

O.C.G.A. § 2-12-100

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 4 Horticultural Growing Media (§§ 2-12-100 — 2-12-110)

2-12-100. Short title.

This article shall be known and may be cited as the “Georgia Horticultural Growing Media Act.”

History

Code 1981, § 2-12-100, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-101. Purpose.

Horticultural growing media are one of the foundations of successful horticultural businesses. As such, it is vital that growers are adequately informed of the basic contents of such media. The purpose of this article is to ensure that horticultural growing media are accurately labeled to reflect their known composition and are suitable for their intended purpose.

History

Code 1981, § 2-12-101, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-102. Definitions.

As used in this article, the term:

- (1) “Bulk” means not in a package or in packages of one cubic yard or more.
- (2) “Commissioner” means the Commissioner of Agriculture, any employee of the Department of Agriculture, or any other person authorized by the Commissioner to act on behalf of the Commissioner.
- (3) “Custom medium” means a horticultural growing medium which is prepared to exact specifications of the person who will be planting in the medium and delivered directly to that person without intermediate or further distribution.
- (4) “Department” means the Georgia Department of Agriculture.
- (5) “Distribute” means to offer for sale, sell, barter, exchange, or otherwise supply or make available.
- (6) “Horticultural growing medium” means any substance or mixture of substances which is promoted as or is intended to function as an artificial soil for the managed growth of horticultural crops.
- (7) “Label” means the display of all written, printed, or graphic matter on or attached to the immediate container accompanying the lot of horticultural growing medium.
- (8) “Labeling” means, in addition to the label, any written, printed, or graphic matter accompanying any horticultural growing medium or any advertisements, brochures, posters, television or radio announcements, or any other oral or written material used in promoting a horticultural growing medium.
- (9) “Person” means individuals, partnerships, corporations, other organized bodies or entities, or any combination thereof.
- (10) “Registrant” means the person whose name appears on the label of a horticultural growing medium and who is responsible for labeling such medium.

History

Code 1981, § 2-12-102, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-103. Administration and enforcement.

The Commissioner is authorized to administer and enforce the provisions of this article through the utilization of personnel and facilities of the department.

History

Code 1981, § 2-12-103, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-104. Authority of Commissioner.

The Commissioner is authorized to:

- (1) Cooperate with and, as the Commissioner may deem necessary, enter into written agreements with any other agency of this state, another state, or the federal government or any other organization or entity that may be of assistance;
- (2) Inspect or cause to be inspected by duly authorized employees any lands, facilities, equipment, materials, substances, or products used for preparation, distribution, or labeling of horticultural growing media. For this purpose, the Commissioner shall have the power to enter into or upon any place during regular business hours upon notice and to open and sample any bulk material, bundle, package, or other container containing or thought to contain any horticultural growing medium, or to inspect labels or labeling;
- (3) Require every person registering any horticultural growing medium in this state to furnish on forms supplied by the Commissioner such information as the Commissioner may require to ascertain the accuracy and truthfulness of any label, labeling, or composition of any horticultural growing medium;
- (4) Place a stop sale order on any horticultural growing medium if the composition thereof is inaccurately or untruthfully labeled;
- (5) Adopt, in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” such rules and regulations as the Commissioner deems necessary to ensure the accuracy or truthfulness of labels or labeling or content of horticultural growing media, including but not limited to:
 - (A) Requiring that all registrants of horticultural growing media register each product name with the Commissioner and supply the Commissioner with a complete label and labeling for each product name;
 - (B) Requiring that all registrants of horticultural growing media supply analyses of horticultural growing media they have distributed, upon request of the Commissioner;
 - (C) Specifying the contents of the label and the manner of expressing the contents required on each package or accompanying each shipment of horticultural growing media;
 - (D) Requiring an annual registration fee for each product registered of not more than \$100.00 per product nor more than \$1,500.00 per registrant;
 - (E) Establishing a stop sale procedure for horticultural growing media which do not meet the requirements of this article or the rules and regulations of the Commissioner;
 - (F) Determining the suitability of any horticultural growing medium for its intended purpose; and
 - (G) Requiring data and proof of usefulness from registrants of horticultural growing media in order to determine suitability for its intended purpose.

History

O.C.G.A. § 2-12-104

Code 1981, § 2-12-104, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-105. Assessment and collection of cost of registration.

For the purpose of defraying expenses of registration under this article, the Commissioner may assess and collect the cost thereof with any surplus to be paid into the state treasury.

History

Code 1981, § 2-12-105, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-106. Exemptions.

- (a) Distribution of horticultural growing media planted with live plant material is exempt from the labeling and registration requirements imposed pursuant to this article.
- (b) Distribution of custom media is exempt from the registration requirements imposed pursuant to this article provided it is prepared for a single purchaser and is not held for distribution to other purchasers.
- (c) Distribution of horticultural growing media containing plant nutrients shall be exempt from the requirements of Article 1 of this chapter, the “Georgia Plant Food Act of 1989.”

History

Code 1981, § 2-12-106, enacted by Ga. L. 1993, p. 986, § 1; Ga. L. 1995, p. 10, § 2.

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2-12-107. Revocation, denial, cancellation, and refusal of registration.

The Commissioner is authorized to revoke and cancel registrations of any person or to refuse to register horticultural growing media upon satisfactory evidence that the registrant or person has used fraudulent or deceptive practices in the evasion or attempted evasion of this article or of any rules and regulations promulgated under this article. No registration shall be revoked, denied, canceled, or refused until the registrant or person has been notified by certified mail or statutory overnight delivery, return receipt requested, of the time and place of the hearing and has been given an opportunity to appear and be heard by the Commissioner or the Commissioner's authorized representative.

History

Code 1981, § 2-12-107, enacted by Ga. L. 1993, p. 986, § 1; Ga. L. 2000, p. 1589, § 3.

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2-12-108. Injunctions against violations.

The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article notwithstanding the existence of other remedies at law. Any such injunction may be issued without bond.

History

Code 1981, § 2-12-108, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-109. Prohibited acts.

It shall be unlawful for any person to:

- (1) Distribute an unregistered horticultural growing medium, except one exempted from the registration requirements of this article;
- (2) Distribute a horticultural growing medium if the label or labeling thereof does not accurately reflect its composition;
- (3) Distribute a horticultural growing medium which is unsuitable for its intended purpose or which contains substances at a level harmful to plant growth;
- (4) Fail to supply the Commissioner with analyses of a horticultural growing medium when requested by the Commissioner or a person authorized by the Commissioner or this article to make such requests;
- (5) Fail to cease distribution of any horticultural growing medium for which the Commissioner has issued a stop sale order; or
- (6) Obstruct the Commissioner in the performance of the Commissioner's duties under this article.

History

Code 1981, § 2-12-109, enacted by Ga. L. 1993, p. 986, § 1.

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2-12-110. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor.

History

Code 1981, § 2-12-110, enacted by Ga. L. 1993, p. 986, § 1.

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