

AN ACT concerning agriculture.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Lawn Care Products Application and Notice Act is amended by changing Sections 2 and 7 and adding Sections 5a and 9 as follows:

(415 ILCS 65/2) (from Ch. 5, par. 852)

Sec. 2. Definitions.

For purposes of this Act:

"Application" means the spreading of lawn care products on a lawn.

"Applicator for hire" means any person who makes an application of lawn care products to a lawn or lawns for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer and includes those licensed by the Department as licensed commercial applicators, commercial not-for-hire applicators, licensed public applicators, certified applicators and licensed operators and those otherwise subject to the licensure provisions of the Illinois Pesticide Act, as now or hereafter amended.

"Buffer" means an area adjacent to a body of water that is left untreated with any fertilizer.

"Day care center" means any facility that qualifies as a "day care center" under the Child Care Act of 1969.

"Department" means the Illinois Department of Agriculture.

"Department of Public Health" means the Illinois Department of Public Health.

"Facility" means a building or structure and appurtenances thereto used by an applicator for hire for storage and handling of pesticides or the storage or maintenance of pesticide application equipment or vehicles.

"Fertilizer" means any substance containing nitrogen, phosphorus or potassium or other recognized plant nutrient or compound, which is used for its plant nutrient content.

"Golf course" means an area designated for the play or practice of the game of golf, including surrounding grounds, trees, ornamental beds and the like.

"Golf course superintendent" means any person entrusted with and employed for the care and maintenance of a golf course.

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes pavement, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

"Lawn" means land area covered with turf kept closely mown or land area covered with turf and trees or shrubs. The term does not include (1) land area used for research for

agricultural production or for the commercial production of turf, (2) land area situated within a public or private right-of-way, or (3) land area which is devoted to the production of any agricultural commodity, including, but not limited to plants and plant parts, livestock and poultry and livestock or poultry products, seeds, sod, shrubs and other products of agricultural origin raised for sale or for human or livestock consumption.

"Lawn care products" means fertilizers or pesticides applied or intended for application to lawns.

"Lawn repair products" means seeds, including seeding soils, that contain or are coated with or encased in fertilizer material.

"Person" means any individual, partnership, association, corporation or State governmental agency, school district, unit of local government and any agency thereof.

"Pesticide" means any substance or mixture of substances defined as a pesticide under the Illinois Pesticide Act, as now or hereafter amended.

"Plant protectants" means any substance or material used to protect plants from infestation of insects, fungi, weeds and rodents, or any other substance that would benefit the overall health of plants.

"Soil test" means a chemical and mechanical analysis of soil nutrient values and pH level as it relates to the soil and development of a lawn.

"Spreader" means any commercially available fertilizing device used to evenly distribute fertilizer material.

"Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

"0% phosphate fertilizer" means a fertilizer that contains no more than 0.67% available phosphoric acid (P₂O₅).

(Source: P.A. 96-424, eff. 8-13-09.)

(415 ILCS 65/5a new)

Sec. 5a. Fertilizer; application restrictions.

(a) No applicator for hire shall:

(1) Apply phosphorus-containing fertilizer to a lawn, except as demonstrated to be necessary by a soil test that establishes that the soil is lacking in phosphorous when compared against the standard established by the University of Illinois. The soil test required under this paragraph (1) shall be conducted no more than 36 months before the intended application of the fertilizer and by a soil testing laboratory that has been identified by the University of Illinois as an acceptable laboratory for soil testing. However, a soil test shall not be required under this paragraph (1) if the fertilizer to be applied is a 0% phosphate fertilizer or the fertilizer is being applied to establish a lawn in the first 2 growing seasons.

(2) Apply fertilizer to an impervious surface, except where the application is inadvertent and fertilizer is

swept or blown back into the target area or returned to either its original or another appropriate container for reuse.

(3) Apply fertilizer using a spray, drop, or rotary spreader with a deflector within a 3 foot buffer of any water body, except that when this equipment is not used, fertilizer may not be applied within a 15 foot buffer of any water body.

(4) Apply fertilizer at any time when the lawn is frozen or saturated. For the purposes of this paragraph (4), a lawn is frozen when its root system is frozen (typically 3 or 4 inches down), and a lawn is saturated when it bears ample evidence of being or having been inundated by standing water.

(b) This Section does not apply to the application of fertilizer on property used in the operation of a commercial farm, lands classified as agricultural lands, or golf courses.

(c) This Section does not apply to the application of lawn repair products.

(d) Paragraph (1) of subsection (a) of this Section does not apply to the application of animal or vegetable manure that is ground, pelletized, mechanically dried, packaged, or supplemented with plant nutrients or other substances other than phosphorus.

Sec. 7. When an administrative hearing is held by the Department, the hearing officer, upon determination of any violation of this Act or rule or regulation, shall either refer the violation to the States Attorney's office in the county where the alleged violation occurred for prosecution or levy the following administrative monetary penalties:

- (a) a penalty of \$250 ~~\$100~~ for a first violation;
- (b) a penalty of \$500 ~~\$200~~ for a second violation; and
- (c) a penalty of \$1,000 ~~\$500~~ for a third or subsequent violation.

The penalty levied shall be collected by the Department, and all penalties collected by the Department under this Act shall be deposited into the Pesticide Control Fund. Any penalty not paid within 60 days of notice from the Department shall be submitted to the Attorney General's office for collection.

Upon prosecution by a State's Attorney, a violation of this Act or rules shall be a petty offense subject to a fine of \$250 ~~\$100~~ for a first offense, a fine of \$500 ~~\$200~~ for a second offense and a fine of \$1,000 ~~\$500~~ for a third or subsequent offense.

(Source: P.A. 86-358; 87-1033.)

(415 ILCS 65/9 new)

Sec. 9. Home rule.

(a) On and after the effective date of this amendatory Act of the 96th General Assembly, a unit of local government may

not regulate fertilizer in a manner more restrictive than the regulation of fertilizer by the State under this Act, unless the Department of Agriculture determines that a proposed ordinance of a unit of local government is reasonable under the specific circumstances based on standards that the Department shall adopt by rule. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(b) Subsection (a) of this Section shall not apply to any local ordinance or regulation in effect before the effective date of this amendatory Act of the 96th General Assembly.

(415 ILCS 65/8 rep.)

Section 10. The Lawn Care Products Application and Notice Act is amended by repealing Section 8.

Section 99. Effective date. This Act takes effect July 1, 2010.