingredient" means the substance in a soil~~
5 ~~amendment product, whether a bacterial agent, mineral element,~~
6 ~~or chemical compound, that acts to improve soil or enhance crop~~
7 ~~production but is not a fertilizing material.~~

8 (Source: P.A. 87-394.)

9 (505 ILCS 120/15) (from Ch. 5, par. 2801-15)

10 Sec. 15. Registration.

11 (a) Each ~~On and after July 1, 1992, each~~ separately
12 identified additive or soil amendment shall be registered with
13 the Director before being distributed in this State.
14 Application for registration shall be submitted on forms
15 furnished or approved by the Department and shall be
16 accompanied by a fee of \$250 per product. A registration shall
17 expire on December 31 of the year it is issued.

18 (b) The registrant shall submit to the Director at the time
19 of application for registration a copy of the label and any
20 advertising literature for the additive or soil amendment. Upon
21 approval by the Director, the registrant shall be furnished a
22 ~~certified~~ copy of the registration.

23 Before registering any additive or soil amendment, the
24 Director shall require evidence to substantiate the claims made
25 for the additive or soil amendment and proof of the value and

1 usefulness of the additive or soil amendment ingredient.

2 (c) The Director may, by rule, set the minimum amount of an
3 additive or a soil amendment ingredient ~~and soil amendment~~
4 ~~ingredients~~ that must be present before an additive or a soil
5 amendment product can be registered and distributed in this
6 State.

7 (d) A distributor shall not be required to register an
8 additive or a soil amendment product that is already registered
9 under this Act if the label does not differ in any respect.

10 (e) If an application for renewal of registration for a an
11 additive or soil amendment is not received within 30 days after
12 the registration expiration date ~~and the soil amendment product~~
13 ~~is found to be distributed in the State~~, a penalty of a \$100
14 per product shall be assessed and added to the original fee and
15 shall be paid before registration will be granted.

16 (Source: P.A. 87-394.)

17 (505 ILCS 120/20) (from Ch. 5, par. 2801-20)

18 Sec. 20. Labeling.

19 (a) Except for materials exempted by rule, ~~On and after~~
20 ~~July 1, 1992,~~ the following information shall appear on the
21 face or display side in a readable and conspicuous form on
22 every additive or soil amendment product container or shall
23 accompany each bulk order of an additive or a soil amendment
24 product distributed in this State and shall be considered the
25 label:

1 (1) Net weight.

2 (2) Brand (or product) name.

3 (3) Guaranteed analysis, which shall include the name
4 of all active ~~soil amending~~ and inert ~~other~~ ingredients and
5 the percentage of the whole product each ingredient
6 constitutes.

7 (4) Purpose of the product.

8 (5) Directions for use.

9 (6) Name and address of registrant or person
10 distributing the product in this State.

11 (b) The Director may require proof of claims made or
12 usefulness or value of any additive or ~~soil~~ amendment product.
13 The Director may rely on experimental data, evaluations, or
14 advice from sources such as the Agricultural Experiment Station
15 and other professionally trained scientists for the required
16 proof.

17 (c) No additive or ~~soil~~ amending ingredient may be listed
18 or guaranteed on the label without the permission of the
19 Director. The Director shall allow ingredients to be listed if
20 satisfactory proof of value and usefulness is provided that
21 substantiates the usefulness and value of the ingredient and
22 supports the claims made. When an additive or ~~a soil~~ amending
23 ingredient is allowed to be listed or guaranteed, it must be
24 determinable by laboratory methods unless otherwise exempted
25 by the Director and is subject to inspection and official
26 sample analysis.

1 (d) The Director shall require the listing on the label of
2 all substances included as other ingredients in each additive
3 or ~~soil~~ amendment product.

4 (e) The Director may allow labeling by volume rather than
5 by weight.

6 (f) If the Director finds that a registered additive or
7 ~~soil~~ amendment product contains plant nutrient ingredients,
8 regardless of amount, the Director ~~he or she~~ may require the
9 label to so state.

10 (Source: P.A. 87-394.)

11 (505 ILCS 120/25) (from Ch. 5, par. 2801-25)

12 Sec. 25. Cancellation, suspension, or refusal of
13 registration.

14 (a) The Director may refuse to register an additive or a
15 ~~soil~~ amendment or cancel or suspend an additive or a ~~soil~~
16 amendment registration if:

17 (1) the composition of the additive or ~~soil~~ amendment
18 does not warrant the claims made;

19 (2) the additive or ~~soil~~ amendment does not comply with
20 the provisions of this Act or its rules;

21 (3) the labeling or other materials required for
22 registration do not comply with the provisions of this Act
23 or its rules;

24 (4) the registrant used fraudulent or deceptive
25 practices to secure registration; or

1 (5) it is determined that an additive or a soil
2 amendment poses a risk of unreasonable adverse effects to
3 man or the environment.

4 (Source: P.A. 87-394.)

5 (505 ILCS 120/30) (from Ch. 5, par. 2801-30)

6 Sec. 30. Inspection, sampling analysis.

7 (a) The Director shall inspect, sample, and make analyses
8 or test additives or soil amendments distributed within this
9 State at any time and place, and to the extent deemed
10 necessary, to determine that additive or soil amendment
11 products comply with the requirements of this Act or its rules.

12 (b) The Director may enter upon public or private premises
13 during regular business hours in order to have access to
14 additives or soil amendments subject to this Act as well as
15 records relating to their distribution.

16 (c) The methods of analysis and sampling shall be those
17 adopted by the Director from sources such as the Association of
18 Official Analytical Chemists (AOAC) or other comparable
19 sources deemed appropriate by and acceptable to the Director.

20 (d) The Director may, by rule, establish inspection
21 procedures and fees not to exceed 0.10 cents per pound for
22 additives, soil amendment products, or both, distributed in
23 this State.

24 (Source: P.A. 87-394.)

1 (505 ILCS 120/35) (from Ch. 5, par. 2801-35)

2 Sec. 35. Misbranding or adulteration.

3 (a) An additive or ~~A soil~~ amendment is misbranded if:

4 (1) its labeling is misleading or false in any
5 particular;

6 (2) it is an imitation of or is distributed under the
7 name of another additive or ~~soil~~ amendment;

8 (3) it is not labeled as required by this Act or its
9 rules;

10 (4) it claims to be or is represented to be an additive
11 or amendment or contain an ingredient ~~a soil amendment~~
12 unless the additive or ~~soil~~ amendment or ingredient
13 conforms to definitions of identity as prescribed by rule;
14 or

15 (5) it does not conform to ingredient form, minimum
16 label guarantee, and investigational allowance in rules
17 adopted by the Department.

18 (b) An additive or ~~A soil~~ amendment that contains any
19 deleterious or harmful agent in amounts sufficient to render it
20 injurious to man, animals, aquatic life, or beneficial plants
21 when used in accordance with label directions shall be deemed
22 adulterated.

23 (c) An additive or ~~A soil~~ amendment containing weed seed or
24 unwanted crop seed shall be deemed adulterated.

25 (d) An additive or ~~A soil~~ amendment that has a composition
26 different from that claimed on its label shall be deemed

1 adulterated.

2 (Source: P.A. 87-394.)

3 (505 ILCS 120/40) (from Ch. 5, par. 2801-40)

4 Sec. 40. Stop sale; use or removal order.

5 (a) Whenever the Director has reason to believe an additive
6 or a soil amendment is being distributed in violation of this
7 Act or its rules, he or she may issue and serve a written order
8 to stop sale, stop use, or regulate removal upon an owner,
9 operator, manager, or agent in charge of the additive or soil
10 amendment.

11 (b) The Director shall provide the registrant, if different
12 from the person served under subsection (a), with a copy of any
13 order when corrective action appears to be the responsibility
14 of the registrant.

15 (c) If an owner, operator, manager, or agent is not
16 available for service of an order upon him or her, the Director
17 shall attach the order to the additive or soil amendment
18 product and notify the registrant.

19 (d) The Director shall remove or vacate an order by written
20 notice when the violated provisions of this Act or its rules
21 have been complied with, the conditions specified have been
22 met, or the violation has been otherwise disposed of by either
23 administrative or judicial action.

24 (e) When the Director has reason to believe that an
25 additive or a soil amendment being distributed in this State

1 may be injurious to plants, animals, or man when used in
2 accordance with label directions, he or she may issue an order
3 to remove the additive or soil amendment from the State and
4 establish requirements to effect the expeditious removal of the
5 additive or soil amendment without adverse effects to man or
6 the environment.

7 (Source: P.A. 87-394.)

8 (505 ILCS 120/45) (from Ch. 5, par. 2801-45)

9 Sec. 45. Rules.

10 (a) The Director shall, after due notice and opportunity
11 for public hearing according to the Illinois Administrative
12 Procedure Act, adopt any rules necessary to administer,
13 implement, and enforce this Act, including but not limited to,
14 regulations for: (i) exempt material; (ii) inspection; (iii)
15 labeling; (iv) sampling; (v) records; (vi) analytical methods;
16 (vii) form, minimum percentages, and investigational allowance
17 and penalties of either an additive or a soil amendment
18 ingredient or additive or soil amendment; (viii) misbranding;
19 (ix) adulteration; and (x) monetary penalties not otherwise set
20 forth in this Act.

21 (Source: P.A. 87-394.)

22 (505 ILCS 120/50) (from Ch. 5, par. 2801-50)

23 Sec. 50. Hearing; notice; injunction.

24 (a) The Department, over the signature of the Director, is

1 authorized to issue subpoenas and bring before the Department
2 any person or persons in this State to take testimony orally,
3 by deposition, or by exhibit, in the same manner prescribed by
4 law in judicial proceedings and civil cases in the circuit
5 courts of this State. The Director is authorized to issue
6 subpoenas duces tecum for records relating to an additive or a
7 ~~soil~~ amendment distributor's or registrant's business.

8 (b) The Department, over the signature of the Director, may
9 apply to any court for a temporary restraining order or a
10 preliminary or permanent injunction restraining any person
11 from violating or continuing to violate any provision of this
12 Act or its rules. An injunction issued under this Section shall
13 be issued without bond.

14 (c) When an administrative hearing is held, the hearing
15 officer, upon determination of a violation of this Act, shall
16 levy and the Department shall collect administrative penalties
17 on a per-occurrence basis as follows:

18 (1) A penalty of \$500 shall be imposed for the
19 following violations:

20 (a) Neglect or refusal, after notice in writing, to
21 comply with provisions of this Act or its rules or any
22 lawful order of the Director.

23 (b) Sale, transport, disposal, or distribution of
24 an additive or a~~soil~~ amendment that has been placed
25 under a stop-sale order.

26 (2) A penalty of \$250 shall be imposed for the

1 following violations:

2 (a) Thwarting or hindering the Director in the
3 performance of his or her duties by misrepresenting or
4 concealing facts or conditions.

5 (b) Distribution of an additive or ~~a soil~~ amendment
6 that is mislabeled or adulterated.

7 (3) A penalty of \$100 shall be imposed for the
8 following violations:

9 (a) Distribution of an additive or ~~a soil~~ amendment
10 that does not have an accompanying label attached or
11 displayed.

12 (b) Failure to comply with any provision of this
13 Act or its rules.

14 (c) Distribution in this State of any additive or
15 ~~soil~~ amendment containing noxious weed seed.

16 (Source: P.A. 87-394.)