

SENATE BILL 70

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(PRE-FILED)

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

A BILL ENTITLED

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**

19 6–201.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (l) "Guaranteed analysis" means the [minimum] NOMINAL percentage of
2 plant nutrient claimed as follows:

3 (1) Total nitrogen (N), available phosphate (P_2O_5), soluble potash
4 (K_2O);

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

7 (3) For bone, tankage, and other organic phosphatic materials, total
8 phosphate;

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

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

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

16 (2) "Organic fertilizer" includes a fertilizer product that contains:

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

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

22 (cc) (1) "Soil conditioner" means any substance or mixture of substances
23 intended for sale, offered for sale, or [sold] **DISTRIBUTED** for:

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

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

26 (iii) Increasing the productivity of plants;

27 (iv) Improving the quality of crops; or

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

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

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

7 6–210.

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

10 (1) The net weight;

11 (2) The brand and grade under which the commercial fertilizer is
12 distributed;

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

15 (4) Name and address of manufacturer.

16 (c) Any fertilizer mixed or blended according to a formula furnished by a
17 purchaser shall be marked plainly or tagged with the words “buyer’s mixture”, or
18 “mixed-to-order”, or “custom-mix” together with a statement containing the following
19 information:

20 (1) Net weight;

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

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

25 6–224.

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

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

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

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

4 (2) Contain phosphorus, except:

5 (i) For organic and natural organic fertilizer sold to a
6 professional fertilizer applicator; or

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

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

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

12 B. Performed no more than 3 years before the
13 application;

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

17 3. Reestablishing or repairing a turf area; and

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

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

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

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

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

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

30 (1) Results 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]; and

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

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

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

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

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

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

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

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

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

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

29 8-803.5.

30 (a) In this section, "fertilizer" means commercial fertilizer and specialty
31 fertilizer.

- 1 (b) (1) This section applies to a person who applies fertilizer to:
- 2 (i) Property that is not used for agricultural purposes; or
- 3 (ii) State property that is not used for agricultural purposes.
- 4 (2) This section does not apply to the application of fertilizer on
5 commercial farms.
- 6 (c) A person may not:
- 7 (1) Apply fertilizer intended for use on turf to an impervious surface;
8 and
- 9 (2) Apply fertilizer containing phosphorus or nitrogen to turf:
- 10 (i) Before March 1 or after November 15 of any calendar year;
11 or
- 12 (ii) At any time when the ground is frozen.
- 13 (d) (1) Except as provided in paragraph (2) of this subsection, a person
14 may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15
15 feet of:
- 16 (i) Surface water subject to the jurisdiction of the State;
- 17 (ii) The Chesapeake Bay and its tributaries;
- 18 (iii) A pond within the State;
- 19 (iv) A lake within the State;
- 20 (v) A river within the State;
- 21 (vi) A stream within the State;
- 22 (vii) A public ditch within the State;
- 23 (viii) A tax ditch within the State; or
- 24 (ix) A public drainage system within the State, other than those
25 designed and used to collect, convey, or dispose of sanitary sewage.
- 26 (2) When a drop spreader, rotary spreader with a deflector, or targeted
27 spray liquid is used for fertilizer application, the setback required under paragraph (1)
28 of this subsection may be reduced to 10 feet.

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

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

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

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

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

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

18 (i) Apply fertilizer to turf[:

19 1. In] **IN** an amount that is inconsistent with the annual
20 recommended rate established by the University of Maryland; [and

21 2. That contains nitrogen that is less than 20% slow
22 release;]

23 (ii) Apply nitrogen to turf:

24 1. At an application rate of more than 0.7 pounds per
25 1,000 square feet of water-soluble nitrogen; [and] **OR**

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

29 (iii) Apply fertilizer to a golf course.

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

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

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

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

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

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

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

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