AN ACT

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for healthy outdoor public grounds; and imposing duties on the Department of Health, the Department of Environmental Protection and the Department of Agriculture.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 35 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 59

HEALTHY OUTDOOR PUBLIC GROUNDS

Subchapter

A. Preliminary Provisions

B. Oversight

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

5901. Scope of chapter.

5902. Findings and declarations.
§ 5901. Scope of chapter.

This chapter relates to the promotion of a healthy environment that protects the public from the risks of toxic herbicides by prohibiting their use on public grounds.

§ 5902. Findings and declarations.

The General Assembly finds and declares as follows:

1. As a result of the COVID-19 pandemic and in an effort to avoid spreading the virus as individuals shelter in place, unprecedented numbers of residents of all ages are seeking exercise, recreation and access to natural beauty in the public grounds throughout this Commonwealth.

2. It is imperative that public grounds be free of toxic substances, which have been shown in scientific studies to cause disease and compromise immune systems.

3. Healthy, sustainably and organically managed soils increase organic nutrients and soil microorganisms, allowing grasses and other desirable plants to out-compete other plant species over time, ultimately resulting in a reduction of weeds and pests.

4. Implementation of organic land management practices affirms the right of all residents to have access to healthy food and clean water, in addition to green space and healthy waterways.

5. Currently, some municipalities use synthetic herbicides throughout their public grounds.

6. Scientific studies conducted by the World Health Organization, the National Academy of Sciences and the National Research Council, among others, have linked exposure to certain toxic chemicals with asthma, cancer, developmental
and learning disabilities, nerve and immune system damage, liver and kidney damage, reproductive impairment, birth defects and disruption of the endocrine system and the microbiome.

§ 5903. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Advisory committee." The Advisory Committee on Healthy Outdoor Public Grounds established under section 5912 (relating to advisory committee).

"Commonwealth agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Department." The Department of Health of the Commonwealth.

"Municipality." A county, city, borough, incorporated town, township, home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government that may be created or authorized by statute.

"Organic land management." A problem-solving strategy that:

(1) Prioritizes the following:

(i) A natural and organic approach to turfgrass and landscape management.

(ii) The care of trees and shrubs without the use of pesticides.

(2) Mandates the use of natural and organic practices that promote healthy soil and plant life as a preventative measure against the onset of turf and landscape pest problems.

"Pesticide." As follows:

(1) A substance or mixture of substances intended for
preventing, destroying, repelling or mitigating a plant, insect or fungal pest.

(2) The term includes a herbicide, insecticide or fungicide.

"Public grounds." As follows:

(1) Publicly owned land of this Commonwealth or a municipality, including any of the following:

(i) A park.
(ii) A trail.
(iii) Open space.
(iv) A lawn.
(v) A recreation center.
(vi) A playground.
(vii) A sports or athletic field.
(viii) A golf course.
(ix) Other real property.

(2) The term does not include the following:

(i) The interior spaces of a building.
(ii) A parking lot.
(iii) Land or other real estate that is not open for use by the general public.

"Synthetic herbicide." As follows:

(1) A herbicide containing a synthetic substance, including any material or agent containing a synthetic substance that harms, adversely affects or kills a plant.

(2) The term does not include a synthetic herbicide that is allowed on the National List of Allowed Substances under the Organic Foods Production Act of 1990 (Public Law 101-624, 104 Stat. 3935), as published by the National Organic Standards Board in accordance with 7 CFR 205.601 (relating to
synthetic substances allowed for use in organic crop production).

"Synthetic substance." As follows:

(1) A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal or mineral sources.

(2) The term shall not apply to a substance created by naturally occurring biological processes.

SUBCHAPTER B

OVERSIGHT

Sec.

5911. Administration.

5912. Advisory committee.

5913. Prohibited use of synthetic herbicides.

5914. Advance posting of notice of anticipated pesticide use.

5915. Organic land management.

5916. Reports on pesticide usage.

5917. Rules and regulations.

§ 5911. Administration.

The department, in consultation and coordination with the Department of Agriculture, the Department of Environmental Protection and other relevant Commonwealth agencies, shall administer the provisions of this chapter.

§ 5912. Advisory committee.

(a) Establishment.--The department shall establish the Advisory Committee on Healthy Outdoor Public Grounds.

(b) Composition.--The advisory committee shall consist of individuals with knowledge and expertise in matters involving public health, agriculture, environmental protection and
recreation.

(c) Powers and duties.--The advisory committee shall:

(1) Consult with and provide technical assistance for Commonwealth agencies and municipalities regarding the administration of this chapter.

(2) Evaluate and make recommendations to the department regarding waivers requested under section 5913(b) (relating to prohibited use of synthetic herbicides).

§ 5913. Prohibited use of synthetic herbicides.

(a) General rule.--Except as provided in subsection (b), a person may not use or apply synthetic herbicides on public grounds.

(b) Exception.--Upon request for a waiver by an applicant, the department may authorize the use or application of a synthetic herbicide on public grounds after receiving a recommendation from the advisory committee, if the department determines the following criteria are met regarding the use or application:

(1) The use or application is appropriate to address an emergency that:

   (i) threatens the public health, safety or welfare of persons; or

   (ii) involves an invasive species that threatens the overall health of the ecosystem and is necessary after organic methods prove insufficient.

(2) The applicant has carefully evaluated all alternative methods and materials, including nonherbicide management tactics and nonsynthetic herbicides, and is requesting to use the minimum amount of the least toxic and most effective herbicide necessary.
(3) The person using or applying the synthetic herbicide will, to the greatest extent practical, minimize the impact of the application on abutting properties.

(4) The authorized use or application of the synthetic herbicide will not be detrimental to the public's health, safety or welfare.

(c) Application process.--

(1) The department shall develop an application process for a waiver under subsection (b) that addresses the criteria specified under subsection (b)(1), (2), (3) and (4).

(2) The application shall be posted on the publicly accessible Internet website of the department.

§ 5914. Advance posting of notice of anticipated pesticide use.

Each Commonwealth agency and municipality shall post signs prominently providing notice in advance of the application of pesticides. The following apply:

(1) The notice must include:

   (i) The date that the pesticide application will be occurring.

   (ii) A contact number for questions.

(2) The signage must be posted 48 hours prior to the pesticide application and remain for 72 hours after the pesticide application.

§ 5915. Organic land management.

(a) Development.--The Department of Environmental Protection, in consultation with the Department of Agriculture, shall develop an organic land management plan for the Commonwealth, which shall be used by Commonwealth agencies and municipalities as the method of choice to understand, prevent and control actual and potential plants considered to be noxious
weeds.

(b) Components.--The essential practices of organic land management shall include:

   (1) Regular soil testing.

   (2) The addition of approved soil amendments as necessitated by soil test results, following recommendations by appropriate farming and agricultural associations, as determined by the Department of Environmental Protection in consultation with the Department of Agriculture.

   (3) The selection of plantings using criteria of:

      (i) Hardiness and suitability to native conditions.

      (ii) Drought, disease and pest resistance.

      (iii) Ease of maintenance.

   (4) Modification of outdoor management practices to comply with organic horticultural science, including scouting, monitoring, watering, mowing, pruning, proper spacing and mulching.

   (5) The use of physical controls, including hand-weeding and over-seeding.

   (6) The use of biological controls, including the introduction of natural predators, and enhancement of the environment of a pest's natural enemies.

   (7) Through observation, determining the most effective treatment time based on pest biology and other variables, such as weather and local conditions.

   (8) Eliminating pest habitats and conditions supportive of pest population increases.

§ 5916. Reports on pesticide usage.

   (a) Required notice.--Beginning six months after the effective date of this subsection, each Commonwealth agency and
municipality shall:

(1) Report and update information regarding the usage of any kind of pesticide to the department.

(2) Post the information under paragraph (1) on the publicly accessible Internet website of the Commonwealth agency or municipality.

(b) Contents.--Each required report and update under subsection (a) must include the following information:

(1) The common name of the pesticide.

(2) The trade name of the pesticide.

(3) The registration number designated by the United States Environmental Protection Agency.

(4) The amount of pesticide applied.

(5) The method of application.

(6) The location where the pesticide was applied.

(7) The square footage of area where the pesticide was applied.

(8) The name of the person applying the pesticide.

(9) The name of the entity employing or directing the person applying the pesticide.

(10) Whether the person applying the pesticide posted any notices informing the public that the pesticide was applied.

§ 5917. Rules and regulations.

The department shall promulgate or adopt any rules or regulations necessary to implement the provisions of this chapter.

Section 2. The prohibition under 35 Pa.C.S. § 5913(a) shall apply as follows:

(1) For public grounds in the nature of a golf course or
a sports or athletic field, the prohibition shall apply on or after 36 months after the effective date of this paragraph.

(2) For public grounds other than a golf course or a sports or athletic field, the prohibition shall apply on or after 18 months after the effective date of this paragraph.

Section 3. This act shall take effect in 60 days.