

# SENATE BILL 70

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(PRE-FILED)

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By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Requested: September 13, 2013

Introduced and read first time: January 8, 2014

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: January 17, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Agriculture – Fertilizer – Labeling and Restrictions on Use and Sale**

3 FOR the purpose of clarifying certain fertilizer labeling requirements and certain  
4 restrictions on the use and sale of certain fertilizers; altering certain definitions;  
5 and generally relating to the labeling, use, and sale of fertilizer in Maryland.

6 BY repealing and reenacting, without amendments,  
7 Article – Agriculture  
8 Section 6–201(a) and (ee)  
9 Annotated Code of Maryland  
10 (2007 Replacement Volume and 2013 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Agriculture  
13 Section 6–201(l), (w), and (cc), 6–210(a) and (c), 6–224, and 8–803.5  
14 Annotated Code of Maryland  
15 (2007 Replacement Volume and 2013 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Agriculture**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 6–201.

2 (a) In this subtitle the following words have the meanings indicated.

3 (l) “Guaranteed analysis” means the [minimum] **NOMINAL** percentage of  
4 plant nutrient claimed as follows:

5 (1) Total nitrogen (N), available phosphate ( $P_2O_5$ ), soluble potash  
6 ( $K_2O$ );

7 (2) For unacidulated mineral phosphatic materials and basic slag,  
8 both total and available phosphate and the degree of fineness;

9 (3) For bone, tankage, and other organic phosphatic materials, total  
10 phosphate;

11 (4) Additional plant nutrients, when claimed, shall be expressed in  
12 elemental form; and

13 (5) Potential basicity or acidity may be expressed in terms of calcium  
14 carbonate equivalent in multiples of 100 pounds per ton.

15 (w) (1) “Organic fertilizer” means a fertilizer product that is derived from  
16 either a plant or animal product containing carbon and one or more elements, other  
17 than hydrogen or oxygen that are essential for plant growth.

18 (2) “Organic fertilizer” includes a fertilizer product that contains:

19 (i) **[Synthetic materials] NO MORE THAN 50% SYNTHETIC**  
20 **MATERIALS AND IN WHICH MORE THAN HALF THE SUM OF THE GUARANTEED**  
21 **PRIMARY NUTRIENT PERCENTAGES IS DERIVED FROM ORGANIC MATERIALS;** or

22 (ii) Materials that are changed in a physical or chemical manner  
23 from their initial state.

24 (cc) (1) “Soil conditioner” means any substance or mixture of substances  
25 intended for sale, offered for sale, or **[sold] DISTRIBUTED** for:

26 (i) Manurial, soil enriching, or soil corrective purposes;

27 (ii) Promoting or stimulating the growth of plants;

28 (iii) Increasing the productivity of plants;

29 (iv) Improving the quality of crops; or

1 (v) Producing any chemical or physical change in the soil,  
2 except a commercial fertilizer, unmanipulated animal and vegetable manures,  
3 agricultural liming material, and gypsum.

4 (2) "Soil conditioner" includes but is not limited to materials such as  
5 compost, peat, vermiculite, or perlite, that are incorporated into the soil.

6 (ee) "Specialty fertilizer" means a commercial fertilizer distributed primarily  
7 for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses,  
8 municipal parks, cemeteries, greenhouses, and nurseries, and may include commercial  
9 fertilizers used for any research or experimental purpose.

10 6-210.

11 (a) Each brand and grade of commercial fertilizer distributed in the State  
12 shall be accompanied by a legible label bearing the following information:

13 (1) The net weight;

14 (2) The brand and grade under which the commercial fertilizer is  
15 distributed;

16 (3) The guaranteed analysis giving the [minimum] **NOMINAL**  
17 percentage of every plant nutrient claimed to be contained in the fertilizer; and

18 (4) Name and address of manufacturer.

19 (c) Any fertilizer mixed or blended according to a formula furnished by a  
20 purchaser shall be marked plainly or tagged with the words "buyer's mixture", or  
21 "mixed-to-order", or "custom-mix" together with a statement containing the following  
22 information:

23 (1) Net weight;

24 (2) The guaranteed analysis giving the [minimum] **NOMINAL**  
25 percentage of every plant nutrient claimed to be contained in the fertilizer; and

26 (3) Name and address of the manufacturer. In addition, the amounts  
27 or kinds of materials used in the formulation may be shown.

28 6-224.

29 (a) Except as provided in subsection (b) of this section, any specialty  
30 fertilizer labeled for use on turf, **WHEN APPLIED IN ACCORDANCE WITH THE**  
31 **INSTRUCTIONS ON THE CONTAINER**, may not:

32 (1) Result in an application of [more]:

1 (I) MORE than 0.7 pounds per 1,000 square feet of  
2 water-soluble nitrogen [and no more]; OR

3 (II) MORE than 0.9 pounds per 1,000 square feet of total  
4 nitrogen, at least 20% of which shall consist of slow-release nitrogen[, when applied in  
5 accordance with the instructions on the container];

6 (2) Contain phosphorus, except:

7 (i) For organic and natural organic fertilizer sold to a  
8 professional fertilizer applicator; or

9 (ii) When specifically labeled for the following purposes:

10 1. Providing nutrients to specific soils and target  
11 vegetation as determined to be necessary in accordance with a soil test that was:

12 A. Conducted by a laboratory identified under § 8-803.7  
13 of this article; and

14 B. Performed no more than 3 years before the  
15 application;

16 2. Establishing vegetation for the first time, such as  
17 after land disturbance, provided the application is conducted in accordance with the  
18 recommended application rates established by the State; or

19 3. Reestablishing or repairing a turf area; and

20 (3) Be labeled for use as a de-icer.

21 (b) An enhanced-efficiency fertilizer labeled for use on turf, **WHEN APPLIED**  
22 **IN ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER**, may not:

23 (1) Result in an annual application of more than 2.5 pounds per 1,000  
24 square feet of total nitrogen;

25 (2) Result in an application of more than 80% of the annual  
26 recommended rate for total nitrogen established by the University of Maryland; or

27 (3) Have a release rate of more than 0.7 pounds per 1,000 square feet  
28 of total nitrogen per month.

1 (c) Except as provided in subsections (d) and (e) of this section, a person may  
2 not offer to sell specialty fertilizer for use on turf that, **WHEN APPLIED IN**  
3 **ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER:**

4 (1) Results in an application of [more]:

5 (I) **MORE** than 0.7 pounds per 1,000 square feet of  
6 water-soluble nitrogen [and no more]; **OR**

7 (II) **MORE** than 0.9 pounds per 1,000 square feet of total  
8 nitrogen, at least 20% of which shall consist of slow-release nitrogen[, when applied in  
9 accordance with the instructions on the container]; and

10 (2) Contains phosphorus and is intended for use on turf unless the  
11 intended use of the fertilizer is:

12 (i) For application to specific soils and turf as determined to be  
13 necessary pursuant to a soil test conducted by a laboratory identified in § 8-803.7 of  
14 this article and performed no more than 3 years before the application, provided the  
15 application complies with recommended application rates established by the  
16 University of Maryland;

17 (ii) For the establishment of turf for the first time, such as after  
18 land disturbance, provided the application complies with recommended application  
19 rates established by the University of Maryland; or

20 (iii) For the reestablishment or repair of a turf area.

21 (d) A person may offer to sell an organic or natural organic fertilizer  
22 containing phosphorus to a professional fertilizer applicator.

23 (e) A person may not offer to sell enhanced-efficiency fertilizer for use on  
24 turf that:

25 (1) Results in an annual application of more than 2.5 pounds per 1,000  
26 square feet of total nitrogen;

27 (2) Results in an application of more than 80% of the annual  
28 recommended rate for total nitrogen established by the University of Maryland; or

29 (3) Has a release rate of more than 0.7 pounds per 1,000 square feet of  
30 total nitrogen per month.

31 (f) A person may not offer to sell a commercial or specialty fertilizer product  
32 for use as a de-icer.

1 8-803.5.

2 (a) In this section, "fertilizer" means commercial fertilizer and specialty  
3 fertilizer.

4 (b) (1) This section applies to a person who applies fertilizer to:

5 (i) Property that is not used for agricultural purposes; or

6 (ii) State property that is not used for agricultural purposes.

7 (2) This section does not apply to the application of fertilizer on  
8 commercial farms.

9 (c) A person may not:

10 (1) Apply fertilizer intended for use on turf to an impervious surface;  
11 and

12 (2) Apply fertilizer containing phosphorus or nitrogen to turf:

13 (i) Before March 1 or after November 15 of any calendar year;  
14 or

15 (ii) At any time when the ground is frozen.

16 (d) (1) Except as provided in paragraph (2) of this subsection, a person  
17 may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15  
18 feet of:

19 (i) Surface water subject to the jurisdiction of the State;

20 (ii) The Chesapeake Bay and its tributaries;

21 (iii) A pond within the State;

22 (iv) A lake within the State;

23 (v) A river within the State;

24 (vi) A stream within the State;

25 (vii) A public ditch within the State;

26 (viii) A tax ditch within the State; or

1 (ix) A public drainage system within the State, other than those  
2 designed and used to collect, convey, or dispose of sanitary sewage.

3 (2) When a drop spreader, rotary spreader with a deflector, or targeted  
4 spray liquid is used for fertilizer application, the setback required under paragraph (1)  
5 of this subsection may be reduced to 10 feet.

6 (3) The establishment of setbacks for fertilizer application under this  
7 subsection does not preclude the establishment or applicability of, or compliance with,  
8 any other environmental standards established under any other State or federal law,  
9 rule, or regulation.

10 (e) Except as provided in subsections (c) and (d) of this section, a person may  
11 apply fertilizer to turf containing phosphorus if the person:

12 (1) Determines that the fertilizer is necessary for the specific soils and  
13 target vegetation in accordance with a soil test performed no more than 3 years before  
14 the fertilizer application, provided the application complies with the recommendations  
15 established by the University of Maryland;

16 (2) Is establishing vegetation for the first time, such as after land  
17 disturbance, provided the application complies with the recommendations established  
18 by the University of Maryland; or

19 (3) Is reestablishing or repairing a turf area.

20 (f) (1) Except as provided in paragraph (2) of this subsection and in  
21 addition to the requirements set forth in this section, a person, other than a  
22 professional fertilizer applicator, may not:

23 (i) Apply fertilizer to turf[:

24 1. ~~In] IN~~ an amount that is inconsistent with the annual  
25 recommended rate established by the University of Maryland; ~~[and~~

26 2. That contains nitrogen that is less than 20% slow  
27 release;]

28 (ii) Apply nitrogen to turf:

29 1. At an application rate of more than 0.7 pounds per  
30 1,000 square feet of water-soluble nitrogen; ~~[and] OR~~

31 2. At an application rate that is more than 0.9 pounds  
32 per 1,000 square feet of total nitrogen, **AT LEAST 20% OF WHICH SHALL CONSIST OF**  
33 **SLOW-RELEASE NITROGEN**; and

1 (iii) Apply fertilizer to a golf course.

2 (2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, a  
3 person may apply an enhanced efficiency fertilizer:

4 1. At an annual application rate of no more than 2.5  
5 pounds per 1,000 square feet of nitrogen; and

6 2. That has a release rate of no more than 0.7 pounds  
7 per 1,000 square feet of nitrogen per month.

8 (ii) The annual total application rate of an enhanced efficiency  
9 fertilizer may not exceed 80% of the annual recommendation rate established by the  
10 University of Maryland.

11 (iii) Enhanced efficiency fertilizers may not be applied after  
12 November 15 or before March 1 of each calendar year.

13 (g) A county or municipality may enforce this section.

14 (h) The Department may adopt regulations to implement this section.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.