

# HOUSE BILL 521

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By: **Delegates G. Clagett, DeBoy, Hecht, Sossi, and Walkup**

Introduced and read first time: January 30, 2008

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Specialty Fertilizers – “No Phosphorus Fertilizer”**

3 FOR the purpose of requiring certain specialty fertilizer to be marked with certain  
4 words in a certain manner; prohibiting a person from using, selling,  
5 manufacturing, or distributing for use or sale in the State a certain specialty  
6 fertilizer on or after a certain date; defining certain terms; and generally  
7 relating to specialty fertilizer.

8 BY repealing and reenacting, with amendments,

9 Article – Agriculture  
10 Section 6–201 and 6–210  
11 Annotated Code of Maryland  
12 (2007 Replacement Volume)

13 BY adding to

14 Article – Agriculture  
15 Section 6–222  
16 Annotated Code of Maryland  
17 (2007 Replacement Volume)

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

20 **Article – Agriculture**

21 6–201.

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

23 (b) A commercial fertilizer is “adulterated” if:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Any poisonous, deleterious, or nonnutritive ingredient is added in  
2 sufficient amount to render it injurious to the health of plants, humans, or animal life  
3 or injurious to the environment;

4 (2) A valuable constituent is omitted or abstracted wholly or partially  
5 from it or any less valuable substance is substituted for it; or

6 (3) Its composition or quality falls below or differs from that which it  
7 is purported or is represented to contain by its labeling.

8 (c) "Brand" means the term, design, trademark, or other specific designation  
9 under which a commercial fertilizer or soil conditioner is distributed in the State.

10 (d) "Bulk fertilizer" means any commercial fertilizer distributed in a  
11 nonpackaged form.

12 (e) "Buyer's mixture" means commercial fertilizer mixed on specific request  
13 of a purchaser according to a formula furnished by him.

14 (f) "Commercial fertilizer" means any substance containing a recognized  
15 plant nutrient used for its plant nutrient content and designed for use or claimed to  
16 have value in promoting plant growth, except unmanipulated animal and vegetable  
17 manure, marl, lime, wood ashes, and gypsum.

18 (g) "Custom-mix" means commercial fertilizer mixed on specific request of a  
19 purchaser according to a formula furnished by him.

20 (h) "Distribute" means to import, manufacture, produce, compound, mix,  
21 blend, barter, sell, offer for sale, consign, furnish, provide, or otherwise supply  
22 commercial fertilizer or soil conditioners as part of a commercial enterprise.

23 (i) "Fertilizer material" means a commercial fertilizer containing a  
24 recognized plant nutrient, which is used primarily for its plant nutrient content.

25 (j) "Grade" means the percentage of total nitrogen (N), available phosphoric  
26 acid ( $H_3PO_4$ ), and soluble potash ( $K_2O$ ) stated in whole numbers in the same terms,  
27 order, and percentages as in the "guaranteed analysis". In the case of any "specialty  
28 fertilizer" or "mixed-to-order fertilizer" guarantees may be stated in decimal fractions  
29 of whole numbers.

30 (k) "Guaranteed analysis" means the minimum percentage of plant nutrient  
31 claimed as follows:

32 (1) Total nitrogen (N), available phosphoric acid ( $H_3PO_4$ ), soluble  
33 potash ( $K_2O$ );

34 (2) For unacidulated mineral phosphatic materials and basic slag,  
35 both total and available phosphoric acid and the degree of fineness;

1           (3) For bone, tankage, and other organic phosphatic materials, total  
2 phosphoric acid;

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

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

7           (1) "Gypsum" means any product that consists chiefly of calcium sulfate  
8 intended for use for agricultural purposes.

9           (m) "Label" means the display of all written, printed, or graphic matter on the  
10 immediate container or a statement accompanying a commercial fertilizer or soil  
11 conditioner.

12           (n) "Labeling" means all written, printed, or graphic matter on or  
13 accompanying any commercial fertilizer or soil conditioner, or the contents of any  
14 advertisement, brochure, poster or television or radio announcement used in  
15 promoting the sale of a commercial fertilizer or soil conditioner.

16           (o) "Lot" means a definite quantity of commercial fertilizer or soil  
17 conditioner, identified by name, grade, or code designation as certified by the  
18 Secretary.

19           (p) A commercial fertilizer or soil conditioner is "misbranded", if:

20               (1) Its labeling is false or misleading in any particular;

21               (2) It is distributed under the name of another product;

22               (3) It is not labeled as required in § 6-210 of this subtitle and in rules  
23 and regulations prescribed under this subtitle;

24               (4) A fertilizer purports to be or is represented as a commercial  
25 fertilizer or if it purports to contain or is represented as containing a fertilizer  
26 material, unless the fertilizer material conforms to any definition of identity,  
27 prescribed by departmental rules and regulations which give due regard to commonly  
28 accepted definitions, such as those issued by the Association of American Plant Food  
29 Control Officials, Inc.; or

30               (5) Any word, statement, or other information, required to appear on  
31 the label or labeling, is not placed on it prominently and conspicuously as compared  
32 with other words, statements, designs, or devices in the labeling, and it is not in terms  
33 that render it likely to be read and understood by the ordinary individual under  
34 customary conditions of purchase and use.

1 (q) “Mixed fertilizer” means a commercial fertilizer containing any  
2 combination, blend, or mixture of fertilizer materials designed for use or claimed to  
3 have value in promoting plant growth.

4 (r) “Mixed-to-order” means commercial fertilizer mixed on a specific request  
5 of a purchaser according to a formula furnished by him.

6 (S) **“NO PHOSPHATE FERTILIZER” MEANS SPECIALTY FERTILIZER**  
7 **PRODUCTS INTENDED FOR USE ON URBAN TURF, WITH PHOSPHATE LEVELS**  
8 **EQUAL TO OR LESS THAN 0.5%.**

9 [(s)] (T) “Official sample” means any sample of fertilizer or soil conditioner  
10 taken and designated as “official” by the Secretary.

11 [(t)] (U) “Percent” or “percentage” means percentage by weight.

12 [(u)] (V) “Registrant” means any person who registers a commercial  
13 fertilizer or soil conditioner pursuant to the provisions of this subtitle.

14 [(v)] (W) (1) “Soil conditioner” means any substance or mixture of  
15 substances intended for sale, offered for sale, or sold for:

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

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

18 (iii) Increasing the productivity of plants;

19 (iv) Improving the quality of crops; or

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

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

25 [(w)] (X) “Specialty fertilizer” means a commercial fertilizer distributed  
26 primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf  
27 courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include  
28 commercial fertilizers used for any research or experimental purpose.

29 [(x)] (Y) “Ton” means a net weight of two thousand pounds avoirdupois.

30 (Z) **“URBAN TURF” MEANS NONAGRICULTURAL LAND PLANTED IN**  
31 **CLOSELY MOWED, MANAGED GRASSES EXCEPT GOLF COURSES, PARKS, AND**  
32 **ATHLETIC FIELDS.**

1 6-210.

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

4 (1) The net weight;

5 (2) The brand and grade under which the commercial fertilizer is  
6 distributed;

7 (3) The guaranteed analysis giving the minimum percentage of every  
8 plant nutrient claimed to be contained in the fertilizer; and

9 (4) Name and address of manufacturer.

10 (b) If distributed in bulk, a written or printed statement of the information  
11 required by subsection (a) of this section shall accompany delivery and be supplied to  
12 the purchaser at the time of delivery.

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

17 (1) Net weight;

18 (2) The guaranteed analysis giving the minimum percentage of every  
19 plant nutrient claimed to be contained in the fertilizer; and

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

22 (d) (1) A specialty fertilizer shall be labeled to contain all information  
23 required by subsection (a) of this section in a legible and conspicuous manner on at  
24 least one side of the container [. If], **AND IF** it does not appear on the face or display  
25 side of the container, it shall appear on the upper third of the side used.

26 (2) **THE FOLLOWING LANGUAGE SHALL APPEAR CONSPICUOUSLY**  
27 **ON CONTAINERS OF SPECIALTY FERTILIZER INTENDED FOR USE ON URBAN**  
28 **TURF: "DO NOT APPLY NEAR WATER, STORM DRAINS, OR DRAINAGE DITCHES.**  
29 **DO NOT APPLY IF HEAVY RAIN IS EXPECTED. APPLY THIS PRODUCT ONLY TO**  
30 **YOUR LAWN OR GARDEN AND SWEEP ANY PRODUCT THAT LANDS ON THE**  
31 **DRIVEWAY, SIDEWALK, OR STREET BACK ONTO YOUR LAWN OR GARDEN."**

32 (e) Each brand of soil conditioner distributed in the State shall be  
33 accompanied by a legible label bearing the following information:

- 1                   (1)    Net weight or other measure prescribed as satisfactory by the  
2 Secretary;
- 3                   (2)    The brand under which the soil conditioner is distributed;
- 4                   (3)    An accurate statement of composition and purpose; and
- 5                   (4)    Name and address of the registrant.

6 **6-222.**

7                   **ON OR AFTER APRIL 1, 2009, A PERSON MAY NOT USE, SELL,**  
8 **MANUFACTURE, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY**  
9 **SPECIALTY FERTILIZER INTENDED FOR USE ON URBAN TURF UNLESS IT IS A “NO**  
10 **PHOSPHATE FERTILIZER”.**

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2008.