

S. 2357

A. 2607

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

January 16, 2013

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the application of lawn fertilizer to watersheds and drainage basins

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The environmental conservation law is amended by adding a
2 new section 33-1006 to read as follows:
3 S 33-1006. APPLICATION OF LAWN FERTILIZER TO WATERSHEDS OR DRAINAGE
4 BASINS IN CERTAIN COUNTIES.
5 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
6 FOLLOWING MEANINGS:
7 A. "AGRICULTURE USES" MEANS BEEKEEPING, DAIRYING, EGG PRODUCTION,
8 FLORICULTURE, FISH OR FUR FARMING, FOREST AND GAME MANAGEMENT; GRAZING;
9 LIVESTOCK RAISING; ORCHARDS; PLANT GREENHOUSES AND NURSERIES; POULTRY
10 RAISING; RAISING OF GRAIN, GRASS, MINT AND SEED CROPS; RAISING OF
11 FRUITS, NUTS, BERRIES, SOD FARMING AND VEGETABLE RAISING.
12 B. "LAWN FERTILIZER" MEANS ANY FERTILIZER, WHETHER APPLIED BY PROPERTY
13 OWNER, RENTER OR COMMERCIAL ENTITY, INTENDED FOR NONAGRICULTURAL USE,
14 SUCH AS FOR LAWNS, GOLF COURSES, PARKS AND CEMETERIES. LAWN FERTILIZER
15 DOES NOT INCLUDE FERTILIZER PRODUCTS INTENDED PRIMARILY FOR GARDEN OR
16 INDOOR USE.
17 2. A. EFFECTIVE MARCH FIRST, TWO THOUSAND FIFTEEN, IN ANY COUNTY WHERE
18 THE COUNTY LEGISLATURE HAS ADOPTED A LOCAL LAW, NO PERSON SHALL APPLY
19 ANY LAWN FERTILIZER WITHIN ANY WATERSHED OR DRAINAGE BASIN THAT IS
20 LABELED AS CONTAINING MORE THAN ZERO PERCENT PHOSPHORUS, EXCEPT AS
21 PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 B. IN SUCH COUNTY, NO LAWN FERTILIZER SHALL BE APPLIED WHEN THE GROUND
2 IS FROZEN.

3 C. IN SUCH COUNTY, NO PERSON SHALL APPLY LAWN FERTILIZER TO ANY IMPER-
4 VIOUS SURFACE INCLUDING PARKING LOTS, ROADWAYS, AND SIDEWALKS. IF SUCH
5 APPLICATION OCCURS, THE FERTILIZER SHALL BE IMMEDIATELY REMOVED FROM
6 SUCH SURFACES AND EITHER LEGALLY APPLIED TO TURF OR PLACED IN AN APPRO-
7 PRIATE CONTAINER.

8 3. THE RESTRICTIONS UPON THE USE OF LAWN FERTILIZER UNDER SUBDIVISION
9 TWO OF THIS SECTION SHALL NOT APPLY TO:

10 A. NEWLY ESTABLISHED TURF OR LAWN AREAS DURING THEIR FIRST GROWING
11 SEASON.

12 B. TURF OR LAWN AREAS THAT SOIL TESTS, PERFORMED WITHIN THE PAST THREE
13 YEARS BY A STATE CERTIFIED SOIL TESTING LABORATORY OR OTHER QUALIFIED OR
14 RECOGNIZED AUTHORITY IN THE AREA OF SOIL ANALYSIS, CONFIRM ARE BELOW
15 PHOSPHORUS LEVELS ESTABLISHED BY THE CORNELL COOPERATIVE EXTENSION. THE
16 LAWN FERTILIZER APPLICATION SHALL NOT CONTAIN AN AMOUNT OF PHOSPHORUS
17 EXCEEDING THE AMOUNT AND RATE OF APPLICATION RECOMMENDED IN THE SOIL
18 TEST EVALUATION.

19 C. AGRICULTURAL USES, VEGETABLE AND FLOWER GARDENS, OR APPLICATION TO
20 TREES OR SHRUBS.

21 D. YARD WASTE COMPOST, BIO-SOLIDS OR OTHER SIMILAR MATERIALS THAT ARE
22 PRIMARILY ORGANIC IN NATURE AND ARE APPLIED TO IMPROVE THE PHYSICAL
23 CONDITION OF THE SOIL.

24 4. EFFECTIVE MARCH FIRST, TWO THOUSAND FIFTEEN, ALL VENDORS OF LAWN
25 FERTILIZER WITHIN ANY SUCH COUNTY SHALL DISPLAY A MAP OF THE AFFECTED
26 WATERSHED OR DRAINAGE BASIN AND A SIGN CONTAINING THE PROVISIONS SET
27 FORTH IN THIS SECTION AND THE EFFECTS OF PHOSPHORUS ON SUCH WATERSHED OR
28 DRAINAGE BASIN. ALL VENDORS SHALL OFFER FERTILIZER THAT IS LABELED AS
29 CONTAINING 0% PHOSPHORUS.

30 S 2. Subdivision 1 of section 71-2907 of the environmental conserva-
31 tion law is amended by adding a new undesignated paragraph to read as
32 follows:

33 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY PERSON
34 WHO VIOLATES SUBDIVISION TWO OF SECTION 33-1006 OF THIS CHAPTER IN THE
35 APPLICATION OF LAWN FERTILIZER AT HIS OR HER RESIDENCE SHALL BE SUBJECT
36 TO A CIVIL INFRACTION PENALTY OF ONE HUNDRED DOLLARS PER VIOLATION. ANY
37 COMMERCIAL FERTILIZER APPLICATOR, RESIDENTIAL OR COMMERCIAL DEVELOPER,
38 INDUSTRIAL OR COMMERCIAL OWNER, AND ANY PERSON WHO VIOLATES SUBDIVISION
39 TWO OF SECTION 33-1006 OF THIS CHAPTER SHALL BE SUBJECT TO A CIVIL
40 INFRACTION PENALTY OF TWO HUNDRED DOLLARS FOR THE FIRST VIOLATION WITHIN
41 A TWELVE MONTH PERIOD; THREE HUNDRED FIVE DOLLARS FOR THE SECOND
42 VIOLATION WITHIN A TWELVE MONTH PERIOD; AND FIVE HUNDRED DOLLARS FOR THE
43 THIRD AND EACH SUBSEQUENT VIOLATION WITHIN A TWELVE MONTH PERIOD.

44 S 3. This act shall take effect immediately.