

## O.C.G.A. § 2-12-70

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 3 Soil Amendments (§§  
2-12-70 — 2-12-83)***

### **2-12-70. Short title.**

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This article shall be known as the “Georgia Soil Amendment Act of 1976.”

### **History**

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Ga. L. 1976, p. 359, § 1.

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## O.C.G.A. § 2-12-71

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**Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 12 Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§ 2-12-70 — 2-12-83)**

### 2-12-71. Definitions.

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As used in this article, the term:

- (1) “Adulterated” means any soil amendment:
  - (A) Which contains any deleterious or harmful agent in sufficient quantity to be injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label;
  - (B) Whose composition differs substantially from that offered in support of registration or shown on the label;
  - (C) Which contains noxious weed seed; or
  - (D) Which contains domestic septage as such term is defined in 40 C.F.R. 503.9.
- (2) “Bulk” means in nonpackaged form.
- (3) “Distribute” means to import, consign, offer for sale, sell, barter, or otherwise supply soil amendments to any person in this state.
- (4) “Distributor” means any person who imports, consigns, sells, offers for sale, barter, or otherwise supplies soil amendments in this state.
- (5) “Label” means the display of written, printed, or graphic matter upon the immediate container of the soil amendment.
- (6) “Labeling” means all written, printed, or graphic matter accompanying any soil amendment and all advertisements, brochures, posters, and television, radio, and oral claims used in promoting its sale.
- (7) “Percent” or “percentage” means the parts per 100 by weight.
- (8) “Person” means an individual, partnership, association, corporation, or other organized body.
- (9) “Product name” means the designation under which a soil amendment is offered for distribution.
- (10) “Registrant” means any person who registers a soil amendment under this article.
- (11) “Soil amendment” means any substance intended for changing the characteristics of soil or other growth medium for the purposes of:
  - (A) Increasing penetrability of water or air;
  - (B) Increasing water-holding capacity;
  - (C) Alleviating or decreasing soil compaction; or
  - (D) Otherwise altering the soil or other medium in such manner that the physical properties are materially enhanced.

## O.C.G.A. § 2-12-71

The term “soil amendment” does not include any substance for which nutritional claims are made, such as, but not limited to, commercial fertilizers, liming materials, or unmanipulated vegetable or animal manures.

## History

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Ga. L. 1976, p. 359, § 3; Ga. L. 2020, p. 364, § 7/ HB 1057; Ga. L. 2022, p. 352, § 2/ HB 1428.

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## O.C.G.A. § 2-12-72

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2-12-70 — 2-12-83)***

### **2-12-72. Commissioner to administer article.**

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This article shall be administered by the Commissioner of Agriculture.

### **History**

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Ga. L. 1976, p. 359, § 2.

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## O.C.G.A. § 2-12-73

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### **2-12-73. Registration required; proof of claims or value; fee.**

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(a) Every soil amendment distributed in this state shall be registered with the Commissioner on forms obtained from the Commissioner's office. The applicant for registration shall provide such information as the Commissioner may require by regulation after opportunity for public hearing.

(b) In determining the acceptability of any product for registration, the Commissioner may require proof of claims made for the soil amendment. If no specific claims are made, the Commissioner may require proof of the usefulness and value of the soil amendment. As evidence of proof, the Commissioner may rely on experimental data furnished by the applicant and may require that such data be developed from tests conducted under conditions identical to or closely related to those conditions present in this state. The Commissioner may reject any data not developed under such conditions and may rely on the advice of the University of Georgia College of Agricultural and Environmental Sciences experiment station personnel or other university personnel in evaluating data for registration.

(c) The registration fee shall be \$55.00 per year for each product. Registration shall expire on December 31, annually, unless an application for renewal has been received prior to the expiration date. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

### **History**

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Ga. L. 1976, p. 359, § 4; Ga. L. 1995, p. 10, § 2; Ga. L. 2010, p. 9, § 1-11/HB 1055.

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## O.C.G.A. § 2-12-74

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§  
2-12-70 — 2-12-83)***

### **2-12-74. Refusal or revocation of registration.**

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The Commissioner shall refuse to register any soil amendment which fails to comply with this article. He may revoke any registration, after opportunity for hearing, upon satisfactory evidence that the registrant or any of his designated agents has used fraudulent or deceptive practices in the distribution of any soil amendment.

### **History**

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Ga. L. 1976, p. 359, § 13.

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## O.C.G.A. § 2-12-75

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### **2-12-75. Inspection fees; semiannual reporting.**

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(a) Any person who distributes a soil amendment to another person in this state must pay the Commissioner an inspection fee; provided, however, that sales or exchanges between registrants and sales of containers of ten pounds or less shall be exempt from such fee. The Commissioner shall establish the per ton inspection fee at an amount not to exceed 30¢ per ton, which amount shall equal or exceed annual costs anticipated to be incurred by the department in administering the soil amendment inspection program.

(b) Each registrant must keep accurate records of the registrant's sales and must file semiannual reports covering the periods of January 1 through June 30 and July 1 through December 31. Each semiannual report must be accompanied by full payment of the inspection fee set forth in subsection (a) of this Code section. Each semiannual report must be submitted to the department within 30 days following the end of the applicable filing period. If the tonnage report is not timely filed or is false in any respect, then the Commissioner may revoke the registration or assess a penalty in the amount of the greater of 10 percent of the amount due or \$10.00.

### **History**

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Ga. L. 1976, p. 359, § 7; Ga. L. 2020, p. 364, § 8/ HB 1057; Ga. L. 2021, p. 922, § 2/ HB 497.

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## O.C.G.A. § 2-12-76

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### **2-12-76. Labeling requirements.**

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Every soil amendment container shall be labeled on the face or display side in a readable and conspicuous form showing:

- (1) The product name;
- (2) A statement of claim or purpose, if any are made;
- (3) Adequate directions for use;
- (4) The net weight or volume; and
- (5) The name and address of the registrant.

### **History**

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Ga. L. 1976, p. 359, § 5.

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## O.C.G.A. § 2-12-77

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### **2-12-77. When soil amendment deemed misbranded.**

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A soil amendment shall be considered misbranded if:

- (1) Its label or labeling is false or misleading in any particular;
- (2) It is distributed under the name of another soil amendment; or
- (3) It is represented as a soil amendment or is represented to contain a soil amendment unless such soil amendment conforms to the definition, if any, prescribed by the Commissioner by regulation.

### **History**

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Ga. L. 1976, p. 359, § 6.

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## O.C.G.A. § 2-12-78

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### **2-12-78. Inspection, sampling, and analysis.**

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The Commissioner or his designated agents are authorized to enter upon any public or private property during regular working hours for the purpose of inspecting or sampling any soil amendment to determine if such amendment is being distributed in compliance with this article. In the examination of such samples, the Commissioner may rely on such tests as he may establish by regulation as necessary for the enforcement of this article.

### **History**

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Ga. L. 1976, p. 359, § 9.

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### 2-12-79. Prohibited acts.

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It shall be a violation of this article for any person to:

- (1) Distribute an unregistered soil amendment;
- (2) Distribute an unlabeled soil amendment;
- (3) Distribute a misbranded soil amendment;
- (4) Distribute an adulterated soil amendment;
- (5) Fail to comply with a stop sale, use, or removal order; or
- (6) Fail to submit semiannual reports.

### History

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Ga. L. 1976, p. 359, § 8.

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## O.C.G.A. § 2-12-80

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### **2-12-80. Promulgation and adoption of rules and regulations; sharing of information.**

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The Commissioner is authorized to:

**(1)** Promulgate and adopt:

**(A)** Such rules and regulations as may be necessary to enforce this article. Such regulations may relate to, but shall not be limited to, methods of inspection and examination, designation of ingredients, and identity of products;

**(B)** Rules and regulations relative to soil amendments derived from industrial by-products which may include, but not be limited to, application rates, proper conditions for application, application record keeping and retention, use of site-specific nutrient management plans, and storage and containment in or on lands where soil amendments are applied, but shall exclude forest products, soil amendments derived from industrial by-products generated solely from forest products, excluding chemical by-products of pulp digestion, slates, clays, shells, gypsum, and lime; provided, however, that pursuant to Code Section 2-1-6, no local government shall be prohibited or impaired from adopting or enforcing any zoning ordinance, including the adoption of buffers and setbacks; provided, further, that no such buffer or setback shall exceed 100 feet in width; and

**(C)** Rules and regulations that require every owner and operator of a farm on which soil amendments are being applied to procure a site-specific nutrient management plan and make a copy of such plan available for inspection at the request of the department; and

**(2)** 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**

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Ga. L. 1976, p. 359, § 14; Ga. L. 2019, p. 91, § 6/HB 512; Ga. L. 2020, p. 364, § 9/HB 1057; Ga. L. 2021, p. 469, § 1/SB 260; Ga. L. 2022, p. 352, § 2/HB 1428.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§  
2-12-70 — 2-12-83)***

### **2-12-81. Stop sale, use, and removal orders.**

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The Commissioner may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of soil amendment, ordering him to hold at a designated place any such lot of soil amendment which the Commissioner determines does not comply with this article. When such soil amendment has been made to comply with this article, it shall be released in writing by the Commissioner.

### **History**

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Ga. L. 1976, p. 359, § 10.

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§  
2-12-70 — 2-12-83)***

### **2-12-82. Injunctions.**

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The Commissioner may bring an action to enjoin the violation or threatened violation of this article or the regulations adopted under this article in the superior court of the appropriate county.

### **History**

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Ga. L. 1976, p. 359, § 11.

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## O.C.G.A. § 2-12-83

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Fertilizers, Liming Materials, and Soil Amendments (Arts. 1 — 4) > Article 3 Soil Amendments (§§  
2-12-70 — 2-12-83)**

### 2-12-83. Penalties.

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(a) Except as otherwise provided in this Code section, any person violating any provision of this article or regulation adopted under this article shall be guilty of a misdemeanor.

(b) Any person who distributes or applies a soil amendment 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 distributes or applies a soil amendment 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.

(c) Any person who distributes or applies a soil amendment 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 distributes or applies a soil amendment 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

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Ga. L. 1976, p. 359, § 12; Ga. L. 2020, p. 364, § 10/HB 1057; Ga. L. 2022, p. 352, § 2/HB 1428.

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