

O.C.G.A. § 2-12-40

Current through the 2022 Regular Session of the General Assembly.

***Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12
Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 2 Liming Materials (§§
2-12-40 — 2-12-50)***

2-12-40. Short title.

This article shall be known and may be cited as the “Georgia Liming Materials Act of 1996.”

History

Code 1981, § 2-12-40, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-40 — 2-12-50)**

2-12-41. Definitions.

As used in this article, the term:

- (1) “Agricultural liming material” means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity and which is sold or distributed for that purpose. Agricultural liming materials may either be in solid or liquid (suspension) form. The following are types of agricultural liming materials:
 - (A) “Burnt lime” is a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
 - (B) “Calclitic liming materials” are those materials composed wholly or primarily of calcium carbonate.
 - (C) “Dolomitic liming materials” are those materials composed of calcium and magnesium carbonates.
 - (D) “Hydrated lime” is a material, made from burnt lime, which consists of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide or magnesium hydroxide or both.
 - (E) “Industrial by-product” is any industrial waste or by-product containing calcium or calcium and magnesium compounds which will neutralize soil acidity.
 - (F) “Limestone” is a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate which is capable of neutralizing soil acidity.
 - (G) “Marl” is a granular or loosely consolidated earthy material composed largely of seashell fragments and calcium carbonate.
- (2) “Brand” means the term, designation, trademark, product name, or other specific designation under which individual agricultural liming materials are offered for sale.
- (3) “Bulk” means in nonpackaged form.
- (4) “Calcium carbonate equivalent” or “neutralizing value” means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (5) “Commissioner” means the Commissioner of Agriculture of the State of Georgia.
- (6) “Distribute” means to offer for sale, sell, exchange, barter, or otherwise supply or make available agricultural liming material in this state.
- (7) “Distributor” means any person who distributes.
- (8) “Fineness” means the percentage by weight of the liming material which will pass the United States Standard Sieve Series of specified sizes. The Commissioner shall establish by regulation the sieve sizes and minimum percentages required to pass such sieves for agricultural liming materials.

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- (9) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of agricultural liming material.
- (10) "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.
- (11) "Labeling" means all written, printed, or graphic matter upon or accompanying any liming material or any advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such liming material.
- (12) "Licensee" means the person who is responsible for guaranteeing agricultural liming materials and who receives a lime license to distribute agricultural liming materials under the provisions of this article.
- (13) "Lot" means that amount of agricultural liming material on hand and actually covered by the official sample at the time and place of sampling. In determining deficiencies in and penalties on agricultural liming materials under this article, deficiencies and penalties shall be calculated on the actual tonnage present at the time of sampling, provided that, if at the time of sampling at least 20 percent of the single delivery is present, the total amount in the single shipment shall be subject to penalty.
- (14) "Official sample" means any sample of agricultural liming material taken by the Commissioner or the Commissioner's agent and designated "official" by the Commissioner.
- (15) "Percent" or "percentage" means by weight.
- (16) "Person" means an individual, partnership, association, firm, or corporation.
- (17) "Ton" means a net weight of 2,000 pounds avoirdupois.

History

Code 1981, § 2-12-41, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-42. Administration of article.

This article shall be administered by the Commissioner of Agriculture of the State of Georgia.

History

Code 1981, § 2-12-42, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-43. Licenses required; application, annual renewal, fees, revocation; registration of products; application, fees, cancellation.

(a)

(1) Each person whose name appears on the label of an agricultural liming material or who is responsible for guaranteeing such liming material must obtain a lime license from the Commissioner before distributing such product in Georgia.

(2) All licenses shall expire on June 30 of each year. The application for a license shall be submitted to the Commissioner on forms furnished by or otherwise acceptable to the Commissioner. Upon approval by the Commissioner, a copy of the license shall be furnished to the applicant. A new licensee shall pay a license fee of \$70.00. Thereafter, the license fee shall be based on the annual tonnage of liming materials sold in Georgia by the licensee in the previous 12 month period ending June 30, in accordance with the following:

(A) A \$100.00 annual fee for licensees having sales of 10,000 tons or more of liming materials in this state; or

(B) A \$70.00 annual fee for licensees having sales of less than 10,000 tons of liming materials in this state.

A lime license must be renewed annually and fees shall be received by July 1 of each calendar year, or the applicable license fee shall increase in the manner prescribed in the rules and regulations. Such license may be revoked for cause, after due notice and hearing, for a violation of this article or any rules or regulations adopted by the Commissioner pursuant to this article. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b)

(1) No licensee shall distribute in this state an agricultural liming material until such product is registered with the Commissioner by the licensee whose name appears on the label. An application for registration for each brand and product name of liming materials shall be made on forms furnished by or otherwise acceptable to the Commissioner. Labels for each brand and product name shall accompany the application. The registration fee shall be \$70.00 per product. Such fee shall be submitted with the registration, and a renewal fee of \$70.00 shall be due each July 1. If renewal registration fees are not received by July 1 of each calendar year, the registration fee shall increase in the manner prescribed in the rules and regulations. Upon approval by the Commissioner, a copy of the registration shall be furnished to the applicant. Such registrations shall be considered permanent so long as no changes or deviations are made in the labels of such products and so long as the registration fees are paid as specified in this article and the rules and regulations of the Commissioner. Such registrations may be canceled for cause, after due notice and hearing, for a violation of this article or any rules and regulations adopted by the Commissioner pursuant to this article.

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(2) A distributor shall not be required to register any brand of agricultural liming material which is already registered under this article by another person, provided the label does not differ in any respect.

History

Code 1981, § 2-12-43, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 1997, p. 143, § 2; Ga. L. 2010, p. 9, § 1-10/HB 1055.

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2-12-44. Semiannual tonnage statements.

Each licensee shall submit semiannually to the Commissioner, on forms furnished by or acceptable to the Commissioner, a statement as to the total tons of liming material sold by such licensee. This and such other information as the Commissioner may require by regulations shall be supplied for the reporting periods of July 1 through December 31 and January 1 through June 30. Reports shall be received by the Commissioner no later than 30 days after the close of the reporting period.

History

Code 1981, § 2-12-44, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-45. Labeling requirements.

(a) Agricultural liming materials sold, offered, or exposed for sale in this state shall have affixed to each container in a conspicuous manner on the outside thereof a plainly printed or stamped label, tag, or statement, or in the case of bulk sales, a delivery slip setting forth at least the following information:

- (1) The name and principal office address of the licensee, manufacturer, or distributor;
- (2) The brand or trade name of the material;
- (3) The identification of the product as to the type of the agricultural liming material;
- (4) The net weight of the agricultural liming material;
- (5) The guaranteed calcium carbonate equivalent (neutralizing value). The minimum calcium carbonate equivalent shall be prescribed for various agricultural liming materials by regulation;
- (6) The guaranteed content of elemental calcium (Ca);
- (7) In the case of dolomitic limestone, the guaranteed content of elemental magnesium (Mg). The minimum magnesium content for dolomitic liming materials shall be established by regulations;
- (8) The percent by weight passing through U.S. Standard sieves as prescribed by regulations; and
- (9) The percent moisture. The maximum moisture content will be prescribed by regulation.

(b) No information or statement shall appear on any package, label, delivery slip, or advertising matter which is misleading to the purchaser as to the quality, analysis, type, or composition of any agricultural liming material. No oral or written statement or claim which is false or misleading as to the comparative value or effectiveness of liming materials shall be made in any labeling, promotion, or advertising medium.

History

Code 1981, § 2-12-45, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-46. Analysis and sampling by Commissioner.

- (a) It shall be the duty of the Commissioner, who may act through his or her authorized agent, to sample, inspect, make analyses of, and test agricultural liming materials distributed within this state as the Commissioner may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this article. The Commissioner, individually or through his or her agent, is authorized to enter upon any public or private premises or carrier during regular business hours in order to have access to agricultural liming material subject to the provisions of this article and regulations pertaining thereto and to the records relating to their distribution.
- (b) The methods of analysis and sampling shall be those adopted by the Association of Official Analytical Chemists (AOAC) or such other methods approved by the Commissioner.
- (c) The results of official analyses of agricultural liming materials and portions of official samples shall be distributed by the Commissioner as provided for by regulation.

History

Code 1981, § 2-12-46, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 1997, p. 143, § 2.

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2-12-47. Sale of noncomplying, toxic, or domestic septage material prohibited.

- (a) No agricultural liming material shall be sold or offered for sale in this state unless it complies with the provisions of this article and rules and regulations adopted pursuant to this article.
- (b) No agricultural liming material shall be sold or offered for sale in this state which contains toxic materials in quantities determined by the Commissioner which may be injurious to plants or animals.
- (c) No agricultural liming material which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be sold or offered for sale in this state.

History

Code 1981, § 2-12-47, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2020, p. 364, § 4/HB 1057; Ga. L. 2022, p. 352, § 2/HB 1428.

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2-12-48. Penalties for deficient materials.

If the analysis of an official sample shows that an agricultural liming material is deficient in one or more of its guarantees beyond the investigational allowances set forth in the regulations of the Commissioner, the following penalties shall be assessed in accordance with the following provisions:

- (1) In the event the neutralizing value (calcium carbonate equivalent) is found deficient, the penalty shall be 50¢ per percentage point or fraction thereof on all liming materials;
- (2) In the event the magnesium (Mg) is found to be deficient, the penalty shall be \$1.00 per percentage point or fraction thereof on all liming materials;
- (3) When an official sample does not meet screen specifications as set forth in this article, the penalty shall be 50¢ per percentage point or fraction thereof for each sieve size failing to meet its guarantee;
- (4) If the moisture content of an official sample exceeds the guarantee, a penalty of \$1.00 per ton shall be assessed for each increase in moisture of 5 percent or fraction thereof;
- (5) When an official sample is subject to a penalty, the tonnage represented by the official sample shall be subject to a minimum penalty of \$10.00 and a maximum penalty not to exceed the actual retail value of the liming material; and
- (6) Penalty payments will be made to the consumer, when known, through the office of the Commissioner. If the consumer is unknown, the penalty payment will be made to the Commissioner to be deposited in the state treasury.

History

Code 1981, § 2-12-48, enacted by Ga. L. 1996, p. 1183, § 1.

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2-12-49. Rules and regulations; sharing of information.

The Commissioner, after reasonable notice and hearing, is authorized to promulgate and adopt rules and regulations for the administration of this article. The Commissioner is further authorized to share such information and consult with other agencies such as, but not limited to, the Environmental Protection Division of the Department of Natural Resources and the United States Department of Agriculture's Natural Resources Conservation Service.

History

Code 1981, § 2-12-49, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2019, p. 91, § 5/HB 512; Ga. L. 2020, p. 364, § 5/HB 1057.

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2-12-50. Notice and prosecution of violations; hearings; penalty.

- (a) If it appears to the Commissioner or the Commissioner's agents that this article or the rules and regulations issued under this article have been violated, the Commissioner shall cause notice of the violation to be given to the licensee, distributor, or person responsible; and the persons notified shall be given an opportunity to be heard in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If it appears after such hearing that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner may certify the facts to the court having jurisdiction for prosecution as a misdemeanor or other appropriate action.
- (b) Except as otherwise provided in this Code section, any person violating any provision of this article or regulation adopted pursuant to this article shall be guilty of a misdemeanor.
- (c) Nothing in this article shall be construed as requiring the Commissioner to report a violation of this article for prosecution or for the institution of seizure proceedings when the Commissioner believes that the public interest will best be served by other methods.
- (d) Any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each such violation shall constitute a separate offense.
- (e) Any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$25,000.00 per violation. For the second or any subsequent offense, any person who sells or offers for sale an agricultural liming material in this state which contains domestic septage as such term is defined in 40 C.F.R. 503.9 shall be liable for a civil penalty of not more than \$50,000.00 per violation.

History

Code 1981, § 2-12-50, enacted by Ga. L. 1996, p. 1183, § 1; Ga. L. 2020, p. 364, § 6/HB 1057; Ga. L. 2022, p. 352, § 2/HB 1428.

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