

HOUSE No. 04306

Substituted by the House, on motion of Mr. Fernandes of Milford, for a bill with the same title (House, No. 3270). July 23, 2012.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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An Act relative to reducing phosphorus runoff.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 64 of chapter 128 of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by inserting after the definition of “Distributor” the following
3 definition:-

4 “Fertilizer”, commercially produced fertilizers used as soil and plant amendments. Does not
5 include organic compost or natural organic fertilizer.

6 SECTION 2. Said section 64 of said chapter 128, as so appearing, is hereby further amended by
7 inserting after the definition of “Labeling” the following definition:-

8 “Lawn” or “non-agricultural turf”, any non-crop land area that is covered by any grass species,
9 excluding flower or vegetable gardens, pasture, hay land, trees, shrubs, turf grown on turf farms,
10 or any form of agricultural production.

11 SECTION 3. Section 64 of said chapter 128, as so appearing, is hereby further amended by
12 inserting after the definition of “Mixed fertilizer” the following definition:-

13 “Natural organic fertilizer”, materials derived from either plant or animal products containing 1
14 or more elements ,other than carbon, hydrogen and oxygen, which are essential for plant growth.
15 These materials may be subject to biological degradation processes under normal conditions of
16 aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic
17 bacterial action, or any combination of these. These materials shall not be mixed with synthetic
18 materials or changed in any physical or chemical manner from their initial state except by
19 manipulations such as drying, cooking, chopping, grinding, shredding, hydrolysis, or pelleting.

20 SECTION 4. Section 64 of said chapter 128, as so appearing, is hereby further amended by
21 inserting after the definition of “Official sample” the following definition:-

22 “Organic compost”, the biologically stable humus-like material derived from composting or the
23 aerobic, thermophilic decomposition of organic matter.

24 SECTION 5. Said section 64 of said chapter 128, as so appearing, is hereby further amended by
25 inserting after the definition of “Phosphoric acid” the following definition:-

26 “Phosphorus containing fertilizer”, fertilizer labeled for use on lawn or non-agricultural turf in
27 which the available phosphate content is greater than 0.67 per cent by weight, excluding organic
28 compost and natural organic fertilizer.

29 SECTION 6. Said chapter 128 is hereby further amended by inserting after section 65 the
30 following 2 sections:-

31 Section 65A. No person shall apply fertilizer to:

32 (1) lawn or non-agricultural turf between December 1 and April 1 annually;

33 (2) any impervious surface ,including parking lots, roadways, and sidewalks, by means of
34 direct application, spills, overspray or runoff to impervious areas. If such application, spills,
35 oversprays, or runoff occur, the fertilizer must immediately be cleaned completely from the
36 surface and either contained or disposed of legally or applied to lawn or non-agricultural turf as
37 allowed; or

38 (3) areas within 20 feet of any surface water subject to the jurisdiction of the Wetlands
39 Protection Act. Where a drop spreader, rotary spreader with a deflector or targeted spray liquid
40 is used for fertilizer application, the setback required under this section may be reduced to 15
41 feet.

42 Except as otherwise provided, any person found liable for a violation of this section shall be
43 assessed a civil fine of up to \$500 for a first violation, and up to \$1,000 for each subsequent
44 violation. Any owner, or agent of an owner, or occupant of a household who violates this section
45 shall, for a first violation, be issued a written warning and provided with educational materials.
46 If found liable for a second violation, the owner or agent of the owner, or occupant of a
47 household shall be assessed a civil fine of up to \$100, and for any subsequent violation, shall be
48 assessed a fine of up to \$250. No owner or agent of an owner shall be liable for any violation by
49 an occupant .

50 Section 65B. (1) Restrictions on the use of phosphorus containing fertilizers are to be consistent
51 with the restrictions of section 65A for the use of all fertilizers in the state and , additionally, no
52 person shall purchase and apply or authorize any person, by way of service contract or other

53 arrangement, to apply in the commonwealth any phosphorus containing fertilizer on lawn or non-
54 agricultural turf, except when:

55 (a) a soil test indicates that additional phosphorus is needed for growth of that lawn or non-
56 agricultural turf; or

57 (b) the phosphorus fertilizer is confirmed to be used for a establishing a new lawn or new
58 non-agricultural turf area.

59 (2) If a retailer sells or offers for sale phosphorus containing fertilizer to consumers and
60 consumers have direct access to the phosphorus fertilizer, the retailer shall:

61 (a) in the retail area where phosphorus containing fertilizer is accessible by a consumer, display
62 non-phosphorus fertilizer separately from phosphorus containing fertilizer; and

63 (b) post in the retail location, if any, where phosphorus fertilizer is accessible by the consumer a
64 clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states
65 the following:“PHOSPHORUS RUNOFF POSES A THREAT TO WATER QUALITY.

66 THEREFORE, UNDER MASSACHUSETTS LAW, PHOSPHORUS-CONTAINING
67 FERTILIZER MAY ONLY BE APPLIED TO LAWN OR NON-AGRICULTURAL TURF
68 WHEN

69 (i) a soil test indicates that additional phosphorus is needed for growth of that lawn or
70 non-agricultural turf; or

71 (ii) the fertilizer is used for a newly established lawn or non-agricultural turf during the
72 first growing season.”

73 (3) Any person who violates this section may be fined not more than \$50 for a first violation
74 and not less than \$200 nor more than \$500 for a second or subsequent violation.

75 SECTION 7. This act takes effect on January 1, 2014.