

HOUSE BILL 706

M4
HB 50/10 – ENV

11r0538
CF SB 546

By: **Delegates Clagett, Arora, Barnes, Beidle, Bromwell, Cane, Carr, Costa, Frush, Gilchrist, Glenn, Healey, Holmes, A. Kelly, K. 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 Phosphorus Reduction Act of 2011**

3 FOR the purpose of prohibiting low phosphorous fertilizers from being used on
4 established turf; prohibiting specialty fertilizers from being labeled for certain
5 uses after a certain date; providing for a certain exception to the prohibition;
6 requiring the Department of Agriculture, in cooperation with the University of
7 Maryland, to adopt regulations requiring certain signs to be posted where
8 specialty fertilizer is sold or distributed after a certain date; requiring the sign
9 to contain certain information; prohibiting certain fertilizers from being sold or
10 distributed for use on established lawns, grass, or turf; making technical and
11 conforming changes; and generally relating to the regulation of fertilizer.

12 BY repealing and reenacting, without amendments,
13 Article – Agriculture
14 Section 6–201(a), (p), and (y)
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Agriculture
19 Section 6–210(e) and 6–222
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2010 Supplement)

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

24 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 6–201.

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

3 (p) “Low phosphorous fertilizer” means fertilizer:

4 (1) Containing not more than 5% of available phosphoric acid (H_3PO_4);
5 and

6 (2) That has an application rate not to exceed 0.25 pound of available
7 phosphoric acid (H_3PO_4)/1,000 square feet/application and 0.5 pound of available
8 phosphoric acid (H_3PO_4)/1,000 square feet/year.

9 (y) “Specialty fertilizer” means a commercial fertilizer distributed primarily
10 for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses,
11 municipal parks, cemeteries, greenhouses, and nurseries, and may include commercial
12 fertilizers used for any research or experimental purpose.

13 6–210.

14 (e) **(1) IN THIS SUBSECTION, “SPECIALTY FERTILIZER” INCLUDES**
15 **LOW PHOSPHOROUS FERTILIZER.**

16 **(2) THIS SUBSECTION DOES NOT APPLY TO:**

17 **(I) SEED STARTER FERTILIZER FOR USE ON NEWLY**
18 **ESTABLISHED LAWNS OR TURF; OR**

19 **(II) FERTILIZER USED FOR MAINTENANCE ON LAWNS,**
20 **GRASS, OR TURF WHEN A PHOSPHOROUS DEFICIENCY IS DEMONSTRATED BY A**
21 **SOIL TEST.**

22 **[(1)] (3)** Except as provided in paragraph **[(2)] (4)** of this subsection,
23 on or after April 1, 2011, a lawn fertilizer with an available phosphoric acid (H_3PO_4)
24 content greater than 5%:

25 (i) May not be labeled for use on established lawns **[or], grass,**
26 **OR TURF;**

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

28 (iii) Shall be marked with the words “NOT FOR USE ON
29 ESTABLISHED LAWNS **[OR], GRASS, OR TURF**” in at least a three-quarter inch
30 font and in a legible and conspicuous manner on the front side of the container.

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

3 **(4) ON OR AFTER APRIL 1, 2012, A SPECIALTY FERTILIZER WITH**
4 **AVAILABLE PHOSPHOROUS:**

5 **(I) MAY NOT BE LABELED FOR USE ON ESTABLISHED**
6 **LAWNS, GRASS, OR TURF;**

7 **(II) MAY NOT BE LABELED WITH SPREADER SETTINGS; AND**

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

12 **(5) (I) BY APRIL 1, 2012, THE DEPARTMENT, IN COOPERATION**
13 **WITH THE UNIVERSITY OF MARYLAND, SHALL ADOPT REGULATIONS REQUIRING**
14 **THE POSTING OF A SIGN AT ANY LOCATION WHERE SPECIALTY FERTILIZER IS**
15 **OFFERED FOR SALE OR DISTRIBUTED.**

16 **(II) THE SIGN REQUIRED UNDER SUBPARAGRAPH (I) OF**
17 **THIS PARAGRAPH SHALL CONTAIN INFORMATION, BASED ON GUIDELINES**
18 **ADOPTED BY THE UNIVERSITY OF MARYLAND, THAT GUIDES CONSUMERS ON**
19 **THE PROPER USE OF LAWN CARE PRODUCTS TO AVOID POLLUTION IN THE**
20 **CHESAPEAKE BAY AND OTHER WATERS OF THE STATE.**

21 6-222.

22 (a) (1) [Except as provided in paragraph (2) of this subsection, on or after
23 April 1, 2011, a person may not sell or distribute for use or sale at a retail
24 establishment in the State any fertilizer intended for use on established lawns or
25 grass unless it is low phosphorous fertilizer.

26 (2)] This subsection does not apply to:

27 (i) A landscaping contractor who is licensed under Title 8 of the
28 Business Regulation Article; or

29 (ii) A salesperson, employee, or other agent of a landscaping
30 contractor who is licensed under Title 8 of the Business Regulation Article.

31 **(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
32 **ON OR AFTER APRIL 1, 2011, A PERSON MAY NOT SELL OR DISTRIBUTE FOR USE**
33 **OR SALE AT A RETAIL ESTABLISHMENT IN THE STATE ANY FERTILIZER**

1 INTENDED FOR USE ON ESTABLISHED LAWNS OR GRASS UNLESS IT IS LOW
2 PHOSPHOROUS FERTILIZER.

3 (b) (1) IN THIS SUBSECTION, "SPECIALTY FERTILIZER" INCLUDES
4 LOW PHOSPHOROUS FERTILIZER.

5 (2) ON OR AFTER APRIL 1, 2012, A PERSON MAY NOT SELL OR
6 DISTRIBUTE FOR USE OR SALE IN THE STATE ANY SPECIALTY FERTILIZER WITH
7 AVAILABLE PHOSPHOROUS CONTENT INTENDED FOR USE ON ESTABLISHED
8 LAWNS OR GRASS UNLESS IT IS INTENDED FOR USE AS A SEED STARTER ON
9 NEWLY ESTABLISHED LAWNS, GRASS, OR TURF, CONSISTENT WITH THE
10 RECOMMENDATIONS OF THE UNIVERSITY OF MARYLAND.

11 (c) (1) On or before April 1, 2011, a manufacturer of lawn fertilizer whose
12 products are sold in the State shall reduce by 50% from 2006 levels the amount of
13 available phosphoric acid (H_3PO_4) resulting from the application of its lawn care
14 products within the State.

15 (2) The amount of available phosphoric acid (H_3PO_4) resulting from
16 the application within the State of lawn care products sold or distributed by a
17 manufacturer may not exceed an average of 1.5% available phosphoric acid (H_3PO_4) if,
18 prior to April 1, 2010, the manufacturer did not sell or distribute fertilizer in the State
19 intended for use on established lawns or grass.

20 (3) Beginning in 2011, a manufacturer of fertilizer whose products are
21 sold in the State shall report the pounds of phosphorus in its lawn care products sold
22 at retail locations in the State to the Department at the end of each calendar year.

23 [(c)] (D) The Department may adopt regulations to implement this section.

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