

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6484

BILL NUMBER: HB 1191

NOTE PREPARED: Feb 24, 2009

BILL AMENDED: Feb 20, 2009

SUBJECT: Fertilizer Law Matters.

FIRST AUTHOR: Rep. Pearson

FIRST SPONSOR: Sen. Gard

BILL STATUS: As Passed House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *State Chemist*. This bill provides that the State Chemist may allow the use of technologies or methods that are not specified in rules to handle or use ammonia and ammonia solutions. It requires the State Chemist to adopt rules to establish certification and educational programs for certain fertilizer material applicators and transporters and fees for the certification and programs. It requires the fees to be deposited with the treasurer of Purdue University. The bill requires an annual financial report to be submitted to the Governor.

Penalties. The bill makes the violation of certain agriculture ammonia laws a Class C misdemeanor (current law imposes a Class C infraction) and provides that the penalty applies for a knowing or intentional violation. It allows the State Chemist to impose civil penalties for violations of the commercial fertilizer laws. It repeals penalties for certain violations. It authorizes the State Chemist, on recommendation of the Fertilizer Advisory Board, to adopt rules establishing a schedule of civil penalties that may be imposed.

Definitions. The bill amends various definitions to specify that the terms apply to commercial fertilizer or fertilizer material. It provides that fertilizer material must have nutrient value. It requires containers that contain commercial fertilizer to have certain information on or affixed to the package.

Fertilizer Advisory Board. The bill provides that the members of the Fertilizer Advisory Board who are not state employees are reimbursed for expenses under the travel policies of Purdue University. The bill makes technical and conforming changes.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *State Chemist.* The State Chemist may allow the use of technologies or methods other than those specified in rules adopted if the technologies or methods provide similar protection to the public and persons handling or using ammonia or ammonia solutions. This provision should not have a significant impact.

The State Chemist may adopt rules concerning the establishment of certification and educational programs for applicators and transporters of fertilizer material for hire, and applicators and transporters of fertilizer material from concentrated animal feeding operations (CAFOs) and confined feeding operations (CFO)s. The State Chemist must pay to the Treasurer of Purdue University all certification and educational program fees collected. The Dean of Agriculture of Purdue University must make an annual classified report to the Governor showing the total receipts and expenditures of all fees received. Certification and educational program fees collected must be used to pay all necessary expenses incurred in carrying out and administering the certification and educational programs.

Fertilizer Advisory Board. The bill provides that each member of the board who is not a state employee is entitled to receive per diem and reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties as provided in the Purdue University travel policies and procedures. Currently, members are reimbursed according to state policies. This provision will have a minor impact to the extent that reimbursement schedules for Purdue differ from state standards. Purdue might pay a little more for per diem, but pays at the federal mileage reimbursement rate, as does the state. The provision could increase administrative efficiencies.

Definitions. The bill amends various definitions to specify that the terms apply to commercial fertilizer or fertilizer material. It provides that fertilizer material must have nutrient value. It requires containers that contain commercial fertilizer to have certain information on or affixed to the package. This provision will not have a significant impact.

Explanation of State Revenues: *State Chemist.* The State Chemist must pay to the Treasurer of Purdue University all certification and educational program fees collected. The amount of revenue that will be generated by the fees is indeterminable because the fees have yet to be established by the board.

(Revised) *Penalties.* The bill makes the violation of certain agriculture ammonia laws a Class C misdemeanor (current law imposes a Class C infraction). The bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. However, any change in revenue is likely to be small. Currently, the maximum judgment for a Class C infraction is \$500, which is deposited into the state General Fund, while the maximum fine for a Class C misdemeanor is \$500, which is deposited into the Common School Fund. The state General Fund may receive additional court fee revenue. However, the amount is likely to be small.

(Revised) *Civil Penalties.* The bill also allows the State Chemist to impose civil penalties for violations of the commercial fertilizer laws. The bill authorizes the Fertilizer Advisory Board to adopt rules establishing a schedule of civil penalties that may be imposed. The amount of revenue that will be generated by these civil penalties is not expected to be significant. Civil penalties would be credited to the office of Purdue fertilizer programs.

Explanation of Local Expenditures: (Revised) *Penalties:* A Class C misdemeanor is punishable by up to 60 days in jail.

Explanation of Local Revenues: *Penalties:* Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors.

State Agencies Affected: State Chemist.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: John Baugh, Director, Agriculture Services and Regulations, Purdue University, Office of the Dean of Agriculture, AGAD Building, 615 W. State Street, West Lafayette , IN 47907-2053, 765-494-8392.

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