



2001 ASSEMBLY BILL 800

February 12, 2002 - Introduced by Representatives OTT, OLSEN, HINES, PETROWSKI, VRAKAS, SYKORA, GUNDERSON and MILLER, cosponsored by Senators HANSEN and SCHULTZ. Referred to Committee on Agriculture.

1 **AN ACT to repeal** 94.681 (7) (a) 2. and 94.72 (6) (a) 1.; **to consolidate, renumber**
2 **and amend** 94.681 (7) (a) (intro.) and 1.; **to amend** 25.46 (4), 25.465 (8), 94.64
3 (3m) (b) (intro.), 94.64 (4) (a) 1., 94.64 (4) (a) 5., 94.681 (3), 94.681 (3m), 94.72
4 (6) (a) 2., 94.73 (6) (b), 94.73 (6) (c) (intro.) and 94.73 (15) (a); **to repeal and**
5 **recreate** 94.681 (2); and **to create** 94.681 (1) (cm), 94.681 (3s) and 94.72 (6) (a)
6 2m. of the statutes; **relating to:** fees and surcharges related to pesticides,
7 fertilizer, and feed, reimbursement under the agricultural chemical cleanup
8 program, transfers from the agrichemical management fund to the
9 environmental fund, and the required balance in the agricultural chemical
10 cleanup fund.

Analysis by the Legislative Reference Bureau

Current law requires a person who sells nonagricultural or special-use fertilizer with low percentages of nitrogen, phosphate, and potash to obtain a permit from DATCP. The fee for this permit is currently \$25. This bill increases the fee to \$100.

Current law generally requires a person who manufactures or distributes fertilizer in this state to obtain an annual license from DATCP. A person who is

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required to be licensed must pay several fees and surcharges to DATCP, including a basic fee of 30 cents per ton of fertilizer sold or distributed or \$25, whichever is greater. This bill increases the basic fee to 45 cents per ton for fertilizer sold or distributed after June 30, 2006, but does not change the \$25 minimum fee.

Currently, a person who is licensed to manufacture or distribute fertilizer must also pay an agricultural chemical cleanup surcharge of 38 cents per ton of fertilizer sold or distributed, unless DATCP establishes a lower surcharge by rule. DATCP rules specify a surcharge of 38 cents per ton. This bill increases the maximum agricultural chemical cleanup surcharge by 50 cents per ton.

Current law generally requires a person who manufactures or distributes animal feed to obtain an annual license from DATCP. A person who is required to be licensed must pay a feed inspection fee of 23 cents per ton. This bill increases the annual feed inspection fee for feed sold after January 1, 2003, to 28 cents per ton or \$30, whichever is greater.

Under the agricultural chemical cleanup program, DATCP pays a portion of the costs of cleaning up spills of agricultural chemicals. Currently, the payment equals 80% of eligible costs that exceed a deductible and are less than a specified maximum. This bill reduces the reimbursement rate under the agricultural chemical cleanup program from 80% to 75%.

Current law generally requires a person who manufactures or labels pesticides for sale in this state to obtain an annual license from DATCP. The license year begins on January 1. A person who is required to be licensed must pay a number of fees and surcharges when the person applies for a license. The fees and surcharges are based on sales during the 12 months ending on September 30 of the year preceding the year for which a license is sought.

Under this bill, the fees and surcharges paid by an applicant for a pesticide manufacturer or labeler license are based on sales during the 12 month period that ends on September 30 of the license year. When the person applies for a license, the person pays the fees and surcharges based on estimated sales during that payment period. At the end of the license year, the person pays any balance due based on actual sales or may request a refund from DATCP for any overpayment. If the person estimated that sales would be less than 90% of sales during the preceding year and the person's payment due at the end of the year is more than 20% of the payment made based on estimated sales, the person is also required to pay a penalty for underestimating.

Under current law, pesticide manufacturer or labeler license fees are deposited into the agrichemical management fund except that \$94 for each pesticide for which a licensee pays a fee is deposited into the environmental fund and an additional \$30 for each household pesticide for which a licensee pays a fee is deposited into the environmental fund. Under this bill, all of the license fees are deposited into the agrichemical management fund except that \$60 for each household or industrial pesticide for which a licensee pays a fee is deposited into the environmental fund.

Current law authorizes DATCP to reduce surcharges that are deposited into the agricultural chemical cleanup fund below the amounts specified in the statutes. The law also requires DATCP to adjust the surcharge amounts as necessary to

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maintain a balance in the fund at the end of each fiscal year of at least \$2,000,000 but not more than \$5,000,000. This bill eliminates the minimum required fiscal year-end balance for the agricultural chemical cleanup fund and reduces the maximum balance to \$3,000,000.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 25.46 (4) of the statutes is amended to read:

2 25.46 (4) The moneys specified under s. 94.681 (7) (a) ~~1. and 2.~~ for
3 environmental management.

4 **SECTION 2.** 25.465 (8) of the statutes is amended to read:

5 25.465 (8) The fees collected under s. 94.72 (5) (b) and (6) (a) ~~1. and 2.~~ and 2m.
6 and (i).

7 **SECTION 3.** 94.64 (3m) (b) (intro.) of the statutes is amended to read:

8 94.64 (3m) (b) (intro.) An application for a permit under par. (a) 2. shall be on
9 a form prescribed by the department and shall be accompanied by a proposed product
10 label and a nonrefundable fee of \$25 \$100. The department may require that the
11 applicant substantiate, by scientific evidence:

12 **SECTION 4.** 94.64 (4) (a) 1. of the statutes is amended to read:

13 94.64 (4) (a) 1. A basic fee of ~~23~~ 30 cents per ton for fertilizer sold or distributed
14 beginning on ~~October 29, 1999~~ July 1, 2001, and ending on June 30, ~~2001~~ 2006, and
15 ~~30~~ 45 cents per ton for fertilizer sold or distributed after June 30, ~~2001~~ 2006, with
16 a minimum fee of \$25.

17 **SECTION 5.** 94.64 (4) (a) 5. of the statutes is amended to read:

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1 94.64 (4) (a) 5. An agricultural chemical cleanup surcharge of ~~38~~ 88 cents per
2 ton on all fertilizer that the person sells or distributes in this state ~~after June 30,~~
3 ~~1999~~, unless the department establishes a lower surcharge under s. 94.73 (15).

4 **SECTION 6.** 94.681 (1) (cm) of the statutes is created to read:

5 94.681 (1) (cm) "Payment period" means the 12 months ending on September
6 30 of the calendar year for which a license is sought under s. 94.68.

7 **SECTION 7.** 94.681 (2) of the statutes is repealed and recreated to read:

8 94.681 (2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall
9 pay an annual license fee for each pesticide product that the applicant sells or
10 distributes for use in this state. The amount of the fee is based on sales of pesticide
11 products during the payment period. An applicant shall pay an estimated fee before
12 the start of each license year as provided in sub. (3s) (a) and shall make a fee
13 adjustment payment before the end of the license year if required under sub. (3s) (b).
14 Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

15 (a) For each household pesticide product:

16 1. If the applicant sells less than \$25,000 of the product during the payment
17 period for use in this state, \$265.

18 2. If the applicant sells at least \$25,000 but less than \$75,000 of the product
19 during the payment period for use in this state, \$750.

20 3. If the applicant sells at least \$75,000 of the product during the payment
21 period for use in this state, \$1,500.

22 (b) For each industrial pesticide product:

23 1. If the applicant sells less than \$25,000 of the product during the payment
24 period for use in this state, \$315.

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1 2. If the applicant sells at least \$25,000 but less than \$75,000 of the product
2 during the payment period for use in this state, \$860.

3 3. If the applicant sells at least \$75,000 of that product during the payment
4 period for use in this state, \$3,060.

5 (c) For each nonhousehold pesticide product:

6 1. If the applicant sells less than \$25,000 of that product during the payment
7 period for use in this state, \$320.

8 2. If the applicant sells at least \$25,000 but less than \$75,000 of the product
9 during the payment period for use in this state, \$890.

10 3. If the applicant sells at least \$75,000 of the product during the payment
11 period for use in this state, \$3,060 plus 0.2% of the gross revenues from sales of the
12 product during the payment period for use in this state.

13 **SECTION 8.** 94.681 (3) of the statutes is amended to read:

14 94.681 (3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE. ~~Except for the~~
15 ~~license years that begin on January 1, 1999, and January 1, 2000, an~~ An applicant
16 for a license under s. 94.68 shall pay an agricultural chemical cleanup surcharge for
17 each nonhousehold pesticide product that the applicant sells or distributes for use
18 in this state. The amount of the surcharge is based on sales of nonhousehold
19 pesticide products during the payment period. An applicant shall pay an estimated
20 surcharge before the start of each license year as provided in sub. (3s) (a) and shall
21 make a surcharge adjustment payment before the end of the license year if required
22 by sub. (3s) (b). Except as provided in sub. (6) or under s. 94.73 (15), the amount of
23 the surcharge is as follows:

24 (a) If the applicant ~~sold~~ sells less than \$25,000 of the product during the
25 ~~preceding year~~ payment period for use in this state, \$5.

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1 (b) If the applicant sold sells at least \$25,000 but less than \$75,000 of that
2 product during the preceding year payment period for use in this state, \$170.

3 (c) If the applicant sold sells at least \$75,000 of that product during the
4 preceding year payment period for use in this state, an amount equal to 1.1% of gross
5 revenues from sales of the product during the preceding year payment period for use
6 in this state.

7 **SECTION 9.** 94.681 (3m) of the statutes is amended to read:

8 94.681 (3m) WOOD PRESERVATIVES; CLEANUP SURCHARGE. An applicant for a
9 license under s. 94.68 shall pay an environmental cleanup surcharge for each
10 pesticide product that is not a household pesticide and is solely labeled for use on
11 wood and contains pentachlorophenol or coal tar creosote that the applicant sells or
12 distributes in this state. The amount of the surcharge is based on sales of pesticide
13 products that are not household pesticides and are solely labeled for use on wood and
14 contain pentachlorophenol or coal tar creosote during the payment period. An
15 applicant shall pay an estimated surcharge before the start of each license year as
16 provided in sub. (3s) (a) and shall make a surcharge adjustment payment before the
17 end of the license year if required by sub. (3s) (b). Except as provided in sub. (6), the
18 amount of the surcharge is as follows:

19 (a) If the applicant sold sells less than \$25,000 of the product during the
20 preceding year payment period for use in this state, \$5.

21 (b) If the applicant sold sells at least \$25,000 but less than \$75,000 of that
22 product during the preceding year payment period for use in this state, \$170.

23 (c) If the applicant sold sells at least \$75,000 of that product during the
24 preceding year payment period for use in this state, an amount equal to 1.1% of gross

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1 revenues from sales of the product during the ~~preceding year~~ payment period for use
2 in this state.

3 **SECTION 10.** 94.681 (3s) of the statutes is created to read:

4 94.681 (3s) PAYMENT OF FEES AND SURCHARGES. (a) Before the start of a license
5 year, an applicant shall estimate the gross revenues that the applicant will receive
6 from sales of each pesticide product during the payment period that ends during the
7 year for which a license is sought under s. 94.81 and shall pay the amounts under
8 subs. (2), (3), and (3m) based on that estimate. At least 15 days before beginning to
9 sell a new pesticide product in this state, a licensee shall estimate the gross revenues
10 that the applicant will receive from sales of that pesticide product during the
11 payment period in which the licensee begins to sell the pesticide product and shall
12 pay the amounts under subs. (2), (3), and (3m) based on that estimate.

13 (b) Before the end of a license year, a licensee shall report to the department
14 the gross revenues that the licensee received from sales of each pesticide product
15 during the payment period that ended during the license year, as required under s.
16 94.68 (2) (a) 2., and shall reconcile the estimated payment made under par. (a) with
17 the amounts actually due under subs. (2), (3), and (3m) as follows:

18 1. If the amount due based on actual sales is greater than the amount paid
19 based on estimated sales, the licensee shall pay the additional amount due.

20 2. If the amount due based on actual sales is less than the amount paid based
21 on estimated sales, the licensee may request the department to reimburse the
22 licensee for the amount of the overpayment.

23 3. If the amount due based on actual sales equals the amount paid based on
24 estimated sales, no action is required.

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1 (c) 1. Except as provided in subd. 2., if a licensee's total payment due under par.
2 (b) is more than 20% of the total amount paid under par. (a), the licensee shall pay
3 a penalty equal to 20% of the total amount due under par. (b). The penalty under this
4 subdivision is in addition to any late filing fee under s. 93.21 (5).

5 2. Subdivision 1. does not apply to a licensee if the licensee's payments under
6 par. (a) are based on estimates of gross revenues from sales for each pesticide product
7 that equal at least 90% of the licensee's gross revenues from sales of the pesticide
8 product during the preceding year.

9 **SECTION 11.** 94.681 (7) (a) (intro.) and 1. of the statutes are consolidated,
10 renumbered 94.681 (7) (a) and amended to read:

11 94.681 (7) (a) *License fees.* The department shall deposit all license fees
12 collected under subs. (2), (5), and (6) (a) 3. in the agrichemical management fund
13 except as follows: ~~1. The~~ that the department shall deposit an amount equal to \$94
14 \$60 for each household pesticide and industrial pesticide product for which an
15 applicant pays a license fee in the environmental fund for environmental
16 management.

17 **SECTION 12.** 94.681 (7) (a) 2. of the statutes is repealed.

18 **SECTION 13.** 94.72 (6) (a) 1. of the statutes is repealed.

19 **SECTION 14.** 94.72 (6) (a) 2. of the statutes is amended to read:

20 94.72 (6) (a) 2. For commercial feeds distributed in this state beginning on or
21 after January 1, 2002, and ending on December 31, 2002, a feed inspection fee of 23
22 cents per ton.

23 **SECTION 15.** 94.72 (6) (a) 2m. of the statutes is created to read:

24 94.72 (6) (a) 2m. For commercial feeds distributed in this state on or after
25 January 1, 2003, a feed inspection fee of 28 cents per ton or \$30, whichever is greater.

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1 **SECTION 16.** 94.73 (6) (b) of the statutes is amended to read:

2 94.73 (6) (b) Except as provided in pars. (c) and (e), the department shall
3 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action
4 costs incurred for each discharge site that are greater than \$3,000 and less than
5 \$400,000.

6 **SECTION 17.** 94.73 (6) (c) (intro.) of the statutes is amended to read:

7 94.73 (6) (c) (intro.) Except as provided in par. (e), the department shall
8 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action
9 costs incurred for each discharge site that are greater than \$7,500 and less than
10 \$400,000 if any of the following applies:

11 **SECTION 18.** 94.73 (15) (a) of the statutes is amended to read:

12 94.73 (15) (a) The department may, by rule, reduce any of the surcharges in ss.
13 94.64 (3r) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703 (3) (a) 2., and 94.704
14 (3) (a) 2. below the amounts specified in those provisions. The department shall
15 adjust surcharge amounts as necessary to maintain a balance in the agricultural
16 chemical cleanup fund at the end of each fiscal year of at least ~~\$2,000,000~~ but not
17 more than ~~\$5,000,000~~ \$3,000,000, but may not increase a surcharge amount over the
18 amount specified in s. 94.64 (3r) (b) or (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703
19 (3) (a) 2., or 94.704 (3) (a) 2.

20 **SECTION 19. Initial applicability.**

21 (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment
22 of sections 94.73 (6) (b) and (c) (intro.) of the statutes first applies to costs incurred
23 on the effective date of this subsection.

24 **SECTION 20. Effective date.**

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1 (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment
2 of section 94.73 (6) (b) and (c) (intro.) of the statutes and SECTION 19 (1) take effect
3 on January 1, 2003.

4 (2) AMOUNT DEPOSITED IN ENVIRONMENTAL FUND. The treatment of sections 25.46
5 (4) and 94.681 (7) (a) (intro.), 1., and 2. of the statutes takes effect on July 1, 2003.

6 (3) PESTICIDE FEES AND SURCHARGES. The treatment of section 94.681 (1) (cm),
7 (2), (3), (3m), and (3s) of the statutes takes effect on December 1, 2003.

8 (END)