



Sen. Michael Noland

Filed: 4/19/2010

09600HB6099sam001

LRB096 20722 JDS 40048 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 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 pavement, porous paving, paver blocks,
3 gravel, crushed stone, decks, patios, elevated structures, and
4 other 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 "Lawn repair products" means seeds, including seeding
19 soils, that contain or are coated with or encased in fertilizer
20 material.

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

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

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

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

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

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

12 "0% phosphate fertilizer" means a fertilizer that contains
13 no more than 0.67% available phosphoric acid (P₂O₅).

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

15 (415 ILCS 65/5a new)

16 Sec. 5a. Fertilizer; application restrictions.

17 (a) No applicator for hire shall:

18 (1) Apply phosphorus-containing fertilizer to a lawn,
19 except as demonstrated to be necessary by a soil test that
20 establishes that the soil is lacking in phosphorous when
21 compared against the standard established by the
22 University of Illinois. The soil test required under this
23 paragraph (1) shall be conducted no more than 36 months
24 before the intended application of the fertilizer and by a
25 soil testing laboratory that has been identified by the

1 University of Illinois as an acceptable laboratory for soil
2 testing. However, a soil test shall not be required under
3 this paragraph (1) if the fertilizer to be applied is a 0%
4 phosphate fertilizer or the fertilizer is being applied to
5 establish a lawn in the first 2 growing seasons.

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

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

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

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

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

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

6 (415 ILCS 65/7) (from Ch. 5, par. 857)

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

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

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

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

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

22 Upon prosecution by a State's Attorney, a violation of this
23 Act or rules shall be a petty offense subject to a fine of \$250
24 ~~\$100~~ for a first offense, a fine of \$500 ~~\$200~~ for a second
25 offense and a fine of \$1,000 ~~\$500~~ for a third or subsequent

1 offense.

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

3 (415 ILCS 65/9 new)

4 Sec. 9. Home rule.

5 (a) On and after the effective date of this amendatory Act
6 of the 96th General Assembly, a unit of local government may
7 not regulate fertilizer in a manner more restrictive than the
8 regulation of fertilizer by the State under this Act, unless
9 the Department of Agriculture determines that a proposed
10 ordinance of a unit of local government is reasonable under the
11 specific circumstances based on standards that the Department
12 shall adopt by rule. This Section is a limitation under
13 subsection (i) of Section 6 of Article VII of the Illinois
14 Constitution on the concurrent exercise by home rule units of
15 powers and functions exercised by the State.

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

19 (415 ILCS 65/8 rep.)

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

22 Section 99. Effective date. This Act takes effect July 1,
23 2010".