

# HOUSE BILL 161

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By: **Chair, Environment and Transportation Committee (By Request –  
Departmental – Agriculture)**

Introduced and read first time: January 15, 2020

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Nutrient Management – Professional Fertilizer Applicators – Requirements and**  
3 **Penalties**

4 FOR the purpose of prohibiting a person from commercially applying fertilizer to certain  
5 property unless the person is a professional fertilizer applicator or employs a  
6 professional fertilizer applicator; requiring a person that employs a certain  
7 professional fertilizer applicator to obtain a certain license for each place of business  
8 for which the professional fertilizer applicator provides certain services; altering the  
9 application of a certain civil penalty to include the employer of a person who violates  
10 certain provisions of law; providing for the application of this Act; and generally  
11 relating to professional fertilizer applicators.

12 BY repealing and reenacting, without amendments,  
13 Article – Agriculture  
14 Section 8–801(a) and (i)  
15 Annotated Code of Maryland  
16 (2016 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Agriculture  
19 Section 8–803.4  
20 Annotated Code of Maryland  
21 (2016 Replacement Volume and 2019 Supplement)

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

24 **Article – Agriculture**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8–801.

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

3 (i) (1) “Professional fertilizer applicator” means any person who:

4 (i) Is certified to apply fertilizer in accordance with § 8–803.4 of this  
5 subtitle; and

6 (ii) Applies fertilizer for hire.

7 (2) “Professional fertilizer applicator” includes the owner or manager of  
8 property, or an employee of a government entity who applies fertilizer within the scope of  
9 employment.

10 8–803.4.

11 (a) In this section, “fertilizer” means a commercial fertilizer and specialty  
12 fertilizer.

13 (b) (1) This section applies to a professional fertilizer applicator who applies  
14 fertilizer to:

15 (i) Property that is not used for agricultural purposes; or

16 (ii) State property that is not used for agricultural purposes.

17 (2) This section does not apply to the application of fertilizer on commercial  
18 farms.

19 **(C) (1) A PERSON MAY NOT COMMERCIALY APPLY FERTILIZER TO**  
20 **PROPERTY SPECIFIED UNDER SUBSECTION (B)(1) OF THIS SECTION UNLESS THE**  
21 **PERSON:**

22 **(I) IS A PROFESSIONAL FERTILIZER APPLICATOR; OR**

23 **(II) EMPLOYS A PROFESSIONAL FERTILIZER APPLICATOR.**

24 **(2) A PERSON THAT EMPLOYS A PROFESSIONAL FERTILIZER**  
25 **APPLICATOR WHO IS REGULATED UNDER THIS SECTION SHALL OBTAIN AN ANNUAL**  
26 **LICENSE FROM THE DEPARTMENT IN ACCORDANCE WITH COMAR 15.20.10.07 FOR**  
27 **EACH PLACE OF BUSINESS FOR WHICH THE PROFESSIONAL FERTILIZER**  
28 **APPLICATOR PROVIDES THE SERVICES REGULATED UNDER THIS SECTION.**

29 **[(c)] (D)** A professional fertilizer applicator may not:

1 (1) Apply fertilizer to turf without first obtaining a fertilizer application  
2 certification, unless the person is under the direct supervision of a certified professional  
3 fertilizer applicator, in accordance with § 8–803.6 of this subtitle; or

4 (2) Apply fertilizer intended for use on turf on an impervious surface.

5 **[(d)] (E)** (1) Except as provided in paragraph (2) of this subsection, a  
6 professional fertilizer applicator may not apply fertilizer containing phosphorus or nitrogen  
7 to turf:

8 (i) Before March 1 or after November 15 of any calendar year;

9 (ii) Any time the ground is frozen; or

10 (iii) In an amount that is inconsistent with the annual recommended  
11 rate established by the University of Maryland.

12 (2) From November 16 through December 1 of each calendar year, a  
13 professional fertilizer applicator may apply fertilizer containing nitrogen to turf at an  
14 application rate of no more than 0.5 pounds of nitrogen per 1,000 square feet of turf.

15 **[(e)] (F)** (1) Except as provided in paragraph (2) of this subsection, a  
16 professional fertilizer applicator may not apply fertilizer containing phosphorus or nitrogen  
17 to turf that is within 15 feet of:

18 (i) Surface water subject to the jurisdiction of the State;

19 (ii) The Chesapeake Bay and its tributaries;

20 (iii) A pond within the State;

21 (iv) A lake within the State;

22 (v) A river within the State;

23 (vi) A stream within the State;

24 (vii) A public ditch within the State;

25 (viii) A tax ditch within the State; or

26 (ix) A public drainage system within the State, other than those  
27 designed and used to collect, convey, or dispose of sanitary sewage.

28 (2) When a drop spreader, rotary spreader with a deflector, or targeted  
29 spray liquid is used for fertilizer application, the setback required under paragraph (1) of  
30 this subsection may be reduced to 10 feet.

1 (3) The establishment of setbacks for fertilizer application under this  
2 subsection does not preclude the establishment or applicability of, or compliance with, any  
3 other environmental standards established under any other State or federal law, rule, or  
4 regulation.

5 **[(f)] (G)** (1) Except as provided in paragraph (2) of this subsection, a  
6 professional fertilizer applicator may not apply fertilizer containing nitrogen to turf:

7 (i) At an application rate of more than 0.7 pounds of water-soluble  
8 nitrogen per 1,000 square feet of turf; and

9 (ii) At an application rate of more than 0.9 pounds of nitrogen per  
10 1,000 square feet of turf.

11 (2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, a  
12 professional fertilizer applicator may apply an enhanced efficiency fertilizer:

13 1. At an annual application rate of no more than 2.5 pounds  
14 of nitrogen per 1,000 square feet of turf; and

15 2. That has a release rate of no more than 0.7 pounds of total  
16 nitrogen per 1,000 square feet of turf per month.

17 (ii) The annual total application rate of an enhanced efficiency  
18 fertilizer may not exceed 80% of the annual recommended rate for total nitrogen  
19 established by the University of Maryland.

20 (iii) An enhanced efficiency fertilizer may not be applied after  
21 November 15 or before March 1 of each calendar year.

22 **[(g)] (H)** (1) Except as provided in paragraphs (2) and (4) of this subsection, a  
23 professional fertilizer applicator may not apply fertilizer containing phosphorus to turf.

24 (2) A professional fertilizer applicator may apply organic or natural organic  
25 fertilizer containing phosphorus to turf when:

26 (i) A soil test performed no more than 3 years before the fertilizer  
27 application indicates a low or medium level of phosphorus; and

28 (ii) The fertilizer is applied at a rate recommended by the University  
29 of Maryland.

30 (3) Paragraph (2) of this subsection does not authorize a professional  
31 fertilizer applicator to apply fertilizer containing phosphorus when a soil test indicates an  
32 optimum or excessive level of phosphorus.

1 (4) A professional fertilizer applicator may apply fertilizer to turf  
2 containing phosphorus if the professional fertilizer applicator:

3 (i) Determines that the fertilizer is necessary for the specific soils  
4 and target vegetation in accordance with a soil test performed no more than 3 years before  
5 the fertilizer application, provided the application complies with the recommendations  
6 established by the University of Maryland;

7 (ii) Is establishing vegetation for the first time, such as after land  
8 disturbance, provided the application complies with the recommendations established by  
9 the University of Maryland; or

10 (iii) Is reestablishing or repairing a turf area.

11 **[(h)] (I)** (1) A person who violates any provision of this section **OR EMPLOYS**  
12 **A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION** is subject to a civil penalty  
13 of not more than \$1,000 for a first violation.

14 (2) A person who violates any provision of this section **OR EMPLOYS A**  
15 **PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION** is subject to a civil penalty  
16 of not more than \$2,000 for each subsequent violation.

17 (3) Each day a violation occurs under this section is a separate violation.

18 (4) The total penalties imposed on a person for violations of this section  
19 that result from the same set of facts and circumstances may not exceed \$10,000.

20 **[(i)] (J)** The penalty imposed on a person under this section shall be assessed  
21 with consideration given to:

22 (1) The willfulness of the violation, the extent to which the existence of the  
23 violation was known to the violator but uncorrected by the violator, and the extent to which  
24 the violator exercised reasonable care;

25 (2) Any actual harm to human health or to the environment including  
26 injury to or impairment of the use of the waters of the State or the natural resources of the  
27 State;

28 (3) The cost of control;

29 (4) The nature and degree of injury to or interference with general welfare,  
30 health, and property;

31 (5) The extent to which the location of the violation, including location near  
32 areas of human population, creates the potential for harm to the environment or to human  
33 health or safety; and

1                   (6)     The extent to which the current violation is part of a recurrent pattern  
2 of the same or similar type of violation committed by the violator.

3                   **[(j)] (K)**     Penalties collected by the Secretary under this section shall be paid into  
4 the General Fund of the State.

5                   **[(k)] (L)**     The Department may adopt regulations to implement this section.

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2020.