

**ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015**  
**COMMITTEE STATEMENT**  
**LB92**

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**Hearing Date:** Tuesday January 20, 2015  
**Committee On:** Agriculture  
**Introducer:** Johnson  
**One Liner:** Change provisions of the Agricultural Liming Materials Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Bloomfield, Chambers, Harr, Johnson, Kolterman, Larson, Riepe, Schilz

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Rick Leonard  
Greg Ibach

**Representing:**

Introducer  
Nebraska Department of Agriculture

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB92 inserts a series of revisions within the Agricultural Liming Materials Act (2-4301 through 2-4327) as follows:

Amends 2-4323 which imposes an annual inspection fee paid by retailers based upon tons of ag liming materials sold for use in Nebraska during the previous calendar year. Currently, retailers are to submit an annual statement of tons of product sold for use in Nebraska, by county, within thirty days after expiration of the annual license (i.e. before January 30). The Director is assigned a duty to publish an annual report of ag liming products sold by county in this state. Section 1 of LB 91 would make the following changes to this section:

Changes annual retailer reporting of tonnage sold and annual payment of the inspection fee to semi-annual reporting and payment. The section as revised would impose a requirement to report sales during the preceding six month period on or before January 31 and July 31 accompanied by inspection fee payment corresponding to the tonnage reported for the respective 6-month reporting period. Inserts new subsection (2) imposing an administrative fee for late payment of the inspection fee of 25% of the delinquent fee for each month the fee remains unpaid, not to exceed 100% of the delinquent fee. The delinquent fee is defined as a recovery of additional administrative expense incurred in pursuing collection and delinquent fees are directed to the Fertilizer and Soil Conditioners Fund. Additionally, revisions provide that inaccurate reporting by a licensee is grounds for cancellation of licensure and product registration.

Renumbers existing subsection (2) as subsection (3). The duty assigned the Director under this subsection to publish and make available to specified recipients an annual report of ag liming product sold in each county is clarified to require that the Director shall annually make information available in a format selected by the Director a report of ag liming products sold in the state.

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Pursuant to Section 5 of the bill, revisions to 2-4323 would become operative February 1, 2016.

Amends 2-4326 which currently authorizes the Director to order stop-movement of ag liming materials offered for sale in violation of the Act. Section 3 of LB 92 makes the following revisions to this section:

Rewrites existing provision for style and clarity, and provides that the Director may exercise stop-movement authority when having reasonable cause to believe products are being sold in violation of the act or regulations. Inserts a new subsection (2) adding new authority for the Director to seek by complaint to a court of competent jurisdiction authority to seize and dispose of non-compliant product.

Amends 2-4327 which currently classifies violations of the Act as a Class V misdemeanor for a first conviction and a Class IV misdemeanor for subsequent convictions. A first violation is reclassified as a Class IV misdemeanor and subsequent violations a Class II misdemeanor.

In addition, LB 92 inserts new enforcement authorities providing for Attorney General or county attorney to file appropriate proceedings, and authority of the Director to seek injunction of violating activities. Injunctive remedy is available regardless of availability of remedies and may be granted without bond.

Finally, this section is amended to expressly provide for appeal of adverse orders or rulings of the Department pursuant to the Administrative Procedures Act.

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**Explanation of amendments:**

The committee amendment inserts a qualification on page 2, line 6, to clarify that the inspection fee imposed for retailer sales applies to ag liming product sold in Nebraska.

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Jerry Johnson, Chairperson