

HOUSE BILL 687

M4

11r2153
CF SB 544

By: **Delegates Bobo, Arora, Barnes, Beidle, Bromwell, Cane, Carr, Costa, Frush, Gilchrist, Glenn, Healey, Holmes, A. Kelly, McHale, Murphy, Niemann, Schuh, Vitale, Washington, and Wilson**

Introduced and read first time: February 10, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **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
11 review certain recommendations after a certain number of years; requiring the
12 review to consider certain information; requiring landscape contractors to
13 provide a certain notice to a homeowner, resident, or business; requiring the
14 Department of Agriculture to develop the notice in cooperation with the
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,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Agriculture
2 Section 6–210(e) and (f) and 8–803.4
3 Annotated Code of Maryland
4 (2007 Replacement Volume and 2010 Supplement)

5 BY adding to
6 Article – Business Regulation
7 Section 8–502.1
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2010 Supplement)

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

12 **Article – Agriculture**

13 6–201.

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

15 **(W-1) “SLOW RELEASE FERTILIZER” MEANS FERTILIZER WHERE**
16 **NITROGEN IS NOT READILY AVAILABLE AS A PLANT NUTRIENT AND IS RELEASED**
17 **OVER TIME.**

18 6–210.

19 (e) (1) Except as provided in paragraph (2) of this subsection, on or after
20 April 1, 2011, a lawn fertilizer with an available phosphoric acid (H₃PO₄) content
21 greater than 5%:

22 (i) May not be labeled for use on established lawns or grass;

23 (ii) May not be labeled with spreader settings; and

24 (iii) Shall be marked with the words “NOT FOR USE ON
25 ESTABLISHED LAWNS OR GRASS” in at least a three-quarter inch font and in a
26 legible and conspicuous manner on the front side of the container.

27 (2) This subsection does not apply to seed starter fertilizer for use on
28 newly established lawns or turf.

29 **(3) (I) ON OR AFTER APRIL 1, 2012, THE DEPARTMENT, IN**
30 **COOPERATION WITH THE UNIVERSITY OF MARYLAND, SHALL ADOPT**
31 **REGULATIONS REQUIRING THE POSTING OF A SIGN AT ANY LOCATION WHERE**
32 **SPECIALTY FERTILIZER IS OFFERED FOR SALE OR DISTRIBUTED.**

1 **(II) THE SIGN REQUIRED UNDER SUBPARAGRAPH (I) OF**
2 **THIS PARAGRAPH SHALL CONTAIN INFORMATION, BASED ON GUIDELINES**
3 **ADOPTED BY THE UNIVERSITY OF MARYLAND, THAT GUIDES CONSUMERS ON**
4 **THE PROPER USE OF LAWN CARE PRODUCTS TO REDUCE POLLUTION TO THE**
5 **CHESAPEAKE BAY AND OTHER WATERS OF THE STATE.**

6 **(F) ON OR AFTER APRIL 1, 2012, A SPECIALTY FERTILIZER HAVING A**
7 **NITROGEN CONTENT THAT IS LESS THAN 30% SLOW RELEASE FERTILIZER:**

8 **(1) MAY NOT BE LABELED FOR USE ON ESTABLISHED LAWNS,**
9 **GRASS, OR TURF;**

10 **(2) MAY NOT BE LABELED WITH SPREADER SETTINGS; AND**

11 **(3) SHALL BE MARKED WITH THE WORDS “NOT FOR USE ON**
12 **ESTABLISHED LAWNS, GRASS, OR TURF” IN AT LEAST A**
13 **THREE-QUARTER INCH FONT AND IN A LEGIBLE AND CONSPICUOUS MANNER ON**
14 **THE FRONT SIDE OF THE CONTAINER.**

15 **[(f)] (G)** Each brand of soil conditioner distributed in the State shall be
16 accompanied by a legible label bearing the following information:

17 (1) Net weight or other measure prescribed as satisfactory by the
18 Secretary;

19 (2) The brand under which the soil conditioner is distributed;

20 (3) An accurate statement of composition and purpose; and

21 (4) Name and address of the registrant.

22 **6-223.**

23 **ON OR AFTER APRIL 1, 2012, A PERSON MAY NOT OFFER, SELL, OR**
24 **DISTRIBUTE FOR USE OR SALE IN THIS STATE ANY SPECIALTY FERTILIZER**
25 **INTENDED FOR USE ON ESTABLISHED LAWNS, GRASS, OR TURF UNLESS THE**
26 **MIXTURE CONTAINS AT LEAST 30% SLOW RELEASE FERTILIZER.**

27 8-803.4.

28 (a) This section applies to an application of commercial fertilizer, as defined
29 in § 6-201 of this article:

30 (1) That is performed by:

31 (i) A person who applies commercial fertilizer for hire; or

1 (ii) An employee of the owner or manager of the property; and

2 (2) To:

3 (i) Ten acres or more annually, whether one or multiple
4 parcels, of property that is not used for agricultural purposes; or

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

6 (b) (1) A person may apply commercial fertilizer only if the person applies
7 the commercial fertilizer in a manner [that]:

8 (I) THAT is consistent with the recommendations of the
9 University of Maryland [Cooperative Extension Service]; AND

10 (II) **BASED ON WATER QUALITY AND THE ACTUAL NUTRIENT**
11 **REQUIREMENTS OF ANY PLANT TO AVOID NUTRIENT RUN-OFF INTO THE**
12 **CHESAPEAKE BAY AND WATERS OF THE STATE.**

13 (2) (I) **THE UNIVERSITY OF MARYLAND SHALL REVIEW ITS**
14 **RECOMMENDATIONS FOR THE APPLICATION OF COMMERCIAL FERTILIZER**
15 **EVERY 3 YEARS TO ENSURE COMPLIANCE WITH ESTABLISHED STATE GOALS TO**
16 **PROTECT WATER QUALITY AND THE CHESAPEAKE BAY.**

17 (II) **THE REVIEW SHALL CONSIDER LIMITATIONS ON**
18 **FERTILIZER APPLICATION, INCLUDING:**

19 1. **APPLICATION DURING THE WINTER SEASON;**

20 2. **APPLICATION DURING RAIN EVENTS OR**
21 **ANTICIPATED PRECIPITATION;**

22 3. **APPLICATION TO IMPERVIOUS SURFACES,**
23 **INCLUDING SIDEWALKS, DRIVEWAYS, STREETS, AND PARKING LOTS;**

24 4. **APPLICATION WITHIN 25 FEET OF A BODY OF**
25 **WATER; AND**

26 5. **REQUIRING ANNUAL SOIL TESTING FOR**
27 **PHOSPHORUS AND NITROGEN.**

28 (c) (1) A person who violates any provision of this section is subject to a
29 civil penalty of not more than \$1,000 for a first violation.

1 (2) A person who violates any provision of this section is subject to a
2 civil penalty of not more than \$2,000 for each subsequent violation.

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

5 (4) The total penalties imposed on a person for violations of this
6 section that result from the same set of facts and circumstances may not exceed
7 \$10,000.

8 (d) The penalty imposed on a person under this section shall be assessed
9 with consideration given to:

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

13 (2) Any actual harm to human health or to the environment including
14 injury to or impairment of the use of the waters of the State or the natural resources of
15 the State;

16 (3) The cost of control;

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

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

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

24 (e) Penalties collected by the Secretary under this section shall be paid into
25 the General Fund of the State.

26 **Article – Business Regulation**

27 **8-502.1.**

28 (A) A LANDSCAPE CONTRACTOR LICENSED UNDER THIS TITLE THAT
29 APPLIES COMMERCIAL FERTILIZER, AS DEFINED UNDER § 6-201(F) OF THE
30 AGRICULTURE ARTICLE, TO LAWNS, GRASS, OR TURF, SHALL PROVIDE EACH
31 HOMEOWNER, RESIDENT, OR BUSINESS WITH WRITTEN NOTICE OF THE
32 RECOMMENDED FERTILIZER APPLICATION AMOUNTS WITH EACH LAWN
33 MAINTENANCE CONTRACT.

1 **(B) THE LANGUAGE OF THE NOTICE REQUIRED UNDER SUBSECTION (A)**
2 **OF THIS SECTION SHALL BE DEVELOPED BY THE STATE DEPARTMENT OF**
3 **AGRICULTURE IN CONSULTATION WITH AND BASED ON THE GUIDELINES OF THE**
4 **UNIVERSITY OF MARYLAND.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2011.