

HOUSE No. 4306

Substituted by the House, on motion of Mr. Fernandes of Milford, for a bill with the same title (House, No. 3270). July 23, 2012.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to reducing phosphorus runoff.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 64 of chapter 128 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting after the definition of “Distributor” the
3 following definition:-

4 “Fertilizer”, commercially produced fertilizers used as soil and plant amendments. Does
5 not include organic compost or natural organic fertilizer.

6 SECTION 2. Said section 64 of said chapter 128, as so appearing, is hereby further
7 amended by inserting after the definition of “Labeling” the following definition:-

8 “Lawn” or “non-agricultural turf”, any non-crop land area that is covered by any grass
9 species, excluding flower or vegetable gardens, pasture, hay land, trees, shrubs, turf grown on
10 turf farms, or any form of agricultural production.

11 SECTION 3. Section 64 of said chapter 128, as so appearing, is hereby further amended
12 by inserting after the definition of “Mixed fertilizer” the following definition:-

13 “Natural organic fertilizer”, materials derived from either plant or animal products
14 containing 1 or more elements ,other than carbon, hydrogen and oxygen, which are essential for
15 plant growth. These materials may be subject to biological degradation processes under normal
16 conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or
17 anaerobic/aerobic bacterial action, or any combination of these. These materials shall not be
18 mixed with synthetic materials or changed in any physical or chemical manner from their initial
19 state except by manipulations such as drying, cooking, chopping, grinding, shredding,
20 hydrolysis, or pelleting.

21 SECTION 4. Section 64 of said chapter 128, as so appearing, is hereby further amended
22 by inserting after the definition of “Official sample” the following definition:-

23 “Organic compost”, the biologically stable humus-like material derived from composting
24 or the aerobic, thermophilic decomposition of organic matter.

25 SECTION 5. Said section 64 of said chapter 128, as so appearing, is hereby further
26 amended by inserting after the definition of “Phosphoric acid” the following definition:-

27 “Phosphorus containing fertilizer”, fertilizer labeled for use on lawn or non-agricultural
28 turf in which the available phosphate content is greater than 0.67 per cent by weight, excluding
29 organic compost and natural organic fertilizer.

30 SECTION 6. Said chapter 128 is hereby further amended by inserting after section 65
31 the following 2 sections:-

32 Section 65A. No person shall apply fertilizer to:

33 (1) lawn or non-agricultural turf between December 1 and April 1 annually;

34 (2) any impervious surface ,including parking lots, roadways, and sidewalks, by
35 means of direct application, spills, overspray or runoff to impervious areas. If such application,
36 spills, oversprays, or runoff occur, the fertilizer must immediately be cleaned completely from
37 the surface and either contained or disposed of legally or applied to lawn or non-agricultural turf
38 as allowed; or

39 (3) areas within 20 feet of any surface water subject to the jurisdiction of the Wetlands
40 Protection Act. Where a drop spreader, rotary spreader with a deflector or targeted spray liquid
41 is used for fertilizer application, the setback required under this section may be reduced to 15
42 feet.

43 Except as otherwise provided, any person found liable for a violation of this section shall
44 be assessed a civil fine of up to \$500 for a first violation, and up to \$1,000 for each subsequent
45 violation. Any owner, or agent of an owner, or occupant of a household who violates this section
46 shall, for a first violation, be issued a written warning and provided with educational materials.
47 If found liable for a second violation, the owner or agent of the owner, or occupant of a
48 household shall be assessed a civil fine of up to \$100, and for any subsequent violation, shall be
49 assessed a fine of up to \$250. No owner or agent of an owner shall be liable for any violation by
50 an occupant .

51 Section 65B. (1) Restrictions on the use of phosphorus containing fertilizers are to be
52 consistent with the restrictions of section 65A for the use of all fertilizers in the state and ,
53 additionally, no person shall purchase and apply or authorize any person, by way of service
54 contract or other arrangement, to apply in the commonwealth any phosphorus containing
55 fertilizer on lawn or non-agricultural turf, except when:

56 (a) a soil test indicates that additional phosphorus is needed for growth of that lawn or
57 non-agricultural turf; or

58 (b) the phosphorus fertilizer is confirmed to be used for a establishing a new lawn or
59 new non-agricultural turf area.

60 (2) If a retailer sells or offers for sale phosphorus containing fertilizer to consumers and
61 consumers have direct access to the phosphorus fertilizer, the retailer shall:

62 (a) in the retail area where phosphorus containing fertilizer is accessible by a consumer,
63 display non-phosphorus fertilizer separately from phosphorus containing fertilizer; and

64 (b) post in the retail location, if any, where phosphorus fertilizer is accessible by the
65 consumer a clearly visible sign that is at least eight and one-half inches by 11 inches in size and
66 that states the following:“PHOSPHORUS RUNOFF POSES A THREAT TO WATER
67 QUALITY. THEREFORE, UNDER MASSACHUSETTS LAW, PHOSPHORUS-
68 CONTAINING FERTILIZER MAY ONLY BE APPLIED TO LAWN OR NON-
69 AGRICULTURAL TURF WHEN

70 (i) a soil test indicates that additional phosphorus is needed for growth of that
71 lawn or non-agricultural turf; or

72 (ii) the fertilizer is used for a newly established lawn or non-agricultural turf
73 during the first growing season.”

74 (3) Any person who violates this section may be fined not more than \$50 for a first
75 violation and not less than \$200 nor more than \$500 for a second or subsequent violation.

76 SECTION 7. This act takes effect on January 1, 2014.