

HOUSE BILL 49

M4
HB 521/08 – ENV

(PRE-FILED)

9lr1020

By: **Delegate G. Clagett**

Requested: November 17, 2008

Introduced and read first time: January 14, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Specialty Fertilizers – “No Phosphate 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 and 2008 Supplement)

13 BY adding to
14 Article – Agriculture
15 Section 6–222
16 Annotated Code of Maryland
17 (2007 Replacement Volume and 2008 Supplement)

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:

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);

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (5) Any word, statement, or other information, required to appear on
33 the label or labeling, is not placed on it prominently and conspicuously as compared
34 with other words, statements, designs, or devices in the labeling, and it is not in terms

1 that render it likely to be read and understood by the ordinary individual under
2 customary conditions of purchase and use.

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

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

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

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

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

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

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

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

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

20 (iii) Increasing the productivity of plants;

21 (iv) Improving the quality of crops; or

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

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

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

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

1 (Z) “URBAN TURF” MEANS NONAGRICULTURAL LAND PLANTED IN
2 CLOSELY MOWED, MANAGED GRASSES EXCEPT GOLF COURSES, PARKS, AND
3 ATHLETIC FIELDS.

4 6–210.

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

7 (1) The net weight;

8 (2) The brand and grade under which the commercial fertilizer is
9 distributed;

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

12 (4) Name and address of manufacturer.

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

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

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

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

3 (1) Net weight or other measure prescribed as satisfactory by the
4 Secretary;

5 (2) The brand under which the soil conditioner is distributed;

6 (3) An accurate statement of composition and purpose; and

7 (4) Name and address of the registrant.

8 **6-222.**

9 **ON OR AFTER APRIL 1, 2010, A PERSON MAY NOT USE, SELL,**
10 **MANUFACTURE, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY**
11 **SPECIALTY FERTILIZER INTENDED FOR USE ON URBAN TURF UNLESS IT IS A “NO**
12 **PHOSPHATE FERTILIZER”.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2009.