

1991 Assembly Bill 678

Date of enactment: **February 13, 1992**
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1991 WISCONSIN ACT 112

AN ACT *to repeal* 94.68 (4) (a) 3 and 94.68 (4) (a) 4; *to amend* 25.46 (4), 25.465 (3), 94.64 (3) (b), 94.64 (4) (a), 94.64 (4) (b), 94.65 (6) (a) 1, 94.68 (4) (a) 2, 94.72 (6) (a) and 94.72 (6) (c); *to repeal and recreate* 94.68 (3), 94.68 (4) (a) 1, 94.68 (4) (b), 94.68 (4) (bm) and 94.68 (4) (c); and *to create* 94.64 (4) (g), 94.68 (4) (a) 2m and 94.68 (4) (bt) of the statutes, **relating to:** licenses and fees for the sale or distribution of pesticides, fertilizers, commercial feed and soil and plant additives.

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

SECTION 1j. 25.46 (4) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

25.46 (4) The moneys specified under s. 94.68 (4) (b) and (bm) and (bt) for groundwater management.

SECTION 1m. 25.465 (3) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

25.465 (3) The fees and surcharges specified under s. 94.68 (4) (a).

SECTION 1p. 94.64 (3) (b) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

94.64 (3) (b) Application for a fertilizer license shall be made on forms prescribed by the department and shall include a listing of business locations and mobile units used in the manufacture and distribution of fertilizer in this state and other information as the department requires. The application of a manufacturer shall be accompanied by a license fee of \$25 for each established business location where any manufacturing is done and for each mobile unit used for manufacturing or the mixing or blending of fertilizer in this state. The application of distributors not engaged in the manufacture or mixing or blending of fertilizer in this state and not otherwise exempt from a license under par. (a) shall be accompanied by a single license fee of \$25. Distributors engaged in the mixing or blending of fertilizer shall pay a license fee of \$25 for each business location where any mixing

or blending is done and for each mobile unit used for the mixing or blending of fertilizer in this state. All licenses shall expire on ~~June 30~~ August 14 of each year. No license shall be transferable and no credit or refund shall be granted for licenses issued or held for less than a full license year. No manufacturing plant or mobile unit shall be put into operation during the license year without payment of an additional fee of \$25 for each plant location or mobile unit.

SECTION 2. 94.64 (4) (a) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

94.64 (4) (a) An inspection fee of ~~14~~ 25 cents per ton shall be paid to the department for all fertilizers sold or distributed in this state with a minimum fee of ~~\$1.80~~ \$25 for ~~10~~ 100 tons or less. This fee shall not be applicable to fertilizer materials or products sold to manufacturers or exchanged between them for manufacturing purposes or further processing.

SECTION 3. 94.64 (4) (b) of the statutes is amended to read:

94.64 (4) (b) Payment of the inspection fee under par. (a) and the research fee under par. (am) shall be made on the basis of ~~semiannual~~ annual tonnage reports setting forth the number of tons of fertilizer sold or distributed in this state. The reports shall cover the ~~semiannual periods~~ annual period ending June 30 and ~~December 31~~ of each year and shall be filed with the department not later than ~~45 days after~~ August 14 following the close of each period. The time may be extended for cause an additional

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30 days only on written request to the department. Remittance to cover the inspection fee at the rate prescribed in par. (a) and the research fee at the rate prescribed in par. (am) shall accompany each tonnage report. Records upon which the statement of tonnage is based shall be subject to department audit.

SECTION 3m. 94.64 (4) (g) of the statutes is created to read:

94.64 (4) (g) If a manufacturer or distributor distributes fertilizer to any person other than another manufacturer or distributor and charges to that person the amount of any fee that the manufacturer or distributor is required to pay under this subsection, the manufacturer or distributor may not indicate the charge for the fee on the invoice or sales receipt.

SECTION 4. 94.65 (6) (a) 1. of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

94.65 (6) (a) 1. Annually by March 31, file with the department a tonnage report setting forth the number of tons of each soil or plant additive distributed during the preceding year by that person or by any other person authorized under sub. (3) (a) 2. to distribute under the name of that person and pay to the department an inspection fee of ~~18~~ 25 cents per ton so distributed. The minimum total fee is ~~\$18~~ \$25.

SECTION 5. 94.68 (3) of the statutes, as affected by 1991 Wisconsin Act 39, is repealed and recreated to read:

94.68 (3) (a) In this subsection:

1. “Household pesticide” means a pesticide that is any of the following:

- a. A sanitizer.
- b. A disinfectant.
- c. A germicide.
- d. An insect repellent that is applied to the human body or to clothing.
- e. A pesticide that is used exclusively for the treatment of household pets.

f. A pesticide product that is labeled exclusively for household, lawn or garden use if the product is sold in ready-to-use form or the product, if sold in concentrated form, is sold exclusively in container sizes of less than a gallon.

g. A solid or liquid pesticide product that is used exclusively for the treatment of swimming pools, spas or hot tubs.

2. “Nonhousehold pesticide” means a pesticide that is not a household pesticide.

3. “Preceding year” means the 12 months ending on September 30 of the year immediately preceding the year for which a license is sought under this section.

(b) A licensee shall pay an annual license fee for each pesticide product to be sold or distributed by the licensee in the license year that is based on the volume of the licensee’s sales of the pesticide product for use within the state during the preceding year. The fee shall be the following amount for each pesticide product:

1. For no sales or sales of less than \$25,000, \$235.
2. For sales equal to or greater than \$25,000, but less than \$75,000, \$720.

3. For sales equal to or greater than \$75,000, \$1,470.
(bg) In addition to the fees under par. (b), a licensee shall pay a hazardous waste collection and disposal surcharge of \$30 for each household pesticide product to be sold or distributed by the licensee in the license year.

(br) In addition to the fees under par. (b), a licensee shall pay a hazardous waste collection and disposal surcharge for each nonhousehold pesticide product to be sold or distributed by the licensee in the license year that is based on the volume of the licensee’s sales of the nonhousehold pesticide product for use within the state during the preceding year. The surcharge shall be the following amount:

1. For no sales or sales of less than \$25,000, \$80.
2. For sales equal to or greater than \$25,000, but less than \$75,000, \$140.
3. For sales equal to or greater than \$75,000, \$1,590.

(c) To permit verification of the required license fees under this subsection, every licensee shall submit a report to the department at the time of license application listing the volume of sales of each pesticide product of the licensee that was sold or distributed by the license applicant during the preceding year for use within this state. If a pesticide product of a licensee is not listed by the licensee at the time of license application, the licensee shall file a supplementary report with the department at least 15 days prior to any proposed sale or distribution of that pesticide product for use within this state. The supplementary report shall identify the pesticide product to be sold or distributed, and be accompanied by the license fee required under par. (b). The department shall treat individual sales and distribution information as confidential.

(d) A licensee who fails to report a pesticide product as required under par. (c) shall pay a surcharge of twice the amount required to be paid for that product under par. (b). The surcharge is in addition to the license fees required under par. (b). Failure to report a pesticide product may constitute grounds for the denial, suspension or revocation of a license under this section, and may subject the licensee to the penalties under s. 94.71.

(e) A licensee who discontinues the activity for which a license is issued under this section with regard to any pesticide product shall notify the department of the discontinuance not later than December 31 of the year in which the licensee discontinues the activity. The licensee shall, not later than the following March 1, pay to the department an amount equal to the license fees listed under par. (b) based on the volume of the licensee’s sales of the discontinued pesticide product for the period beginning the day after the last reporting period and ending December 31 of the year of the discontinuance and

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shall submit the report required under par. (c) for that period.

(f) No fee paid for a license under this section is transferable or refundable after that license has been issued.

SECTION 6. 94.68 (4) (a) 1. of the statutes, as affected by 1991 Wisconsin Act 39, is repealed and recreated to read:

94.68 (4) (a) 1. An amount equal to the difference between all of the license fees received under sub. (3) (b), (c) and (e) and all of the amounts deposited under pars. (b), (bm) and (c).

SECTION 7. 94.68 (4) (a) 2. of the statutes is amended to read:

94.68 (4) (a) 2. All of the surcharges received under sub. (3) ~~(e)~~ (d).

SECTION 7m. 94.68 (4) (a) 2m of the statutes is created to read:

94.68 (4) (a) 2m. All of the hazardous waste collection and disposal surcharges received under sub. (3) (br).

SECTION 8. 94.68 (4) (a) 3. of the statutes, as affected by 1991 Wisconsin Act 39, is repealed.

SECTION 9. 94.68 (4) (a) 4. of the statutes, as created by 1991 Wisconsin Act 39, is repealed.

SECTION 10. 94.68 (4) (b) of the statutes, as affected by 1991 Wisconsin Act 39, is repealed and recreated to read:

94.68 (4) (b) The department shall deposit in the environmental fund for groundwater management an amount equal to \$50 of the amount received for each household pesticide product under sub. (3) (b), (c) and (e).

SECTION 11. 94.68 (4) (bm) of the statutes, as created by 1991 Wisconsin Act 39, is repealed and recreated to read:

94.68 (4) (bm) The department shall deposit in the environmental fund for groundwater management an amount equal to \$50 of the amount received for each non-household pesticide product under sub. (3) (b), (c) and (e).

SECTION 11m. 94.68 (4) (bt) of the statutes is created to read:

94.68 (4) (bt) The department shall deposit in the environmental fund for groundwater management all of the hazardous waste collection and disposal surcharges received under sub. (3) (bg).

SECTION 12. 94.68 (4) (c) of the statutes, as affected by 1991 Wisconsin Act 39, is repealed and recreated to read:

94.68 (4) (c) The department shall deposit in the environmental fund for environmental repair an amount

equal to \$50 of the amount received for each pesticide product under sub. (3) (b), (c) and (e).

SECTION 13. 94.72 (6) (a) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

94.72 (6) (a) *Amount; reports.* Annual inspection fees of 18 ~~25~~ cents per ton shall be paid to the department on all commercial feeds distributed in this state by any person required to be licensed under sub. (5), except as otherwise provided in this subsection. Inspection fees shall be computed on the basis of confidential annual tonnage reports setting forth the number of net tons of commercial feed sold or distributed in this state during the preceding calendar year and for which the payment of inspection fees is required. This report shall be filed with the department not later than the last day of February of each year and be accompanied by the payment of inspection fees in the required amount, with a minimum fee of \$18 ~~\$25~~. Records upon which the tonnage report is based shall be subject to department inspection and audit.

SECTION 13m. 94.72 (6) (c) of the statutes is amended to read:

94.72 (6) (c) *Invoice or receipt.* A manufacturer or distributor who distributes commercial feed to another manufacturer or distributor except an exempt buyer shall indicate on the invoice or sales receipt that the inspection fees have been or will be paid either by the manufacturer or distributor who distributes the commercial feed or by a prior manufacturer or distributor in the chain of distribution. If a manufacturer or distributor distributes commercial feed to any person other than another manufacturer or distributor and charges to that person the amount of an inspection fee that the manufacturer or distributor is required to pay, the manufacturer or distributor may not indicate the charge for the fee on the invoice or sales receipt.

SECTION 14. Initial applicability. (1) The treatment of sections 94.64 (3) (b) and 94.68 (3) and (4) (a) 1., 2., 3. and 4., (b), (bm) and (c) of the statutes first applies to licenses issued on the effective date of this subsection.

(2) The treatment of section 94.64 (4) (a) of the statutes first applies to fertilizers sold or distributed on January 1, 1992.

(3) The treatment of section 94.65 (6) (a) 1. of the statutes first applies to soil or plant additives distributed on January 1, 1992.

(4) The treatment of section 94.72 (6) (a) of the statutes first applies to commercial feeds distributed on January 1, 1992.