

A-Engrossed
Senate Bill 833

Ordered by the Senate February 24
Including Senate Amendments dated February 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for State Department of Agriculture)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes related to soil additions. (Flesch Readability Score: 61.2).
Makes certain changes related to label requirements for soil-enhancing products.
Makes certain changes related to tonnage reports for soil-enhancing products.

A BILL FOR AN ACT

Relating to soil-enhancing products; amending ORS 633.321, 633.441 and 633.462.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 633.321 is amended to read:

633.321. (1) A person may not distribute fertilizer, agricultural amendment, agricultural mineral or lime products in packaged form unless there is a printed label attached or applied to the package. A person may not distribute fertilizer, agricultural amendment, agricultural mineral or lime products in bulk unless a label in the form of a separate document physically accompanies the shipment and is furnished to the user or purchaser when each separate delivery is made, or when the last delivery from the lot is made. The label must include the following:

(a) The name under which the product is registered or distributed.

(b) The net weight or volume.

(c) The name and mailing address of the manufacturer, distributor or registrant.

(d) The product grade if primary nutrients are claimed.

(e) The product density, in pounds per gallon at 68 degrees Fahrenheit, if the product is distributed as a bulk liquid.

(f) A guaranteed analysis. The guaranteed analysis must immediately follow the statement, "GUARANTEED ANALYSIS." Guarantees must be based on a laboratory method of analysis approved by the State Department of Agriculture. The guaranteed analysis shall be stated on an "as is" basis at the time the fertilizer, agricultural amendment, agricultural mineral or lime product is distributed into or within this state. Primary nutrients, secondary nutrients and micronutrients that are claimed or advertised must be individually guaranteed. A guarantee of a zero percentage may not appear in the guaranteed analysis statement.

(g) A derivation statement declaring the sources for all primary nutrients, secondary nutrients and micronutrients guaranteed. The statement must be listed immediately below the guaranteed analysis. Abbreviations, brand names, trademarks and trade names may not appear in the derivation

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 statement, but may appear as part of the product name in an area of the label that is separate from
2 the derivation statement.

3 (h) The identity and amount of ingredients other than primary nutrients, secondary nutrients
4 and micronutrients that are claimed or advertised. The identity and amount must be guaranteed and
5 determinable by laboratory methods approved by the department. The source of those ingredients
6 shall be formatted on the label as *[follows]* **one of the following:**

7
8
9 [ALSO] CONTAINS NON-PLANT
10 FOOD INGREDIENT(S):
11 _____% Humic Acids (Derived from _____)
12 _____% Other Determinable Non-Plant
13 Food Ingredients

14
15
16
17
18 **CONTAINS BENEFICIAL**
19 **SUBSTANCE(S):**
20 **Humic Acids (Derived from _____) _____%**
21 **Other Determinable Non-Plant**
22 **Food Ingredients _____%**

23
24
25 (i) Notwithstanding paragraph (h) of this subsection, if the ingredients described in par-
26 agraph (h) of this subsection, other than primary nutrients, secondary nutrients and micro-
27 nutrients, are present in addition to guaranteed primary nutrients, secondary nutrients or
28 micronutrients, the source of the ingredients shall be formatted on the label as one of the
29 following:

30
31
32 **ALSO CONTAINS NON-PLANT**
33 **FOOD INGREDIENT(S):**
34 **_____% Humic Acids (Derived from _____)**
35 **_____% Other Determinable Non-Plant**
36 **Food Ingredients**

37
38
39
40
41 **ALSO CONTAINS BENEFICIAL**
42 **SUBSTANCE(S):**
43 **Humic Acids (Derived from _____) _____%**
44 **Other Determinable Non-Plant**
45 **Food Ingredients _____%**

1
2
3 [(i)] (j) A unique identifier for custom mixed products.

4 [(j)] (k) An Internet address that leads to a department website that is accessible to the public
5 and contains product-specific information. The department shall adopt rules establishing the date for
6 label compliance and the nature of product information that must be available through the website.
7 The information must be accessible by product name, ingredient or reportable substance and shall
8 include, at a minimum:

9 (A) For any product identified in an application for registration under ORS 633.362 as being
10 waste-derived, the product name and the Standard Industrial Classification code or North American
11 Industry Classification System code of each facility that generated the waste-derived product or any
12 waste-derived ingredient of the product; and

13 (B) The types and levels of metals and other substances for which a statement is required under
14 ORS 633.362 (10) or required by department rule to be stated in the application for registration of
15 a product.

16 (2)(a) Primary nutrients that are claimed or advertised must be guaranteed and formatted on the
17 label as follows:

18
19
20 GUARANTEED ANALYSIS:

21 Total Nitrogen (N) _____%

22 _____% Ammoniacal Nitrogen

23 _____% Nitrate Nitrogen

24 _____% Urea Nitrogen

25 [*_____% Slowly Available Water*]

26 [*Soluble Nitrogen*]

27 _____% Other Water Soluble

28 Nitrogen

29 _____% Water Insoluble Nitrogen

30 Available Phosphate (P_2O_5) _____%

31 Soluble Potash (K_2O) _____%

32
33
34 (b) The guarantees for the forms of nitrogen **are required and** must add up to the total nitrogen
35 guarantee and be shown by indentation. The forms of nitrogen may be listed in an order other than
36 the order listed in this subsection.

37 (c) Phosphorous acid (expressed as H_3PO_3 or PO_3) cannot be claimed as a source of available
38 phosphate.

39 (3) The following secondary nutrients and micronutrients that are claimed or advertised must
40 be guaranteed, be placed on the label in the same order as listed in this subsection and immediately
41 follow the guaranteed analysis for any primary nutrients claimed. The guaranteed analysis of sec-
42 ondary nutrients and micronutrients must be made on the elemental basis. When a chelated, water
43 soluble or other form of plant nutrient is claimed or advertised in addition to the elemental form
44 of the same secondary nutrient or micronutrient, [*the form and percentage must be guaranteed sepa-*
45 *rately and shown by indentation*] **the guaranteed analysis of the chelated, water soluble or other**

1 **form of plant nutrient may not exceed the total guaranteed analysis of the same secondary**
 2 **nutrient or micronutrient.** Zeroes are required before decimal points for amounts that are less
 3 than one percent. Except for products identified in subsection (4) of this section, the minimum per-
 4 centages that may be accepted for registration are as follows:

7	Calcium (Ca)	1.0000%
8	Magnesium (Mg)	0.5000%
9	Sulfur (S)	1.0000%
10	Boron (B)	0.0200%
11	Chlorine (Cl)	0.1000%
12	Cobalt (Co)	0.0005%
13	Copper (Cu)	0.0500%
14	Iron (Fe)	0.1000%
15	Manganese (Mn)	0.0500%
16	Molybdenum (Mo)	0.0005%
17	Nickel (Ni)	0.0010%
18	Sodium (Na)	0.1000%
19	Zinc (Zn)	0.0500%

21
 22 (4) The minimum percentages set forth in subsection (3) of this section do not apply to the fol-
 23 lowing as defined by department rule:

24 (a) Guarantees for water soluble nutrients on labels for:

25 (A) Ready to use foliar fertilizers or agricultural minerals;

26 (B) Ready to use specialty liquid fertilizers or agricultural minerals; or

27 (C) Products used for hydroponic or continuous liquid feed programs.

28 (b) Guarantees for soils and horticultural growing mediums.

29 (5) If a fertilizer, agricultural amendment, agricultural mineral or lime product has a boron
 30 concentration greater than 0.1 percent or a molybdenum concentration greater than 0.001 percent,
 31 the product label must include:

32 (a) A warning or cautionary statement that the product contains boron or molybdenum and is
 33 to be used only according to the manufacturer's recommendations or directions[.]; **and**

34 **(b) A guaranteed analysis of the boron or molybdenum.**

35 (6)(a) If a fertilizer, agricultural amendment, agricultural mineral product or lime product is in-
 36 tended to be microbiological inoculum, the label must include:

37 (A) A product expiration date;

38 (B) The number of each viable organism per milliliter for liquid products or per gram for dry
 39 products;

40 (C) The identification of each viable organism expressed as genus and species, and, if applicable,
 41 strain;

42 (D) Storage conditions; and

43 (E) For products containing organisms known to be human pathogens, a precautionary statement
 44 consistent with any department rules establishing statement requirements for the organisms or es-
 45 tablishing the text of the statement.

1 (b) If a fertilizer, agricultural amendment or agricultural mineral product is derived from a
2 microbiological process or culture but is not intended to be a microbiological inoculum, the product
3 label must include a statement that the product is not a viable culture.

4 (7) A product ingredient may not be listed, claimed or guaranteed on the label or labeling
5 without prior approval by the department.

6 (8) The label information requirements established in subsections (1)(d) and (f), (2), (3) and (6)(b)
7 of this section do not apply to the label of a custom medium for commercial production if the end
8 user is provided with a statement of formulation that lists all of the materials in the custom medium
9 and the amount of each material.

10 **SECTION 2.** ORS 633.441 is amended to read:

11 633.441. In accordance with the applicable provisions of ORS chapter 183, the State Department
12 of Agriculture may adopt rules necessary to implement, administer and enforce ORS 633.311 to
13 633.479 and 633.994, including but not limited to rules for:

14 (1) Fertilizer, agricultural amendment, agricultural mineral and lime product:

15 (a) Handling;

16 (b) Sampling;

17 (c) Storage;

18 (d) Labeling;

19 (e) Distribution;

20 (f) Definitions;

21 (g) Analysis;

22 (h) Records;

23 (i) Use;

24 (j) Minimum percentages;

25 (k) Investigational allowances; and

26 (L) Ingredients.

27 (2) Public access to product information of any fertilizer, agricultural amendment, agricultural
28 mineral or lime product.

29 **(3) Establishing and maintaining labeling requirements and guidelines for fertilizer pro-**
30 **ducts and agricultural amendment products that align with national standards developed by**
31 **the Association of American Plant Food Control Officials for the fertilizer products and ag-**
32 **ricultural amendment products.**

33 **SECTION 3.** ORS 633.462 is amended to read:

34 633.462. (1) A person shall file a semiannual tonnage report with the State Department of Agri-
35 culture if the person:

36 (a) Distributes into this state, from foreign or domestic sources, a fertilizer, agricultural
37 amendment, agricultural mineral or lime product used as an ingredient in the in-state manufacture
38 of a fertilizer, agricultural amendment, agricultural mineral or lime product;

39 (b) Distributes into this state, from foreign or domestic sources, an end-use fertilizer, agricul-
40 tural amendment, agricultural mineral or lime product for use within this state; or

41 (c) Distributes into this state a fertilizer, agricultural amendment, agricultural mineral or lime
42 product composed of ingredients not described under paragraph (a) or (b) of this subsection.

43 (2) If a person engaged in the business of making distributions described in subsection (1) of this
44 section does not distribute any fertilizer, agricultural amendment, agricultural mineral or lime
45 product into or within this state during a reporting period, the person shall file a semiannual

1 tonnage report declaring that no distribution occurred.

2 (3) A person shall file a semiannual tonnage report required under this section with the de-
3 partment, on forms provided by the department, setting forth the total tonnage of each product dis-
4 tributed into or within this state during the reporting period. The reporting periods for each year
5 are January 1 through June 30 and July 1 through December 31.

6 (4) Semiannual tonnage reports and inspection fees imposed under ORS 633.465 are due within
7 30 days after the end of the reporting period.

8 (5) If a person fails to file a semiannual tonnage report or pay an inspection fee [*on or before*
9 *the due date*] **within 30 days after the end of the reporting period:**

10 (a) The department may assess a collection fee of 10 percent of the amount due or \$25, which-
11 ever is greater; and

12 (b) Notwithstanding ORS 633.362, the department may suspend or deny registration of the
13 product until the report is filed and the fee is paid.

14 (6) **If a person fails to file a semiannual tonnage report or pay an inspection fee within**
15 **90 days after the end of the reporting period:**

16 (a) **The department may assess a collection fee as described in subsection (5)(a) of this**
17 **section; and**

18 (b) **Notwithstanding ORS 633.362, the department may suspend or deny registration of the**
19 **product until the semiannual tonnage report is filed and the collection fee is paid.**

20 [(5)] (7) ORS 561.450 applies to a person who refuses to pay inspection fees that are due under
21 this section.

22 [(6)] (8) A person required to file a semiannual tonnage report under this section shall maintain
23 records and a bookkeeping system that accurately indicate the tonnage of fertilizer, agricultural
24 amendment, agricultural mineral or lime product that is subject to inspection fees. The person shall
25 maintain the records for a period of three years.

26