

# GREEN INDUSTRY NEWS

FRANCHISES

## Published court decision could boost risks

The published opinion of a Connecticut judge, in a preliminary decision in a comparatively unimportant suit for damages resulting from a leaking roof, may turn out to have an enormous impact on the entire field of franchising.

At the very least, according to Product Liability Digest, the decision is likely to lead to an increase in product liability insurance premiums for franchisors and, as a result, indirectly raise the prices of all franchised goods and services.

According to the article, a standard element in almost every franchise agreement is a license to use the franchisor's trademark. Discussions about the role of trademarks in marketing frequently men-

tion that the trademark owner stands behind his product, that a trademark guarantees the quality of the product, and so forth. Extending this to a franchise situation, it could be said that the trademark owner, in a sense, takes responsibility for the licensee's product, which he must do because of the quality control requirements of the trademark law.

This statement has not generally been taken literally as a warranty, which would create liability for damages. Trademark experts agree that Congress never meant to impose that kind of financial risk on a licensor when it wrote the quality control provisions into the trademark law in 1946.

However, licensing without

supervision by the licensor is the legal equivalent of abandoning the trademark, which means that the owner can no longer enforce his rights in it against anyone whether it is used with or without permission. The public is involved in this because the appearance of the licensor's trademark on uncontrolled products is considered to be a practice that is deceptive to the consumer.

According to the judge's analysis, the license agreement between the licensor and the licensee guaranteed to the public that the product sold under the licensor's trademark by the licensee was of the same nature and quality as it would have been if sold by the licensor. The situation thus met the legal test for "strict liability".

INSECTS

### Ataenius has name similar insect

Dr. Harry Niemczyk, Professor of Turfgrass Entomology at the Ohio Agricultural Research and Development Center in Wooster, has informed WEEDS TREES & TURF that the 1978 Committee on Common Names of Insects, from the Entomological Society of America, has approved "black turfgrass ataenius" as the common name for *Ataenius spretulus*.

Dr. Niemczyk has also discovered another beetle that damages turf at the same time *Ataenius* larvae do. This insect has been determined as *Aphodius granarius*. Dr. Niemczyk has found larvae of this species damaging turf in Boulder, Colorado and at two golf courses in Detroit, Michigan. At first glance, according to Dr. Niemczyk, the *Aphodius* lar-

vae appear identical to *Aetaenius*. However, the *Aphodius* are slightly larger and have a somewhat darker head capsule. The V-shaped series of spines located in the raster of *Adophius* is the most outstanding identifying characteristic. (See drawing).

If you come upon an infestation during June or July, which appears to be *Ataenius*, check the larvae carefully to determine the possibility of the other species being present. Dr. Niemczyk would like to

know the extent to which either of these species is present. Contact him at OARDC, Wooster, Ohio, 44691, or phone 216/264-1021.

FERTILIZER

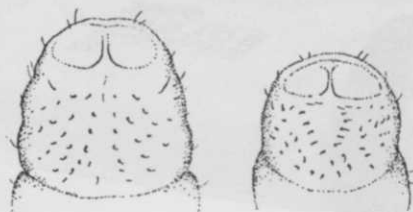
### Lakeshore sulfur-coated fertilizers plant opens

The first commercial plant in the U.S. to produce slow-release, sulfur-coated fertilizers began operations under the direction of Ag Industries Mfg. Corp. (AIM) in Columbia, Ala. last month.

The AIM plant is sulfur-coating urea, a water-soluble nitrogen fertilizer compound, along with phosphorus and potash to produce a complete fertilizer.

The AIM corporation is wholly owned by Lakeshore Equipment & Supply Co., Elyria, Ohio, a major supplier to the lawn care industry.

The company said the sulfur



The real *Ataenius* (left) and its look-alike the *Aphodius* (right).

# GOVERNMENT

## UPDATE

### FIFRA pesticide uses to be more liberal

A liberalized approach to uses of a pesticide that are not in literal accord with the printed label on a product is one of the amendments to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that a House-Senate Conference Committee has approved.

Other amendments include: Conditional registration permitting the Environmental Protection Agency (EPA) to register products similar to old chemicals or providing new uses for them; a "generic standards" approach allowing EPA to make broad decisions for an entire group of products containing the same ingredient; and a diminished requirement for reviews on the efficacy of pesticides, according to Steven D. Jellinek, assistant administrator for Toxic Substances.

Jellinek said that it was "very frustrating" to have to turn down numerous applications because of a double standard that allows continued use of products already registered but requires a full completion of registration data before identical new products can be registered.

EPA plans to issue regulations for conditional registration within the new few months, and begin issuing such registrations immediately thereafter, Jellinek added.

The generic standards approach to re-registration of existing pesticides will make possible a more streamlined procedure rather than the present practice of regulatory decisions on a product-by-product basis.

Jellinek also said that the amendments provide a new definition of "use inconsistent with the label". It makes it clear that certain practices, which may not be in strict or literal accord with the printed label, are nonetheless legally consistent with label directions.

"Specifically, pesticide applicators could use less than the specified label dosage to treat for a pest not listed on the label, to mix pesticides and fertilizers on a broader basis, and to employ responsible methods of application not specified on the label.

"We expect that these changes will introduce a welcome measure of common sense to pesticide use enforcement, which incidentally will become even more of a state responsibility than it is now."

State inspectors would be the primary enforcers of FIFRA, in states with approved EPA plans, under the new amendments. Approval of the amendments is expected by the House, Senate, and President Carter.

### Department of Labor interprets FLCRA

Originally intended to apply only to third party contractors, the Farm Labor Contractor's Registration Act has been interpreted by the Department of Labor to include every farmer, processor, and packer of agricultural or horticultural commodities who recruits, solicits, hires, furnishes or transports agricultural labor.

There are two exemptions: Any person who engages in covered activities solely within a 25 mile intrastate radius of his permanent residence and for not more than 13 weeks a year; and any farmer, processor or nurseryman who personally engages in such activity for the purpose of supplying migrant workers solely for his own operation.

The last exemption does not apply to a corporate farmer unless the corporation is under the effective control of an individual whose authority is equivalent to that of a sole proprietor and if that individual acts in person with respect to the farm labor contracting activities for the corporation.

If a "person", as defined by the act to include any individual, partnership, association, joint stock company, trust or corporation, engages in any of the activities named, he must first register with the U.S. Department of Labor as a Farm Labor Contractor.

*Continues on page 42*



coating slows the dissolution of the fertilizer in the soil, making the fertilizer last longer, reducing the number of applications required and producing more even plant growth. Many lawn care businessmen across the country use some sulfur-coated urea fertilizers in their lawn care programs, and others are considering the fertilizers.

The AIM corporation is licensed by the Tennessee Valley Authority (TVA) to use methods developed by TVA at its National Fertilizer Development Center in Muscle Shoals, Ala. to produce the sulfur-coated fertilizers.

A similar facility in Willowdale, Ontario in Canada is owned by Canadian Industries, Ltd., and coats urea. It also supplies the lawn care industry and other turf managers in the United States.

Ronald A. Smith is the chief operating officer and project manager for AIM.

Lakeshore spokesmen said that agronomic testing by TVA and numerous universities across the nation has proven sulfur-coated urea to be an excellent fertilizer for lawns and other turfgrasses.

When compared with a single application of soluble fertilizer, sulfur-coated urea gave less growth immediately following fertilization, but better growth throughout the lawn care season, without excessive need for mowing and with minimal fertilizer burn. In three-year studies, it produced more uniform seasonal bermudagrass growth than a single or split application of soluble sources of nitrogen.

Lakeshore spokesmen also said that sulfur-coated urea has been shown to be an economically priced slow-release fertilizer compared with other products on the market. They note that some slow-release fertilizers currently available to the lawn care businessmen cost two to three times as much as conventional nitrogen fertilizer.

# Landscape Contractor News

## SBA now guarantees contractor bonds

The Small Business Administration can now guarantee surety bonds for contracts up to \$1-million to any contractor required to have a bid, performance or payment bond. Under the program there is no limit to the number of bonds guaranteed for any one contractor.

In consideration of the Surety Company's paying the Small Business Administration (SBA) 20 percent of the gross bond premium, SBA guarantees the Surety Company up to 90 percent of any loss sustained on contracts up to \$250,000 or greater, subject to a \$500 maximum deductible to the Surety Company regardless of the contract amount.

The contractor must pay a fee of 0.2 percent of the contract amount to SBA, if SBA provides the bond, as well as a maximum 1½ percent premium charge for the bond on the first \$250,000 of the contract amount and one percent on the excess to the Surety Company.

Contact the nearest SBA office for full details.

## UC will offer 5-week hort course

A five session horticulture short course, jointly sponsored by the University of California Cooperative Extension and the five southern chapters of the California Association of Nurserymen, will be given in two locations, starting January 23 and 24.

One location will be at the Veterans Administration Hospital, Brentwood Theater, Brentwood, on Tuesday evenings starting January 23. Wednesday evening sessions will be given at the Diamond Bar Country Club in Diamond Bar, near Pomona, beginning January 24. Courses will be identical in both locations. Session will start at 7:30 PM and end by 9:30.

Session one will be "Watering Practices in the Home Landscape", given by William Davis, UC Cooperative Extension at Davis. Second session will cover "Monday Morning Blahs, Cure Them with New Varieties-Flowers and Vegetables", given by James Wilson, Executive Secretary of All America Selections. The third session will deal with "Selling Your Customers", by Ray Cusato, President of Ray Cusato and Associates. Fourth Session will discuss "Native Plants in the Home Landscape", given by Peggy Sears McLaughlin, Cal-Poly. "Diagnosing Home Landscape Problems" will be presented by Paul Rogers, Kellogg Supply, Inc., during the fifth session.

Pre-registration is necessary. Registration fee is \$17. A reference book will be provided and a certificate of completion will be presented to those attending four of the five sessions. The last course attracted over 470 persons in the nursery and landscape industry.

Contact is Ted Stamen, Ornamental Horticulture Farm Advisor for Los Angeles County, phone 3213/744-4885; or Mike Henry, Ornamental Horticulture Farm Advisor for Orange County at 714/744-7050; or Ed McNeill, registration coordinator, phone 213/798-1715.

## Land Imprinter controls runoff

The "land imprinter", developed by Dr. Robert M. Dixon, soil scientist with the Agricultural Research Service's Tuscon, Arizona research center, may help establish grasses on near-barren dry areas. Based on a new concept for controlling rainwater infiltration, the air-earth interface (AEI) concept, the imprinter is being used experimentally in two coal mine's reclamation programs.

Utah International has planted four one-acre plots at its mine near Fruitland, New Mexico, but hasn't collected data as of yet. Native grasses and shrubs have been planted on heavy clay topsoil, sandy soil and loamy soil, according to John Blueyez, director of experimental reclamation programs.

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## EDUCATION

### ChemLawn, OSU to hold turf disease symposium

Leading turfgrass disease specialists from the United States and Canada have agreed to participate in a special symposium on turfgrass disease to be held May 15-17 at the University Holiday Inn in Columbus, Ohio.

The symposium is sponsored by Ohio State University, the Ohio Agricultural Research and Development Center and ChemLawn Corp., Columbus.

The event is open to all lawn care businessmen and other turf managers from around the country.

For further information write: "A Symposium of Turfgrass Disease 1979," 2865 East Orange Road, Galena, Ohio 43021. Or call Dr. P.O. Larsen at 614-422-6987, or Dr. B.G. Joyner at 614-885-9588.

## SCIENTISTS

### Beard of Texas A&M named to Musser Board

James B. Beard, professor of Turfgrass Physiology in the Soil and Crop Sciences Department of Texas A&M University, has been named to the Board of the Musser Turf Foundation.

The Musser Foundation is a nonprofit foundation created in honor of Pennsylvania turf professor H. Burton Musser, to support basic research in turfgrass. The work with *Ataenius* has been supported from the beginning by the Foundation.

Fred Grau, Foundation director made the announcement in October. Grau said, "We are extremely pleased to have Dr. Beard on the Musser board and feel his contribution will be very significant to the advancement of basic turf research."

## SEED

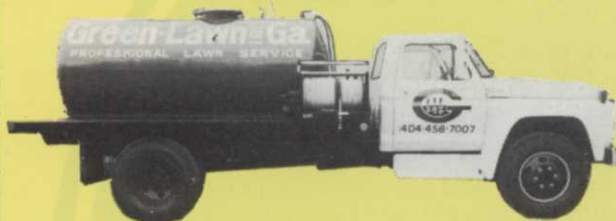
### Coated grass seed available in spring

Oseco, Inc., Brampton, Ontario, has announced that it will introduce a coated grass seed beginning next spring.

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## Good News for the LAWN CARE INDUSTRY

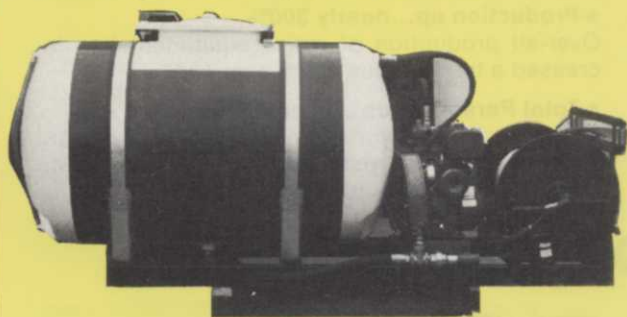
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Circle 107 on free information card

## Industry News

### Coated Seed from page 10

To be distributed under the name "Prill-On," the company lists advantages of the new coated seed as improved germination (especially under dry conditions), healthier establishment due to nutrient impregnation, increased protection against fertilizer burn, insects and birds and easier application.

For further information, contact the company at Oseco, Inc., P.O. Box 219, Brampton, Ontario, Canada L6V 2L2, or call 416-457-5080.

### RESEARCH

### Texas' Beard studies oil spills on turf

Detergent proved most effective in enhancing bermudagrass recovery from motor oil, hydraulic fluid and brake fluid damage in a recent study of oil spills on turf conducted by Texas Agricultural Experiment Station turf researcher Dr. James Beard.

Petroleum spill damage on bermudagrass was studied to determine injury symptoms and subsequent recovery rates.

Five petroleum products commonly used in lawn maintenance equipment were applied and injury symptoms noted for gasoline, motor oil, hydraulic fluid, brake fluid and grease spills. Calcined fine clays (kitty litter), activated charcoal and detergent were applied within 20 minutes of each spill and evaluated as corrective agents.

Detergent improved recovery time about half as much as the eight to 10 weeks recovery time noted without corrective measures. None of the corrective treatments were effective on either the gasoline or grease-damaged turf. If petroleum spill is of high volume, turf and soil may need to be replaced.



Ohio Turfgrass Foundation President John Fitzgerald (r) recently presented the 1978 research donation of \$16,500 to Ohio State University Associate Dean Ken Reisch (c) while Dr. Dave Martin, O.S.U. Extension Agronomist in Turf and OTF Executive Secretary, looks on. The \$16,500 donation will be used for turfgrass research in Agronomy, Entomology, and Plant Pathology and brings OTF research donations to more than \$170,000 since 1968.