
OLR Bill Analysis

sSB 254

AN ACT RESTRICTING THE APPLICATION OF FERTILIZERS THAT CONTAIN PHOSPHATE.

SUMMARY:

This bill establishes certain restrictions on using and selling fertilizer containing phosphate. The bill:

1. prohibits applying fertilizer containing phosphate to an “established lawn” except under certain conditions,
2. creates a seasonal moratorium on applying such fertilizer, and
3. bans applying fertilizer containing phosphate within 20 feet of a water body.

It exempts from these restrictions agricultural land, golf courses, and the application of fertilizer made from materials derived from plant or animal products containing naturally occurring phosphorus (“organic lawn fertilizer”).

The bill requires retail establishments to separately display fertilizer containing phosphate and post a sign about the use restrictions. It establishes a civil penalty of \$ 500 for violating the restrictions or retail requirements and allows the agriculture commissioner to adopt regulations to implement the bill’s fertilizer-related requirements.

The bill also expands the water quality projects eligible for Clean Water Fund moneys to include certain nutrient removal projects, as opposed to only projects for nitrogen removal.

EFFECTIVE DATE: October 1, 2012; except for the provision concerning eligible water quality project funding which is effective upon passage.

PHOSPHATE FERTILIZER APPLICATION

Fertilizer Definition

By law, fertilizer is any substance containing at least one recognized plant nutrient that is used for its plant nutrient content and designed for use or claimed to promote plant growth. It does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood, ash, and other products the agriculture commissioner exempts (CGS § 22-111b).

General Prohibition

The bill bans applying fertilizer containing phosphate to an established lawn unless:

1. an agriculture commissioner-approved soil test shows the soil lacks phosphorus, and the fertilizer is necessary for lawn growth or
2. it is used to establish new grass or repair a lawn with seed or sod.

The soil test must be performed during the 180 days before applying the fertilizer.

Under the bill, an “established lawn” is an area covered with a grass species for at least two growing seasons and customarily kept mowed.

Buffer Area Restriction

The bill prohibits applying fertilizer containing phosphate to a portion of lawn that is within 20 feet of a brook, stream, river, lake, pond, sound, or other water body.

Seasonal Restriction

The bill prohibits anyone from applying fertilizer containing phosphate to a lawn from November 15 to March 15 of the next year.

Retail Sales Requirements

Under the bill, beginning October 1, 2012, retail establishments that sell fertilizer must separately display fertilizer products containing

phosphate from those that do not. They also must post a sign at the point of sale. It must be readily visible to consumers and printed in black lettering on a white background in at least 38-point type. The sign must state:

“PHOSPHATE RUNOFF CAN POSE A THREAT TO WATER QUALITY. CONNECTICUT LAW PROHIBITS: (1) THE APPLICATION OF FERTILIZER THAT CONTAINS PHOSPHATE TO AN ESTABLISHED LAWN, SUBJECT TO CERTAIN EXCEPTIONS, (2) THE APPLICATION OF FERTILIZER THAT CONTAINS PHOSPHATE TO ANY LAWN FROM NOVEMBER FIFTEENTH THROUGH MARCH FIFTEENTH, AND (3) THE APPLICATION OF FERTILIZER THAT CONTAINS PHOSPHATE TO ANY PORTION OF A LAWN THAT IS LOCATED WITHIN TWENTY FEET OF ANY BODY OF WATER.”

NUTRIENT REMOVAL PROJECT FUNDING

The bill expands the types of water quality projects eligible for Clean Water Fund moneys to include projects for nutrient removal, instead of only nitrogen removal projects. The expansion is effective upon passage but applies to certain projects on and after July 1, 2012. It appears that between those dates no nutrient removal projects will be eligible for funding.

Under the bill, a construction contract awarded by a municipality on or after July 1, 2012 that is eligible for clean water funds as a nutrient removal project must receive (1) a project grant of 30% of the project's cost associated with nutrient removal, (2) a 20% grant for project costs unrelated to nutrient removal, and (3) a loan for the rest. This is the same allocation formula available for nitrogen removal projects under current law. Nutrient removal projects under design or construction on July 1, 2012 and constructed projects without permanent clean water funding on July 1, 2012 are eligible for funding as specified above. These funds can not exceed 100% of the eligible water quality project cost.

If additional federal grant funds are available for Long Island Sound

clean-up projects funded on or after July 1, 2012, a distressed municipality can receive (1) state and federal grants of up to 50% of nutrient removal project costs, (2) a 20% grant for project costs unrelated to nutrient removal, and (3) a loan for the remainder. The funds cannot exceed 100% of the allowable water quality project cost.

BACKGROUND

Agricultural Land

By law, “agricultural land” means any land in the state which, based on soil types, existing and past use for agricultural purposes, and other relevant factors, is suitable for (1) cultivating plants for production of human food and fiber and other useful and valuable plant products; (2) producing animals, livestock, and poultry useful to people and the environment; and (3) providing economically profitable farm units. It may include adjacent pastures, wooded land, natural drainage areas, and other adjacent open areas (CGS § 22-26bb).

Clean Water Fund

The state’s Clean Water Fund provides financial aid to municipalities through grants and loans for the planning, design, and construction of wastewater treatment facilities. It is financed through a combination of federal and state funding.

Eligible Water Quality Project

By law, an “eligible water quality project” means the planning, design, development, construction, repair, extension, improvement, remodeling, alteration, rehabilitation, reconstruction, or acquisition of a water pollution control facility that the Department of Energy and Environmental Protection (DEEP) commissioner approves (CGS § 22a-475).

Related Bill

sSB 440, reported favorably by the Planning and Development Committee, adds phosphorus removal to the eligible projects for Clean Water Fund financing and requires the DEEP commissioner, or his designee, to work with several municipalities to develop a state-wide strategy to reduce phosphorus.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/23/2012)