

whose property valuation, as assessed for taxable purposes within the township, or district shall amount to fifty] sixty per centum of the total property [valuation, for such purposes] owners of the township or the affected sewer district, if such district has been constituted, as the case may be, shall sign and file, in the office of the prothonotary of the court of common pleas of the county in which the township is located, a written protest against the construction of such sewer, drain or system thereof, then the construction authorized by such resolution or ordinance shall not be undertaken or proceeded with.

Section 2. This act shall take effect immediately.

APPROVED—The 3rd day of April, A. D. 1968.

RAYMOND P. SHAFER.

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No. 34

AN ACT

HB 1761

Amending the act of May 29, 1956 (P. L. 1795), entitled "An act regulating the sale and distribution of mixed fertilizers and fertilizer materials; imposing powers and duties on the Secretary of Agriculture and prescribing penalties," further defining "person," and providing further for registrations, inspection fees, the disposition of revenues, reports and seizure, condemnation and sale.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of May 29, 1956 (P. L. 1795), known as the "Pennsylvania Fertilizer Law of 1956," is amended by adding after clause (12), a new clause to read:

Section 2. Definitions.—As used in this act:

\* \* \*

(12.1) The term "person" includes an individual of either a partnership, corporation, association, broker, jobber, company, legal entity, importer, society, and every agent, officer, or employer of any thereof.

The term imparts both the singular and plural as the case may be.

\* \* \*

Section 2. Subsection (d) of section 3 and subsection (a) of section 5 of the act, amended June 24, 1965 (P. L. 144), are amended to read:

Section 3. Registration.—\* \* \*

(d) Any person who manufactures, mixes or mixes to the customer's order any commercial fertilizer material offered for sale, sold or distributed, in Pennsylvania must first obtain a fertilizer manufacturing license from the Secretary of Agriculture.

\* \* \*

Section 5. Inspection Fees; Reports.—(a) There shall be paid to the secretary for all commercial fertilizers offered for sale, sold or distributed in this State an inspection fee at the rate of [eight cents (\$.08)] ten cents (\$.10) per ton, or at a rate to be determined by the Secretary of Agriculture, which is adequate for the payment of the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this act. The maximum rate, as determined by the secretary, shall not exceed ten cents (\$.10) per ton. Inspection fees shall not be paid for sales to manufacturers or exchanges between them. Fees so collected shall be [placed in a fund for] paid into the State Treasury and shall be credited to the general government operations appropriation of the Department of Agriculture for the payment of the cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this act and other acts specified by the General Assembly. [Said fund shall be known as The Feed and Fertilizer Fund.]

On packages of commercial fertilizer sold only in containers of [ten] twenty-five pounds or less, there shall be paid [, in lieu of the inspection fee of eight cents (\$.08) per ton,] an inspection fee of ten dollars (\$10) for each brand or grade. When a person sells fertilizer in packages of [ten] twenty-five pounds or less, and also in packages over [ten] twenty-five pounds [the rate shall be that of the inspection fee] or on regular commercial fertilizer when less than one hundred tons have been shipped, there shall be paid in lieu of the regular tonnage inspection fee, a ten dollar (\$10) semi-annual tonnage inspection fee with the tonnage report. The regular tonnage inspection fee of ten cents (\$.10) per ton shall apply to all brands and grades on shipments of one hundred tons or more in any semi-annual reporting period.

\* \* \*

Section 3. Subsection (c) of section 5 and section 11 of the act, amended April 11, 1961 (P. L. 74), are amended to read:

Section 5. Inspection Fees; Reports.—\* \* \*

(c) Every distributor, person, manufacturer or importer of com-

mercial fertilizer in this State selling to a nonregistrant shall file, in a manner prescribed by the Secretary of Agriculture, not later than the last day of January and July of each year, a semi-annual statement, setting forth the number of net tons of commercial fertilizer distributed in this State during the preceding six-months period and, upon filing such statement, shall pay the inspection fee at the rate stated in subsection (a) of this section.

Section 11. Tonnage Reports.—Each person registering or guaranteeing commercial fertilizers under this act shall furnish the secretary with a confidential written statement of the tonnage, by counties, of each grade of commercial fertilizer sold by him to a nonregistrant in this State. The statement shall include all sales for the periods of July 1 to and including December 31 and of January 1 to and including June 30 of each year. A statement shall not be required when the reporting system in subsection (c) of section 5 is used. The secretary may, in his discretion, cancel the registration of any person failing to comply with this section if the above statement is not made within thirty days from the date of the close of each period. The secretary, however, may grant a reasonable extension of time. No information furnished under this section shall be disclosed in such a way as to divulge the operation of any person. The secretary or his authorized representative shall have authority to examine the manufacturer's records and verify the tonnages of commercial fertilizer manufactured, stored or sold or handled.

Section 4. Section 17 of the act is amended to read:

Section 17. Seizure, Condemnation and Sale.—Any lot of commercial fertilizer not in compliance with the provisions of this act shall be subject to seizure on complaint of the secretary to a court of competent jurisdiction in the area in which the commercial fertilizer is located. In the event the court finds the commercial fertilizer to be in violation of this act and orders the condemnation of the commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the State, but in no instance shall the disposition of the commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer or for permission to process or relabel the commercial fertilizer to bring it into compliance with this act. If compliance is not obtained within thirty days, the secretary may begin, or upon request of the distributor shall begin, procedures for condemnation.

Section 5. This act shall take effect immediately.

APPROVED—The 3rd day of April, A. D. 1968.

RAYMOND P. SHAFER.