

**GEORGIA
HORTICULTURAL
GROWING MEDIA
ACT
and
RULES and
REGULATIONS**



GARY W. BLACK, Commissioner
GEORGIA DEPARTMENT OF AGRICULTURE
Agriculture Building
Capitol Square
Atlanta, Georgia 30334

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2-12-100. Short title

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

2-12-101.

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.

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.

2-12-103. Commissioner of Agriculture authorized to enforce provisions.

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

2-12-104. Duties of Commissioner of Agriculture.

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.

2-12-105. Registration of horticulture media.

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.

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 Fertilizer Act of 1997."

2-12-107. Revocation; cancellation of registrations.

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, 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.

2-12-108. Temporary and permanent injunctions.

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.

2-12-109. Unlawful actions.

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.

2-12-110. Penalty.

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

RULES AND REGULATIONS

40-4-21-.01. Definitions.

The following words or terms shall have the meaning set forth herein when used in the rules and regulations:

- (a) Aged: exposed under uncontrolled conditions to weathering and/or natural decay.
- (b) Bark: the outer, more or less, corky layer of stems of most woody plants. Bark may include no more than 15% by volume wood.
- (c) Bulk: not in a package or in packages of one cubic yard or more.
- (d) Compost: organic materials which have been biologically decomposed by mixing and piling in such a way as to promote decay, and to minimize pathogens, viable weed seeds and odors. Such materials must have passed beyond a thermophilic (heat-generating) stage, and must be in a stage of decomposition (aerobic) of a sufficient degree to be not harmful to plant growth when combined with generally accepted horticultural industry growing practices.
- (e) Commissioner: 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.
- (f) Custom Medium: 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.
- (g) Department: the Georgia Department of Agriculture.
- (h) Distribute: to offer for sale, sell, barter, exchange, or otherwise supply or make available.
- (i) Horticultural growing medium: 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.
- (j) Label: the display of all written, printed, or graphic matter on or attached to the immediate container accompanying the lot of horticultural growing medium.
- (k) Labeling: 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.
- (l) Person: individuals, partnerships, corporations, or any other organized bodies or entities, or any combination thereof.
- (m) Processed: deliberately treated or manipulated to modify or transform physical, chemical, or biological characteristics of the natural state of the substance.
- (n) Raw: in the natural state, and not prepared, modified, or manipulated for use.
- (o) Registrant: the person whose name appears on the label of a horticultural growing medium and who is responsible for labeling such medium.
- (p) Registration Document: the information required by the Commissioner for registering a horticultural growing medium for distribution into or within Georgia, not including a Suitability Document. The Registration Document may be made available by the registrant to the purchaser upon request.
- (q) Suitability Document: the information described by the Commissioner, of an experimental and explanatory nature describing how the registrant determined suitability of the product for its intended use(s).
- (r) Suitable: to function as promoted or intended when combined with generally accepted horticultural industry growing practices. Generally, in referring to a medium, this means holds water and air, provides mechanical support, and sustains plant growth when combined with generally accepted horticultural industry growing practices.
- (s) Soil: the upper weathered mineral surface of the earth. Soil may contain an organic portion consisting of both living and dead organisms.
- (t) Wood: a hard, fibrous material located beneath the bark, which constitutes the greatest part of stems of trees and shrubs.

40-4-21-.02. Registration and Fees

- (1) All registrants of horticultural growing media distributed in Georgia must register each product name with the Commissioner on a Registration Document supplied by the Commissioner. The initial registration of a horticultural growing medium must be accompanied by a Suitability Document.
- (2) All registrants must submit an annual fee of \$50.00 for each product name registered. The maximum total annual fee per registrant shall be \$1500.00.
- (3) No product name shall be registered which misrepresents the product's primary component or component formulation.

(4) Each product name shall refer to a specific formulation; different product names shall refer to the same formulation. Products for which formulations change or are modified beyond the ranges reported in the Registration Document must either be reregistered with a name which distinguishes them from the previous formulation, or production and distribution of the previous formulation must cease.

(5) Reregistered products must be accompanied by a new Registration Document and Suitability Document for that formulation.

(6) Each product Registration Document shall be accompanied by a label or facsimile of a label for that product as named. If the product is sold in more than one size, a label or facsimile of a label for each package size must be submitted.

(7) Registrations for each product name shall be renewed annually by July 1.

40-4-21-.03. Contents of the Label.

(1) Label information may be printed on the bag containing the product, printed on a sticker attached to the bag, or in the case of bulk bags or bulk, any of the above or printed on a fact sheet accompanying the shipment.

(2) The Commissioner shall require each label to contain the following minimum information. Additional information of an instructional or explanatory nature may be provided at the discretion of the registrant.

(a) The product name as registered.

(b) The volume of the product in quarts, cubic feet, yards, or metric volumes, or the weight of the product in ounces, pounds, or metric weights, as registered.

(c) A listing of all physical components, whether organic or inorganic. Components shall be listed in order of decreasing amount by volume, if they comprise at least 3 per cent or more of total volume of the product. The percentage of the primary (first-named) component shall be listed as a 10 per cent range of the total volume of the product. Components shall be described as follows:

1. Bark products shall be described as raw, aged, processed, or composted. Bark shall also be described as pine or softwood (meaning Gymnosperm), or hardwood (not Gymnosperm), and may include no more than 15 percent by volume wood.

2. Peat products shall be described in accordance with ASTM standards as to whether they are sphagnum, hypnum, reed-sedge, humus, or other peat.

3. Wood products shall be described as raw, aged, processed, or composted.

4. Readily degradable organic substances shall be listed and described as raw, aged, processed, or composted.

5. The base material(s) for any other composted product shall be described or listed.

(d) Intended use statements such as general recommendations for product use. If cautionary warnings of uses not recommended are made, they should be stated in this section of the label.

(e) General fertilizer recommendations for use with the product. An acceptable minimum recommendation would indicate at what time after planting the product required the addition of fertilizer, or whether the product required the addition of fertilizer.

(f) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.

(g) For product intended for use by commercial growers, the date of manufacture, or the month and year of manufacture, stated at any location on the bag. If the date or month and year of manufacture is coded, sufficient information must be provided to determine the date or month and year of manufacture from the code.

40-4-21-.04 Sampling and Analyses.

(1) The Commissioner may enter into or upon any place used for preparation, distribution, or labeling of horticultural growing media during normal business hours and may inspect and sample any material, or inspect any label or labeling.

(2) The Commissioner may require the registrant to provide physical and chemical analyses of products if he has reason to believe the product does not conform with the label or labeling. The analyses shall include but not be limited to all information required in the label section of this Chapter, the Registration Document, the Suitability Document and any other supporting documentation.

40-4-21-.05. Suitability

(1) If claims of suitability of a horticultural growing medium are made for a crop or specific crops, or any claims of intended purpose are made, or any substance or product is promoted as a horticultural growing medium, the Commissioner may require data and proof of usefulness in the form of a Suitability Document, to show suitability for the intended purpose when used with generally accepted horticultural industry growing practices.

(2) The Commissioner may cooperate with or enter into agreements with any governmental agency or any other person, organization or entity to determine suitability of any horticultural growing medium for the intended purpose.

40-4-21-.06. Exemptions

(1) Distribution of horticultural growing media planted with live plant material is exempt from labeling and registration requirements.

(2) Distribution of custom media is exempt from registration requirements provided it is prepared for a single purchaser and is not held for distribution to other purchasers.

(3) Distribution of horticultural growing media containing plant nutrients shall be exempt from the requirements of Article 1 of Chapter 12 of Title 2, the Fertilizer Act of 1997.

40-4-21-.07. Stop Sale and Revocations.

The Commissioner is authorized to:

(a) Place a Stop Sale on any horticultural growing medium if the product name is not registered, or if the composition thereof is found to be inaccurately or untruthfully labeled by the Commissioner.

1. The distributor of the horticultural growing medium placed under Stop Sale will be notified by registered letter or by personal delivery of a Stop Sale document. The reason for the Stop Sale must be given.

2. A Stop Sale may be released only by written order of the Commissioner.

(b) Revoke or cancel registration of any person or product, or refuse to register horticultural growing media upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this Chapter. No registration shall be revoked, denied, canceled, or refused without prior notice and hearing by the Commissioner.

40-4-21-.08. Unlawful Acts.

It shall be an unlawful act to:

(a) Distribute an unregistered horticultural growing medium, except one that is exempted from the requirements of this Chapter.

(b) Distribute a horticultural growing medium if the label or labeling does not accurately reflect its composition.

(c) Distribute a horticultural growing medium which is unsuitable for its intended purpose or which contains substances at a level harmful to plant growth.

(d) Fail to supply the Commissioner with analyses of horticultural growing media when requested by the Commissioner.

(e) Fail to cease distribution of any horticultural growing medium for which the Commissioner has issued a Stop Sale order.

(f) Obstruct the Commissioner in the performance of his duties.