

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 521 (Delegate G. Clagett, *et al.*)
 Environmental Matters

Agriculture - Specialty Fertilizers - "No Phosphorus Fertilizer"

This bill prohibits, beginning April 1, 2009, the use, sale, manufacture, or distribution for use or sale within the State of any specialty fertilizer intended for use on specified “urban turf,” unless it is a “no phosphate fertilizer” containing phosphate levels equal to or less than 0.5%. The bill also specifies language regarding fertilizer application that must appear conspicuously on containers of specialty fertilizer intended for use on urban turf. “Urban turf” means nonagricultural land planted in closely mowed, managed grasses except golf courses, parks, and athletic fields.

Fiscal Summary

State Effect: General fund expenditure increase of \$101,600 in FY 2009 for the Maryland Department of Agriculture to enforce the bill. Future year estimates reflect annualization, salary increases, and inflation.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	101,600	99,900	104,900	110,100	115,600
Net Effect	(\$101,600)	(\$99,900)	(\$104,900)	(\$110,100)	(\$115,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not directly affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Specialty fertilizer” is commercial fertilizer distributed primarily for nonfarm use.

Each brand name and grade of commercial fertilizer must be registered with MDA before being distributed in the State. Specified labeling, recordkeeping, and reporting requirements also apply to commercial fertilizers and their distribution. MDA enforces State laws applicable to commercial fertilizer and has the authority to sample, inspect, test, and make analyses of any commercial fertilizer distributed in the State to ensure compliance with State law.

Background: Florida and Minnesota have adopted requirements aimed, at least in part, at reducing the impact of phosphorus and nitrogen contained in fertilizers on water quality. Effective July 1, 2009, Florida will limit fertilizer products labeled for specified uses to low phosphate or no phosphate fertilizer and will require specified labeling generally pertaining to application rates. Minnesota prohibits the use of phosphorus lawn fertilizer, except in certain circumstances, including when new turf is being established or when a soil or tissue test shows a need for phosphorus fertilization. A 2007 report by the Minnesota Department of Agriculture estimated that in 2006 the use of lawn fertilizers containing phosphorus had decreased by 48% since the law took effect.

In 2006, the Chesapeake Executive Council (consisting of the governors of Maryland, Pennsylvania, and Virginia, the Mayor of the District of Columbia, the U.S. Environmental Protection Agency Administrator, and the Chair of the Chesapeake Bay Commission), along with Delaware and West Virginia, signed a memorandum of understanding with members of the lawn care product manufacturing industry establishing a commitment to achieve a 50% reduction (from 2006 levels) in the pounds of phosphorus applied in lawn care products in the Chesapeake Bay Watershed by 2009.

State Fiscal Effect: General fund expenditures could increase by \$101,649 in fiscal 2009, which accounts for the bill’s October 1, 2008 effective date. This estimate reflects the cost of hiring an additional agricultural inspector and an office secretary within MDA for administrative activities, inspections, and enforcement. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- MDA will contact the registrants of approximately 1,125 products to which the bill’s labeling and phosphorous content requirements would apply and review new registrations and labeling for those products;

- MDA will enforce the labeling requirements by annually inspecting a portion of the approximately 2,500 retail locations that sell the affected products; and
- MDA will enforce the bill’s prohibition relating to the use, sale, or distribution of specialty fertilizer intended for use on urban turf on a complaint basis only.

Positions	2
Salaries and Fringe Benefits	\$66,335
Equipment	26,014
Operating Expenses	<u>9,300</u>
Total FY 2009 State Expenditures	\$101,649

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

To the extent a more rigorous enforcement program is determined to be needed, MDA would likely require additional resources.

Small Business Effect: The bill’s labeling requirements take effect October 1, 2008, and the requirement that specialty fertilizer intended for use on urban turf only be used, sold, or distributed in the State if it is no phosphate fertilizer takes effect April 1, 2009. To the extent products that do not meet the bill’s labeling requirements would need to be taken out of distribution, or possibly relabeled, beginning October 1, 2008, any small businesses involved with the manufacture, distribution, or sale of affected fertilizer could be negatively impacted. These businesses could also be impacted to the extent the April 1, 2009 effective date of the use, sale, and distribution prohibition does not provide sufficient time for these businesses to adjust to the bill’s changes.

Legislative Services notes, however, that the impact on businesses could be less to the extent manufacturers are already taking steps to reduce the phosphorous content in the fertilizer distributed and sold in the State.

A survey of manufacturers conducted by the Minnesota Department of Agriculture regarding the impact of the state’s no phosphorus fertilizer requirement (which allowed for two years advance notice) indicated that formulating new phosphorus-free fertilizer products had not been a problem, though challenges were encountered with registering, inventorying, labeling, and marketing new products. The manufacturers indicated that the two-year advance notice helped them with the transition. A related survey of retailers

indicated that stores generally did not have a problem in stocking phosphorus-free product, though some indicated problems with finding compliant products in certain brands or for certain applications.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of the Environment, U.S. EPA's Chesapeake Bay Program, Florida Department of Agriculture and Consumer Services (Division of Agricultural Environmental Services), Minnesota Department of Agriculture (Pesticide and Fertilizer Management Division), Department of Legislative Services

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