

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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17.35 RAISING DOMESTIC FUR-BEARING ANIMALS.

[For text of subds 1 to 6, see M.S.1980]

Subd. 7. **Tags.** Every fur farmer transporting or selling any pelts of domestic animals may attach to every package of pelts a tag identifying the pelts therein. The tags shall be obtained from the commissioner.

[For text of subds 8 to 11, see M.S.1980]

History: 1981 c 261 s 1

17.59 FEES TO DEFRAY EXPENSES.

[For text of subds 1 and 2, see M.S.1980]

Subd. 3. **Financing referendums.** The commissioner shall require producers petitioning for a promotional order to deposit in advance an amount necessary to defray the expense of electing the first council, formulating an order, submitting it to referendum and issuing the order. Funds received for that purpose shall be deposited in the commodity research and promotion account. If the order is issued, the producers shall be reimbursed when funds are available from assessments. If the order is not issued the commissioner shall refund only that portion of the deposit remaining after payment of expenses incurred on a pro rata basis.

Subd. 4. **Deposit and use of fees.** Fees collected pursuant to sections 17.51 to 17.69 shall be deposited in a federally insured depository institution and shall be disbursed by the officers and employees approved by the council for the necessary expenses incurred in the administration of sections 17.51 to 17.69. Fees collected shall be used exclusively for the purpose collected and not for legislative or political activities.

Subd. 5. **Commodities research and promotion account.** All fees collected by the department under sections 17.51 to 17.69; 21A.01 to 21A.19; 29.14 to 29.19; 30.461 to 30.477; 32B.01 to 32B.13; and any other fees and income received by the department in the administration of these statutes shall be deposited in a separate account known as the commodity research and promotion account in the special revenue fund. These funds shall be appropriated to the department for the purpose of defraying the expenses of administering and enforcing the sections listed in this subdivision.

History: 1981 c 41 s 1-3; 1981 c 356 s 256

17.711 CITATION.

Sections 17.711 to 17.729 shall be known and cited as the "Minnesota fertilizer, soil amendment and plant amendment law."

History: 1981 c 214 s 1

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17.713 DEFINITIONS.

Subdivision 1. **Generally.** When used in sections 17.711 to 17.729 the terms defined in this section have the meanings given them.

Subd. 2. **Brand.** "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizers or with soil and plant amendment materials.

Subd. 3. **Bulk fertilizer.** "Bulk fertilizer" means any commercial fertilizer material distributed in a nonpackaged form.

Subd. 4. **Commercial fertilizer.** "Commercial fertilizer" includes those sold which are both mixed fertilizer or fertilizer materials.

Subd. 5. **Distributor.** "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barter, or otherwise supplies commercial fertilizer or soil and plant amendments in this state.

Subd. 6. **Fertilizer material.** "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant food nutrient, or any compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

Subd. 6a. **Fixed location.** "Fixed location" means all stationary fertilizer operations, owned and operated by a person, located in the same plant location or locality.

Subd. 7. **Grade.** "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meals, manures, and similar raw materials may be guaranteed in fractional units.

Subd. 8. **Guaranteed analysis.** "Guaranteed analysis": (1) Until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of paragraph 2 of this subdivision, the term "guaranteed analysis" shall mean the percentage of plant nutrient content, if claimed, in the following order:

- | | |
|---------------------------|--------------|
| (a) Total nitrogen |percent |
| Available phosphoric acid |percent |
| Soluble potash |percent |

(b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage and other organic phosphate materials, the total phosphoric acid or degree of fineness, or both, may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the commissioner. The guarantees for such other nutrients shall be expressed in the elemental form. The sources of such other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analyses in accord with the methods and regulations prescribed by the commissioner.

(d) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when required by regulation.

(2) When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he may require thereafter that the "guaranteed analysis" shall be in the following form:

Total nitrogenpercent
Available phosphoruspercent
Soluble potassiumpercent

The effective date of said regulation shall be not less than one year following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

(3) "Guaranteed analysis" of a soil amendment or plant amendment shall mean an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter must also be listed.

Subd. 9. **Guarantor.** "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis statement.

Subd. 9a. **Label.** "Label" means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a commercial fertilizer, soil amendment or plant amendment.

Subd. 9b. **Labeling.** "Labeling" means all written, printed or graphic matter upon or accompanying any commercial fertilizer, soil amendment or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting their sale.

Subd. 9c. **Manipulated manures.** "Manipulated manures" means substances composed primarily of excreta, plant remains, or mixtures or substances which have been treated in any manner, including mechanical drying, grinding, pelleting and other means, or by adding other chemicals or substances.

Subd. 10. **Mixed fertilizer.** "Mixed fertilizer" means any combination or mixture of fertilizer material designed for use or claimed to have value in promoting plant growth, with or without inert materials.

Subd. 11. **Mobile mechanical unit.** "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizer materials.

Subd. 12. **Official sample.** "Official sample" means any sample of commercial fertilizer, soil amendment or plant amendment taken by the commissioner or his agent according to methods prescribed by sections 17.711 to 17.729.

Subd. 13. **Organic.** "Organic" when applied to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition whose water insoluble nitrogen content is at least 60 percent of the total nitrogen guaranteed.

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Subd. 14. **Percent; percentage.** "Percent" or "percentage" means the percentage by weight.

Subd. 15. **Person.** "Person" includes individuals, partnerships, associations, firms, corporations, companies, and societies.

Subd. 15a. **Plant amendment.** "Plant amendment" means any substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants except commercial fertilizers, soil amendments, agricultural liming materials, animal and vegetable manures, pesticides and other materials which may be exempted by rule.

Subd. 15b. **Plant food.** "Plant food" means any one of the following plant nutrients or any additional plant nutrient which might be generally recognized as beneficial for plant growth: nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium and zinc.

Subd. 16. **Registrant.** "Registrant" means the person who registers commercial fertilizer material, soil amendment or plant amendment under the provisions of sections 17.711 to 17.729.

Subd. 17. **Sell.** "Sell," when applied to commercial fertilizer, soil amendment or plant amendment, includes:

- (1) The act of selling, transferring ownership;
- (2) The offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) The possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) The storing, carrying and handling in aid of traffic therein, whether done in person or through an agent, employee or others; and
- (5) Receiving, accepting, and holding of consignment for sale.

Subd. 17a. **Sewage sludge.** "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment. Sewage sludge is not a commercial fertilizer, fertilizer material, manipulated manure, plant amendment or soil amendment unless the sewage sludge meets the criteria for one of those categories and is offered for retail sale.

Subd. 18. **Small package fertilizer.** "Small package fertilizer" means fertilizer material sold exclusively in packages of 25 pounds or less.

Subd. 19. **Soil amendment.** "Soil amendment" means any aggregant or additive or any synthetic organic chemical substances, or chemically or physically modified natural substances, or naturally occurring substance, or manufacturing by-products, mixed or unmixed, which are represented as having a primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, or otherwise favorably modifying its structural or physical properties.

Subd. 20. **Specialty fertilizer.** "Specialty fertilizer" means any commercial fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries and sod farms; home gardens,

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lawns, shrubs; golf courses, municipal parks, cemeteries, and for research or experimental purposes.

Subd. 21. **Ton.** "Ton" means a net ton of 2,000 pounds avoirdupois.

History: 1981 c 214 s 2

17.714 REGISTRATION; RENEWAL.

Subdivision 1. **Registration fee; certain items.** Fertilizer brands and grades sold only as small package items or represented and labeled as specialty fertilizer; and soil and plant amendments sold with recommendations for commercial agricultural use, shall be registered at the fee set forth in section 17.717, subdivisions 3 and 4. Fees paid for registration made in this manner shall be in lieu of any other license or tonnage fees.

Subd. 2. **Contents of application.** The application for registration shall include the following information:

(a) For fertilizers:

(1) The name and address of the registrant;

(2) The brand and grade;

(3) The guaranteed analysis as required by section 17.713, subdivision 8;

(4) The sources from which nitrogen, phosphorus, potassium or other elements or materials are derived.

(b) For soil and plant amendments:

(1) The name and address of the registrant;

(2) The brand name;

(3) The sources from which the ingredients used in the product are derived;

(4) The guaranteed analysis as required by section 17.713, subdivision 8.

Subd. 3. **Copy of label, labeling material.** Application for registration of a small package fertilizer or a specialty fertilizer or a soil or plant amendment shall be accompanied by:

(a) A label or label facsimile of each product for which registration is requested; and

(b) A copy of all labeling material used in this state for promotion and sale of each product being registered.

Subd. 4. **Substantiation of claims.** The commissioner may require a person applying for a license or registration to manufacture or distribute a product for commercial agricultural use to submit authentic experimental evidence, or university research data, to substantiate the claims made for the product. As evidence to substantiate claims, the commissioner may rely on experimental data, evaluations or advice furnished by experts at the University of Minnesota and may accept or reject additional sources of evidence in evaluating any commercial fertilizer, soil or plant amendment. In all cases the experimental evidence shall relate to conditions in Minnesota for which use the product is intended. The commissioner may also require evidence of value when used as directed or recommended.

Subd. 4a. **Insufficient evidence.** If the commissioner determines that the evidence submitted pursuant to subdivision 4 does not substantiate the amendment's usefulness for agricultural production in this state, the commissioner may require the applicant to submit samples, conduct tests or submit additional information, including conditions affecting performance, in order to evaluate its performance and usefulness.

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Subd. 4b. **Refusal to register.** The commissioner may refuse to register a commercial fertilizer, soil or plant amendment:

(a) If the application for registration is not complete;

(b) If the commissioner determines that the commercial fertilizer, soil amendment, plant amendment or any other additives with substantially the same contents, will not or is not likely to produce the results or effects claimed when used as directed; or

(c) If the commissioner determines that the commercial fertilizer, soil amendment, plant amendment or any other additive with substantially the same contents, is not useful for agricultural production in this state.

Subd. 5. **Yearly registration; not transferrable.** Each registration is effective until January 1 next following the date of issuance or approval. A product registration shall not be transferrable from one person to another or from the ownership to whom issued to another ownership.

Subd. 6. **May not sell without registration.** No distributor or manufacturer shall sell, offer for sale or distribute in this state any small package fertilizer, specialty fertilizer, soil or plant amendment unless it has been registered with the department of agriculture. Registration of such materials is not a warranty by the department or the state.

History: 1981 c 214 s 3

17.716 LABELING; GUARANTEED ANALYSIS.

[For text of subs 1 to 4, see M.S.1980]

Subd. 5. **Fertilizer in bulk storage.** All fertilizer in bulk storage shall be identified with a label attached to the storage bin or container giving its appropriate grade or guaranteed analysis.

Subd. 6. **Label contents.** Any soil or plant amendment offered for sale or sold or distributed in this state in bags or other containers shall have placed on or affixed to the bag or container a label setting forth in legible and conspicuous form the following information:

(a) The name and address of the registrant;

(b) Its brand name;

(c) Its guaranteed analysis;

(d) Its net weight;

(e) Directions for the amendment's use;

(f) Its purpose or proposed use; and

(g) The words "NOT A PLANT FOOD PRODUCT," shall appear in a conspicuous position on the label and shall be printed in easily legible type in contrast with the other printed material on the label. The words shall be in a size equal to or larger than the largest printed material on the label or tags affixed to the bags or other containers except that the type size need not exceed one inch in height.

The information shall appear on the face or display side of the container in a conspicuous form, or on the upper one-third of either side of the container, or on the upper end of the container or shall be printed on conspicuous tags affixed to the upper end of the container.

History: 1981 c 214 s 4,5

17.717 LICENSE, INSPECTION AND REGISTRATION FEES.

[For text of subd 1, see M.S.1980]

Subd. 2. [Repealed, 1981 c 214 s 21]

[For text of subd 3, see M.S.1980]

Subd. 4. **Soil amendment, plant amendment.** Each application for registration of a soil amendment or plant amendment shall be accompanied by a registration and inspection fee of \$100 for each brand sold or distributed. This shall be in accordance with the provisions of section 17.714, subdivision 1.

Subd. 4a. **Additional fee after January 1.** If an application for renewal of a fertilizer blending license or registration of a small package fertilizer, specialty fertilizer, soil amendment or plant amendment is not filed prior to January 1 of any year, an additional fee amounting to 50 percent of the amount due shall be assessed before the renewal license or registration may be issued.

Subd. 5. **Inspection fees.** There shall be paid to the commissioner for all commercial fertilizers offered for sale, sold, or distributed in this state an inspection fee at the rate of ten cents per ton. Products sold to manufacturers or exchanged between them are hereby exempted from the fee imposed by this subdivision when used exclusively for manufacturing purposes. Inspection fees of products registered under provisions of subdivisions 3 and 4, are also exempted.

[For text of subd 6, see M.S.1980]

History: 1981 c 214 s 6-8

17.718 TONNAGE REPORT.

Subdivision 1. **Semiannual statement.** Each licensed distributor of commercial fertilizer under section 17.717, subdivision 1, and each registrant of commercial fertilizer, soil amendment or plant amendment under section 17.717, subdivisions 3 and 4, shall file with the commissioner on forms furnished by the commissioner, a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of each grade of commercial fertilizer, soil amendment or plant amendment distributed in this state during the reporting period. The report shall be due on or before the 30th of the month following the close of each reporting period of each calendar year. The inspection fee at the rate stated in section 17.717, subdivision 5 shall accompany the statement. For the tonnage report that is not filed or the payment of inspection fees that is not made within 30 days after the end of the reporting period, a penalty of ten percent of the amount due, with a minimum penalty of \$10, shall be assessed against the licensee or registrant, and the total amount of fees due, plus penalty, shall constitute a debt and may be recovered in a civil action against the licensee or registrant. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter. The commissioner may by regulation require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments and plant amendments distribution in the state.

[For text of subds 2 and 3, see M.S.1980]

History: 1981 c 214 s 9

17.719 INSPECTION, SAMPLING, ANALYSIS.

Subdivision 1. **Powers and duties of commissioner.** The commissioner or the commissioner's authorized agent shall sample, inspect, make analysis of, and test commercial fertilizers, soil amendments and plant amendments offered for sale, sold, or distributed within this state at a time and place and to an extent the commissioner may deem necessary to determine whether the commercial fertilizers, soil amendments and plant amendments are in compliance with the provisions of sections 17.711 to 17.729, and may obtain additional information as he or she deems advisable. The commissioner or the commissioner's agent is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, soil amendments and plant amendments subject to the provisions of sections 17.711 to 17.729 and the rules and regulations pertaining thereto.

Subd. 2. **Official sample.** An official fertilizer, soil amendment or plant amendment sample shall be one drawn from a lot or shipment of fertilizer, soil amendment or plant amendment sold or exposed for sale in this state in the manner prescribed by the commissioner. In sampling a lot of commercial fertilizer, soil amendment or plant amendment registered under section 17.714, subdivision 1, a single package may constitute the official sample.

Subd. 3. **Methods of analysis.** The methods of analysis shall be those adopted by the commissioner from published sources such as those of the association of official analytical chemists.

History: 1981 c 214 s 10

17.72 FERTILIZER, SOIL AMENDMENT OR PLANT AMENDMENT-PESTICIDE MIXTURE.

Each distributor who blends, mixes, or otherwise adds pesticides to commercial fertilizer materials, soil amendments or plant amendments shall be licensed in accordance with section 17.715, and shall comply with the provisions of Minnesota Statutes, Sections 18A.21 to 18A.45 and the federal insecticide, fungicide and rodenticide act (Public Law 92-516), as amended.

History: 1981 c 214 s 11; 1Sp1981 c 4 art 1 s 36

17.721 PLANT FOOD CONTENT.

Subdivision 1. While the "guaranteed analysis" is as defined in section 17.713, subdivision 8, clause (1), no nitrogen product containing less than 18 percent total nitrogen, no superphosphate containing less than 18 percent available phosphoric acid, nor any mixed fertilizer in which the sum of guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 24 percent shall be offered for sale, sold or distributed in this state. If guarantees are as provided in section 17.713, subdivision 8, clause (2), the appropriate conversions shall be made to available phosphorus and soluble potassium.

[For text of subd 2, see M.S.1980]

History: 1981 c 214 s 12

17.722 FALSE OR MISLEADING STATEMENTS.

The commercial fertilizer, soil amendment or plant amendment is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer, soil amendment or plant amendment are disseminated in any manner or by any

means. It is unlawful to distribute a misbranded fertilizer, soil amendment or plant amendment.

History: 1981 c 214 s 13

17.723 ADULTERATION.

No person shall distribute an adulterated fertilizer, soil amendment or plant amendment product. A commercial fertilizer, soil amendment or plant amendment shall be deemed to be adulterated: (a) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to plant life when applied in accordance with directions for use on the label; or (b) If its composition falls below or differs from that which it is purported to possess by its labeling; or (c) If it contains unwanted crop seed or weed seed.

Adulterated products that cannot be reconditioned must be disposed of according to approved methods.

History: 1981 c 214 s 14

17.725 RULES.

Subdivision 1. **For administration.** The commissioner may prescribe and, after public hearing following due public notice, adopt rules relating to the manufacture, sale, distribution, tonnage reporting, labeling, and handling of commercial fertilizers and soil amendments and plant amendments or other soil additives necessary to carry into effect the full intent and meaning of sections 17.711 to 17.729.

Subd. 2. **Liming materials.** The commissioner may make and publish rules governing the labeling and distribution of liming materials as are sold for agricultural purposes, including: Limestone (carbonates), sulfates, slags (silicates), burned lime (oxides), and hydrated lime (hydroxides). Such products shall not, however, be deemed fertilizers, soil amendments or plant amendments subject to the registration and tonnage fees stated in sections 17.711 to 17.729.

Subd. 3. **Certification of laboratories.** The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory.

History: 1981 c 214 s 15

17.726 "STOP SALE" ORDERS.

The commissioner shall issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer, soil amendment or plant amendment when the commissioner finds the commercial fertilizer, soil amendment or plant amendment is being offered or exposed for sale in violation of any of the provisions of sections 17.711 to 17.729 or any regulation issued hereunder. The owner or custodian to whom the order is addressed shall hold the commercial fertilizer, soil amendment or plant amendment until the law has been complied with and the commercial fertilizer, soil amendment or plant amendment is released in writing by the commissioner or the violation has been otherwise legally disposed of by written authority.

History: 1981 c 214 s 16

17.727 SEIZURE, CONDEMNATION, AND SALE.

Any lot of commercial fertilizer, soil amendment or plant amendment not in compliance with the provisions of sections 17.711 to 17.729 shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the commercial fertilizer, soil amendment or plant amendment is located. In the event the court finds the commercial fertilizer, soil amendment or plant amendment to be in violation of sections 17.711 to 17.729 and orders the condemnation of the commercial fertilizer, soil amendment or plant amendment, it shall be disposed of in any manner consistent with the character of the commercial fertilizer, soil amendment or plant amendment and the laws of this state. In no instance, however, shall the disposition of this commercial fertilizer, soil amendment or plant amendment be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer, soil amendment or plant amendment under supervision of the commissioner to bring it into compliance with sections 17.711 to 17.729.

History: 1981 c 214 s 17

17.728 VIOLATIONS; PENALTY.

Subdivision 1. The commissioner may cancel the registration of any commercial fertilizer, soil amendment or plant amendment or refuse to register any brand of commercial fertilizer, soil amendment or plant amendment as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of sections 17.711 to 17.729 or any rules and regulations promulgated thereunder. No registration shall be revoked until the registrant has been given opportunity for a hearing by the commissioner.

[For text of subds 2 to 5, see M.S.1980]

History: 1981 c 214 s 18

17.729 EXCHANGE BETWEEN MANUFACTURERS.

Nothing in sections 17.711 to 17.729 shall be construed to restrict or avoid sales or exchanges of commercial fertilizers, soil amendments or plant amendments to each other by importers, manufacturers, or manipulators who mix fertilizer materials, soil amendments or plant amendments for sale or as preventing the free and unrestricted shipments of commercial fertilizers, soil amendments or plant amendments to manufacturers or manipulators who are licensed or have registered their brands as required by the provisions of sections 17.711 to 17.729.

History: 1981 c 214 s 19