



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1678/2
KP:kjf

2021 ASSEMBLY BILL 229

March 31, 2021 - Introduced by Representatives KRUG, ARMSTRONG, EDMING, HORLACHER, KITCHENS, MOSES, MURPHY, MURSAU, ROZAR, THIESFELDT and TUSLER, cosponsored by Senators JACQUE, COWLES and STROEBEL. Referred to Committee on Agriculture.

1 **AN ACT** *to renumber* 94.64 (1) (a); *to amend* 94.64 (3m) (a) (intro.), 94.64 (3m)
2 (a) 1., 94.64 (9) (c), 94.65 (4) (a) (intro.) and 94.65 (4) (b); and *to create* 94.64
3 (1) (ag), 94.64 (1) (u), 94.64 (2) (f), 94.64 (3m) (a) 3., 94.65 (1) (bm), 94.65 (1) (fm)
4 and 94.65 (5m) of the statutes; **relating to:** the distribution and labeling of
5 fertilizers and soil or plant additives produced from manure.

Analysis by the Legislative Reference Bureau

This bill makes the following changes to requirements that apply to fertilizers and soil or plant additives that are produced from converting manure into compost or vermicompost and their derivatives:

1. The bill allows a person to distribute a fertilizer that is produced from converting manure into compost or vermicompost and their derivatives and that has a combined weight of nitrogen, phosphorus, and potassium that is less than 24 percent of the total weight of the fertilizer. Current law requires a fertilizer distributed in this state to be guaranteed to contain a combined weight of nitrogen, phosphorous, and potassium that is at least 24 percent of the total weight of the fertilizer, unless either 1) the Department of Agriculture, Trade and Consumer Protection promulgates a rule exempting the fertilizer; or 2) DATCP grants a permit authorizing the distribution of the fertilizer as a nonagricultural or special-use fertilizer.

2. The bill also exempts a fertilizer that is produced from converting manure into compost from being required to contain a minimum amount of certain plant

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nutrients. Additionally, under the bill, a label, invoice, or statement accompanying fertilizer produced from converting manure into compost is allowed to represent the amount of plant nutrients or other beneficial substances contained in the fertilizer if the truthfulness of the representation is substantiated by a typical analysis or other scientifically validated analytical method.

3. Under the bill, DATCP may not require a controlled experimental field test to substantiate the efficacy and usefulness of a soil or plant additive produced from converting manure into compost. Under current law, DATCP may require the efficacy and usefulness of a soil or plant additive to be substantiated by controlled experimental studies using the soil or plant additive.

4. The bill allows the truthfulness of a statement on a permit application or label of a soil or plant additive produced from converting manure into compost to be substantiated by a typical analysis. Current law requires the label of a soil or plant additive to make a guarantee about the minimum amount of the substances that it contains.

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.** 94.64 (1) (a) of the statutes is renumbered 94.64 (1) (ar).

2 **SECTION 2.** 94.64 (1) (ag) of the statutes is created to read:

3 94.64 (1) (ag) “Beneficial substance” means a substance other than a plant
4 nutrient that improves the nourishment of cultivated plants or improves the
5 physical, chemical, or biological properties of soil.

6 **SECTION 3.** 94.64 (1) (u) of the statutes is created to read:

7 94.64 (1) (u) “Vermicompost” means a mixture of composted materials and
8 worm castings produced from a composting process that uses earthworms.

9 **SECTION 4.** 94.64 (2) (f) of the statutes is created to read:

10 94.64 (2) (f) Notwithstanding pars. (a) 3. and 4., (b) 5. and 6., and (e), all of the
11 following apply to a label or written or printed invoice or statement pertaining to a
12 fertilizer produced from converting unmanipulated animal or vegetable manure into
13 compost or vermicompost and their derivatives:

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1 1. The label, invoice, or statement is not required to contain a grade or
2 guaranteed analysis for a plant nutrient.

3 2. The label, invoice, or statement may make representations about the amount
4 of plant nutrients contained in the fertilizer if the truthfulness of the representations
5 is substantiated by a typical analysis, as defined in s. 94.65 (1) (fm), or other
6 scientifically validated analytical method.

7 3. The label, invoice, or statement may make representations about the amount
8 of beneficial substances contained in the fertilizer if the truthfulness of the
9 representations is substantiated by a typical analysis, as defined in s. 94.65 (1) (fm),
10 or other scientifically validated analytical method.

11 **SECTION 5.** 94.64 (3m) (a) (intro.) of the statutes is amended to read:

12 94.64 **(3m)** (a) (intro.) No person may distribute mixed fertilizer in which the
13 sum of the guarantees for nitrogen, available phosphate, and soluble potash totals
14 less than 24 percent unless any of the following applies:

15 **SECTION 6.** 94.64 (3m) (a) 1. of the statutes is amended to read:

16 94.64 **(3m)** (a) 1. The mixed fertilizer is exempted from this requirement by
17 department rule; ~~or~~ under sub. (9) (g).

18 **SECTION 7.** 94.64 (3m) (a) 3. of the statutes is created to read:

19 94.64 **(3m)** (a) 3. The mixed fertilizer is produced from converting
20 unmanipulated animal or vegetable manure into compost or vermicompost and their
21 derivatives.

22 **SECTION 8.** 94.64 (9) (c) of the statutes is amended to read:

23 94.64 **(9)** (c) Governing methods of sampling, testing, examining and analyzing
24 fertilizer, except that no rule under this paragraph may exclude the use of typical
25 analysis, as defined in s. 94.65 (1) (fm), or other scientifically validated analytical

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1 methods for substantiating the truthfulness of representations made under sub. (2)
2 (f) 2. or 3.

3 **SECTION 9.** 94.65 (1) (bm) of the statutes is created to read:

4 94.65 (1) (bm) “Compost-based soil or plant additive” means a soil or plant
5 additive that is produced from converting unmanipulated animal or vegetable
6 manure into compost or vermicompost, as defined in s. 94.64 (1) (u), and their
7 derivatives.

8 **SECTION 10.** 94.65 (1) (fm) of the statutes is created to read:

9 94.65 (1) (fm) “Typical analysis” means an analysis of contents that is based
10 on the average amount of substances contained.

11 **SECTION 11.** 94.65 (4) (a) (intro.) of the statutes is amended to read:

12 94.65 (4) (a) (intro.) As a condition to the issuance of a permit or amended
13 permit under sub. (3), the department, subject to sub. (5m), may require that the
14 applicant substantiate, by scientific evidence:

15 **SECTION 12.** 94.65 (4) (b) of the statutes is amended to read:

16 94.65 (4) (b) The Subject to sub. (5m) (a), the department may require that the
17 substantiation under par. (a) 1. include replicable results of controlled experimental
18 studies using the soil or plant additive, the names and qualifications of the
19 researchers performing the studies and a complete description of the conditions and
20 procedures of the studies.

21 **SECTION 13.** 94.65 (5m) of the statutes is created to read:

22 94.65 (5m) COMPOST-BASED SOIL OR PLANT ADDITIVES. (a) The department may
23 not require that the substantiation under sub. (4) (a) and (b) related to a
24 compost-based soil or plant additive include a controlled experimental field test.

