

# HOUSE BILL 136

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By: **Delegate Pena-Melnyk**

Introduced and read first time: January 23, 2009

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Specialty Fertilizer - Surcharge**

3 FOR the purpose of imposing a surcharge at a certain rate on each ton of certain  
4 commercial fertilizer distributed in the State; requiring certain distributors to  
5 pay the surcharge before distributing certain commercial fertilizer in the State;  
6 requiring the Department of Agriculture to distribute the revenue from the  
7 surcharge to a certain special fund; and generally relating to a surcharge on  
8 certain commercial fertilizer.

9 BY repealing and reenacting, without amendments,  
10 Article – Agriculture  
11 Section 6–201(a) and (w)  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Agriculture  
16 Section 6–204, 6–207, and 6–208  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Natural Resources  
21 Section 8–2A–02  
22 Annotated Code of Maryland  
23 (2007 Replacement Volume and 2008 Supplement)

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

26 **Article – Agriculture**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 6-201.

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

3 (w) "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 6-204.

8 (A) Any registration or inspection fee, and penalty shall constitute a special  
9 fund to be used only to defray partially the cost of inspection, sampling, analysis, and  
10 other expenses necessary for administering this subtitle. Notwithstanding any other  
11 provisions of this Code, any unexpended funds up to a maximum of \$100,000 may not  
12 revert to the General Fund of the State at the end of the fiscal year.

13 (B) **THE DEPARTMENT SHALL REMIT THE SPECIALTY FERTILIZER**  
14 **SURCHARGE IMPOSED UNDER § 6-208(C) OF THIS SUBTITLE TO THE**  
15 **CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER §**  
16 **8-2A-02 OF THE NATURAL RESOURCES ARTICLE.**

17 6-207.

18 (a) Except as provided in subsection (d) of this section, a distributor shall  
19 register each brand and grade of commercial fertilizer and each product name of soil  
20 conditioner before distributing it in the State and shall pay the registration fee **AND**  
21 **ANY SPECIALTY FERTILIZER SURCHARGE REQUIRED UNDER § 6-208(C) OF THIS**  
22 **SUBTITLE.**

23 (b) The registration application shall be accompanied by a label or other  
24 printed matter describing the product, if requested by the Secretary. The application  
25 shall be submitted on forms furnished by the Secretary. Upon the Secretary's  
26 approval, a copy of the registration shall be furnished to the applicant.

27 (c) Each registration expires January 31 each year.

28 (d) (1) Provided the product label has not been altered or changed, a  
29 distributor shall not be required to register any brand and grade of commercial  
30 fertilizer or product name of soil conditioner which has been registered under this  
31 subtitle by another person.

32 (2) A distributor shall not be required to register a commercial  
33 fertilizer mixed or blended according to a formula furnished by a consumer, but he  
34 shall label the fertilizer in the order and form provided in § 6-210(c) of this subtitle.

1 However, any fertilizer mixed in advance of receipt of the customer's specific order  
2 shall be registered.

3 6-208.

4 (a) For each brand and grade of commercial fertilizer and for each soil  
5 conditioner distributed in the State, the annual registration fee is \$15 and the annual  
6 inspection fee is 25 cents per ton except:

7 (1) For each brand and grade of commercial fertilizer and each soil  
8 conditioner distributed in packages of 10 pounds or less, the annual registration fee is  
9 \$30, notwithstanding any other registration or inspection fee; and

10 (2) For each brand and grade of commercial fertilizer and each soil  
11 conditioner distributed in packages of 10 pounds or less and in packages over 10  
12 pounds, the annual \$30 registration fee applies, and only the portion distributed in  
13 packages over 10 pounds is subject to the inspection fee of 25 cents per ton.

14 (b) (1) Mixed-to-order, buyer's mixture, or custom-mix fertilizer is  
15 exempted from the registration fee, but the inspection fee shall be paid.

16 (2) Distribution of fertilizer materials to manufacturers or exchange  
17 between them is exempted.

18 (c) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
19 **SUBSECTION, IN ADDITION TO THE REGISTRATION AND INSPECTION FEES**  
20 **UNDER THIS SUBTITLE, THERE IS A SPECIALTY FERTILIZER SURCHARGE**  
21 **IMPOSED ON EACH TON OF SPECIALTY FERTILIZER DISTRIBUTED IN THE STATE.**

22 (2) **THE RATE OF THE SPECIALTY FERTILIZER SURCHARGE IS \$2**  
23 **FOR EACH TON OF SPECIALTY FERTILIZER DISTRIBUTED IN THE STATE.**

24 (3) **THE SPECIALTY FERTILIZER SURCHARGE IS NOT IMPOSED ON**  
25 **COMMERCIAL FERTILIZERS USED FOR RESEARCH OR EXPERIMENTAL**  
26 **PURPOSES.**

## 27 **Article - Natural Resources**

28 8-2A-02.

29 (a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

30 (b) The purpose of the Fund is to provide financial assistance necessary to  
31 advance Maryland's progress in meeting the goals established in the Chesapeake 2000  
32 Agreement for the restoration of the Chesapeake Bay and its tributaries, including the  
33 Patuxent River, and to restore the health of the Atlantic Coastal Bays and their

1 tributaries, by focusing limited financial resources on nonpoint source pollution control  
2 projects in all regions of the State.

3 (c) The Secretary shall administer the Fund.

4 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
5 7-302 of the State Finance and Procurement Article.

6 (2) The Treasurer shall hold the Fund separately, and the Comptroller  
7 shall account for the Fund.

8 (e) The Fund consists of:

9 (1) Money appropriated in the State budget for the Fund;

10 (2) Money distributed to the Fund under §§ 2-1104 and 2-1302.1 of  
11 the Tax – General Article; [and]

12 **(3) THE SPECIALTY FERTILIZER SURCHARGE DISTRIBUTED TO**  
13 **THE FUND UNDER § 6-204(B) OF THE AGRICULTURE ARTICLE; AND**

14 **[(3)] (4)** Any other money from any other source accepted for the  
15 benefit of the Fund.

16 (f) (1) The Fund may be used only for the implementation of nonpoint  
17 source pollution control projects to achieve the State's tributary strategy developed in  
18 accordance with the Chesapeake 2000 Agreement and to improve the health of the  
19 Atlantic Coastal Bays and their tributaries.

20 (2) It is the intent of the General Assembly that, when possible,  
21 moneys in the Fund shall be granted to local governments and other political  
22 subdivisions for agricultural, forestry, stream and wetland restoration, and urban and  
23 suburban stormwater nonpoint source pollution control projects.

24 (g) (1) The Treasurer shall invest the money of the Fund in the same  
25 manner as other State money may be invested.

26 (2) Any investment earnings of the Fund shall be retained to the  
27 credit of the Fund.

28 (h) Money expended from the Fund for the restoration of the Chesapeake and  
29 Atlantic Coastal Bays and their tributaries, including the Patuxent River, is  
30 supplemental to and is not intended to take the place of funding that otherwise would  
31 be appropriated for bay restoration.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 2009.