M4 1lr2149 CF 1lr2153

By: Senators Young, Astle, Benson, Ferguson, Montgomery, Pinsky, and Rosapepe

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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Chesapeake Bay Nitrogen Reduction Act of 2011

3 FOR the purpose of requiring the Department of Agriculture, in cooperation with the 4 University of Maryland, to adopt regulations requiring certain signs to be 5 posted where specialty fertilizer is sold or distributed after a certain date; 6 requiring the sign to contain certain information; prohibiting certain specialty 7 fertilizers from being labeled for certain uses after a certain date; prohibiting 8 certain fertilizers from being sold or distributed for use on established lawns, 9 grass, or turf after a certain date; requiring certain information to be considered 10 when applying commercial fertilizer; requiring the University of Maryland to review certain recommendations after a certain number of years; requiring the 11 12 review to consider certain information; requiring landscape contractors to 13 provide a certain notice to a homeowner, resident, or business; requiring the Department of Agriculture to develop the notice in cooperation with the 14 15 University of Maryland; and generally relating to the regulation of fertilizer.

- 16 BY repealing and reenacting, without amendments,
- 17 Article Agriculture
- 18 Section 6–201(a)
- 19 Annotated Code of Maryland
- 20 (2007 Replacement Volume and 2010 Supplement)
- 21 BY adding to
- 22 Article Agriculture
- 23 Section 6–201(w–1), 6–210(f), and 6–223
- 24 Annotated Code of Maryland
- 25 (2007 Replacement Volume and 2010 Supplement)
- 26 BY repealing and reenacting, with amendments,
- 27 Article Agriculture

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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1 2 3	Section 6–210(e) and (f) and 8–803.4 Annotated Code of Maryland (2007 Replacement Volume and 2010 Supplement)
4 5 6 7 8	BY adding to Article – Business Regulation Section 8–502.1 Annotated Code of Maryland (2010 Replacement Volume and 2010 Supplement)
9	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
1	Article – Agriculture
12	6–201.
13	(a) In this subtitle the following words have the meanings indicated.
14 15	(W-1) "SLOW RELEASE FERTILIZER" MEANS FERTILIZER WHERE NITROGEN IS NOT READILY AVAILABLE AS A PLANT NUTRIENT AND IS RELEASED OVER TIME.
17	6–210.
18 19 20	(e) (1) Except as provided in paragraph (2) of this subsection, on or after April 1, 2011, a lawn fertilizer with an available phosphoric acid (H_3PO_4) content greater than 5%:
21	(i) May not be labeled for use on established lawns or grass;
22	(ii) May not be labeled with spreader settings; and
23 24 25	(iii) Shall be marked with the words "NOT FOR USE ON ESTABLISHED LAWNS OR GRASS" in at least a three-quarter inch font and in a legible and conspicuous manner on the front side of the container.
26 27	(2) This subsection does not apply to seed starter fertilizer for use on newly established lawns or turf.
28 29 30 31	(3) (I) ON OR AFTER APRIL 1, 2012, THE DEPARTMENT, IN COOPERATION WITH THE UNIVERSITY OF MARYLAND, SHALL ADOPT REGULATIONS REQUIRING THE POSTING OF A SIGN AT ANY LOCATION WHERE SPECIALTY FERTILIZER IS OFFERED FOR SALE OR DISTRIBUTED.

(II) THE SIGN REQUIRED UNDER SUBPARAGRAPH (I) OF

THIS PARAGRAPH SHALL CONTAIN INFORMATION, BASED ON GUIDELINES

1 ADOPTED BY THE UNIVERSITY OF MARYLAND, THAT GUIDES CONSUMERS ON 2 THE PROPER USE OF LAWN CARE PRODUCTS TO REDUCE POLLUTION TO THE 3 CHESAPEAKE BAY AND OTHER WATERS OF THE STATE. 4 **(F)** ON OR AFTER APRIL 1, 2012, A SPECIALTY FERTILIZER HAVING A NITROGEN CONTENT THAT IS LESS THAN 30% SLOW RELEASE FERTILIZER: 5 6 **(1)** MAY NOT BE LABELED FOR USE ON ESTABLISHED LAWNS, 7 GRASS, OR TURF; 8 **(2)** MAY NOT BE LABELED WITH SPREADER SETTINGS; AND 9 SHALL BE MARKED WITH THE WORDS "NOT FOR USE ON **(3) ESTABLISHED** GRASS. \mathbf{OR} TURF" 10 LAWNS. IN AT 11 THREE-QUARTER INCH FONT AND IN A LEGIBLE AND CONSPICUOUS MANNER ON 12 THE FRONT SIDE OF THE CONTAINER. Each brand of soil conditioner distributed in the State shall be 13 [(f)] (G) 14 accompanied by a legible label bearing the following information: Net weight or other measure prescribed as satisfactory by the 15 (1) Secretary; 16 17 The brand under which the soil conditioner is distributed: (2) 18 An accurate statement of composition and purpose; and (3) 19 (4) Name and address of the registrant. 6-223.20 21ON OR AFTER APRIL 1, 2012, A PERSON MAY NOT OFFER, SELL, OR 22DISTRIBUTE FOR USE OR SALE IN THIS STATE ANY SPECIALTY FERTILIZER 23 INTENDED FOR USE ON ESTABLISHED LAWNS, GRASS, OR TURF UNLESS THE 24 MIXTURE CONTAINS AT LEAST 30% SLOW RELEASE FERTILIZER. 25 8-803.4. 26 This section applies to an application of commercial fertilizer, as defined in § 6–201 of this article: 2728(1) That is performed by:

A person who applies commercial fertilizer for hire; or

An employee of the owner or manager of the property; and

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(i)

(ii)

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1	(2) To:
2 3	(i) Ten acres or more annually, whether one or multiple parcels, of property that is not used for agricultural purposes; or
4	(ii) State property that is not used for agricultural purposes.
5 6	(b) (1) A person may apply commercial fertilizer only if the person applies the commercial fertilizer in a manner [that]:
7 8	(I) THAT is consistent with the recommendations of the University of Maryland [Cooperative Extension Service]; AND
9 10 11	(II) BASED ON WATER QUALITY AND THE ACTUAL NUTRIENT REQUIREMENTS OF ANY PLANT TO AVOID NUTRIENT RUN-OFF INTO THE CHESAPEAKE BAY AND WATERS OF THE STATE.
12 13 14 15	(2) (I) THE UNIVERSITY OF MARYLAND SHALL REVIEW ITS RECOMMENDATIONS FOR THE APPLICATION OF COMMERCIAL FERTILIZES EVERY 3 YEARS TO ENSURE COMPLIANCE WITH ESTABLISHED STATE GOALS TO PROTECT WATER QUALITY AND THE CHESAPEAKE BAY.
16 17	(II) THE REVIEW SHALL CONSIDER LIMITATIONS ON FERTILIZER APPLICATION, INCLUDING:
18	1. Application during the winter season;
19 20	2. APPLICATION DURING RAIN EVENTS OR ANTICIPATED PRECIPITATION;
21 22	3. APPLICATION TO IMPERVIOUS SURFACES INCLUDING SIDEWALKS, DRIVEWAYS, STREETS, AND PARKING LOTS;
23 24	4. APPLICATION WITHIN 25 FEET OF A BODY OF WATER; AND
25 26	5. REQUIRING ANNUAL SOIL TESTING FOR PHOSPHORUS AND NITROGEN.
27 28	(c) (1) A person who violates any provision of this section is subject to a civil penalty of not more than \$1,000 for a first violation.

civil penalty of not more than \$2,000 for each subsequent violation.

A person who violates any provision of this section is subject to a

1	(3) Each day a violation occurs under this section is a separat
2	violation.
3 4 5	(4) The total penalties imposed on a person for violations of thi section that result from the same set of facts and circumstances may not excee \$10,000.
6 7	(d) The penalty imposed on a person under this section shall be assesse with consideration given to:
8 9 10	(1) The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;
11 12 13	(2) Any actual harm to human health or to the environment includin injury to or impairment of the use of the waters of the State or the natural resources of the State;
14	(3) The cost of control;
15 16	(4) The nature and degree of injury to or interference with general welfare, health, and property;
17 18 19	(5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment of the human health or safety; and
20 21	(6) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.
22 23	(e) Penalties collected by the Secretary under this section shall be paid int the General Fund of the State.
24	Article – Business Regulation
25	8-502.1.
26 27 28 29	(A) A LANDSCAPE CONTRACTOR LICENSED UNDER THIS TITLE THAT APPLIES COMMERCIAL FERTILIZER, AS DEFINED UNDER § 6–201(F) OF THE AGRICULTURE ARTICLE, TO LAWNS, GRASS, OR TURF, SHALL PROVIDE EACH HOMEOWNER, RESIDENT, OR BUSINESS WITH WRITTEN NOTICE OF THE RECOMMENDED FERTILIZER APPLICATION AMOUNTS WITH EACH LAWN

(B) THE LANGUAGE OF THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE DEVELOPED BY THE STATE DEPARTMENT OF

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MAINTENANCE CONTRACT.

- 1 AGRICULTURE IN CONSULTATION WITH AND BASED ON THE GUIDELINES OF THE
- 2 University of Maryland.
- 3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 4 October 1, 2011.