



Jill Rowland

Bill Analysis

Legislative Service Commission

H.B. 232

126th General Assembly
(As Introduced)

**Reps. Mason, Allen, Brown, Chandler, Distel, Ujvagi, Key, S. Patton,
Bocchieri, Miller, Strahorn, Yuko, Sykes, DeBose, Harwood**

BILL SUMMARY

- Defines "restricted fertilizer" to include certain fertilizers such as ammonium nitrate that could be used for purposes posing a threat to public safety.
- Specifies that the exceptions from the licensure requirements that are established under current law for fertilizer distributors do not apply to distributors of restricted fertilizers.
- Requires a distributor of a restricted fertilizer to do all of the following: (1) register with the Director of Agriculture, provide the Director with specified information, and pay a registration fee, (2) obtain an approved photo-identification from each person to whom a distribution of restricted fertilizer is made, (3) maintain specified records of each such distribution transaction for at least two years and allow the Director access to the records, and (4) annually report the distribution transactions to the Director.
- Establishes a penalty for violation of its provisions.

CONTENT AND OPERATION

The bill defines "restricted fertilizer" as any fertilizer that the Director of Agriculture specifies as restricted due to its potential use for a purpose other than as a crop fertilizer that could be a threat to the public safety. The bill specifies that "restricted fertilizer" includes ammonium nitrate. (Sec. 905.31(AA).)

Current law prohibits a person from manufacturing or distributing any type of fertilizer in this state until a license to manufacture or distribute¹ has been obtained from the Director of Agriculture (sec. 905.32, not in the bill). Under current law, two exceptions to this requirement exist; they provide that no distributor of fertilizer is required to obtain a license to distribute fertilizer if either of the following applies: (1) the manufacturer is licensed, or (2) the manufacturer or distributor is registered to manufacture or distribute a specialty fertilizer. The bill states that these exceptions from the licensure requirement do not apply to distributors of restricted fertilizers. (Sec. 905.34.)

It then prohibits a person from distributing any restricted fertilizer unless that person annually registers as a restricted fertilizer distributor with the Director pursuant to the bill and has available at the business address a certificate of registration that the Director provides (sec. 905.341(A)). Under the bill, any person registering as a restricted fertilizer distributor must provide, on a form the Director provides, the applicant's name and address and the name and address of each business from which the applicant distributes a restricted fertilizer. The applicant must pay the fee the Director establishes by rule for each registered business address. (Sec. 905.341(B).)

The bill requires a distributor of a restricted fertilizer to obtain from each person to whom a restricted fertilizer is distributed a driver's license or other form of government-issued photo-identification that the Director approves. The distributor must record the license number or other identifying number and any other information contained on the identification that the Director requires. (Sec. 905.341(C).) Upon the Director's request, the Director of Public Safety must provide driver's license records to verify the identity of a person to whom a restricted fertilizer is distributed (sec. 905.341(F)).

Under the bill, a distributor of a restricted fertilizer must maintain for each registered business location a record of each distribution of a restricted fertilizer made from that location. The record must include the date of the transaction, the name and address of the person to whom the product is distributed, the number and other required information recorded from the driver's license or photo identification, the amount of the product distributed, the brand name of the product, and any other information that the Director requires. The distributor must maintain the records for a minimum of two years after the transaction. The distributor must give the Director access to these records at any time. (Sec. 905.341(D).)

¹ "Distribute" means to offer for sale, sell, barter, or otherwise supply fertilizer for other than manufacturing purposes (sec. 905.31(D)).

Any person who is registered pursuant to the bill must submit annually to the Director, by the date the Director specifies and on a form the Director provides, a report of the above information obtained during the reporting period. A registrant must submit a report for each registered location whether or not any restricted fertilizer was distributed from that location during the reporting period. (Sec. 905.341(E).)

The bill specifies that whoever violates its provisions is guilty of a misdemeanor of the second degree for a first offense. On each subsequent offense the offender is guilty of a misdemeanor of the first degree. Those penalties are the same as those established in existing law for violating other provisions of the law governing fertilizer. (Sec. 905.99.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-03-05	p. 735

h0232-i-126.doc/kl

