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LRB096 20722 JDS 37751 a

1 AMENDMENT TO HOUSE BILL 6099

2 AMENDMENT NO. _____. Amend House Bill 6099 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Lawn Care Products Application and Notice
5 Act is amended by changing Sections 2 and 7 and adding Sections
6 5a, 5b, and 9 as follows:

7 (415 ILCS 65/2) (from Ch. 5, par. 852)

8 Sec. 2. Definitions.

9 For purposes of this Act:

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

12 "Applicator for hire" means any person who makes an
13 application of lawn care products to a lawn or lawns for
14 compensation, including applications made by an employee to
15 lawns owned, occupied or managed by his employer and includes
16 those licensed by the Department as licensed commercial

1 applicators, commercial not-for-hire applicators, licensed
2 public applicators, certified applicators and licensed
3 operators and those otherwise subject to the licensure
4 provisions of the Illinois Pesticide Act, as now or hereafter
5 amended.

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

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

10 "Department" means the Illinois Department of Agriculture.

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

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

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

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

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

26 "Impervious surface" means any structure, surface, or

1 improvement that reduces or prevents absorption of stormwater
2 into land, and includes porous paving, paver blocks, gravel,
3 crushed stone, decks, patios, elevated structures, and other
4 similar structures, surfaces, or improvements.

5 "Lawn" means land area covered with turf kept closely mown
6 or land area covered with turf and trees or shrubs. The term
7 does not include (1) land area used for research for
8 agricultural production or for the commercial production of
9 turf, (2) land area situated within a public or private
10 right-of-way, or (3) land area which is devoted to the
11 production of any agricultural commodity, including, but not
12 limited to plants and plant parts, livestock and poultry and
13 livestock or poultry products, seeds, sod, shrubs and other
14 products of agricultural origin raised for sale or for human or
15 livestock consumption.

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

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

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

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

1 health of plants.

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

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

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

9 "0% phosphate fertilizer" means a fertilizer that contains
10 no more than 0.67% available phosphoric acid (P₂O₅).

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

12 (415 ILCS 65/5a new)

13 Sec. 5a. Fertilizer; application restrictions.

14 (a) No applicator for hire shall:

15 (1) Apply phosphorus-containing fertilizer to a lawn,
16 except as demonstrated to be necessary by a soil test that
17 establishes that the soil is lacking in phosphorous when
18 compared against the standard established by the
19 University of Illinois. The soil test required under this
20 paragraph (1) shall be conducted no more than 36 months
21 before the intended application of the fertilizer and by a
22 soil testing laboratory that has been identified by the
23 University of Illinois, or approved by the Department, as
24 an acceptable laboratory for soil testing. However, a soil
25 test shall not be required under this paragraph (1) if the

1 fertilizer to be applied is a 0% phosphate fertilizer or
2 the fertilizer is being applied to establish a lawn in the
3 first growing season.

4 (2) Apply fertilizer to an impervious surface, except
5 where the application is inadvertent and fertilizer is
6 swept or blown back into the target area or returned to
7 either its original or another appropriate container for
8 reuse.

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

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

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

23 (415 ILCS 65/5b new)

24 Sec. 5b. Company locations that employ applicators for
25 hire; registration.

1 (a) Each company location that employs an applicator for
2 hire to apply fertilizer to lawns must be registered with the
3 Department on forms provided by the Director of Agriculture,
4 and must pay a \$100 annual registration fee. The late
5 application fee shall be \$20 in addition to the normal fee.
6 Each company location that employs an applicator for hire to
7 apply fertilizer to lawns shall be assessed a \$5 fee for a
8 duplicate registration. Each registration shall expire on
9 December 31 of each year.

10 (b) The Director may prescribe, by rule, requirements for
11 the registration of each company location that employs
12 applicators for hire to apply fertilizer to lawns.

13 (415 ILCS 65/7) (from Ch. 5, par. 857)

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

20 (a) a penalty of \$250 ~~\$100~~ for a first violation;

21 (b) a penalty of \$500 ~~\$200~~ for a second violation; and

22 (c) a penalty of \$1,000 ~~\$500~~ for a third or subsequent
23 violation.

24 The penalty levied shall be collected by the Department,
25 and all penalties collected by the Department under this Act

1 shall be deposited into the Pesticide Control Fund. Any penalty
2 not paid within 60 days of notice from the Department shall be
3 submitted to the Attorney General's office for collection.

4 Upon prosecution by a State's Attorney, a violation of this
5 Act or rules shall be a petty offense subject to a fine of \$250
6 ~~\$100~~ for a first offense, a fine of \$500 ~~\$200~~ for a second
7 offense and a fine of \$1,000 ~~\$500~~ for a third or subsequent
8 offense.

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

10 (415 ILCS 65/9 new)

11 Sec. 9. Home rule.

12 (a) The regulation of the application of fertilizer to a
13 lawn by an applicator for hire and the regulation of the sale
14 of fertilizer are exclusive powers and functions of the State.
15 A unit of local government, including a home rule unit, may not
16 regulate the application of fertilizer to a lawn by an
17 applicator for hire or the sale of fertilizer. This Section is
18 a denial and limitation of home rule powers and functions under
19 subsection (h) of Section 6 of Article VII of the Illinois
20 Constitution.

21 (b) Nothing in this amendatory Act of the 96th General
22 Assembly, however, shall be construed to preempt any otherwise
23 valid law or ordinance enacted on or before the effective date
24 of this amendatory Act of the 96th General Assembly by a unit
25 of local government, including a home rule unit, regulating the

1 sale of fertilizer.

2 (415 ILCS 65/8 rep.)

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

5 Section 99. Effective date. This Act takes effect July 1,
6 2010.".