

SENATE, No. 1411

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JENNIFER BECK

District 12 (Mercer and Monmouth)

Co-Sponsored by:

Senators Connors and Singer

SYNOPSIS

Establishes standards for certain fertilizer applications, provides for certification of professional fertilizer applicators, and regulates sale and labeling of certain fertilizers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/24/2010)

1 AN ACT reducing nutrient pollution and maintaining healthy soils,
2 amending and supplementing P.L.1970, c.66, and supplementing
3 P.L.1975, c.251 (C.4:24-39 et seq.) and Title 58 of the Revised
4 Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) As used in sections 1 through 8 of this act:

10 “Commercial farm” means the same as that term is defined
11 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

12 “Department” means the Department of Environmental
13 Protection.

14 “Fertilizer” means a fertilizer material, mixed fertilizer or any
15 other substance containing one or more recognized plant nutrients,
16 which is used for its plant nutrient content, designed for use or
17 claimed to have value in promoting plant growth, and sold, offered
18 for sale, or intended for sale; except that it shall not include
19 unmanipulated animal or vegetable manures, agricultural liming
20 materials, wood ashes, or processed sewage wastewater solids.

21 “Impervious surface” means any structure, surface, or
22 improvement that reduces or prevents absorption of stormwater into
23 land, and includes porous paving, paver blocks, gravel, crushed
24 stone, decks, patios, elevated structures, and other similar
25 structures, surfaces, or improvements.

26 “Local health agency” means the same as that term is defined
27 pursuant to section 3 of P.L.1975, c.329 (C.26:3A2-3).

28 “Person” means any individual, corporation, company,
29 partnership, firm, association, political subdivision, or government
30 entity.

31 “Professional fertilizer applicator” means any individual who
32 applies fertilizer for hire, including any employee of a government
33 entity who applies fertilizer within the scope of employment.

34 “Soil test” means a technical analysis of soil conducted by a
35 laboratory authorized by the New Jersey Agricultural Experiment
36 Station at Rutgers, the State University, pursuant to section 5 of this
37 act.

38 “Turf” means land, including residential property, golf courses,
39 and publically owned land, that is planted in closely mowed,
40 managed grass, except land used in the operation of a commercial
41 farm.

42 “Waterbody” means a surface water feature, such as a lake, river,
43 stream, creek, pond, lagoon, bay or estuary.

44 “Water-soluble nitrogen” means nitrogen in a water-soluble form
45 that does not have slow or controlled release properties.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. (New section) a. No person shall:

2 (1) apply fertilizer to turf when a heavy rainfall, as shall be
3 defined by the Office of the New Jersey State Climatologist at
4 Rutgers, the State University, is occurring or predicted or when
5 soils are saturated and a potential for fertilizer movement off-site
6 exists;

7 (2) apply any fertilizer intended for use on turf to an impervious
8 surface, and any fertilizer inadvertently applied to an impervious
9 surface shall be swept or blown back onto the target surface or
10 returned to either its original or another appropriate container for
11 reuse;

12 (3) apply fertilizer containing phosphorus or nitrogen to turf
13 within 25 feet of any waterbody, except that where a drop spreader,
14 rotary spreader with a deflector or targeted spray liquid is used for
15 fertilizer application, the buffer may be reduced to 10 feet; except
16 that nothing in this subsection shall apply to the application of
17 fertilizer to turf within a golf course;

18 (4) apply fertilizer containing nitrogen to turf at a rate of more
19 than 0.75 pounds of water-soluble nitrogen per 1,000 square feet at
20 any one time based on the soluble fraction of fertilizer; or

21 (5) apply fertilizer containing phosphorus or nitrogen to turf
22 before March 1st or after November 15th in any calendar year, or at
23 any time when the ground is frozen.

24 b. No professional fertilizer applicator may apply fertilizer to
25 turf without first obtaining a fertilizer application certification, or
26 training if applying fertilizer under the direct supervision of a
27 certified professional fertilizer applicator, pursuant to section 3 of
28 this act.

29 c. No person may apply fertilizer containing phosphorus unless
30 the person:

31 (1) determines that the fertilizer is necessary for the specific
32 soils and target vegetation pursuant to a soil test performed no more
33 than three years before the application, and pursuant to the
34 associated annual fertilizer recommendation issued by the New
35 Jersey Agricultural Experiment Station at Rutgers, the State
36 University;

37 (2) is establishing vegetation for the first time, such as after land
38 disturbance, provided the application is in accordance with the
39 standards and requirements established under the "Soil Erosion and
40 Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.) and the
41 rules and regulations adopted pursuant thereto;

42 (3) is reestablishing or repairing a turf area; or

43 (4) is delivering liquid or granular fertilizer under the soil
44 surface, directly to the feeder roots.

45

46 3. (New section) a. The New Jersey Agricultural Experiment
47 Station at Rutgers, the State University, shall, in consultation with
48 the Department of Environmental Protection, establish a fertilizer

- 1 application certification program. The certification program shall
2 provide professional fertilizer applicators with training and
3 education in at least the following subject areas:
- 4 (1) the proper use and calibration of fertilizer application
5 equipment;
 - 6 (2) the hazards involved in, and the environmental impact of,
7 applying fertilizer, including nutrient pollution to the State's
8 waterbodies;
 - 9 (3) all applicable State and federal laws, rules and regulations;
 - 10 (4) the correct interpretation of fertilizer labeling information;
 - 11 and
 - 12 (5) the best management practices developed by the Agricultural
13 Experiment Station for nutrient management in turf.
- 14 b. In establishing a fertilizer application certification program,
15 the Agricultural Experiment Station may:
- 16 (1) charge reasonable fees, including, but not limited to, an
17 annual re-certification fee, to cover costs associated with the
18 certification program;
 - 19 (2) require continuing education for certified professional
20 fertilizer applicators;
 - 21 (3) designate one or more qualified organizations to train and
22 certify professional fertilizer applicators and provide that a
23 designated organization may charge fees to cover reasonable costs
24 associated with the certification training and education; and
 - 25 (4) recognize the training program of any person employing
26 professional fertilizer applicators as meeting the certification
27 training and education standards established by the program
28 pursuant to this section.
- 29 c. The Department of Environmental Protection shall conduct
30 examinations to certify that an applicant possesses sufficient
31 knowledge of the State and federal laws, rules and regulations,
32 standards and requirements applicable to the use and application of
33 fertilizer. No person may take the certification examination until
34 the department determines that the applicant has obtained the
35 education and training established by the fertilizer application
36 certification program pursuant to this section.
- 37 d. An application for certification shall be made in a manner
38 and on such forms as may be prescribed by the department. The
39 filing of an application shall be accompanied by an application fee
40 that shall cover the costs of processing the application and
41 developing and conducting the examination.
- 42 e. The Agricultural Experiment Station shall, in consultation
43 with the department, establish a training program for those
44 professional fertilizer applicators who will apply fertilizer only
45 under the direct supervision of a certified professional fertilizer
46 applicator. The Agricultural Experiment Station shall establish
47 minimum standards and criteria for a training program conducted

1 pursuant to this subsection. In establishing the training program,
2 the Agricultural Experiment Station may:

3 (1) charge reasonable fees to cover the costs associated with the
4 training program;

5 (2) require continuing education or training for professional
6 fertilizer applicators who apply fertilizer only under the direct
7 supervision of a certified professional fertilizer applicator;

8 (3) designate one or more qualified organizations to train
9 professional fertilizer applicators who will apply fertilizer only
10 under the direct supervision of a professional fertilizer applicator
11 certified pursuant to this section and provide that a designated
12 organization may charge fees to cover reasonable costs associated
13 with the training process; and

14 (4) recognize the training program of any person employing
15 professional fertilizer applicators as meeting the training
16 requirements established by the Agricultural Experiment Station
17 pursuant to this subsection.

18

19 4. (New section) a. Any professional fertilizer applicator who
20 violates this act, or any rule or regulation adopted pursuant thereto,
21 shall be subject to a civil penalty of up to \$2,500 for the first
22 offense and up to \$5,000 for the second and each subsequent
23 offense, to be collected in a civil action by a summary proceeding
24 under the "Penalty Enforcement Law of 1999," P.L.1999, c.274
25 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each
26 day during which it continues shall constitute an additional,
27 separate and distinct offense. In addition to the imposition of a civil
28 penalty, the Department of Environmental Protection may suspend
29 or revoke the certification of any professional fertilizer applicator
30 who violates this act.

31 b. Any person, other than a professional fertilizer applicator or
32 person who sells fertilizer at retail, who violates this act, or any rule
33 or regulation adopted pursuant thereto, shall be subject to a civil
34 penalty of up to \$250 for the first offense and up to \$500 for the
35 second and each subsequent offense, to be collected in a civil action
36 by a summary proceeding under P.L.1999, c.274. If the violation is
37 of a continuing nature, each day during which it continues shall
38 constitute an additional, separate and distinct offense.

39 c. The department or local soil conservation district may
40 institute a civil action for injunctive relief in Superior Court to
41 enforce this act and to prohibit and prevent a violation of this act, or
42 any rule or regulation adopted pursuant thereto, and the court may
43 proceed in the action in a summary manner.

44 d. The Superior Court, and the municipal court for violations
45 processed under subsection b. of this section, shall have jurisdiction
46 to enforce the provisions of the "Penalty Enforcement Law of 1999"
47 in connection with this act.

1 5. (New section) a. The New Jersey Agricultural Experiment
2 Station, shall, in consultation with the Department of
3 Environmental Protection, develop a program of public education
4 which shall include but need not be limited to the dissemination of
5 information regarding nutrient pollution, best management practices
6 for fertilizer use, soil testing, proper interpretation of fertilizer label
7 instructions, and the proper use and calibration of fertilizer
8 application equipment.

9 b. The Agricultural Experiment Station shall identify
10 laboratories which participate in the North American Proficiency
11 Testing Program of the Soil Science Society of America, follow the
12 recommended soil testing procedures for the northeastern United
13 States, are authorized to conduct soil tests to determine the level of
14 nutrients required for turf, and provide a final report to the
15 requestor with the results of the soil test that is consistent with the
16 best management practices established by the Agricultural
17 Experiment Station.

18

19 6. (New section) The provisions of this act, and the rules and
20 regulations adopted pursuant thereto, shall preempt any ordinance
21 or resolution of a municipality, county or local health agency
22 concerning the application of fertilizer to turf.

23

24 7. (New section) Sections 1 through 8 of this act shall not
25 apply to the application of fertilizer to commercial farms.

26

27 8. (New section) a. Within one year after the date of enactment
28 of this act, the Department of Environmental Protection, in
29 consultation with the Department of Agriculture, shall adopt,
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.), any rules and regulations necessary to
32 implement sections 1 through 8 of this act.

33 b. This act, and the rules and regulations adopted pursuant
34 thereto, shall be enforced by the Department of Environmental
35 Protection, and may be enforced by a local soil conservation district
36 or local health agency.

37

38 9. (New section) Any specialty fertilizer labeled for use on turf
39 and intended for use by consumers shall:

40 a. Contain no more than 0.75 pounds of water-soluble nitrogen
41 per 1,000 square feet when applied pursuant to the instructions on
42 the container; and

43 b. Contain no phosphorus, except when specifically labeled for
44 the following purposes:

45 (1) providing nutrients to specific soils and target vegetation as
46 determined to be necessary pursuant to a soil test conducted by a
47 laboratory authorized pursuant to section 7 of P.L. , c. (C.)
48 (pending before the Legislature as this bill) and performed no more

1 than three years before the application, and pursuant to the
2 associated annual fertilizer recommendation issued by the New
3 Jersey Agricultural Experiment Station at Rutgers, the State
4 University;

5 (2) establishing vegetation for the first time, such as after land
6 disturbance, provided the application is in accordance with the
7 standards and requirements established under the “Soil Erosion and
8 Sediment Control Act,” P.L.1975, c.251 (C.4:24-39 et seq.) and the
9 rules and regulations adopted pursuant thereto;

10 (3) reestablishing or repairing a turf area; or

11 (4) delivering liquid or granular fertilizer under the soil surface,
12 directly to the feeder roots.

13 c. Nothing in this section shall apply to fertilizer derived from
14 processed sewage wastewater solids.

15 d. As used in this section:

16 “Consumer” means an individual who buys fertilizer for personal
17 or household use and not for business purposes.

18 “Turf” means land, including residential property, that is planted
19 in closely mowed, managed grass, except land used in the operation
20 of a commercial farm as that term is defined pursuant to section 3
21 of P.L.1983, c.31 (C.4:1C-3).

22 “Water-soluble nitrogen” means nitrogen in a water-soluble form
23 that does not have slow or controlled release properties.

24

25 10. (New section) a. No person may sell at retail specialty
26 fertilizer which contains more than 0.75 pounds of water-soluble
27 nitrogen per 1,000 square feet and is intended for use on turf by
28 consumers.

29 b. No person may sell at retail specialty fertilizer which
30 contains phosphorus and is intended for use on turf by consumers
31 unless the intended use of the fertilizer is:

32 (1) for application to specific soils and turf as determined to be
33 necessary pursuant to a soil test conducted by a laboratory
34 authorized pursuant to section 7 of P.L. , c. (C.) (pending
35 before the Legislature as this bill) and performed no more than
36 three years before the application, and pursuant to the associated
37 annual fertilizer recommendation issued by the New Jersey
38 Agricultural Experiment Station at Rutgers, the State University;

39 (2) for the establishment of turf for the first time, such as after
40 land disturbance, provided the application is in accordance with the
41 standards and requirements established under the “Soil Erosion and
42 Sediment Control Act,” P.L.1975, c.251 (C.4:24-39 et seq.), and the
43 rules and regulations adopted pursuant thereto; or

44 (3) for the reestablishment or repair of a turf area.

45 c. Nothing in this section shall apply to fertilizers derived from
46 processed sewage wastewater solids.

47 d. As used in this section:

1 “Consumer” means a natural person who buys fertilizer for
2 personal or household use and not for business purposes.

3 “Turf” means land, including residential property, that is planted
4 in closely mowed, managed grass, except land used in the operation
5 of a commercial farm as that term is defined pursuant to section 3
6 of P.L.1983, c.31 (C.4:1C-3).

7 “Water-soluble nitrogen” means nitrogen in a water-soluble form
8 that does not have slow or controlled release properties.

9
10 11. Section 13 of P.L.1970, c.66 (C.4:9-15.13) is amended to
11 read as follows:

12 13. a. A specialty fertilizer must be labeled as provided in
13 section 10 of this act, and additional items may be required by
14 regulation.

15 b. The container for a specialty fertilizer intended for use on
16 turf must include the following information in a readable and
17 conspicuous form and shall be considered the label:

<u>Net Weight</u>	
<u>Brand Name</u>	
<u>Grade</u>	
<u>Guaranteed Analysis:</u>	
<u>Total Nitrogen (N).....%</u>	
<u>.....% Ammoniacal Nitrogen</u>	
<u>.....% Nitrate Nitrogen</u>	
<u>.....% Water-Soluble Nitrogen or urea</u>	
<u>.....% Water Insoluble Nitrogen</u>	
<u>Available Phosphoric Acid (P2O5).....%</u>	
<u>Soluble Potash (K2O).....%</u>	
<u>Additional Plant Nutrients as prescribed by regulation.</u>	
<u>Potential Acidity or Basicity.....% or.....lbs.</u>	
<u>Calcium Carbonate Equivalent per ton</u>	
<u>Name and address of the licensee.</u>	

35 c. The container of a specialty fertilizer intended for use on
36 turf must also contain the following summary of best management
37 practices for nutrient management in turf in a readable and
38 conspicuous form:

39 “Do not apply near water, storm drains or drainage ditches. Do
40 not apply if heavy rain is expected. Apply this product only to your
41 lawn, and sweep any product that lands on the driveway, sidewalk
42 or street back onto your lawn.”

43 d. As used in this section:

44 “Turf” means land, including residential property, that is planted
45 in closely mowed, managed grass, except land used in the operation
46 of a commercial farm as that term is defined pursuant to section 3
47 of P.L.1983, c.31 (C.4:1C-3).

48 (cf: P.L.1970, c.66, s.13)

1 12. This act shall take effect on the first day of the 13th month
2 after the date of enactment.

3

4

5

STATEMENT

6

7 This bill would reduce the pollution of the State's water
8 resources by establishing standards for the application of fertilizer
9 to turf, directing the New Jersey Agricultural Experiment Station at
10 Rutgers University (NJAES) to develop training and certification
11 programs for professional fertilizer applicators applying fertilizer to
12 turf, regulating the sale of certain fertilizer containing phosphorus
13 and nitrogen, and requiring that additional information be included
14 on certain fertilizer labels.

15 Elevated levels of nutrients such as nitrogen and phosphorus in
16 surface waterbodies can result in excessive and accelerated growth
17 of algae and aquatic plants, a process known as eutrophication.
18 Eutrophication often results in variations and extremes in dissolved
19 oxygen and pH levels in water, which, in turn, are detrimental to
20 aquatic life. The presence of excessive plant matter also diminishes
21 the economic, aesthetic and recreational value of the State's rivers,
22 lakes, ocean frontages and bays.

23 Healthy soils and vegetated areas protect water quality by
24 filtering precipitation, and most soils in New Jersey contain
25 sufficient amounts of nutrients to provide plant life the nourishment
26 it needs to remain healthy. Occasionally, a fertilizer product
27 containing supplemental nutrients is needed to improve soil
28 conditions. However, the timing and placement of the proper type
29 and amount of fertilizer is critical to avoiding pollution of the
30 State's water resources. Rain washes fertilizer off of driveways,
31 streets, and other impervious surfaces into storm drains and,
32 eventually, into the State's waterways.

33 The State's water resources can be better protected through the
34 management of the type, amount, timing, technique and placement
35 of fertilizer application on public and private property throughout
36 the State. To that end, this bill would prohibit persons from: (1)
37 applying fertilizer to turf during or just before a heavy rainfall; (2)
38 applying fertilizer intended for use on turf to an impervious surface;
39 (3) applying fertilizer to turf within 25 feet of any waterbody,
40 except under certain circumstances; and (4) applying fertilizer to
41 turf before March 1st or after November 15th, or at any time when
42 the ground is frozen.

43 The bill would restrict the use of fertilizer containing water-
44 soluble nitrogen and intended for use on turf to no more than 0.75
45 pounds per 1,000 square feet by weight. Fertilizer containing
46 phosphorus and intended for use on turf would be prohibited,
47 except when establishing or repairing turf, delivering fertilizer
48 under the soil surface, or applying nutrients deemed necessary

1 through a soil test conducted by a laboratory authorized by the
2 NJAES. The bill would require that fertilizer intended for use on
3 turf include additional information concerning its ingredients,
4 including an analysis of the type of nitrogen contained in the
5 fertilizer, as well as a summary of best management practices. The
6 bill would require manufacturers of fertilizer labeled for use on turf
7 and intended for use by consumers to formulate those fertilizers to
8 conform to the application restrictions contained in the bill. The
9 bill would also prohibit the sale of fertilizer which contains
10 phosphorus or more than 0.75 pounds per 1,000 square feet of
11 water-soluble nitrogen intended for use on turf by consumers unless
12 the intended use conforms to the restrictions contained in the bill.

13 The bill would require all professional fertilizer applicators who
14 apply fertilizer to turf to obtain training or certification prior to
15 applying any fertilizer. The NJAES would be required to establish
16 programs which include training and education in: (1) proper use
17 and calibration of fertilizer application equipment; (2) the hazards
18 involved in, and environmental impacts of, applying fertilizer,
19 including nutrient pollution to the State's waterbodies; (3)
20 applicable State and federal laws, rules, and regulations; (4) proper
21 interpretation of fertilizer labeling information; and (5) best
22 management practices for nutrient management in turf.

23 Finally, the bill would require that the NJAES, in consultation
24 with the Department of Environmental Protection, develop a
25 program of public education to include the dissemination of
26 information regarding nutrient pollution, best management practices
27 for fertilizer use, soil testing, proper interpretation of fertilizer label
28 instructions, and proper use and calibration of fertilizer application
29 equipment.