

2007 DRAFTING REQUEST

Bill

Received: **02/13/2007**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - soil and water**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit the sale and use of lawn fertilizers that contain phosphorus

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 03/15/2007	jdye 03/19/2007	pgreensl 03/19/2007	_____	sbasford 03/19/2007		
/1	btradewe 05/04/2007	jdye 05/07/2007	nmatzke 05/07/2007	_____	cduerst 05/07/2007	lparisi 05/29/2007	

FE Sent For:

NO

<END>

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		<i>1 5/7 jld</i>	<i>nwn 5/7</i>	<i>nwn/rs 5/7</i>			

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/?	btradewe	P1 3/19 ju	3/19 P8	3/19 P8 MS			

FE Sent For:

<END>



DOOR COUNTY
Soil & Water
Conservation Department

421 Nebraska Street
Sturgeon Bay, Wisconsin 54235
(920) 746-2214
FAX: (920) 746-2369
E-mail: SWCD@co.door.wi.us

December 11, 2006

Representative Garey Bies
Room 125 West
State Capitol
PO Box 8952
Madison, WI 53708

is this worth going after

Representative Bies:

Enclosed is a copy of the Door County Board of Supervisors resolution Supporting the Ban on Sale and Use of Lawn Fertilizers that Contain Phosphorus which was adopted on November 28, 2006. On behalf of the Door County Land Conservation Committee who submitted the resolution for consideration, and the Door County Board, I request your assistance and action in implementing the requested phosphorus fertilizer control.

Excess phosphorus fertilizer application to the lawns of Door County and elsewhere in the State is a significant contributor to the unwanted algae and weed growth in our lakes. While Dane County adopted a County ordinance limiting phosphorus in lawn fertilizers, Door County and the other Wisconsin counties lack the same enabling legal authority that Dane County utilized. In addition, an individual County only ordinance is less desirable to a State law because a County Ordinance is subject circumvention by fertilizer purchases being made in adjacent counties.

Again your support and action is requested assisting our efforts to enact statewide regulation of the use of lawn fertilizers containing phosphorus. I would appreciate a reply with your recommendations concerning how Door County can successfully promote our request.

Sincerely,

William E. Schuster
County Conservationist

cc: Bob Ryan, LCC Chairman
Richard Dirks, Door County Property Owners Association
Julian Zelazny, Wisconsin Land & Water Conservation Association



DOOR COUNTY

Resolution No. 2006-86

RESOLUTION SUPPORTING STATE BAN ON SALE AND USE OF LAWN FERTILIZERS THAT CONTAIN PHOSPHORUS

TO THE DOOR COUNTY BOARD OF SUPERVISORS:

ROLL CALL Board Members	Aye	Nay	Exc.
ANDERSON	X		
AUSTAD	X		
BRANN	X		
DeWITT	X		
FISHER	X		
FONTAINE	X		
FOREST	X		
GOETTELMAN	X		
GULLEY	X		
HAINES		X	
JEANQUART	X		
LIEBE	X		
MOELLER	X		
MOST	X		
MULLIKEN	X		
RUNQUIST	X		
RYAN	X		
SAVARD		X	
VIRLEE	X		
WIEGAND	X		
ZIPPERER	X		
	19	2	

1 WHEREAS, It is vital for the State of Wisconsin to protect the quality of its
2 groundwater and surface water, including all of its lakes, rivers, streams, and the
3 adjacent Great Lakes; and

4 WHEREAS, The application of commercial fertilizer on parks, residential
5 properties, and other non-agricultural areas causes excess phosphorus runoff into
6 Wisconsin's lakes, rivers, and streams; and

7 WHEREAS, Runoff from a lawn can carry up to eight times more phosphorus
8 than runoff from a similarly-sized wooded area; and

9 WHEREAS, A single pound of phosphorus in runoff can cause up to 500
10 pounds of algae growth, and the accelerated growth of weeds and algae causes a
11 deterioration in water quality; and

12 WHEREAS, The Lake Michigan and Green Bay beaches and shoreline in Door
13 County and other counties have been plagued with algae washing ashore; and

14 WHEREAS, Door County has over 250 miles of shoreline in addition to inland
15 lakes where the introduction of excess phosphorus can adversely affect water
16 quality; and

17 WHEREAS, Elimination of phosphorus from lawn fertilizer will reduce the
18 presence of algae in Wisconsin's waters and help to improve water quality; and

19 WHEREAS, Reliance on local ordinances to ban the sale and use of lawn
20 fertilizers that contain phosphorus will be ineffective in addressing this matter of
21 statewide concern because landowners can purchase and import products from
22 outside of the municipality; and

23 WHEREAS, That the statewide ban on phosphorus lawn fertilizer sales would
24 be in effect unless a soil test shows that phosphorus is necessary or the fertilizer is
25 intended for newly-established turf and lawns during their first growing season.

26 **NOW, THEREFORE BE IT RESOLVED** That the Door County Board of
27 Supervisors support the adoption of a statewide ban prohibiting the sale and use of
28 lawn fertilizers containing phosphorus that will preempt and eliminate the need for
29 local ordinances; and

30 **BE IT FURTHER RESOLVED** That the County Clerk is directed to send a copy
31 of this resolution to Governor Jim Doyle; Wisconsin Department of Natural Resources
32 Secretary Scott Hassett; Wisconsin Department of Agriculture, Trade, and Consumer
33 Protection Secretary Rod Nilsestuen; Wisconsin Senator Alan Lasee; Wisconsin
34 Representative Garey Bies; Wisconsin Senator Majority Leader Senator Judith
35 Robson; and Wisconsin State Assembly Majority Leader Representative Jeff
36 Fitzgerald.

SUBMITTED BY:
Land Conservation Committee

BOARD ACTION

Vote Required: Majority vote of a quorum

Motion to Approve Adopted

1st Mulliken Defeated

2nd Goetzelman

Yes: 19 No: 2 Exc: _____

Reviewed by: _____ Corp. Counsel

Reviewed by: _____ Administrator

FISCAL IMPACT: No fiscal implication with the adoption of this resolution.

sms

Certification:

I, Nancy A. Bemmann, Clerk of Door County, hereby certify that the above is a true and correct copy of a Resolution that was adopted on the 28th day of November, 2006 by the Door County Board of Supervisors.

Nancy A. Bemmann
Nancy A. Bemmann
County Clerk, Door County

Bob Ryan
Bob Ryan, Chairman

Cletus Fontaine
Cletus Fontaine

Bill Goettelman
Bill Goettelman

Hugh Mulliken
Hugh Mulliken

Marc Savard
Marc Savard

Richard Virlee
Richard Virlee

Steve Sullivan
Steve Sullivan

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Per Andrew - Exception ~~to~~ if they can show lawn
need phosphorus. Similar to Dane Co ordinance.

Ret



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1926/P1

RCT: n:...

SODN (in 3/15)

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Write

Gen

1 AN ACT ...; relating to restrictions on the use and sale of fertilizer containing
2 phosphorus and providing a penalty

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 94.643 of the statutes is created to read:

94.643 Restrictions on the use and sale of fertilizer containing phosphorus. (1) DEFINITIONS. In this section:

(a) "Fertilizer" has the meaning given in s. 94.64 (1) (e).

(b) "Turf" means land, including residential property, golf courses, and publicly owned land, that is planted in closely mowed, managed grass, except that "turf" does not include pasture, land used to grow grass for sod, or any other land used for agricultural production.

1 (2) RESTRICTION ON USE. (a) Except as provided in par. (b), no person may apply

2 fertilizer that is labeled as containing phosphorus to turf

3 (b) 1. Paragraph (a) does not apply to a person who applies fertilizer in order
4 to establish grass, using seed or sod, during the growing season in which the person
5 began establishing the grass.

6 2. Paragraph (a) does not apply to a person who applies fertilizer to an area if
7 the soil in the area is deficient in phosphorus, as shown by a soil test performed no
8 more than 36 months before the application by a laboratory that is certified by the
9 department to conduct tests for soil phosphorus.

10 (3) RESTRICTION ON SALE. (a) No person may sell at retail lawn fertilizer that
11 is labeled as containing phosphorus, except that a person may sell at retail lawn
12 fertilizer that is labeled as containing phosphorus for any of the following purposes:

13 1. For establishing grass, using seed or sod, during the growing season in which
14 the purchaser began establishing the grass.

15 2. For application to an area if the soil in the area is deficient in phosphorus,
16 as shown by a soil test performed no more than 36 months before the application by
17 a laboratory that is certified by the department to conduct tests for soil phosphorus.

18 3. For application to pasture, land used to grow grass for sod, or any other land
19 used for agricultural production.

20 (4) PENALTY. Any person who violates this section may be required to forfeit not
21 more than \$50 for a first violation and not less than \$200 nor more than \$500 for a
22 second or subsequent violation.

23 SECTION 2. Effective date.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1926/P1dn

RCT:A:...

date

Jed

Andrew Nowlan:

This is a preliminary version of the proposal to limit the use and sale of fertilizer containing phosphorus. ✓

The draft refers to "fertilizer that is labeled as containing phosphorus" ✓ because, as I understand it, there can be a small amount of phosphorus in fertilizer that is labeled as having 0 percent phosphorus.

I reviewed the Dane County ✓ ordinance, but this draft differs from that ordinance in several respects. The Dane County ordinance does all of the following:

1. Prohibits the application of lawn fertilizer when the ground is frozen.
2. Prohibits the application of fertilizer to impervious surfaces.
3. Prohibits sellers from displaying lawn fertilizer containing phosphorus. (It allows sellers to post signs stating that such fertilizer is available upon request for the authorized uses.)
4. Requires sellers to post signs explaining the ordinance and the effects of phosphorus on the county's waters.

* Please let me know if you want to add any of those ^{provisions} ~~things~~ to this draft. I can provide a copy of the ordinance if you wish.

It is not clear to me what responsibility this proposal places on a business when a customer wants to buy lawn fertilizer containing phosphorus. Must a seller ask what the purpose is? Should the seller have some other responsibility? The draft should clarify this.

The penalties are a modified version of the penalties in current s. 94.64 (12) (a). ✓ Please let me know if you would prefer different penalties.

I included a delayed effective date for the proposal. Please let me know if you would prefer a different effective date.

Please contact me with any questions or redraft instructions. ✓

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1926/P1dn
RCT:jld:pg

March 19, 2007

Andrew Nowlan:

This is a preliminary version of the proposal to limit the use and sale of fertilizer containing phosphorus.

The draft refers to "fertilizer that is labeled as containing phosphorus" because, as I understand it, there can be a small amount of phosphorus in fertilizer that is labeled as having 0 percent phosphorus.

I reviewed the Dane County ordinance, but this draft differs from that ordinance in several respects. The Dane County ordinance does all of the following:

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4. Requires sellers to post signs explaining the ordinance and the effects of phosphorus on the county's waters.

Please let me know if you want to add any of those provisions to this draft. I can provide a copy of the ordinance if you wish.

It is not clear to me what responsibility this proposal places on a business when a customer wants to buy lawn fertilizer containing phosphorus. Must a seller ask what the purpose is? Should the seller have some other responsibility? The draft should clarify this.

The penalties are a modified version of the penalties in current s. 94.64 (12) (a). Please let me know if you would prefer different penalties.

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Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

5/3/07 Per Andrew -

Include points 1-3 in DNote (From Dave L. url).

Not 4. Nothing else on seller's responsibility. If fertilizer with phosphorus is not in sight, most people won't ask for it.

RET



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1926/1
RCT:jld:pg

Wanted Mon (5/7) if possible

VMY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT to create 94.643 of the statutes; relating to: restrictions on the use and
2 sale of fertilizer containing phosphorus and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 94.643 of the statutes is created to read:

4 94.643 Restrictions on the use and sale of fertilizer containing
5 phosphorus. (1) DEFINITIONS. In this section:

6 (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e).

7 (b) "Turf" means land, including residential property, golf courses, and publicly
8 owned land, that is planted in closely mowed, managed grass, except that "turf" does
9 not include pasture, land used to grow grass for sod, or any other land used for
10 agricultural production.

✓ Analysis insert

← (CS)

1 (2) RESTRICTION ON USE. (a) Except as provided in par. (b), no person may apply
2 to turf fertilizer that is labeled as containing phosphorus.

3 (b) 1. Paragraph (a) does not apply to a person who applies fertilizer in order
4 to establish grass, using seed or sod, during the growing season in which the person
5 began establishing the grass.

6 2. Paragraph (a) does not apply to a person who applies fertilizer to an area if
7 the soil in the area is deficient in phosphorus, as shown by a soil test performed
8 more than 36 months before the application by a laboratory that is certified by the
9 department to conduct tests for soil phosphorus.

Inset
2-9 ✓

10 (3) RESTRICTION ON SALE. No person may sell at retail lawn fertilizer that is
11 labeled as containing phosphorus, except that a person may sell at retail lawn
12 fertilizer that is labeled as containing phosphorus for any of the following purposes:

13 (a) For establishing grass, using seed or sod, during the growing season in
14 which the purchaser began establishing the grass.

15 (b) For application to an area if the soil in the area is deficient in phosphorus,
16 as shown by a soil test performed no more than 36 months before the application by
17 a laboratory that is certified by the department to conduct tests for soil phosphorus.

18 (c) For application to pasture, land used to grow grass for sod, or any other land
19 used for agricultural production.

Inset
2-9 ✓

20 (4) PENALTY. Any person who violates this section may be required to forfeit not
21 more than \$50 for a first violation and not less than \$200 nor more than \$500 for a
22 2nd or subsequent violation.

23 SECTION 2. Effective date.

1 **Analysis insert**

This bill generally prohibits the application of fertilizer that contains phosphorus to lawns, golf courses, and other mowed grassy areas (turf).[✓] The prohibition does not apply to land used for agricultural production. The bill authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The bill also authorizes the application of fertilizer containing phosphorus to an area if a soil test shows that the soil in the area is deficient in phosphorus.[✓] The bill prohibits the application of fertilizer to turf[✓] when the ground is frozen. The bill also prohibits the application of lawn fertilizer to an impervious surface and requires a person who spills lawn fertilizer onto an impervious surface to immediately remove the fertilizer.

This bill prohibits the retail sale of lawn fertilizer containing phosphorus unless the fertilizer is sold for one of the purposes for which it is authorized to be used. The bill prohibits a retailer from displaying lawn fertilizer that contains phosphorus, but authorizes a retailer to post a sign stating that lawn fertilizer containing phosphorus is available upon request for the purposes for which the bill allows it to be used.[✓]

2 **Insert 2-9**

3 (c) No person may apply fertilizer to turf[✓] when the ground is frozen.

4 (d) No person may intentionally apply lawn fertilizer to an[✓] impervious surface.

5 A person who accidentally applies lawn fertilizer to an impervious surface shall
6 immediately remove the fertilizer.[✓]

7 **Insert 2-19**

8 (4) RESTRICTION ON DISPLAY.[✓] No person who sells fertilizer at retail may display
9 lawn fertilizer that is labeled as containing phosphorus. A person who sells fertilizer
10 at retail may post a sign advising customers that lawn fertilizer containing
11 phosphorus is available upon request for uses permitted by sub. (2) (b).[✓]

Parisi, Lori

From: Nowlan, Andrew
Sent: Tuesday, May 29, 2007 2:57 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1926/1 Topic: Prohibit the sale and use of lawn fertilizers that contain phosphorus

For Rep. Bies. Expedited if possible, please.

Thanks,

Andrew
Rep. Bies

Please Jacket LRB 07-1926/1 for the ASSEMBLY.