



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2166

Introduced 2/26/2021, by Sen. Neil Anderson

#### SYNOPSIS AS INTRODUCED:

505 ILCS 120/Act title	
505 ILCS 120/1	from Ch. 5, par. 2801-1
505 ILCS 120/10	from Ch. 5, par. 2801-10
505 ILCS 120/15	from Ch. 5, par. 2801-15
505 ILCS 120/20	from Ch. 5, par. 2801-20
505 ILCS 120/25	from Ch. 5, par. 2801-25
505 ILCS 120/30	from Ch. 5, par. 2801-30
505 ILCS 120/35	from Ch. 5, par. 2801-35
505 ILCS 120/40	from Ch. 5, par. 2801-40
505 ILCS 120/45	from Ch. 5, par. 2801-45
505 ILCS 120/50	from Ch. 5, par. 2801-50

Amends the Soil Amendment Act. Provides that the Act may be cited as the Soil, Plant, and Additive Act. Changes references in the Act from soil amendment to additive or amendment. Defines "active ingredient", "additive", "amendment", "inert ingredient", and "plant amendment". Makes other changes.

LRB102 14441 KMF 19793 b

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Soil Amendment Act is amended by changing  
5 changing the title of the Act and Sections 1, 10, 15, 20, 25,  
6 30, 35, 40, 45, and 50 as follows:

7 (505 ILCS 120/Act title)

8 An Act in relation to agriculture ~~soil amendments~~.

9 (505 ILCS 120/1) (from Ch. 5, par. 2801-1)

10 Sec. 1. Short title. This Act may be cited as the Soil,  
11 Plant, and Additive Amendment ~~Amendment~~ Act.

12 (Source: P.A. 87-394.)

13 (505 ILCS 120/10) (from Ch. 5, par. 2801-10)

14 Sec. 10. Definitions. As used in this Act:

15 "Active ingredient" means a substance in a product,  
16 whether a bacterial agent, mineral element, or chemical  
17 compound that performs the claim or purpose for which the  
18 product is intended but is not a fertilizer material or any  
19 chemical registered with FIFRA.

20 "Additive" means a substance or a mixture of substances  
21 incorporated with or on a fertilizer or fertilizer material or

1 parts thereof including anhydrous ammonia and low-pressure  
2 nitrogen solutions as defined in Title 8, part 215 of the  
3 Illinois Administrative Code for an enhanced efficiency  
4 fertilizer; or (2) un-manipulated animal or vegetable manure,  
5 or both, or organic by-products or organic products intended  
6 for nutrient management; but is not a fertilizer material or  
7 any chemical registered with FIFRA.

8 "Amendment" means either a soil amendment or plant  
9 amendment.

10 "Brand" means a term, design, trademark, product name, or  
11 other specific designation under which individual additives or  
12 ~~soil~~ amendments are distributed.

13 "Bulk" means in a nonpackaged form.

14 "Department" means the Department of Agriculture.

15 "Director" means the Director of the Department of  
16 Agriculture.

17 "Distribute" means offer or hold for sale, sell, barter,  
18 give away, ship, deliver for shipment, receive and then  
19 deliver, or offer to deliver an additive or ~~a soil~~ amendment in  
20 this State.

21 "Distributor" means any person who distributes an additive  
22 or ~~a soil~~ amendment in this State.

23 "FIFRA" means the Federal Insecticide, Fungicide, and  
24 Rodenticide Act.

25 "Inert ingredient" means the non-active substance present  
26 in an additive or amendments.

1 "Investigational allowance" means an allowance for  
2 variations in analytical determination inherent in the taking,  
3 preparation, and analysis of an official sample of an  
4 addictive or a soil amendment.

5 "Label" means all written, printed, or graphic material on  
6 or attached to the immediate container or wrapping or the  
7 statement accompanying an additive or a soil amendment.

8 "Labeling" means the label and all other written, printed,  
9 or graphic material accompanying an additive or a soil  
10 amendment or referring to it in any other media including web  
11 sites and e-mails used to disseminate information to the  
12 public in promoting the sale of an additive or a soil  
13 amendment.

14 "Minimum percentage" means the percent of active  
15 ingredient or the soil amending ingredient that must be  
16 present in a product before the product will be accepted for  
17 registration or offered for sale.

18 "Official sample" means any sample of an additive or a  
19 soil amendment taken by the Director or his or her agent or  
20 designee and designated as "official" by the Director.

21 ~~"Other ingredient" means the non-soil amending substance~~  
22 ~~present in soil amendment products.~~

23 "Percent" or "percentage" means a part of the whole by  
24 weight.

25 "Person" means an individual, partnership, association,  
26 fiduciary, corporation, or other organized group of persons

1 whether incorporated or not.

2 "Plant amendment" means any substance applied to plants or  
3 seeds that is intended to improve germination, growth, yield,  
4 product quality, reproduction, flavor, or other desirable  
5 characteristics of plants other than fertilizer, an additive,  
6 soil amendment, liming materials, animal and vegetable  
7 manures, or other materials which may be exempted by  
8 regulation, including, but not limited to, plant growth  
9 regulators or stimulants, silicates, or vitamins. A chemical  
10 registered as a pesticide under FIFRA is not a plant amendment  
11 for purposes of this Act.

12 "Registrant" means the person who registers additives or  
13 ~~soil~~ amendments under the provisions of this Act.

14 "Soil amendment" means any substance or material ~~about~~  
15 ~~which it is claimed that it will and~~ is intended to improve the  
16 physical, chemical, biochemical, biological, or other  
17 characteristics of the soil or otherwise affect soil ~~and~~  
18 ~~therefore is claimed~~ to enhance crop production capacity or  
19 increase crop yield. The term does not include fertilizer  
20 material, additive, plant amendment, agricultural limestone,  
21 marl, burnt or hydrated lime, sewage sludge produced by a  
22 sanitary district, or animal or vegetable manure that has not  
23 been processed or manipulated to chemically alter it. The term  
24 includes, but is not limited to, ~~several soil and plant~~  
25 ~~additive materials defined and referred to as soil~~  
26 conditioners, ~~+~~ or wetting agents and surfactants, ~~+~~ or

1 biological inoculants and activators; ~~or plant growth~~  
2 ~~regulators and stimulants~~. Any chemical registered with ~~as a~~  
3 ~~pesticide under~~ FIFRA is not a soil amendment for purposes of  
4 this Act.

5 ~~"Soil amending ingredient" means the substance in a soil~~  
6 ~~amendment product, whether a bacterial agent, mineral element,~~  
7 ~~or chemical compound, that acts to improve soil or enhance~~  
8 ~~crop production but is not a fertilizing material.~~

9 (Source: P.A. 87-394.)

10 (505 ILCS 120/15) (from Ch. 5, par. 2801-15)

11 Sec. 15. Registration.

12 (a) Each ~~On and after July 1, 1992, each~~ separately  
13 identified additive or soil amendment shall be registered with  
14 the Director before being distributed in this State.  
15 Application for registration shall be submitted on forms  
16 furnished or approved by the Department and shall be  
17 accompanied by a fee of \$250 per product. A registration shall  
18 expire on December 31 of the year it is issued.

19 (b) The registrant shall submit to the Director at the  
20 time of application for registration a copy of the label and  
21 any advertising literature for the additive or soil amendment.  
22 Upon approval by the Director, the registrant shall be  
23 furnished a ~~certified~~ copy of the registration.

24 Before registering any additive or soil amendment, the  
25 Director shall require evidence to substantiate the claims

1 made for the additive or soil amendment and proof of the value  
2 and usefulness of the additive or soil amendment ingredient.

3 (c) The Director may, by rule, set the minimum amount of an  
4 additive or a soil amendment ingredient ~~and soil amendment~~  
5 ~~ingredients~~ that must be present before an additive or a soil  
6 amendment product can be registered and distributed in this  
7 State.

8 (d) A distributor shall not be required to register an  
9 additive or a soil amendment product that is already  
10 registered under this Act if the label does not differ in any  
11 respect.

12 (e) If an application for renewal of registration for a an  
13 additive or soil amendment is not received within 30 days  
14 after the registration expiration date ~~and the soil amendment~~  
15 ~~product is found to be distributed in the State,~~ a penalty of a  
16 \$100 per product shall be assessed and added to the original  
17 fee and shall be paid before registration will be granted.

18 (Source: P.A. 87-394.)

19 (505 ILCS 120/20) (from Ch. 5, par. 2801-20)

20 Sec. 20. Labeling.

21 (a) Except for materials exempted by rule, ~~On and after~~  
22 ~~July 1, 1992,~~ the following information shall appear on the  
23 face or display side in a readable and conspicuous form on  
24 every additive or soil amendment product container or shall  
25 accompany each bulk order of an additive or a soil amendment

1 product distributed in this State and shall be considered the  
2 label:

3 (1) Net weight.

4 (2) Brand (or product) name.

5 (3) Guaranteed analysis, which shall include the name  
6 of all active ~~soil-amending~~ and inert ~~other~~ ingredients  
7 and the percentage of the whole product each ingredient  
8 constitutes.

9 (4) Purpose of the product.

10 (5) Directions for use.

11 (6) Name and address of registrant or person  
12 distributing the product in this State.

13 (b) The Director may require proof of claims made or  
14 usefulness or value of any additive or soil amendment product.  
15 The Director may rely on experimental data, evaluations, or  
16 advice from sources such as the Agricultural Experiment  
17 Station and other professionally trained scientists for the  
18 required proof.

19 (c) No additive or soil amending ingredient may be listed  
20 or guaranteed on the label without the permission of the  
21 Director. The Director shall allow ingredients to be listed if  
22 satisfactory proof of value and usefulness is provided that  
23 substantiates the usefulness and value of the ingredient and  
24 supports the claims made. When an additive or a soil amending  
25 ingredient is allowed to be listed or guaranteed, it must be  
26 determinable by laboratory methods unless otherwise exempted



1 by the Director and is subject to inspection and official  
2 sample analysis.

3 (d) The Director shall require the listing on the label of  
4 all substances included as other ingredients in each additive  
5 or ~~soil~~ amendment product.

6 (e) The Director may allow labeling by volume rather than  
7 by weight.

8 (f) If the Director finds that a registered additive or  
9 ~~soil~~ amendment product contains plant nutrient ingredients,  
10 regardless of amount, the Director ~~he or she~~ may require the  
11 label to so state.

12 (Source: P.A. 87-394.)

13 (505 ILCS 120/25) (from Ch. 5, par. 2801-25)

14 Sec. 25. Cancellation, suspension, or refusal of  
15 registration.

16 (a) The Director may refuse to register an additive or a  
17 ~~soil~~ amendment or cancel or suspend an additive or a ~~soil~~  
18 amendment registration if:

19 (1) the composition of the additive or ~~soil~~ amendment  
20 does not warrant the claims made;

21 (2) the additive or ~~soil~~ amendment does not comply  
22 with the provisions of this Act or its rules;

23 (3) the labeling or other materials required for  
24 registration do not comply with the provisions of this Act  
25 or its rules;

1 (4) the registrant used fraudulent or deceptive  
2 practices to secure registration; or

3 (5) it is determined that an additive or a soil  
4 amendment poses a risk of unreasonable adverse effects to  
5 man or the environment.

6 (Source: P.A. 87-394.)

7 (505 ILCS 120/30) (from Ch. 5, par. 2801-30)

8 Sec. 30. Inspection, sampling analysis.

9 (a) The Director shall inspect, sample, and make analyses  
10 or test additives or soil amendments distributed within this  
11 State at any time and place, and to the extent deemed  
12 necessary, to determine that additive or soil amendment  
13 products comply with the requirements of this Act or its  
14 rules.

15 (b) The Director may enter upon public or private premises  
16 during regular business hours in order to have access to  
17 additives or soil amendments subject to this Act as well as  
18 records relating to their distribution.

19 (c) The methods of analysis and sampling shall be those  
20 adopted by the Director from sources such as the Association  
21 of Official Analytical Chemists (AOAC) or other comparable  
22 sources deemed appropriate by and acceptable to the Director.

23 (d) The Director may, by rule, establish inspection  
24 procedures and fees not to exceed 0.10 cents per pound for  
25 additives, soil amendment products, or both, distributed in

1 this State.

2 (Source: P.A. 87-394.)

3 (505 ILCS 120/35) (from Ch. 5, par. 2801-35)

4 Sec. 35. Misbranding or adulteration.

5 (a) An additive or ~~A soil~~ amendment is misbranded if:

6 (1) its labeling is misleading or false in any  
7 particular;

8 (2) it is an imitation of or is distributed under the  
9 name of another additive or ~~soil~~ amendment;

10 (3) it is not labeled as required by this Act or its  
11 rules;

12 (4) it claims to be or is represented to be an additive  
13 or amendment or contain an ingredient ~~a soil amendment~~  
14 unless the additive or ~~soil~~ amendment or ingredient  
15 conforms to definitions of identity as prescribed by rule;  
16 or

17 (5) it does not conform to ingredient form, minimum  
18 label guarantee, and investigational allowance in rules  
19 adopted by the Department.

20 (b) An additive or ~~A soil~~ amendment that contains any  
21 deleterious or harmful agent in amounts sufficient to render  
22 it injurious to man, animals, aquatic life, or beneficial  
23 plants when used in accordance with label directions shall be  
24 deemed adulterated.

25 (c) An additive or ~~A soil~~ amendment containing weed seed

1 or unwanted crop seed shall be deemed adulterated.

2 (d) An additive or ~~A soil~~ amendment that has a composition  
3 different from that claimed on its label shall be deemed  
4 adulterated.

5 (Source: P.A. 87-394.)

6 (505 ILCS 120/40) (from Ch. 5, par. 2801-40)

7 Sec. 40. Stop sale; use or removal order.

8 (a) Whenever the Director has reason to believe an  
9 additive or ~~a soil~~ amendment is being distributed in violation  
10 of this Act or its rules, he or she may issue and serve a  
11 written order to stop sale, stop use, or regulate removal upon  
12 an owner, operator, manager, or agent in charge of the  
13 additive or ~~soil~~ amendment.

14 (b) The Director shall provide the registrant, if  
15 different from the person served under subsection (a), with a  
16 copy of any order when corrective action appears to be the  
17 responsibility of the registrant.

18 (c) If an owner, operator, manager, or agent is not  
19 available for service of an order upon him or her, the Director  
20 shall attach the order to the additive or ~~soil~~ amendment  
21 product and notify the registrant.

22 (d) The Director shall remove or vacate an order by  
23 written notice when the violated provisions of this Act or its  
24 rules have been complied with, the conditions specified have  
25 been met, or the violation has been otherwise disposed of by

1 either administrative or judicial action.

2 (e) When the Director has reason to believe that an  
3 additive or ~~a soil~~ amendment being distributed in this State  
4 may be injurious to plants, animals, or man when used in  
5 accordance with label directions, he or she may issue an order  
6 to remove the additive or ~~soil~~ amendment from the State and  
7 establish requirements to effect the expeditious removal of  
8 the additive or ~~soil~~ amendment without adverse effects to man  
9 or the environment.

10 (Source: P.A. 87-394.)

11 (505 ILCS 120/45) (from Ch. 5, par. 2801-45)

12 Sec. 45. Rules.

13 (a) The Director shall, after due notice and opportunity  
14 for public hearing according to the Illinois Administrative  
15 Procedure Act, adopt any rules necessary to administer,  
16 implement, and enforce this Act, including but not limited to,  
17 regulations for: (i) exempt material; (ii) inspection; (iii)  
18 labeling; (iv) sampling; (v) records; (vi) analytical methods;  
19 (vii) form, minimum percentages, and investigational allowance  
20 and penalties of either an additive or ~~a soil~~ amendment  
21 ingredient or additive or ~~soil~~ amendment; (viii) misbranding;  
22 (ix) adulteration; and (x) monetary penalties not otherwise  
23 set forth in this Act.

24 (Source: P.A. 87-394.)

1 (505 ILCS 120/50) (from Ch. 5, par. 2801-50)

2 Sec. 50. Hearing; notice; injunction.

3 (a) The Department, over the signature of the Director, is  
4 authorized to issue subpoenas and bring before the Department  
5 any person or persons in this State to take testimony orally,  
6 by deposition, or by exhibit, in the same manner prescribed by  
7 law in judicial proceedings and civil cases in the circuit  
8 courts of this State. The Director is authorized to issue  
9 subpoenas duces tecum for records relating to an additive or a  
10 ~~soil~~ amendment distributor's or registrant's business.

11 (b) The Department, over the signature of the Director,  
12 may apply to any court for a temporary restraining order or a  
13 preliminary or permanent injunction restraining any person  
14 from violating or continuing to violate any provision of this  
15 Act or its rules. An injunction issued under this Section  
16 shall be issued without bond.

17 (c) When an administrative hearing is held, the hearing  
18 officer, upon determination of a violation of this Act, shall  
19 levy and the Department shall collect administrative penalties  
20 on a per-occurrence basis as follows:

21 (1) A penalty of \$500 shall be imposed for the  
22 following violations:

23 (a) Neglect or refusal, after notice in writing,  
24 to comply with provisions of this Act or its rules or  
25 any lawful order of the Director.

26 (b) Sale, transport, disposal, or distribution of

1           an additive or a~~soil~~ amendment that has been placed  
2           under a stop-sale order.

3           (2) A penalty of \$250 shall be imposed for the  
4           following violations:

5                   (a) Thwarting or hindering the Director in the  
6                   performance of his or her duties by misrepresenting or  
7                   concealing facts or conditions.

8                   (b) Distribution of an additive or ~~a~~~~soil~~  
9                   amendment that is mislabeled or adulterated.

10           (3) A penalty of \$100 shall be imposed for the  
11           following violations:

12                   (a) Distribution of an additive or ~~a~~~~soil~~  
13                   amendment that does not have an accompanying label  
14                   attached or displayed.

15                   (b) Failure to comply with any provision of this  
16                   Act or its rules.

17                   (c) Distribution in this State of any additive or  
18                   ~~soil~~ amendment containing noxious weed seed.

19           (Source: P.A. 87-394.)