

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 563 Session of  
2015

---

INTRODUCED BY ALLOWAY, AUMENT AND BLAKE, MARCH 11, 2015

---

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MARCH 11, 2015

---

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, in fertilizer, further providing for labels and  
3 labeling and for disposition of funds; and providing for  
4 fertilizer for use on turf.

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

7 Section 1. Section 6705 of Title 3 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a subsection to read:  
9 § 6705. Labels and labeling.

10 \* \* \*

11 (a.1) Prohibited label.--No fertilizer may be labeled for  
12 the purpose of melting snow or ice.

13 \* \* \*

14 Section 2. Section 6725 of Title 3 is amended to read:  
15 § 6725. Disposition of funds.

16 Moneys received from license fees, registration fees,  
17 inspection fees, fines and penalties shall be paid into a  
18 special restricted account in the General Fund to be known as  
19 the Agronomic Regulatory Account. All moneys in the Agronomic

1 Regulatory Account are hereby appropriated to the department for  
2 the purposes of this chapter and Chapters 68 (relating to  
3 fertilizer for use on turf), 69 (relating to soil and plant  
4 amendment) and 71 (relating to seed).

5 Section 3. Title 3 is amended by adding a chapter to read:

6 CHAPTER 68

7 FERTILIZER FOR USE ON TURF

8 Sec.

9 6801. Definitions.

10 6802. Applicability.

11 6803. Fertilizer sold to consumers.

12 6804. Labeling.

13 6805. Application of fertilizer to turf.

14 6806. Certification of professional fertilizer applicators.

15 6807. Cooperation with other entities.

16 6808. Preemption.

17 6809. Rules and regulations.

18 6810. Enforcement and penalties.

19 6811. Disposition of funds.

20 § 6801. Definitions.

21 The following words and phrases when used in this chapter  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 "Agricultural production." The production for commercial  
25 purposes of crops, livestock and livestock products, including  
26 the processing or retail marketing of such crops, livestock or  
27 livestock products if more than 50% of such processed or  
28 merchandised products are produced by the farm operator. The  
29 term includes use of land that is devoted to and meets the  
30 requirements of and qualifications for payments or other

1 compensation pursuant to a soil conservation program under an  
2 agreement with an agency of the Federal Government.

3 "Bulk fertilizer." A fertilizer distributed in a nonpackaged  
4 form.

5 "By-product." Municipal waste or residual waste as defined  
6 in the act of July 7, 1980 (P.L.380, No.97), known as the Solid  
7 Waste Management Act, that contains a plant nutrient and meets  
8 all the applicable regulations of the Department of  
9 Environmental Protection.

10 "Consumer." A person who purchases fertilizer for the end  
11 use of the product.

12 "Crops, livestock and livestock products." Include, but are  
13 not limited to:

14 (1) Field crops, including corn, wheat, oats, rye,  
15 barley, hay, potatoes and dry beans.

16 (2) Fruits, including apples, peaches, grapes, cherries  
17 and berries.

18 (3) Vegetables, including tomatoes, snap beans, cabbage,  
19 carrots, beets, onions and mushrooms.

20 (4) Horticultural specialties, including nursery stock  
21 ornamental shrubs, ornamental trees and flowers.

22 (5) Livestock and livestock products, including cattle,  
23 sheep, hogs, goats, horses, poultry, furbearing animals,  
24 milk, eggs and furs.

25 (6) Timber, wood and other wood products derived from  
26 trees.

27 (7) Aquatic plants and animals and their products.

28 "Distribute." To import, consign, offer for sale, sell,  
29 barter or otherwise supply fertilizer in this Commonwealth.

30 "Enhanced-efficiency fertilizer." A fertilizer product with

1 characteristics that allow increased plant uptake and reduced  
2 potential of nutrient losses to the environment, such as gaseous  
3 losses, leaching or runoff, when compared to an appropriate  
4 reference product.

5 "Fertilizer." Any substance, including fertilizer material,  
6 mixed fertilizer, specialty fertilizer and bulk fertilizer,  
7 containing one or more recognized plant nutrients which is used  
8 for its plant nutrient content and which is designed for use or  
9 claimed to have value in promoting plant growth, except  
10 unmanipulated animal and vegetable manure, agricultural liming  
11 materials, wood ashes and other materials exempted by regulation  
12 by the Department of Agriculture.

13 "Fertilizer material." A fertilizer which:

14 (1) contains only one of the following primary plant  
15 nutrients:

16 (i) nitrogen;

17 (ii) phosphate; or

18 (iii) potash;

19 (2) has 85% or more of its plant nutrient content  
20 present in the form of a single chemical compound; or

21 (3) is derived from a plant or animal residue, by-  
22 product or coproduct as defined in regulation or natural  
23 material deposit which has been processed in such a way that  
24 its content of plant nutrients has not been materially  
25 changed except by purification and concentration.

26 "Impervious surface." A structure, surface or improvement  
27 that reduces or prevents absorption of water into land and  
28 includes porous paving, paver blocks, gravel, crushed stone,  
29 decks, patios, elevated structures and other similar structures,  
30 surfaces or improvements.

1 "Intermittent stream." A body of water flowing in a channel  
2 or bed composed primarily of substrates associated with flowing  
3 water which, during periods of the year, is below the water  
4 table and obtains its flow from both surface runoff and  
5 groundwater discharges.

6 "Label." The display of all written, printed or graphic  
7 matter upon the immediate container or a statement accompanying  
8 a fertilizer.

9 "Labeling." All written, printed or graphic matter upon or  
10 accompanying any fertilizer or advertisements, brochures,  
11 posters or electronic media used in promoting the distribution  
12 of fertilizer.

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

24 "Organic-base fertilizer." A mixed fertilizer where:

25 (1) More than half of the fertilizer materials are  
26 organic.

27 (2) More than half of the sum of the guaranteed primary  
28 nutrient percentages are derived from organic materials.

29 "Percent" or "percentage." A percentage by weight.

30 "Perennial stream." A body of water flowing in a channel or

1 bed composed primarily of substrates associated with flowing  
2 waters and capable, in the absence of pollution or other manmade  
3 stream disturbances, of supporting bottom-dwelling aquatic  
4 animals.

5 "Person." An individual, partnership, association, firm,  
6 corporation or any other legal entity.

7 "Plant nutrient." Any of the following:

- 8 (1) primary nutrient;
- 9 (2) secondary nutrient; and
- 10 (3) micronutrient.

11 "Primary nutrient." Any of the following:

- 12 (1) total nitrogen;
- 13 (2) available phosphate; and
- 14 (3) soluble potash.

15 "Professional fertilizer applicator." An individual who  
16 applies fertilizer for hire, including, but not limited to, an  
17 employee of a government entity or golf course who applies  
18 fertilizer within the scope of employment. The term does not  
19 include an individual who applies fertilizer only for the  
20 purpose of agricultural production or sod produced for  
21 commercial sale.

22 "Readily available nitrogen." Water soluble nitrogen in  
23 either ammoniacal, urea or nitrate form that does not have  
24 enhanced-efficiency properties.

25 "Secondary nutrient." Any of the following:

- 26 (1) calcium;
- 27 (2) magnesium; and
- 28 (3) sulfur.

29 "Slow or controlled release." A fertilizer containing a  
30 plant nutrient in a form that delays its availability for plant

1 uptake and use after application or which extends its  
2 availability to the plant significantly longer than a reference  
3 rapidly available nutrient fertilizer, such as ammonium nitrate  
4 or urea, ammonium phosphate or potassium chloride.

5 "Soil test." A chemical, physical or biological procedure  
6 that estimates the suitability of the soil to support plant  
7 growth.

8 "Specialty fertilizer." A fertilizer distributed for nonfarm  
9 use and fertilizer material primarily intended to supply plant  
10 nutrients other than nitrogen, phosphate or potash.

11 "Turf." Land, including, but not limited to, residential  
12 property, golf courses and publicly owned land, that is planted  
13 in closely mowed, managed grass, except for land used for  
14 agricultural production.

15 "Under the direct supervision of." Acting with the  
16 instructions and under the control of a certified applicator who  
17 is responsible for the actions of the technician and who is  
18 available when needed.

19 § 6802. Applicability.

20 This chapter shall not apply to fertilizer applied for the  
21 purposes of agricultural production or sod produced for  
22 commercial sale.

23 § 6803. Fertilizer sold to consumers.

24 (a) Contents.--Fertilizer sold at retail and intended for  
25 use on turf shall:

26 (1) contain no more than 0.7 pounds of readily available  
27 nitrogen and no more than 0.9 pounds of total nitrogen per  
28 1,000 square feet when applied pursuant to the instructions  
29 on the container;

30 (2) consist of at least 20% enhanced-efficiency nitrogen

1 of the total nitrogen; and

2 (3) contain no phosphorus, except when specifically  
3 labeled for the following purpose:

4 (i) providing nutrients to specific soils and target  
5 vegetation as determined to be necessary pursuant to a  
6 soil test performed no more than three years prior to  
7 application;

8 (ii) establishing vegetation for the first time;

9 (iii) reestablishing or repairing a turf area; or

10 (iv) as an enhanced-efficiency phosphorus  
11 fertilizer, natural organic fertilizer, organic-base  
12 fertilizer or fertilizer derived from a by-product, as  
13 long as the application rate does not exceed 0.25 pounds  
14 of phosphorus per 1,000 square feet per application, with  
15 a maximum total annual application of 0.5 pounds of  
16 phosphorus per 1,000 square feet, when applied pursuant  
17 to the instructions on the container.

18 (b) Turf.--Notwithstanding the limits of subsection (a) (1),  
19 fertilizer sold at retail and intended for use on turf may  
20 contain up to 2.5 pounds of enhanced-efficiency nitrogen  
21 fertilizer per 1,000 square feet when applied pursuant to the  
22 instructions on the container, provided the monthly release rate  
23 does not exceed 0.7 pounds of nitrogen per 1,000 square feet.

24 § 6804. Labeling.

25 (a) Mandatory label.--In addition to any other requirements  
26 under Chapter 67 (relating to fertilizer), a container of  
27 fertilizer sold at retail and intended for use on turf shall  
28 include the following statement on its label in a legible and  
29 conspicuous form:

30 "Do not apply near water, storm drains or drainage



1 ditches. Do not apply if heavy rain is expected. Apply  
2 this product only to your lawn and sweep any product that  
3 lands on the driveway, sidewalk or street back onto your  
4 lawn."

5 (b) Prohibited label.--No fertilizer material may be labeled  
6 for the purpose of melting snow or ice.

7 § 6805. Application of fertilizer to turf.

8 (a) Restrictions.--No person or professional fertilizer  
9 applicator may:

10 (1) apply fertilizer intended for use on turf to an  
11 impervious surface. Any fertilizer inadvertently applied to  
12 an impervious surface shall be removed from the impervious  
13 surface;

14 (2) apply fertilizer containing phosphorus or nitrogen  
15 to turf at any time when the ground is frozen to a depth of  
16 at least two inches or snow covered;

17 (3) apply fertilizer containing phosphorus or nitrogen  
18 to turf before March 1 or after November 15 in any calendar  
19 year, except fertilizer containing no more than 0.5 pounds of  
20 total nitrogen per 1,000 square feet may be applied by a  
21 professional fertilizer applicator to turf after November 15  
22 but before March 1 in a calendar year;

23 (4) apply fertilizer within five feet of the top of a  
24 bank of any perennial or intermittent stream, except that  
25 fertilizer may be applied to the top of the bank of any  
26 perennial or intermittent stream if applied using a drop  
27 spreader, rotary spreader with deflector, targeted spray  
28 liquid or other available targeted application technology.  
29 The establishment of setbacks for fertilizer application  
30 under this paragraph shall not preclude the establishment or

1 applicability of or required compliance with any other  
2 environmental standard established under any other Federal or  
3 State law, rule or regulation; or

4 (5) apply fertilizer for the purpose of melting snow or  
5 ice.

6 (b) Application rates.--Except as provided under subsections  
7 (c), (d) and (e), at least 20% of the total nitrogen applied per  
8 1,000 square feet shall be enhanced-efficiency nitrogen and  
9 application rates shall:

10 (1) not exceed 0.7 pounds of readily available nitrogen  
11 per 1,000 square feet per application;

12 (2) not exceed 0.9 pounds of total nitrogen per 1,000  
13 square feet per application; and

14 (3) contain zero phosphorus, except when specifically  
15 labeled for the following purposes:

16 (i) providing nutrients to specific soils and target  
17 vegetation as determined to be necessary pursuant to a  
18 soil test performed no more than three years prior to the  
19 application;

20 (ii) establishing vegetation for the first time;

21 (iii) reestablishing or repairing a turf area; or

22 (iv) as an enhanced-efficiency phosphorus  
23 fertilizer, natural organic fertilizer, organic-base  
24 fertilizer or fertilizer derived from a by-product.

25 (c) Professional fertilizer applicators.--A professional  
26 fertilizer applicator shall not be required to use enhanced-  
27 efficiency nitrogen fertilizer. Except as provided under  
28 subsections (d) and (e), no professional fertilizer applicator  
29 may apply fertilizer at a rate exceeding:

30 (1) 0.7 pounds of readily available nitrogen per 1,000

1 square feet per application;

2 (2) 0.9 pounds of total nitrogen per 1,000 square feet  
3 per application; and

4 (3) zero phosphorus, except when the professional  
5 fertilizer applicator:

6 (i) determines that the fertilizer is necessary for  
7 the specific soils and target vegetation pursuant to a  
8 soil test performed no more than three years before the  
9 application, and the application is in a manner  
10 consistent with generally accepted best management  
11 practices;

12 (ii) is establishing vegetation for the first time  
13 in a manner consistent with generally accepted best  
14 management practices;

15 (iii) is reestablishing or repairing a turf area in  
16 a manner consistent with generally accepted best  
17 management practices; or

18 (iv) is utilizing an enhanced-efficiency phosphorus  
19 fertilizer, natural organic fertilizer, organic-base  
20 fertilizer or fertilizer derived from a by-product.

21 (d) Enhanced-efficiency nitrogen fertilizer.--

22 Notwithstanding the provisions of subsections (b) and (c),  
23 enhanced-efficiency nitrogen fertilizer may be applied at a rate  
24 not to exceed 2.5 pounds of nitrogen per application with a  
25 monthly release rate not to exceed 0.7 pounds of nitrogen per  
26 1,000 square feet.

27 (e) Enhanced-efficiency phosphorus fertilizer, natural  
28 organic fertilizer, organic-base fertilizer and fertilizer  
29 derived from a by-product.--

30 (1) Except as provided in paragraph (2) and

1 notwithstanding the provisions of subsections (b) and (c), an  
2 enhanced-efficiency phosphorus fertilizer, natural organic  
3 fertilizer, organic-base fertilizer or fertilizer derived  
4 from a by-product containing phosphorus may be applied at a  
5 rate indicated by a soil test performed not more than three  
6 years before the application date or at a rate not to exceed  
7 0.25 pounds of phosphorus per 1,000 square feet, with a  
8 maximum total annual application of 0.5 pounds of phosphorus  
9 per 1,000 square feet per year.

10 (2) Fertilizer products containing phosphorus may not be  
11 applied to turf when a soil test performed not more than  
12 three years before the application date indicates a soil  
13 phosphorus level equal to or greater than 200 ppm according  
14 to a Mehlich 3 test or equivalent.

15 § 6806. Certification of professional fertilizer applicators.

16 (a) Certification.--

17 (1) No professional fertilizer applicator may apply  
18 fertilizer to turf without first completing a certification  
19 program and receiving appropriate certification pursuant to  
20 subsection (c), unless acting under the supervision of a  
21 certified professional fertilizer applicator as provided  
22 under subsection (b).

23 (2) A certification issued under subsection (c) shall be  
24 valid for three years, subject to the limitations of section  
25 6810(c) (relating to enforcement and penalties).

26 (b) Supervisory employees.--A person or entity employing  
27 professional fertilizer applicators shall have at least one  
28 supervisory employee who holds a valid certificate present or  
29 immediately accessible to employees applying fertilizer at all  
30 hours of operation.

1 (c) Professional fertilizer application program.--

2 (1) The department shall:

3 (i) establish a professional fertilizer application  
4 certification program; or

5 (ii) designate one or more professional fertilizer  
6 application certification programs provided by a third  
7 party, such as a university, industry association,  
8 employer of professional fertilizer applicators or other  
9 continuing education provider, as an approved  
10 professional fertilizer application certification program  
11 for purposes of this section.

12 (2) Any program established or designated under this  
13 subsection shall include, but not be limited to, information  
14 on the following subject areas:

15 (i) the proper use and calibration of fertilizer  
16 application equipment;

17 (ii) the hazards involved in and the environmental  
18 impact of applying fertilizer, including nutrient  
19 pollution, to perennial or intermittent streams;

20 (iii) all applicable Federal and State laws, rules  
21 and regulations;

22 (iv) the correct interpretation of fertilizer  
23 labeling information; and

24 (v) the generally accepted best management practices  
25 for fertilizer use on turf, including the appropriate  
26 time to wait before applying fertilizer when rain is  
27 forecast and the appropriate time to apply fertilizer  
28 when soils are wet and the potential for fertilizer  
29 movement offsite exists.

30 (d) Program fees and continuing education.--In administering

1 a professional fertilizer application certification program:

2 (1) The department, acting pursuant to subsection (c)(1)  
3 (i), may:

4 (i) require payment, not to exceed \$50, for a  
5 certificate of competency to cover costs associated with  
6 the administration of this chapter; and

7 (ii) require payment, not to exceed \$25, for  
8 recertification to cover costs associated with the  
9 administration of this chapter.

10 (2) A third party, acting pursuant to subsection (c)(1)  
11 (ii), may:

12 (i) require payment, not to exceed \$50, for a  
13 certificate of competency to cover costs associated with  
14 the administration of this chapter; and

15 (ii) require payment, not to exceed \$25, for a  
16 recertification to cover costs associated with the  
17 administration of this chapter.

18 (e) Program duties of department.--In establishing or  
19 designating a professional fertilizer application certification  
20 program under subsection (c), the department shall, to the  
21 maximum extent practicable, align education and training  
22 opportunities for commercial applicators of pesticides under  
23 section 16.1 of the act of March 1, 1974 (P.L.90, No.24), known  
24 as the Pennsylvania Pesticide Control Act of 1973.

25 (f) List of certified professional fertilizer applicators.--  
26 The department shall publish and maintain a list of all  
27 certified professional fertilizer applicators and make the list  
28 available on its publicly accessible Internet website.

29 § 6807. Cooperation with other entities.

30 The department may cooperate with and enter into agreements

1 with agencies of the Federal Government, agencies and political  
2 subdivisions of the Commonwealth or any other state or a  
3 nongovernmental entity in order to carry out the purpose and  
4 provisions of this chapter.

5 § 6808. Preemption.

6 This chapter and its provisions are of Statewide concern, and  
7 no political subdivision shall have the authority to adopt or  
8 enforce any ordinance, regulation or resolution which is in  
9 conflict with or differs from this chapter.

10 § 6809. Rules and regulations.

11 The department shall promulgate and enforce rules and  
12 regulations necessary for the administration and implementation  
13 of this chapter. To implement section 6806(c) (relating to  
14 certification of professional fertilizer applicators), the  
15 department shall promulgate rules and regulations no later than  
16 two years from the effective date of this section.

17 § 6810. Enforcement and penalties.

18 (a) Civil penalties.--

19 (1) In addition to any other remedy available at law or  
20 in equity for a violation of this chapter, the department  
21 may:

22 (i) Except as otherwise provided in subparagraph  
23 (ii), assess a civil penalty of not more than \$50 upon  
24 any person for each violation of a provision of this  
25 chapter.

26 (ii) Assess a civil penalty of not more than \$2,500  
27 upon any person for each violation of section 6803  
28 (relating to fertilizer sold to consumers) or 6804  
29 (relating to labeling).

30 (2) The civil penalty assessed shall be payable to the

1 department and shall be collectible in any manner provided by  
2 law for the collection of debt.

3 (3) No civil penalty may be assessed unless the person  
4 assessed the penalty has been given notice and an opportunity  
5 for a hearing on the assessment in accordance with the  
6 provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice  
7 and procedure of Commonwealth agencies) and 7 Subch. A  
8 (relating to judicial review of Commonwealth agency action).

9 (b) De minimis violations.--Nothing in this chapter may be  
10 construed as requiring the department to report a violation and  
11 to institute penalties as a result of de minimis violations of  
12 this chapter when the department concludes that the public  
13 interest will be best served by a suitable notice of warning in  
14 writing.

15 (c) Suspension or revocation of certification.--The  
16 department may suspend or revoke a certification under section  
17 6806 (relating to certification of professional fertilizer  
18 applicators) for a violation of this chapter.

19 § 6811. Disposition of funds.

20 Money received from fees collected pursuant to section  
21 6806(d)(1) (relating to certification of professional fertilizer  
22 applicators), fines and penalties under this chapter shall be  
23 paid into the Agronomic Regulatory Account established under  
24 section 6725 (relating to disposition of funds).

25 Section 4. This act shall take effect as follows:

26 (1) The addition of 3 Pa.C.S. §§ 6801, 6803, 6804 and  
27 6805 shall take effect in two years.

28 (2) The addition of 3 Pa.C.S. § 6806(a) and (b) shall  
29 take effect one year after the promulgation of regulations  
30 made under 3 Pa.C.S. § 6806(c).



1           (3) The remainder of this act shall take effect  
2    immediately.