

9192

2009-2010 Regular Sessions

I N A S S E M B L Y

October 13, 2009

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 ASSEM-
BLY, 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 ELEVEN, 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.

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

24 C. IN SUCH COUNTY, NO PERSON SHALL APPLY LAWN FERTILIZER TO ANY IMPER-
25 VIOUS SURFACE INCLUDING PARKING LOTS, ROADWAYS, AND SIDEWALKS. IF SUCH

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

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1 APPLICATION OCCURS, THE FERTILIZER SHALL BE IMMEDIATELY REMOVED FROM
2 SUCH SURFACES AND EITHER LEGALLY APPLIED TO TURF OR PLACED IN AN APPRO-
3 PRIATE CONTAINER.

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

6 A. NEWLY ESTABLISHED TURF OR LAWN AREAS DURING THEIR FIRST GROWING
7 SEASON.

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

15 C. AGRICULTURAL USES, VEGETABLE AND FLOWER GARDENS, OR APPLICATION TO
16 TREES OR SHRUBS.

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

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

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

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

40 S 3. This act shall take effect immediately.