

Subject: Testimony SB 254 - An Act Restricting the Application of Fertilizers that Contain Phosphate

THE **Scotts Miracle-Gro**
COMPANY

March 7, 2012

Joint Committee on Environment
Legislative Office Building
Hartford, CT 06106

RE: Memo for SB 254 – An Act Restricting the Application of Fertilizers that Contain Phosphate

Dear Members of the Committee,

Thank you for the opportunity to submit testimony on SB 254, an act that would restrict the use of lawn fertilizers containing phosphate in the State of Connecticut. The Scotts Miracle-Gro Company has been in the lawn and garden business for over 140 years becoming the largest marketer and distributor of lawn and garden products for consumer use in that time. Our company also operates the Scotts LawnService, the second largest residential lawn service

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business in the United States.

We strive to put the consumer first which is reflected in our annual research and development investment to innovate products that are simple, safe, and sustainable. With operations in the State of Connecticut supporting various business units of our company we are vested in the State's future both as a place to operate as well as providing a high quality of life for our associates.

Scotts Miracle-Gro is supportive of the concept raised in SB 254 and this is why at the end of this year phosphorus will no longer be contained in our regular lawn maintenance fertilizers. Phosphorus will only be found in starter and repair products because grass seed needs phosphorus delivered directly to the seed when planted and organic lawn fertilizer because it occurs naturally and cannot be removed. Even with our current plans we have some concerns with the way the bill is currently drafted and hope you will be able to address them.

First, Section 1 only permits use of phosphorus lawn fertilizers when a lawn is being started. However, there are two circumstances when phosphorus is needed and one in which it cannot be removed from a product line and we feel that these situations should allow for an exemption.

- Organic products-Organic lawn care products have naturally occurring phosphorus in the plant and animal by products they are derived from. This phosphorus cannot be removed from those products. Without an exemption the organic market would be relegated to use only when starting a lawn. Organic lawn fertilizers are a small growing market and such limitation could severely hurt the category.
- Over seeding-In order to keep lawns healthy seeding is an important part of the lawn care maintenance process. When seed is applied it does not have roots and cannot obtain the phosphorus in the soil thus phosphorus must be delivered to the seed. Without an exemption for the use of phosphorus when seeding an application of seed to an established lawn would be in jeopardy of failure.
- Soil deficiency-Some soils are deficient in phosphorus and such a deficiency can only be corrected by adding phosphorus to the soil. The lack of phosphorus can lead to unhealthy grass prone to disease or weed infiltration. This can be detected through a simple soil test.

Second, the application timing restrictions are too broad for the regional weather variations experienced in the state. Many parts of the state can begin feeding lawns in March and do not need to wait until April. We would ask that you reduce the timing restriction in Section 1 (b) to December 1 and March 1 with the caveat that fertilizer could not be applied to frozen ground. This change would permit application when spring begins earlier, as we are seeing this year, but not permit application when the winter is late or starts early because of the frozen ground caveat.

Third, we would ask that retailers not be required to post signs in the lawn fertilizer aisle under Section 1 (d) because we feel easier mechanisms exist to address the concern of phosphorus lawn fertilizer sale and display. Several states, Virginia- Maryland-and New Jersey, have moved to a model where lawn fertilizers could not be registered with phosphorus unless they were intended for use when seeding, repairing a lawn, or unless it was an organic product. These would be the exempted uses if the changes previously outlined above are made. As stated above these are specific circumstances and the intended product use is clearly communicated to the consumer on the package. In addition, signs burdensome for the in store sales force thus exposing retailers to fines. Keeping signs in the aisle can be a challenge as these products are maintained outdoors and would be exposed to the elements. A system where the phosphorus products are regulated through the state registration process would provide a streamlined approach to addressing phosphorus lawn fertilizer concerns while removing the burdens on retailers and consumers.

Fourth, in Section 1(c) we ask that Connecticut recognize applicator technologies that allow for precision applications along hard surfaces and waterways. Drop spreaders, rotary spreaders with deflector technology and targeted spray liquids allow applicators to apply without getting fertilizer in waterways and hard surfaces. We propose that the legislature consider a provision lowering the buffer to three feet when an applicator uses one of the referenced technologies. Eleven of twelve states with phosphorus lawn fertilizer restrictions have recognized these technologies and permitted reduced buffers.

Lastly, we would request the implementation date be moved to January 1, 2013 to allow retailers and manufactures as well as applicators to properly implement the law without confusion. The fall is still a busy season and trying to implement such regulations mid-season would be difficult for all affected. A January 1, 2013 allows businesses to implement the new law and plan a consumer communication strategy in a more coherent manner.

Our company appreciates being part of the dialogue in Connecticut and working collaboratively to address all concerns and finding solutions that benefit all those involved in these efforts. Thank you again for your time and efforts on these important issues. Please do not hesitate to contact me if you have any further questions.

Sincerely,
Brian Patrick Herrington
Government Relations Manager
The Scotts Miracle-Gro Company

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