

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 484
3 entitled “An act relating to miscellaneous agricultural subjects” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Beneficial Substances * * *

8 Sec. 1. 6 V.S.A. chapter 28 is amended to read:

9 CHAPTER 28. FERTILIZER ~~AND, LIME, AND BENEFICIAL~~
10 SUBSTANCES

11 § 361. TITLE

12 This chapter shall be known as the “Fertilizer, Lime, ~~Plant Amendment,~~
13 ~~Plant Biostimulant, and Soil Amendment~~ and Beneficial Substances Law.”

14 § 362. ENFORCING OFFICIAL

15 This chapter shall be administered by the Secretary of Agriculture, Food
16 and Markets or designee, hereafter referred to as the Secretary.

17 § 363. DEFINITIONS

18 As used in this chapter:

19 (1) “Agricultural lime” or “agricultural liming material” or “lime”

20 means one or more of the following:

1 (A) All products with calcium and magnesium compounds that are
2 capable of neutralizing soil acidity and that are intended, sold, or offered for
3 sale for agricultural or plant propagation purposes.

4 (B) Limestone consisting essentially of calcium carbonate or a
5 combination of calcium carbonate with magnesium carbonate capable of
6 neutralizing soil acidity.

7 (C) Industrial waste or industrial ~~by-products~~ byproducts that contain
8 calcium; calcium and magnesium; or calcium, magnesium, and potassium in
9 forms that are capable of neutralizing soil acidity and that are intended, sold, or
10 offered for sale for agricultural purposes. For the purposes of this chapter, the
11 terms “agricultural lime,” “lime,” and “agricultural liming material” ~~shall~~ have
12 the same meaning.

13 (2) “Beneficial substance” means any substance or compound, other
14 than primary, secondary, and micro plant nutrients (fertilizers), and excluding
15 pesticides, that can be demonstrated by scientific research to be beneficial to
16 one or more species of plants, soil, or media. Beneficial substances include
17 plant amendments, plant biostimulants, plant inoculants, soil amendments, soil
18 inoculants, and other chemical or biological substances beneficial to plants or
19 their growing environment.

1 (3) “Brand” means a term, design, or trademark used in connection with
2 one or more grades or formulas of fertilizer, ~~plant amendment, plant~~
3 ~~biostimulant, soil amendment~~ beneficial substance, or lime.

4 ~~(3)~~(4) “Distribute” means to import, consign, manufacture, produce,
5 compound, mix, blend, offer for sale, sell, barter, or supply a fertilizer, ~~a plant~~
6 ~~amendment, a plant biostimulant, a soil amendment~~ a beneficial substance, or
7 lime in this State through any means, including sales outlets, catalogues, the
8 telephone, the internet, or any electronic means.

9 ~~(4)~~(5) “Distributor” means any person who distributes fertilizer, ~~plant~~
10 ~~amendment, plant biostimulant, soil amendments~~ beneficial substance, or lime.

11 ~~(5)~~(6) “Exceptional quality biosolid” means a product derived in whole
12 or in part from domestic wastes that have been subjected to and meet the
13 requirements of the following:

14 (A) a pathogen reduction process established in 40 C.F.R.
15 § 503.32(a)(3), (4), (7), or (8);

16 (B) one of the vector attraction reduction standards established in 40
17 C.F.R. § 503.33;

18 (C) the contaminant concentration limits in Vermont Solid Waste
19 Rules § 6-1303(a)(1); and

20 (D) if derived from a composting process, Vermont Solid Waste
21 Rules § 6-1303(a)(5).

1 ~~(6)~~(7) “Fertilizer” means any substance containing one or more
2 recognized plant nutrients that is used for its plant nutrient content and that is
3 designed for use or claimed to have value in promoting plant growth or health,
4 except unprocessed animal or vegetable manures and other products exempted
5 by the Secretary.

6 (A) A fertilizer material is a substance that either:

7 (i) contains important quantities of at least one of the primary
8 plant nutrients: nitrogen, phosphorus, or potassium;

9 (ii) has 85 percent or more of its plant nutrient content present in
10 the form of a single chemical compound; or

11 (iii) is derived from a plant or chemical residue or ~~by-product~~
12 byproduct or natural material deposit that has been processed in such a way
13 that its content of plant nutrients has not been materially changed except by
14 purification and concentration.

15 (B) A mixed fertilizer is a fertilizer containing any combination or
16 mixture of fertilizer materials.

17 (C) A specialty fertilizer is a fertilizer distributed for nonfarm use.

18 (D) A bulk fertilizer is a fertilizer distributed in a nonpackaged form.

19 ~~(7)~~(8) “Formulation” means a material or mixture of materials prepared
20 according to a particular formula.

1 ~~(8)~~(9) “Grade” means the percentage of total nitrogen, available
2 phosphorus or phosphoric acid, and soluble potassium or potash stated in
3 whole numbers in the same terms, order, or percentages as in the guaranteed
4 analysis. Specialty fertilizers and fertilizer materials may be guaranteed in
5 fractional terms. Any grade expressed in fractional terms that is not preceded
6 by a whole number shall be preceded by zero.

7 ~~(9)~~(10) “Guaranteed analysis” means:

8 (A) in reference to fertilizer, the minimum percentages of plant
9 nutrients claimed by the manufacturer or producer of the product in the
10 following order and form: nitrogen, phosphorus, and potash; and

11 (B) in reference to agricultural lime or agricultural liming material,
12 the minimum percentages of calcium oxide and magnesium oxide or calcium
13 carbonate and the calcium carbonate equivalent, or both, as claimed by the
14 manufacturer or producer of the product.

15 ~~(10)~~(11) “Label” means the display of all written, printed, or graphic
16 matter upon the immediate container or a statement accompanying a fertilizer,
17 ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or
18 lime.

19 ~~(11)~~(12) “Labeling” means all written, printed, or graphic material upon
20 or accompanying any fertilizer, ~~plant amendment, plant biostimulant, soil~~
21 ~~amendment~~ beneficial substance, or lime, including advertisements, brochures,

1 posters, and television and radio announcements used in promoting the sale of
2 the fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
3 substance, or lime.

4 (~~12~~)(13) “Official sample” means any sample of fertilizer, ~~plant~~
5 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
6 taken by the Secretary.

7 (~~13~~)(14) “Plant amendment” means any substance applied to plants or
8 seeds that is intended to improve growth, yield, product quality, reproduction,
9 flavor, or other favorable characteristics of plants, except for fertilizer, soil
10 amendments, agricultural liming materials, animal and vegetable manures,
11 pesticides, plant regulators, and other materials exempted by rule adopted
12 under this chapter.

13 (~~14~~)(15) “Plant biostimulant” means a substance ~~or~~, microorganism, or
14 mixtures thereof that, when applied to seeds, plants, ~~or~~ the rhizosphere,
15 stimulates soil, or other growth media act to support a plant’s natural nutrition
16 processes to enhance or benefit nutrient uptake, nutrient efficiency, tolerance
17 to abiotic stress, or crop quality and yield, except for fertilizers, soil
18 amendments, plant amendments, or pesticides independently of the
19 biostimulant’s nutrient content. The plant biostimulant thereby improves
20 nutrient availability, uptake, or use efficiency; tolerance to abiotic stress; and
21 consequent growth development, quality, or yield. ~~The Secretary may modify~~

1 ~~the definition of “plant biostimulant” by rule or procedure in order to maintain~~
2 ~~consistency with U.S. Department of Agriculture requirements.~~

3 (16) “Plant inoculant” means a product consisting of microorganisms to
4 be applied to the plant or soil for the purpose of enhancing the availability or
5 uptake of plant nutrients through the root system.

6 ~~(15)~~(17) “Percent” or “percentage” means the percentage by weight.

7 ~~(16)~~(18) “Primary nutrient” includes nitrogen, available phosphoric acid
8 or phosphorus, and soluble potash or potassium.

9 ~~(17)~~(19) “Product” means the name of the fertilizer, ~~plant amendment,~~
10 ~~plant biostimulant, soil amendment~~ beneficial substance, or lime that identifies
11 it as to kind, class, or specific use.

12 ~~(18)~~(20) “Registrant” means the person who registers a fertilizer, ~~plant~~
13 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
14 under the provisions of this chapter.

15 ~~(19)~~(21) “Soil amendment” means a substance or mixture of substance
16 that is intended to improve the physical, chemical, biochemical, biological, or
17 other characteristics of the soil or a distinct form of horticultural growing
18 media used in lieu of soil. “Soil amendment” does not mean fertilizers,
19 agricultural liming materials, unprocessed animal manures, unprocessed
20 vegetable manures, pesticides, ~~plant biostimulants~~, and other materials
21 exempted by rule. A compost product from a facility under the jurisdiction of

1 the Agency of Natural Resources' Solid Waste Management Rules or
2 exceptional quality biosolids shall not be regulated as a soil amendment under
3 this chapter, unless marketed and distributed for the use in the production of an
4 agricultural commodity.

5 (22) "Soil inoculant" means a microbial product that is applied to
6 colonize the soil to benefit the soil chemistry, biology, or structure.

7 ~~(20)~~(23) "Ton" means a net weight of 2,000 pounds avoirdupois.

8 ~~(21)~~(24) "Use" includes all purposes for which a fertilizer, ~~plant~~
9 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
10 is applied.

11 ~~(22)~~(25) "Weight" means the weight of undried material as offered for
12 sale.

13 § 364. REGISTRATION

14 (a) Each brand or grade or formula of fertilizer, ~~plant amendment, plant~~
15 ~~biostimulant, or soil amendment~~ beneficial substance shall be registered in the
16 name of the person whose name appears upon the label before being
17 distributed in this State. The application for registration shall be submitted to
18 the Secretary on a form furnished by the Agency of Agriculture, Food and
19 Markets and shall be accompanied by a fee of \$85.00 per grade or formulation
20 registered. Upon approval by the Secretary, a copy of the registration shall be

1 furnished to the applicant. All registrations expire on December 31 of each
2 year. The application shall include the following information:

- 3 (1) the brand and grade or formulation;
4 (2) the guaranteed analysis if applicable; and
5 (3) the name and address of the registrant.

6 (b) A distributor shall not be required to register any fertilizer,~~plant~~
7 ~~amendment, plant biostimulant, or soil amendment~~ or beneficial substance that
8 is already registered under this chapter by another person, provided there is no
9 change in the label for the fertilizer,~~plant amendment, plant biostimulant, or~~
10 ~~soil amendment~~ or beneficial substance.

11 (c) Each beneficial substance brand shall refer to a specific formulation.
12 Different brands may refer to the same specific formulation. Products for
13 which formulations change, such as changes in the “Contains Beneficial
14 Substances” analysis, statement of composition, or anything that implies a
15 different product, must obtain a new registration with a brand that
16 distinguishes it from the previous formulation.

17 (d) A distributor shall not be required to register each grade of fertilizer
18 formulated or each formulation of soil amendment according to specifications
19 that are furnished by a consumer prior to mixing but shall be required to label
20 the fertilizer or soil amendment as provided in subsection 365(b) of this title.

1 ~~(d)~~(e) The Secretary may request additional proof of testing of products
2 prior to registration for guaranteed analyses or adulterants.

3 ~~(e)~~(f) Each separately identified agricultural lime product shall be
4 registered before being distributed in this State. Registration shall be
5 performed in the same manner as fertilizer registration except that each
6 application shall be accompanied by a fee of \$50.00 per product.

7 ~~(f)~~(g) The registration and tonnage fees, along with any deficiency
8 penalties collected pursuant to sections 331 and 372 of this title, shall be
9 deposited in a special fund. Funds deposited in this fund shall be restricted to
10 implementing and administering the provisions of this title and any other
11 provisions of law relating to feeds and seeds.

12 § 365. LABELS

13 (a)(1) Any fertilizer or agricultural lime distributed in this State in
14 containers shall have placed on or affixed to the container a label setting forth
15 in clearly legible and conspicuous form the following information:

16 (A) net weight;

17 (B) brand and grade, provided that grade shall not be required when
18 no primary nutrients are claimed;

19 (C) guaranteed analysis; and

20 (D) name and address of the registrant.

1 (2) For bulk shipments, this information in written or printed form shall
2 accompany delivery and be supplied to the purchaser at the time of delivery.

3 (b) A fertilizer or lime formulated according to specifications furnished by
4 a consumer prior to mixing shall be labeled to show the net weight, the
5 guaranteed analysis or name, analysis and weight of each ingredient used in the
6 mixture, and the name and address of the distributor and purchaser.

7 (c) If the Secretary finds that a requirement for expressing calcium and
8 magnesium in elemental form would not impose an economic hardship on
9 distributors and users of agricultural liming materials by reason of conflicting
10 label requirements among states, the Secretary may require by rule that the
11 minimum percent of calcium oxide and magnesium oxide or calcium carbonate
12 and magnesium carbonate, or both, shall be expressed in the following terms:

13 Total Calcium (Ca) percent

14 Total Magnesium (Mg) percent

15 (d)(1) Any ~~plant amendment, plant biostimulant, or soil amendment~~
16 beneficial substance distributed in this State in containers shall have placed on
17 or affixed to the container a label setting forth in clearly legible and
18 conspicuous form the following information:

19 (A) net weight or volume;

20 (B) brand name;

21 (C) purpose statement identifying the purpose of the product;

1 (D) directions for application or use;

2 (E) ~~guaranteed analysis; and~~

3 ~~(F)~~ name and address of the registrant; and

4 (F) a statement of composition showing the amount of each

5 ingredient, which is the agent in a product primarily responsible for the

6 intended effects using the following format:

7 CONTAINS BENEFICIAL SUBSTANCE(S)

8 Name of beneficial substance % (or acceptable
9 units)

10 Genus and species of microorganism % viable CFU/cm³, /ml,
11 /g, or other acceptable units

12 (Identify and list all beneficial substances. Substances shall include
13 ingredient source, if applicable. Ex. “humic acid from leonardite or saponin
14 from Yucca schidigera”).

15 (2) For products that claim microorganisms, labels shall also include:

16 (A) the expiration date for use; and

17 (B) storage conditions.

18 (3) For bulk shipments of fertilizer, ~~plant amendment, plant~~
19 biostimulant, ~~soil amendment~~ beneficial substances, or lime, the information
20 required under this subsection shall accompany delivery in written or printed
21 form and shall be supplied to the purchaser at the time of delivery.

1 (4) Efficacy data may be required to support beneficial substance
2 ingredient claims if the ingredient is not presently defined by the Association
3 of American Plant Food Control Officials' Official Publication for the
4 particular claim.

5 ~~(3)~~(5) Under a rule adopted under this subsection, an affected person
6 shall be given a reasonable time to come into compliance.

7 § 366. TONNAGE FEES

8 (a) A person distributing fertilizer to a nonregistrant consumer in the State
9 annually shall pay the following fees to the Secretary:

10 (1) a \$150.00 minimum tonnage fee;

11 (2) \$0.50 per ton of agricultural fertilizer distributed; and

12 (3) \$30.00 per ton of nonagricultural fertilizer distributed.

13 (b) Persons distributing fertilizer shall report annually on or before January
14 15 for the previous year ending December 31 to the Secretary revealing the
15 amounts of each grade of fertilizer and the form in which the fertilizer was
16 distributed within this State. Each report shall be accompanied with payment
17 and written permission allowing the Secretary to examine the person's books
18 for the purpose of verifying tonnage reports.

19 (c) No information concerning tonnage sales furnished to the Secretary
20 under this section shall be disclosed in such a way as to divulge the details of

1 the business operation to any person unless it is necessary for the enforcement
2 of the provisions of this chapter.

3 (d) Persons distributing a ~~plant amendment, plant biostimulant, or soil~~
4 ~~amendment~~ beneficial substance in the State shall report annually on or before
5 January 15 for the previous year ending December 31 to the Secretary
6 revealing the amounts of each formulation of ~~plant amendment, plant~~
7 ~~biostimulant, or soil amendment~~ beneficial substance and the form in which
8 the ~~plant amendment, plant biostimulant, or soil amendment~~ beneficial
9 substance was distributed within this State. Each report shall include a written
10 authorization allowing the Secretary to examine the person's books for the
11 purpose of verifying tonnage reports. ~~Plant amendments, plant biostimulants,~~
12 ~~and soil amendments are~~ A beneficial substance is exempt from tonnage fees.

13 (e) Agricultural limes, including agricultural lime mixed with wood ash,
14 are exempt from the tonnage fees required in this section.

15 (f) Lime and wood ash mixtures may be registered as agricultural liming
16 materials and guaranteed for potassium or potash, provided that the wood ash
17 totals less than 50 percent of the mixture.

18 (g)(1) All fees collected under subdivisions (a)(1) and (2) of this section
19 shall be deposited in the special fund created by subsection 364(f) of this title
20 and used in accordance with its provisions.

1 (2) All fees collected under subdivision (a)(3) of this section shall be
2 deposited in the Agricultural Water Quality Special Fund created under section
3 4803 of this title.

4 (h) [Repealed.]

5 § 367. INSPECTION; SAMPLING; ANALYSIS

6 For the purpose of enforcing this chapter and determining whether ~~or not~~
7 fertilizers, ~~plant amendment, plant biostimulant, soil amendments~~ beneficial
8 substances, and lime distributed in this State endanger the health and safety of
9 Vermont citizens, the Secretary upon presenting appropriate credentials is
10 authorized:

11 (1) To enter any public or private premises except domiciles during
12 regular business hours and stop and enter any vehicle being used to transport or
13 hold fertilizer, ~~a plant amendment, a plant biostimulant, a soil amendment~~
14 beneficial substances, or lime.

15 (2) To inspect blending plants, warehouses, establishments, vehicles,
16 equipment, finished or unfinished materials, containers, labeling, and records
17 relating to distribution, storage, or use.

18 (3) To sample and analyze any fertilizer, ~~plant amendment, plant~~
19 ~~biostimulant, soil amendment~~ beneficial substance, or lime. The methods of
20 sampling and analysis shall be those adopted by the Association of Official
21 Analytical Chemists. In cases not covered by this method or in cases where

1 methods are available in which improved applicability has been demonstrated,
2 the Secretary may authorize and adopt methods that reflect sound analytical
3 procedures.

4 (4) To develop any reasonable means necessary to monitor and adopt
5 rules for the use of fertilizers, ~~plant amendments, plant biostimulants, soil~~
6 ~~amendments~~ beneficial substances, and lime on Vermont soils where
7 monitoring indicates environmental or health problems. In addition, the
8 Secretary may develop and adopt rules for the proper storage of fertilizers,
9 ~~plant amendments, plant biostimulants, soil amendments~~ beneficial substances,
10 and lime held for distribution or sale.

11 § 368. MISBRANDING

12 (a) No person shall distribute a misbranded fertilizer, ~~plant amendment,~~
13 ~~plant biostimulant, soil amendment~~ beneficial substance, or agricultural lime.

14 A fertilizer, ~~plant amendment, plant biostimulant, or soil amendment~~ beneficial
15 substance shall be deemed to be misbranded if the Secretary determines one or
16 more of the following:

17 (1) The labeling is false or misleading in any particular.

18 (2) It is distributed under the name of another fertilizer product, ~~plant~~
19 ~~amendment, plant biostimulant, or soil amendment~~ beneficial substance.

20 (3) It contains unsubstantiated claims.

1 (4) It is not labeled as required in section 365 of this title and in
2 accordance with rules adopted under this chapter.

3 (5) It is labeled, or represented, to contain a plant nutrient that does not
4 conform to the standard of identity established by rule. In adopting rules under
5 this chapter, the Secretary shall ~~give consideration to~~ consider definitions
6 recommended by the Association of American Plant Food Control Officials.

7 (b) An agricultural lime shall be deemed to be misbranded if:

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

9 (2) it is not labeled as required by section 365 of this title and in
10 accordance with rules adopted under this chapter.

11 § 369. ADULTERATION

12 No person shall distribute an adulterated lime, ~~plant amendment, plant~~
13 ~~biostimulant, soil amendment~~ beneficial substance, or fertilizer product. A
14 fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
15 substance, or lime shall be deemed to be adulterated if:

16 (1) it contains any deleterious or harmful ingredient in an amount
17 sufficient to render it injurious to beneficial plant life, animals, humans,
18 aquatic life, soil, or water when applied in accordance with directions for use
19 on the label, or if uses of the product may result in contamination or
20 condemnation of a raw agricultural commodity by use, or if adequate warning

statements or directions for use that may be necessary to protect plant life,
animals, humans, aquatic life, soil, or water are not shown on the label;

(2) its composition falls below or differs from that which it is purported
to possess by its labeling;

(3) it contains crop seed or weed seed; or

(4) it contains heavy metals, radioactive substances, or synthetic
organics in amounts sufficient to render it injurious to livestock or human
health when applied in accordance with directions for use on the label, or if
adequate warning statements or directions for use that may be necessary to
protect livestock or human health are not shown on the label.

§ 370. PUBLICATION; CONSUMER INFORMATION REGARDING USE

ON NONAGRICULTURAL TURF OF FERTILIZER, ~~PLANT~~

~~AMENDMENTS, PLANT BIOSTIMULANTS, AND SOIL~~

~~AMENDMENTS~~ BENEFICIAL SUBSTANCES

(a) The Secretary shall publish on an annual basis:

(1) information concerning the distribution of fertilizers, ~~plant~~
~~amendments, plant biostimulants, soil amendments~~ beneficial substances, and
limes; and

(2) results of analyses based on official samples of fertilizers, ~~plant~~
~~amendments, plant biostimulants, soil amendments~~ beneficial substances, and

lime distributed within the State as compared with guaranteed analyses
required pursuant to the terms of this chapter.

(b)(1) The Secretary, in consultation with the University of Vermont
Extension, fertilizer industry representatives, lake groups, and other interested
or affected parties, shall produce information for distribution to the general
public with respect to the following:

(A) problems faced by the waters of the State because of discharges
of phosphorus;

(B) an explanation of the extent to which phosphorus exists naturally
in the soil;

(C) voluntary best management practices for the use of fertilizers
containing phosphorus on nonagricultural turf; and

(D) best management practices for residential sources of phosphorus.

(2) The Secretary shall develop the information required under this
subsection and make it available to the general public in the manner deemed
most effective, which may include:

(A) conspicuous posting at the point of retail sale of fertilizer
containing phosphorus, according to recommendations for how that
conspicuous posting may best take place;

(B) public service announcements by means of electronic media; or

1 (C) other methods deemed by the Secretary to be likely to be
2 effective.

3 * * *

4 § 371. RULES

5 The Secretary is authorized to adopt rules pursuant to 3 V.S.A. chapter 25
6 as may be necessary to implement the intent of this chapter and to enforce
7 those rules.

8 * * *

9 § 374. SHORT WEIGHT

10 (a) If any fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~
11 beneficial substance, or agricultural liming material is found to be short in net
12 weight, the registrant of the fertilizer, ~~plant amendment, plant biostimulant,~~
13 ~~soil amendment~~ beneficial substance, or lime shall pay a penalty of three times
14 the value of the actual shortage to the affected party.

15 (b) Each registrant shall be offered an opportunity for a hearing before the
16 Secretary. Penalty payments shall be made within 30 days after notice of the
17 Secretary's decision to assess a penalty. Proof of payment to the consumer
18 shall be promptly forwarded to the Secretary by the registrant.

19 (c) If the consumer cannot be found, the amount of the penalty payments
20 shall be paid to the Secretary who shall deposit the payment into the revolving
21 account established by subsection 364(f) of this title.

1 (d) This section is not an exclusive cause of action, and persons affected
2 may utilize any other right of action available under law.

3 § 375. CANCELLATION OF REGISTRATION

4 The Secretary is authorized to cancel or suspend the registration of any
5 fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
6 substance, or lime or refuse a registration application if the provisions of this
7 chapter or the rules adopted under this chapter have been violated, provided
8 that no registration shall be revoked or refused without a hearing before the
9 Secretary.

10 § 376. DETAINED FERTILIZER, BENEFICIAL SUBSTANCE, AND LIME

11 (a) Withdrawal from distribution orders. When the Secretary has
12 reasonable cause to believe any lot of fertilizer, ~~plant amendment, plant~~
13 ~~biostimulant, soil amendment~~ beneficial substance, or lime is being distributed
14 in violation of any of the provisions of this chapter or any of the rules under
15 this chapter, the Secretary may issue and enforce a written or printed
16 “withdrawal from distribution” order, warning the distributor not to dispose of
17 the lot of fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~
18 beneficial substance, or lime in any manner until written permission is given
19 by the Secretary or the court. The Secretary shall release the lot of fertilizer,
20 ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or
21 lime withdrawn when this chapter and rules have been complied with. If

1 compliance is not obtained within 30 days, the Secretary may begin, or upon
2 request of the distributor or registrant shall begin, proceedings for
3 condemnation.

4 (b) Condemnation and confiscation. Any lot of fertilizer, ~~plant~~
5 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
6 not in compliance with this chapter and rules shall be subject to seizure on
7 complaint of the Secretary to a court of competent jurisdiction in the area in
8 which the fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~
9 beneficial substance, or lime is located. In the event the court finds the
10 fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
11 substance, or lime to be in violation of this chapter and orders the
12 condemnation of the fertilizer, ~~plant amendment, plant biostimulant, soil~~
13 ~~amendment~~ beneficial substance, or lime, it shall be disposed of in any manner
14 consistent with the quality of the fertilizer, ~~plant amendment, plant~~
15 ~~biostimulant, soil amendment~~ beneficial substance, or lime and the laws of the
16 State, provided that in no instance shall disposition of the fertilizer, ~~plant~~
17 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
18 be ordered by the court without first giving the claimant an opportunity to
19 apply to the court for release of the fertilizer, ~~plant amendment, plant~~
20 ~~biostimulant, soil amendment~~ beneficial substance, or lime or for permission to
21 process or relabel the fertilizer, ~~plant amendment, plant biostimulant, soil~~

1 ~~amendment~~ beneficial substance, or lime to bring it into compliance with this
2 chapter.

3 * * *

4 § 379. EXCHANGES BETWEEN MANUFACTURERS

5 Nothing in this chapter shall be construed to restrict or impair sales or
6 exchanges of fertilizers, ~~plant amendments, plant biostimulants, or soil~~
7 ~~amendments~~ or beneficial substances to each other by importers,
8 manufacturers, or manipulators who mix fertilizer materials, ~~plant~~
9 ~~amendments, plant biostimulants, or soil amendments~~ or beneficial substances
10 for sale or to prevent the free and unrestricted shipments of fertilizer, ~~plant~~
11 ~~amendments, plant biostimulant, or soil amendments~~ or beneficial substances
12 to manufacturers or manipulators who have registered their brands as required
13 by provisions of this chapter.

14 § 380. ADMINISTRATIVE PENALTY

15 Consistent with chapter 1 of this title, the Secretary may assess an
16 administrative penalty upon determining that a person has violated a rule
17 issued under this chapter or has violated this chapter in the following manner:

18 (1) distributed a specialty fertilizer, ~~plant amendment, plant~~
19 ~~biostimulant, soil amendment~~ beneficial substance, or lime without first
20 obtaining the appropriate product registration;

(2) distributed a fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime without appropriate and accurate labeling, including when a beneficial substance label does not reflect its composition;

(3) distributed any adulterated fertilizer, beneficial substance, or lime;

(4) failed to disclose on the label sources of potentially deleterious components;

(5) failed to report or to accurately report the amount and form of each grade of fertilizer distributed in Vermont on an annual basis;

~~(4)~~(6) failed to report or to accurately report the amount and form of each formulation of ~~plant amendment, plant biostimulant, or soil amendment~~ beneficial substance;

~~(5)~~(7) failed to pay the appropriate tonnage fee; or

~~(6)~~(8) violated a cease and desist order.

* * *

* * * Pesticides; Disposal * * *

Sec. 2. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

* * *

(b)(1) The registrant shall pay an annual fee of \$200.00 for each product registered, and \$185.00 of that amount shall be deposited in the special fund

1 created in section 929 of this title. Of the registration fees collected under this
2 subsection, \$15.00 of the amount collected shall be deposited in the
3 Agricultural Water Quality Special Fund under section 4803 of this title. Of
4 the registration fees collected under this subsection, \$25.00 of the amount
5 collected shall be used to offset the additional costs of inspection of economic
6 poison products and to provide educational services, training, and technical
7 assistance to pesticide applicators, beekeepers, and the general public
8 regarding the effects of pesticides on pollinators and the methods or best
9 management practices to reduce the impacts of pesticides on pollinators. The
10 annual registration year shall be from December 1 to November 30 of the
11 following year.

12 (2) In addition to the fee required under subdivision (1) of this
13 subsection, a registrant shall pay a fee of \$50.00 per product registration that
14 shall be deposited in the special fund created in section 929 of this title and
15 used to meet the requirements of subdivision 929(a)(6) of this title. This
16 additional fee shall be collected from registrants until such time as an extended
17 producer responsibility program is implemented in the State that fully funds
18 the collection of obsolete and unwanted pesticides.

19 * * *

20 Sec. 3. PESTICIDE DISPOSAL FUNDING STUDY

1 (a)(1) The Secretary of Agriculture, Food and Markets, in consultation with
2 the Commissioner of Environmental Conservation, shall study options for
3 sustainable funding sources to reimburse solid waste management entities for
4 all costs associated with the collection and disposal of unwanted or obsolete
5 pesticides at municipal hazardous waste collection programs and events.

6 (2) The costs to be reimbursed shall include the prorated costs related to
7 facilities, equipment, labor, supplies, maintenance, and collection events.
8 Prorated costs associated with collection events shall include collection event
9 setup fees, environmental service fees, insurance fees, and shipping containers
10 and materials related to the collection and disposal of unwanted or obsolete
11 pesticides.

12 (3) The study shall include consideration of the viability of an extended
13 producer responsibility program for pesticides among other options.

14 (4) The Secretary shall consult with stakeholders.

15 (b) On or before December 15, 2025, the Secretary of Agriculture, Food
16 and Markets shall submit a written report on its findings to the House
17 Committees on Agriculture, Food Resiliency, and Forestry and on
18 Environment and the Senate Committees on Agriculture and on Natural
19 Resources and Energy. The report shall include a recommended funding
20 mechanism that will cover all costs associated with collecting unwanted
21 pesticides through municipal collection programs.

* * * Stormwater Permits * * *

Sec. 4. STORMWATER PERMITTING; RUTLAND COUNTY

AGRICULTURAL SOCIETY, INC.

No stormwater impact fee or completion of an offset shall be required for the Rutland County Agricultural Society, Inc. under the three-acre stormwater permit required by 10 V.S.A. § 1264, provided that the Society is registered with the Agency of Agriculture, Food and Markets.

* * * Use Value Appraisal * * *

Sec. 5. 32 V.S.A. § 3752(1) is amended to read:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision ~~(1)~~. Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit;

(B) it is used by a farmer as part of the farmer’s operation under written lease for at least three years; or

1 (C) it has produced an annual gross income from the sale of farm
2 crops or the equivalent value of donated farm crops in one of two, or three of
3 the five, calendar years preceding of at least:

4 (i) \$2,000.00 for parcels of up to 25 acres; ~~and,~~

5 (ii) \$75.00 per acre for each acre over 25, with the total income
6 required not to exceed \$5,000.00.

7 (iii) Exceptions to these income requirements may be made in
8 cases of orchard lands planted to fruit-producing trees, bushes, or vines that are
9 not yet of bearing age. As used in this section, the term “farm crops” also
10 includes animal fiber, cider, wine, and cheese, produced on the enrolled land or
11 on a housesite adjoining the enrolled land, from agricultural products grown on
12 the enrolled land.

13 * * * Vermont Income Tax * * *

14 Sec. 6. 32 V.S.A. § 5811(21) is amended to read:

15 (21) “Taxable income” means, in the case of an individual, federal
16 adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

17 * * *

18 (B) decreased by the following items of income (to the extent such
19 income is included in federal adjusted gross income):

20 * * *

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income or \$350,000.00, whichever is less;

* * *

(v) the amount of any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E; and

1 (vi) the amount of interest paid by a qualified resident taxpayer
2 during the taxable year on a qualified education loan for the costs of attendance
3 at an eligible educational institution; ~~and~~

4 (vii) the amount of any net farm profit, provided the taxpayer's net
5 farm profit during the taxable year did not exceed \$10,000.00; and

6 (viii) notwithstanding subdivision (ii) of this subdivision (21)(B),
7 adjusted net capital gain income from the sale of real estate that is part of a
8 farming operation, provided the buyer continued using the real estate as part of
9 a farming operation and:

10 (I) is related to the seller by blood, marriage, civil union, or
11 adoption; or

12 (II) the buyer was an employee of the farming operation for a
13 minimum of 10 years prior to the sale; and

14 * * *

15 * * * Effective Date * * *

16 Sec. 7. EFFECTIVE DATE

17 This act shall take effect on July 1, 2025.

1

2

3 (Committee vote: _____)

4

5

Senator _____

6

FOR THE COMMITTEE