

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 544 (Senator Young, *et al.*)  
Education, Health, and Environmental Affairs

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Chesapeake Bay Nitrogen Reduction Act of 2011

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This bill prohibits, beginning April 1, 2012, a person from offering, selling, or distributing for use or sale in the State, any specialty fertilizer (commercial fertilizer distributed primarily for nonfarm use) intended for use on established lawns, grass, or turf unless the mixture contains at least 30% slow release fertilizer. Related labeling requirements are established for specialty fertilizers having a nitrogen content that is less than 30% slow release fertilizer. The bill requires the Maryland Department of Agriculture (MDA) to adopt regulations to require posting of a sign regarding proper use of lawn care products at any location where specialty fertilizer is offered for sale or distributed. The bill requires specified nonagricultural commercial fertilizer applications to be based on water quality and the actual nutrient requirements of any plant to avoid nutrient runoff. The bill also requires the University of Maryland to undertake a specified review of its recommendations for the application of commercial fertilizer every three years and requires specified licensed landscape contractors to provide notice of recommended fertilizer application amounts with each lawn maintenance contract.

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**Fiscal Summary**

**State Effect:** The bill's changes are expected to be handled with existing resources. It is assumed that State expenditures for the purchase of fertilizer are not significantly affected.

**Local Effect:** None. It is assumed that local expenditures for the purchase of fertilizer are not significantly affected.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** “Slow release fertilizer” is defined as fertilizer where nitrogen is not readily available as a plant nutrient and is released over time.

The bill prohibits, beginning April 1, 2012, a person from offering, selling, or distributing for use or sale in the State, any specialty fertilizer intended for use on established lawns, grass, or turf unless the mixture contains at least 30% slow release fertilizer. Beginning April 1, 2012, specialty fertilizers having a nitrogen content that is less than 30% slow release fertilizer, may not be labeled for use on established lawns, grass, or turf; may not be labeled with spreader settings; and must be marked with the words “NOT FOR USE ON ESTABLISHED LAWNS, GRASS, OR TURF” in a specified font and manner.

Beginning April 1, 2012, MDA, in cooperation with the University of Maryland, must adopt regulations requiring the posting of a specified sign at any location where specialty fertilizer is offered for sale or distributed. The sign must contain information, based on guidelines adopted by the University of Maryland, regarding the proper use of lawn care products to reduce pollution to the Chesapeake Bay and other waters of the State.

The bill also adds to existing provisions of the State’s nutrient management laws that govern the application of commercial fertilizer (1) performed by a person who applies commercial fertilizer for hire or an employee of the owner or manager of the property; and (2) to 10 acres or more annually, whether one or multiple parcels, of property not used for agricultural purposes, or State property not used for agricultural purposes. The bill specifies that such applications must be done in a manner based on water quality and the actual nutrient requirements of any plant to avoid nutrient runoff into the Chesapeake Bay and other waters of the State.

The bill also requires the University of Maryland to review its recommendations for the application of commercial fertilizer every three years to ensure compliance with established State goals to protect water quality and the Chesapeake Bay. The review must consider specified limitations on fertilizer application.

Finally, the bill requires a landscape contractor licensed as a home improvement contractor that applies commercial fertilizer to lawns, grass, or turf to provide each homeowner, resident, or business with written notice of the recommended fertilizer application amounts with each lawn maintenance contract. The language of the notice must be developed by MDA in consultation with, and based on the guidelines of, the University of Maryland.

**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.

The Chesapeake Bay Phosphorous Reduction Act of 2009, established by Chapters 278 and 279 of 2009, will limit, beginning on April 1, 2011, the phosphorous content of any fertilizer intended for use on established lawns or grass (to 5% available phosphoric acid) that is sold or distributed for use or sale at a retail establishment in the State. Related labeling requirements apply to fertilizers that have greater than the allowable amount of phosphorous, including that the fertilizer may not be labeled for use on established lawns or grass.

State law does not currently specify content requirements related to nitrogen in fertilizers intended for use on established lawns, grass, or turf.

Under the State's nutrient management laws, specified applications of commercial fertilizer must be conducted in a manner consistent with recommendations of the University of Maryland Cooperative Extension Service. This requirement applies to an application (1) performed by a person who applies commercial fertilizer for hire or an employee of the owner or manager of the property and (2) to 10 acres or more annually, whether one or multiple parcels, of property not used for agricultural purposes, or State property not used for agricultural purposes. Violations of this requirement are subject to civil penalties of up to \$1,000 for a first violation and up to \$2,000 for each subsequent violation.

**Background:** Restrictions on nitrogen and/or phosphorus/phosphate levels in fertilizer used or labeled for use on lawns and turf have been proposed and/or adopted in other states, such as Florida, Minnesota, Wisconsin, and New Jersey, and local jurisdictions. In Maryland, a City of Annapolis ordinance took effect January 1, 2009, prohibiting the application of fertilizer labeled as containing any amount of phosphorus (or other compound containing phosphorus, such as phosphate) on lawns, subject to certain exceptions.

Maryland's recently completed Phase I Watershed Implementation Plan (WIP), the initial plan for meeting Maryland's share of the Chesapeake Bay Total Maximum Daily Load or "pollution diet," includes recommendations related to fertilizer use, including the enactment of legislation to eliminate phosphorus in lawn fertilizers, except fertilizers used for the establishment or renovation of lawns; extend to commercial applicators the requirements for the use of low-phosphorus fertilizers; allow only slow release nitrogen

in fertilizers sold for use on lawns and managed turf; prohibit the use of any fertilizer product as a de-icer; and tax lawn fertilizers. Maryland's WIP also recommends the revision of the University of Maryland nutrient recommendations for managed turf to reduce nitrogen use.

**Small Business Effect:** Small business manufacturers of fertilizer intended for use on established lawns, grass, or turf may be meaningfully impacted by the bill. To the extent manufacturers do not already offer products that comply with the bill's requirement of 30% slow release nitrogen, they will need to modify fertilizer manufactured for sale in the State. Presumably costs may also be incurred to modify labels of products that do not meet the 30% slow release nitrogen requirement. Costs associated with meeting the content and/or labeling requirements of the bill, however, are unknown. MDA indicates that certain manufacturers currently have products containing as much as 22% slow release nitrogen.

Any additional costs for retailers and landscape contractors to meet the bill's requirements are not anticipated to be significant. Small businesses that use fertilizer are not anticipated to be significantly affected.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** HB 687 (Delegate Bobo, *et al.*) - Environmental Matters.

**Information Source(s):** Maryland Department of Agriculture; University System of Maryland; Maryland Department of the Environment; Department of Natural Resources; Department of General Services; Maryland Environmental Service; Montgomery and Prince George's counties; Baltimore City; cities of Frederick and Havre de Grace; Maryland Turfgrass Council; Department of Legislative Services

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