

S T A T E O F N E W Y O R K

S. 3554--A

A. 5670--A

2011-2012 Regular Sessions

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

February 25, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 DOES NOT INCLUDE FERTILIZER PRODUCTS INTENDED PRIMARILY FOR GARDEN OR
2 INDOOR USE.

3 2. A. EFFECTIVE MARCH FIRST, TWO THOUSAND FOURTEEN, IN ANY COUNTY
4 WHERE THE COUNTY LEGISLATURE HAS ADOPTED A LOCAL LAW, NO PERSON SHALL
5 APPLY ANY LAWN FERTILIZER WITHIN ANY WATERSHED OR DRAINAGE BASIN THAT IS
6 LABELED AS CONTAINING MORE THAN ZERO PERCENT PHOSPHORUS, EXCEPT AS
7 PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

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

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

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

17 A. NEWLY ESTABLISHED TURF OR LAWN AREAS DURING THEIR FIRST GROWING
18 SEASON.

19 B. TURF OR LAWN AREAS THAT SOIL TESTS, PERFORMED WITHIN THE PAST THREE
20 YEARS BY A STATE CERTIFIED SOIL TESTING LABORATORY OR OTHER QUALIFIED OR
21 RECOGNIZED AUTHORITY IN THE AREA OF SOIL ANALYSIS, CONFIRM ARE BELOW
22 PHOSPHORUS LEVELS ESTABLISHED BY THE CORNELL COOPERATIVE EXTENSION. THE
23 LAWN FERTILIZER APPLICATION SHALL NOT CONTAIN AN AMOUNT OF PHOSPHORUS
24 EXCEEDING THE AMOUNT AND RATE OF APPLICATION RECOMMENDED IN THE SOIL
25 TEST EVALUATION.

26 C. AGRICULTURAL USES, VEGETABLE AND FLOWER GARDENS, OR APPLICATION TO
27 TREES OR SHRUBS.

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

31 4. EFFECTIVE MARCH FIRST, TWO THOUSAND FOURTEEN, ALL VENDORS OF LAWN
32 FERTILIZER WITHIN ANY SUCH COUNTY SHALL DISPLAY A MAP OF THE AFFECTED
33 WATERSHED OR DRAINAGE BASIN AND A SIGN CONTAINING THE PROVISIONS SET
34 FORTH IN THIS SECTION AND THE EFFECTS OF PHOSPHORUS ON SUCH WATERSHED OR
35 DRAINAGE BASIN. ALL VENDORS SHALL OFFER FERTILIZER THAT IS LABELED AS
36 CONTAINING 0% PHOSPHORUS.

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

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

51 S 3. This act shall take effect immediately.