

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 590
SENATE BILL 625

AN ACT TO REWRITE NORTH CAROLINA LAWS RELATING TO LIMING
MATERIALS AND LANDPLASTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is hereby amended by inserting a new Article 8A as follows:

"ARTICLE 8A.

"Sale of Agricultural Liming Materials and Landplaster.

"§ 106-93. **Title of Article.** — This Article shall be known as the 'North Carolina Agricultural Liming Materials and Landplaster Act.'

"§ 106-93.1. **Purpose of Article.** — The purpose of this Article shall be to assure the manufacturer, distributor, and consumer of the correct quality and quantity of all agricultural liming materials and landplaster sold in this State.

"§ 106-93.2. **Definitions of terms.** — For the purpose of this Article:

- (1) 'Agricultural Liming Materials' means oxides, hydroxides, silicates or carbonates of calcium and/or magnesium compounds capable of neutralizing soil acidity.
- (2) 'Limestone' means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.
- (3) 'Burnt Lime' means a material, made from limestone which consists essentially of calcium oxide or combination of calcium oxide with magnesium oxide.
- (4) 'Hydrated Lime' means a material, made from Burnt Lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.
- (5) 'Marl' means a granular or loosely consolidated earth like material composed largely of sea shell fragments and calcium carbonate.
- (6) 'Calcitic Limestone' means limestone which contains less than six percent (6%) magnesium from magnesium carbonate.
- (7) 'Dolomitic Limestone' means limestone having a minimum of six percent (6%) magnesium from magnesium carbonate.
- (8) 'Industrial By-Product Liming Material' means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.
- (9) 'Suspension Lime' means a product made by mixing Agricultural Liming Materials with water and a suspending agent.
- (10) 'Landplaster' means a material containing calcium sulfate.
- (11) 'Brand' means the term, designation, trademark, product name or other specific designation truly descriptive of the product under which individual agricultural liming material is offered for sale.
- (12) 'Bulk' means in nonpackaged form.

- (13) 'Calcium Carbonate Equivalent' means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (14) 'Fineness' means the percentage by weight of the material which will pass U.S. Standard sieves of specified sizes.
- (15) 'Label' means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.
- (16) 'Percent' or 'Percentage' which means by weight.
- (17) 'Person' means individual, partnership, association, firm or corporation.
- (18) 'Sale' means any transfer of title or possession, or both, exchange or barter of tangible personal property, conditional or otherwise for a consideration paid or to be paid, and this shall include any of said transactions whereby title or ownership is to pass and shall further mean and include any bailment, loan, lease, rental or license to use or consume tangible personal property for a consideration paid in which possession of said property passes to bailee, borrower, lessee, or licensee.
- (19) 'Sell' means the alienation, exchange, transfer or contract for such transfer of property for a fixed price in money or its equivalent.
- (20) 'Ton' means a net weight of 2,000 pounds avoirdupois.
- (21) 'Weight' means the weight of undried material as offered for sale.

"§ 106-93.3. Enforcing official. — This Article shall be administered by the Commissioner of Agriculture of the State of North Carolina, or his authorized agent, hereinafter referred to as the 'Commissioner'.

"§ 106-93.4. Labeling. — (a) Agricultural liming materials sold, offered for sale or distributed in the State shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery slip, setting forth at least the following information:

- (1) The name and principal office address of the manufacturer or distributor.
- (2) The brand or trade name truly descriptive of the material.
- (3) The identification of the product as to the type of the agricultural liming material.
- (4) The net weight of the agricultural liming material.
- (5) The minimum percentages of calcium and magnesium.
- (6) Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists. Minimum calcium carbonate equivalent shall be prescribed by regulation.
- (7) The minimum percent by weight passing through U.S. Standard sieves as prescribed by regulations.

(b) Landplaster sold, offered for sale or distributed in this State shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery slip, setting forth at least the following information:

- (1) The name and address of the manufacturer or distributor guaranteeing the registration.
- (2) The brand or trade name of the material.
- (3) The net weight.
- (4) The guaranteed analysis showing the minimum percentage of calcium sulfate.

"§ 106-93.5. Prohibited acts. — (1) Agricultural liming material or landplaster shall not be sold or offered for sale or distributed in this State unless it complies with provisions of this law or regulations.

(2) Agricultural liming material or landplaster shall not be sold or offered for sale in this State which contains toxic materials in quantities injurious to plants or animals.

"§ 106-93.6. Registration of brands. — (1) Each separately identified product shall be registered before being sold, offered for sale, or distributed in this State. Registration fee shall be twenty-five dollars (\$25.00) for each separately identified product in packages of 10 pounds or less. For each other separately identified product registration fee shall be five dollars (\$5.00). The application for registration shall be submitted to the Commissioner on forms furnished by the Commissioner and shall be accompanied by the appropriate registration fee. Upon approval by the Commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 of each year.

(2) A distributor shall not be required to register any brand of agricultural liming material or landplaster which is already registered under this act by another person, providing the label does not differ in any respect.

"§ 106-93.7. Tonnage fees: reporting system. — For the purpose of defraying expenses connected with the registration, inspection and analysis of the materials coming under this Article, each manufacturer or registrant shall pay to the Department of Agriculture tonnage fees in addition to registration fees as follows: For agricultural liming material, ten cents (10¢) per ton; for landplaster, ten cents (10¢) per ton; excepting that these fees shall not apply to materials which are sold to fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials when sold in packages of 10 pounds or less.

Any manufacturer, importer, jobber, firm, corporation or person who distributes materials coming under this Article in this State shall make application for a permit to report the materials sold and pay the tonnage fees as set forth in this section.

The Commissioner of Agriculture shall grant such permits on the following conditions: The applicant's agreement that he will keep such records as may be necessary to indicate accurately the tonnage of liming materials, etc., sold in the State and his agreement for the Commissioner or this authorized representative to examine such records to verify the tonnage statement. The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before the tenth day of October, January, April, and July of each year. The report and payment shall cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by the last day of the month in which it is due, or if the report be false, the amount due shall bear a penalty of ten percent (10%) which shall be added to the tonnage fees due. If the report is not filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit and cancel the registration.

"§ 106-93.8. Report of tonnage. — (1) Within 30 days following the expiration of registration each registrant shall submit on a form furnished or approved by the Commissioner an annual statement, setting forth by counties, the number of net tons of each agricultural liming material and landplaster sold by him for use in the State during the previous 12 month period.

(2) The Commissioner shall publish and distribute annually, to each agricultural liming material and landplaster registrant and other interested persons a composite report showing the tons of agricultural liming material and landplaster sold in each county of the State. This report shall in no way divulge the operation of any registrant.

"§ 106-93.9. Inspection, sampling, analysis. — (1) It shall be the duty of the Commissioner to sample, inspect, make analysis of, and test agricultural liming materials and landplaster distributed within this State as he may deem necessary to determine if such materials are in compliance with the provisions of this act. The Commissioner is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material and landplaster subject to the provisions of this act, and regulations pertaining thereto, and to the records relating to their distribution.

(2) The methods of analysis and sampling shall be those approved by the State Chemist, and shall be guided by the Association of Official Analytical Chemists procedures.

(3) The results of official analysis of agricultural liming materials and portions of official samples may be distributed to the registrant by the Commissioner at least annually if requested.

"§ 106-93.10. Deficiencies: refunds to consumer. — Should any of the agricultural liming and landplaster materials defined in this Article be found to be deficient in the components claimed by the manufacturer or registrant thereof, said manufacturer or registrant, upon official notification to such deficiency by the Commissioner of Agriculture, shall, within 90 days, make refunds to the consumers of the deficient materials as follows:

In case of 'agricultural liming material' if the deficiency is five percent (5%) of the guarantee or more, there shall be refunded an amount equal to three times the value of such deficiency and in case of 'landplaster', for deficiencies in excess of one percent (1%) of the guarantee, there shall be refunded an amount equal to three times the value of the deficiency. Values shall be based on the selling price of said materials. When said consumers cannot be found within the above specified time, refunds shall be forwarded to the Commissioner of Agriculture, where said refund shall be held for payment to the proper consumer upon order of the Commissioner. If the consumer to whom the refund is due cannot be found within a period of one year, such refund shall revert to the Department of Agriculture for expenditure by the Commissioner in promoting the agricultural programs of the State.

"§ 106-93.11. 'Stop sale' orders. — The Commissioner may issue and enforce a written or printed 'stop sale, use, or removal' order to the owner or custodian of any lot of agricultural liming material or landplaster at a designated place when the Commissioner finds said material is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said violation has been otherwise legally disposed of by written authority. The Commissioner shall release the agricultural liming materials or landplaster so withdrawn, when the requirements of the provisions of this act have been complied with and all costs and expense incurred in connection with the withdrawal have been paid.

"§ 106-93.12. Appeals from assessments and orders of Commissioner. — Nothing in this Article shall prevent any person from appealing to a court of competent jurisdiction from any assessment of penalty or other final order or ruling of the Commissioner or Board of Agriculture.

"§ 106-93.13. Penalties for violations of this act. — Any person convicted of violating any provision of this Article or the rules and regulations promulgated thereunder shall be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) in the discretion of the court. Nothing in this act shall be construed as requiring the Commissioner or his authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the act when he believes that the public interest will best be served by a suitable written warning.

"§ 106-93.14. Declaration of policy. — The General Assembly hereby finds and declares that it is in the public interest that the State regulate the activities of those persons engaged in the business of preparing, or manufacturing agricultural liming material and landplaster in order to insure the manufacturer, distributor, and consumer of the correct quantity and quality of all said materials sold or offered for sale in this State. It shall therefore be the policy of this State to regulate the activities of those persons engaged in the business of preparing or manufacturing agricultural liming material and landplaster.

"§ 106-93.15. Authority of Board of Agriculture to make rules and regulations. — Because legislation with regard to agricultural liming material and landplaster sold or offered for sale in this State must be adopted (adapted) to complex conditions and standards involving numerous details with which the General Assembly cannot deal directly and in order to effectuate the purposes and policies of the Article, and in order to insure the

manufacturer, distributor, and consumer of the correct quality and quantity of all agricultural liming material and landplaster sold or offered for sale in this State, the Board of Agriculture shall have the authority to make rules and regulations with respect to:

- (1) Defining a standard agricultural liming material in terms of neutralizing equivalents.
- (2) Fineness of agricultural liming material.
- (3) Form and order of labeling.
- (4) Monetary penalties for deficiencies from guarantee.
- (5) Monetary penalties for materials that do not meet screen guarantee."

Sec. 2. This act shall become effective July 1, 1980.

In the General Assembly read three times and ratified, this the 18th day of May,

1979.

