

LEGISLATIVE BILL 201

Approved by the Governor February 12, 1987

Introduced by R. Johnson, 34

AN ACT relating to the Department of Agriculture; to amend sections 81-217.29, 81-217.31, 81-2,162.01, 81-2,162.04, 81-2,162.22, and 89-1,101, Reissue Revised Statutes of Nebraska, 1943; to harmonize certain provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act; to change a penalty provision; to change and eliminate provisions relating to donated food; to eliminate a penalty; and to repeal the original sections, and also sections 81-217.30 and 81-217.32, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section. 1. That section 81-217.29, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~81-217-29-~~ (1) For the purposes of this section, the definitions provided in section 81-217.12 shall apply.

(2) Notwithstanding any other provisions of the law of this state, any person who makes a good faith donation to a charitable or nonprofit organization of prepared or perishable food or raw agricultural products which appear to be fit for human consumption at the time it is donated shall not be liable for damages in any civil action for any injury or death because of the condition of such food unless the injury or death is a direct result of the gross negligence, recklessness, or intentional misconduct of the donor.

(3) Notwithstanding any other provisions of the law of this state, a charitable or nonprofit organization which in good faith receives and distributes, without charge, food which the organization reasonably determines to be fit for human consumption at the time it is distributed shall not be liable for damages in any civil action based on the doctrine of strict liability in tort for any injury or death because of the condition of such food.

(4) This section shall apply to all good faith donations of perishable food or raw agricultural

products which are not readily marketable because of appearance, freshness, grade, surplus supply, or other conditions.

Sec. 2. That section 81-217.31, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~81-217-31-~~ (1) It shall be unlawful for any person or charitable or nonprofit organization receiving food pursuant to ~~sections 81-217-29 to 81-217-32~~ section 1 of this act to sell or offer to sell such food.

(2) Violation of the provisions of subsection (1) of this section shall be a Class V misdemeanor.

Sec. 3. That section 81-2,162.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.01. The Nebraska Commercial Fertilizer and Soil Conditioner Act ~~provisions of this act~~ shall be administered by the Director of Agriculture.

Sec. 4. That section 81-2,162.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.04. (1) Any packaged soil conditioner distributed in this state, except ~~custom blended~~ custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously ~~the~~ (a) the net weight or measure of the product, (b) the information required by subdivisions ~~(e) and (d)~~ (1)(c) and (d) of section 81-2,162.03, (c) the total percentage of the active ingredients in the soil conditioner, (d) the identification and percentage of each individual active ingredient, (e) the total percentage of the inactive ingredients, (f) the identification and percentage of each individual inactive ingredient which comprises more than two per cent of the entire soil conditioner, and (g) under a category entitled other inactive ingredients, the total percentage of the remaining inactive ingredients which individually do not comprise two per cent or more of the soil conditioner.

(2) If any soil conditioner is distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (1)(c) and (d) of ~~subsection (1)~~ section 81-2,162.03 and by subdivisions (1)(c) through (g) of ~~subsection (1)~~ of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a soil conditioner is so comprised as to be recognized by a name commonly

understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Notwithstanding any other provision of this act the Nebraska Commercial Fertilizer and Soil Conditioner Act, any soil conditioner which is also a pesticide, labeled in conformance with the Nebraska Pesticides and Devices Act sections 2-2601 to 2-2621, shall be deemed to be labeled in conformance with this such act.

Sec. 5. That section 81-2,162.22, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.22. This act Sections 81-2,162.01 to 81-2,162.27 shall be known and may be cited as the Nebraska Commercial Fertilizer and Soil Conditioner Act.

Sec. 6. That section 89-1,101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

89-1,101. Any person who violates any provision of sections 89-183 to 89-1,103 for which a specific penalty has not been prescribed shall be guilty of a Class III misdemeanor. Upon a subsequent conviction thereof, he or she shall be guilty of a Class I misdemeanor.

Sec. 7. That original sections 81-217.29, 81-217.31, 81-2,162.01, 81-2,162.04, 81-2,162.22, and 89-1,101, Reissue Revised Statutes of Nebraska, 1943, and also sections 81-217.30 and 81-217.32, Reissue Revised Statutes of Nebraska, 1943, are repealed.