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

S. 2357--A A. 2607--A

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 -- 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:

Section 1. The environmental conservation law is amended by adding a new section 33-1006 to read as follows:

S 33-1006. APPLICATION OF LAWN FERTILIZER TO WATERSHEDS OR DRAINAGE BASINS IN CERTAIN COUNTIES.

1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "AGRICULTURE USES" MEANS BEEKEEPING, DAIRYING, EGG PRODUCTION, FLORICULTURE, FISH OR FUR FARMING, FOREST AND GAME MANAGEMENT; GRAZING; LIVESTOCK RAISING; ORCHARDS; PLANT GREENHOUSES AND NURSERIES; POULTRY RAISING; RAISING OF GRAIN, GRASS, MINT AND SEED CROPS; RAISING OF FRUITS, NUTS, BERRIES, SOD FARMING AND VEGETABLE RAISING.

B. "LAWN FERTILIZER" MEANS ANY FERTILIZER, WHETHER APPLIED BY PROPERTY OWNER, RENTER OR COMMERCIAL ENTITY, INTENDED FOR NONAGRICULTURAL USE, 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.

LBD06143-02-4

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

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

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

C. IN SUCH COUNTY, NO PERSON SHALL APPLY LAWN FERTILIZER TO ANY IMPERVIOUS SURFACE INCLUDING PARKING LOTS, ROADWAYS, AND SIDEWALKS. IF SUCH APPLICATION OCCURS, THE FERTILIZER SHALL BE IMMEDIATELY REMOVED FROM SUCH SURFACES AND EITHER LEGALLY APPLIED TO TURF OR PLACED IN AN APPROPRIATE CONTAINER.

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

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

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

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

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

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

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

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

S 3. This act shall take effect immediately.