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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2011-12

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Agriculture, Forestry, and Higher Education...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### **Committee on Agriculture, Forestry, and Higher Education**

##### **Assembly Bill 165**

Relating to: the display of turf fertilizer containing phosphorus.

By Representatives Knilans, Kestell, Rivard, LeMahieu, Petryk, Brooks, Williams, Thiesfeldt and Spanbauer; cosponsored by Senators Wanggaard, Galloway and Grothman.

October 19, 2011      Referred to Committee on Agriculture, Forestry, and Higher Education.

January 10, 2012      **PUBLIC HEARING HELD**

Present:    (0)    None.

Absent:     (0)    None.

Excused:   (0)    None.

##### Appearances For

- None.

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- None.

##### Registrations Against

- None.

##### Registrations for Information Only

- None.

January 19, 2012      **EXECUTIVE SESSION HELD**

Present:    (7)    Senators Schultz, Harsdorf, Kedzie, Moulton,  
Hansen, Shilling and King.

Absent:     (0)    None.

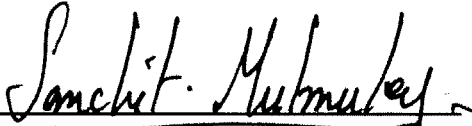
Excused:   (0)    None.

Moved by Senator Moulton, seconded by Senator Harsdorf that  
**Assembly Bill 165** be recommended for concurrence.

Ayes: (4) Senators Schultz, Harsdorf, Kedzie and  
Moulton.

Noes: (3) Senators Hansen, Shilling and King.

CONCURRENCE RECOMMENDED, Ayes 4, Noes 3

  
Sanjit Mulmuley  
Committee Clerk

**Vote Record**  
**Committee on Agriculture, Forestry, and Higher Education**

Date: 1/19/12

Moved by: Sen. Moulton

Seconded by: Sen. Harsdorf

AB 165                      SB \_\_\_\_\_                      Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_                      SJR \_\_\_\_\_                      Appointment \_\_\_\_\_  
 AR \_\_\_\_\_                      SR \_\_\_\_\_                      Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
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 A/S Sub Amdt \_\_\_\_\_  
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Be recommended for:  
 Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement  
 Introduction       Rejection       Tabling       Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Dale Schultz, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Sheila Harsdorf</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Neal Kedzie</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Terry Moulton</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Dave Hansen</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Jennifer Shilling</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Jessica King</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>4</u>	<u>3</u>	<u>0</u>	<u>0</u>

Motion Carried

Motion Failed





# TOWN & COUNTRY

Resource Conservation  
& Development, Inc

January 9, 2012

Senator Dale Schultz, Chairman  
Senate Agriculture, Forestry and Education Committee  
Room 122 South, State Capitol  
Madison, Wi 53707

RE: Opposing AB165 – Lawn Phosphorus Fertilizer Display

Dear Senator Schultz and Members of the Committee,

On behalf of Town and Country RC&D we ask you to oppose the passage of AB 165.

We all know that the soils and waters of SE Wisconsin are already rich in phosphorus, resulting in our beautiful lakes too often suffering from the green scum that closes beaches and makes swimming unattractive and sometimes unsafe for children and pets.

We believe not all busy homeowners will take the time to carefully read signage and remember that phosphorus is the middle of the three numbers on fertilizer bags, nor accurately estimate the square footage of their lawn nor calibrate their spreaders. We believe that this bill, will inevitably result in unnecessary application, and add to the buildup of phosphorus in already overloaded soils of our area.

This law is unnecessary - we can still have healthy lawns. Anyone with a soil test showing phosphorus deficiency or seeding a new lawn, can already access phosphorus fertilizer by asking for the product.

Please help keep our lakes blue, our rivers healthy and our lawns green, and stop AB 165 from progressing further.

Respectfully,

Lisa Conley, President

Board of Directors

Lisa Conley, President  
*Rock River Coalition*

Jeff Conn, President -Elect  
*Attorney and Farmer*

Greg David, Past President  
*Sustain Jefferson  
Jefferson County Board*

Jennifer Hanneman,  
Treasurer  
*CPA, Attorney  
Jefferson County Board*

Ruth Johnson, Secretary  
*Retired DNR  
Water Resource Specialist*

Susan Buchanan, Director  
*Executive Director,  
Tall Pines Conservancy*

Sue Marx, Director  
*Drumlin Area Land Trust*

Earlene Ronk, Director  
*Retired Administrator,  
Countryside Home*

Peter Sorce, Director  
*Washington County Board*

Dwayne Sperber, Director  
*Wudeward Products*

[www.taered.com](http://www.taered.com)

*Town & Country RC&D builds partnerships and supports projects  
to enhance the health of our communities, our economy, and our environment.*

PO Box 333, Jefferson, WI 53549-0333 (920) 541-3208

[www.taered.com](http://www.taered.com)





**Our Mission:**

*"To educate and provide opportunities for people of diverse interests to work together to improve the environmental, recreational, cultural, and economic resources of the Rock River Basin"*

January 9, 2012

Senator Dale Schultz, Chairman  
Senate Agriculture, Forestry and Education Committee  
Room 122 South, State Capitol  
Madison, WI 53707

RE: AB 165 – Lawn Phosphorus Fertilizer

Dear Senator Schultz and Members of the Senate Agriculture, Forestry and Education Committee,

On behalf of the board of the Rock River Coalition, I ask that the Natural Resources Committee support Assembly Substitute Amendment 1, to AB 165, which would only allow the retail display of lawn fertilizer containing phosphorus under specific circumstances.

From its headwaters at Horicon Marsh to the Illinois border and beyond, The Rock River is suffering from excessive phosphorus and sediment. The Rock River Coalition is dedicated to building partnerships and educating the public to protect and improve the Rock River and its many tributaries.

Lawn fertilizer with phosphorus must be clearly identified in retail displays to clarify it is for new lawn establishment only. If consumers must read complex signage to determine whether a bag of fertilizer contains phosphorus, many will probably grab the wrong bag and store personnel will have a hard time policing the purchases.

Since soil testing shows the majority of the soils in Wisconsin are already rich in phosphorus, most lawns don't need more to become established. Unnecessary application of phosphorus fertilizer can further damage lakes and streams, leading to nuisance algae blooms, beach closings, and degraded fisheries.

Before the current law was passed, many communities in the Rock River Basin passed ordinances restricting phosphorus in lawn fertilizer. They did this to protect and improve the streams, rivers and lakes so important to our economy and quality of life.

We support the Rock River Recovery Plan, an effort to act on the findings of the Total Maximum Daily Load (TMDL) study of the Rock River and to reverse its decline. This will be a long process, addressing many sources of phosphorus and sediment to the river system. While lawn phosphorus is not the majority of the problem, it is a contributing factor. The current state law regarding phosphorus-containing fertilizer helps municipalities meet TMDL requirements for reducing phosphorus concentrations in stormwater discharges.

It is critical to prevent excess phosphorus from building up on the land if we want to see cleaner waters in the future. We ask you to help provide the tools needed to do the job effectively.

Sincerely,

A handwritten signature in black ink that reads "Scott Taylor". The signature is written in a cursive, slightly slanted style.

Scott Taylor, President.





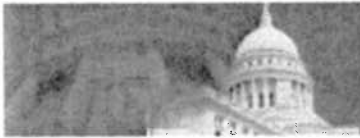


To: Members of the Senate Committee on Agriculture, Forestry and Higher Education  
From: Alliance of Wisconsin Retailers  
Date: January 10, 2012  
Re: Assembly Bill 165, relating to the display of turf fertilizer containing phosphorus

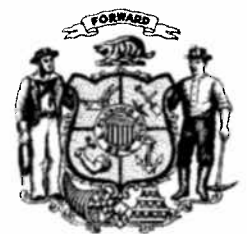
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- Best Buy Co., Inc.
- Blain's Farm & Fleet
- JCPenney
- Kohl's
- Macy's
- Sears Holdings Corporation
- Shopko
- Target
- Wisconsin Jewelers Association
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The Alliance of Wisconsin Retailers supports Assembly Bill 165 and its common sense approach to dealing with the issue of lawn fertilizer containing phosphorus. Wisconsin law currently allows the use of fertilizer containing phosphorus on new lawns and where a soil test has indicated a deficiency. Assembly Bill 165 simply allows retailers to display a legal product and educate their customers on its proper application. Research has shown that a dense, healthy lawn reduces water runoff, and that properly applied fertilizer containing phosphorus is a significant part of establishing a healthy lawn. We support AB 165 as it removes this burdensome regulation and allows for the display of "starter" fertilizer.



# WISCONSIN STATE LEGISLATURE





To: Senate Committee on Agriculture, Forestry and Higher Education  
From: Wisconsin Retail Association, Executive Director, Scott Newcomer  
Date: January 10, 2012  
RE: AB 165

Dear Committee Members,

The Wisconsin Retail Association (WRA) is a statewide trade association representing the interests of retail businesses operating in the State of Wisconsin. The Association's membership includes some of the nation's largest and most successful retail businesses, as well as small, family owned businesses. Our current membership includes over 325 retail outlets operating in Wisconsin with total annual (Wisconsin) sales in excess of \$1 billion.

Last year the legislature passed restrictions on turf fertilizers containing phosphorous. One provision that was included was a ban on displaying turf fertilizer while still allowing it to be sold under certain conditions. We are asking for your support for Representative Knilan's bill to repeal the retail display ban and allow Wisconsin retailers to display products visible to customers while still maintaining the use restrictions in the law.

The retail display ban of turf fertilizer has become a large burden to retailers who sell the product. Retailers are currently required to post a sign stating that grass fertilizer containing phosphorus is available upon request but cannot display it on their shelves. Retailers are thus losing valuable back room shelf space and the time that it takes associates to bring the product to the floor; their sales have also dropped 90% on the sale of starter fertilizer which has been a significant economic hit.

The turf fertilizer law generally prohibits a person from applying fertilizer containing phosphorus to grass, except starter fertilizer for establishing or repairing a lawn or when a soil test shows the need for lawn maintenance. We are not asking for changes to this portion of the law.

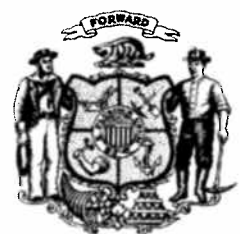
***This bill would only eliminate the prohibition on the retail display of grass fertilizer that contains phosphorus while still maintaining the limit on use under the situations outlined above.*** The bill also requires a retailer that sells grass fertilizer that contains phosphorus to post a sign describing the general prohibition against applying fertilizer that contains phosphorus to grass and the exceptions to the prohibition.

Wisconsin is the only state with law phosphorus restrictions that bans the display of products that are still legal to use. Other states that have law phosphorus ban/restrictions in place have not seen a negative impact due to the display of these products. The Wisconsin Retail Council asks that you join us in supporting AB165.

Please do not hesitate to call Wisconsin Retail Association's Executive Director, Scott Newcomer at (608) 237-7090 or email at [Scott@newcomerconsultinggroup.com](mailto:Scott@newcomerconsultinggroup.com)



# WISCONSIN STATE LEGISLATURE





## John Muir Chapter

Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
shahla.werner@sierraclub.org <http://wisconsin.sierraclub.org>

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**Oppose AB 165, Altering Retail Display of Phosphorus Fertilizer  
Before the Senate Agriculture, Forestry and Higher Education Committee,  
January 10, 2012 in Room 201 SE, State Capitol,  
By Caryl Terrell, Legislative Volunteer, Sierra Club - John Muir Chapter**

Thank you for accepting comments on behalf of our 15,000 Sierra Club members and supporters in Wisconsin. The Sierra Club urges you to oppose AB 165, which would allow for the retail display of lawn fertilizer containing phosphorus.

Restricting phosphorus in lawn fertilizer is needed to reduce phosphorus runoff into lakes, rivers, and streams that causes massive algae blooms. This problem seriously threatens Wisconsin's \$2.75 billion dollar per year sport fishing industry and our \$13 billion dollar per year tourism industry.

Just last session, the Sierra Club supported the Clean Lakes bill to restrict the sale and display of phosphorus lawn fertilizer. This bill passed the legislature as 2009 Act 9 with unanimous, bipartisan support in both the Assembly and the Senate. Displaying phosphorus fertilizer will render this new law nearly meaningless and lead to declines in lakefront property values and reduced tourism and recreational opportunities.

What do we have to lose by undermining protections for our water resources? Wisconsin is home to over 15,000 lakes, 12,600 rivers, and countless smaller creeks, and our western border is formed by the Mississippi River. Our Great Lakes supply millions with drinking water. For thousands of years, our waterways have provided us clean water and wildlife habitat. They have also inspired a love of nature among countless residents and visitors, including Sierra Club founder John Muir, for whom the Fox River Valley provided an outdoor education about Nature that inspired him throughout his life. We can't afford to allow short-sighted policies to squander these fragile resources.

Please respect the careful consideration that went into crafting 2009 Act 9 by opposing AB 165. The current law provides for long overdue, common sense water protections while recognizing consumer needs through the availability of exemptions and effective, phosphorus-free alternatives.

Please see the list of references on the opposite page, citing 26 peer-reviewed research papers on how excess phosphorus threatens our waterways. Thanks for your consideration of this important matter.

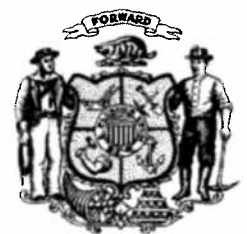
## 26 Peer-reviewed papers on phosphorus fertilizer and runoff into surface water bodies.

Prepared by Jerry Spetzman Minnesota Department of Agriculture, <http://www.maine.gov/dep/blwq/doclake/fert/research.htm>

1. Effects of Lawn Fertilizer on Nutrient Concentrations in Runoff from Lakeshore Lawns, Lauderdale Lakes, Wisconsin, USGS Water-Resources Investigations Report 02-4130, Herbert S. Garn, July 2002. <http://wi.water.usgs.gov/pubs/wrir-02-4130/wrir-02-4130.pdf>
2. Fertility Levels of Minnesota Lawn and Garden Soils, Ag. Exp. Station University of Minnesota, John Grava, William Fenster. 1979
3. Sources of Pollutants in Wisconsin Stormwater, *Water Science Technology* 28: 241-259, R.T. Bannerman, 1993.
4. Relationship between Phosphorus Levels in Three Ultisols and Phosphorus Concentrations in Runoff, *Journal of Environmental Quality* 28:170-175, D.H.Pote, 1999.
5. The Impact of Soil and Fertilizer Phosphorus on the Environment, *Advances in Agronomy*, Volume 41, A.N. Sharpley, 1987.
6. Phosphorus Leaching from Soils Containing Different Phosphorus Concentrations, *J. of Environmental Quality* 24: 904-910, G. Heckrath, 1995.
7. Sources of Phosphorus in Stormwater and Street Dirt from Two Urban Residential Basins in Madison, Wisconsin, 1994-95, US Geological Survey, R.J. Waschbusch, 1999. <http://wi.water.usgs.gov/pubs/WRIR-99-4021/index.html>
8. Nutrients and Sediment in Runoff from Creeping Bentgrass and Perennial Ryegrass Turfs, *Journal of Environmental Quality* 26:1248-1254, Douglas Linde, 1997
9. Determining Environmentally Sound Soil Phosphorus Levels, *Journal of Soil and Water Conservation* 51(2): 160-166, Andrew Sharpley 1996.
10. Depth of Surface Soil-runoff Interaction as Affected by Rainfall, Soil Slope, and Management, *Soil Science Society of America Journal* 49: 1010-1015, A.N Sharpley, 1985.
11. Response of Turf and Quality of Water Runoff to Manure and Fertilizer, Soil & Crop Sciences Department and Agricultural Engineering Department, Texas A & M University, J.E. Gandreau.
12. An integrated approach for modeling and managing golf course water quality and ecosystem diversity, *Ecological Modeling* 133: 259-267, K.R.Mankin, 2000.
13. Surface Runoff Losses of Phosphorus and other Nutrient Elements from Fertilized Grassland, *Norwegian Journal of Agricultural Sciences* 3: 47-55, Gotfred Uhlen, 1988.
14. Bioavailable phosphorus dynamics in agricultural soils and effects on water quality, *Geoderma* 67: 1-15, Andrew Sharpley, 1995.
15. Modeling the Impacts of Management Practices on Agricultural Phosphorus Losses to Surface Waters of Finland, *Water Science Technology* 12: 265-272, S. Rekolainen, 1999.
16. Loading Rates of Nutrients Discharging from a Golf Course and a Neighboring Forested Basin, *Water Science Technology* 39: 99-107, Takao Kunimatsu., 1999.
17. Influence of Buffers on Pesticide and Nutrient Runoff from Bermudagrass Turf, *J. of Environmental Quality* 26: 1589-1598, J.T. Cole, 1997.
18. The Transport of Bioavailable Phosphorus in Agricultural Runoff, *J. of Environmental Quality* 21: 30-35, Andrew Sharpley, 1992.
19. Best Management Practices to Reduce Pesticide and Nutrient Runoff from Turf, ACS, C. 16, J.H. Baird, 2000.
20. Soil Test Calibration for Establishment of Turfgrass Monostands, *Soil Science Society of Am J* 47: 1161-1166, J.R. Turner, 1983.
21. Turfgrass, Number 32 in the series AGRONOMY, S.H. Mickelson, 1992
22. Agricultural Phosphorus and Eutrophication: A Symposium Overview, *J. of Environmental Quality* 27: 251-257, T.C. Daniel, 1998.
23. Agricultural Phosphorus and Eutrophication, USDA, Agricultural Research Service - 149, A.N. Sharpley, 1999.
24. Phosphorus Export from a Low-density Residential Watershed and an Adjacent Forested Watershed. *Lake and Reservoir Management*, Volume II, J. Dennis, 1986.
25. Nutrient Movement from Septic Tanks and Lawn Fertilization. *Tech. Bull.* 73-5 Department of Natural Resources, Lansing, Michigan, B. Ellis and K. Childs 1973.
26. Sources of Contamination in an Urban Basin in Marquette, Michigan and an Analysis of Concentrations, Loads and Data Quality. US Geological Survey Water- Resources report 97-4242, J Steuer, W. Selbig, N. Hornewer and J. Prey, 1997



# WISCONSIN STATE LEGISLATURE







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## Committee on Agriculture, Forestry, and Higher Education January 10, 2012

### *Testimony of Amy Winters, Contract lobbyist for Scotts Miracle-Gro on AB 165, pertaining to the retail display of lawn fertilizers containing phosphorus.*

Chairman Schultz, members of the committee, thank you for the opportunity to provide comments on Assembly Bill 165. My Client, Scotts Miracle-Gro is the world's largest marketer of consumer products for lawn and garden care. They have been in business for over 100 years and incorporate a culture of continuous improvement in their products and their interactions with their consumers. They also have a strong history of environmental stewardship, and sustainability.

Scotts is very supportive of Assembly Bill 165 and urges your support for this important measure. While Wisconsin state statutes allows for the legal use of starter and patch fertilizers containing phosphorus, the law then also bans the retail display of these products. This has resulted in Wisconsin retailers either having to utilize valuable storage space and staff resources or completely pulling the products from their shelves. The limited availability of these products at retail in Wisconsin, has not only put an economic hardship on Wisconsin retailers and manufacturers like Scotts, it has also been bad for consumers who have reduced success with new lawn seeding when planting without starter fertilizer.

While we are very supportive of efforts to protect and enhance water quality, we do not believe that the current retail display ban on starter fertilizer strengthens the law or that goal. It is an unnecessary restriction, and as Wayne Kussow emeritus professor at the U.W. Madison Department of Soil Science put it, "The requirement that P-containing fertilizers be hidden in a back room instills in the minds of citizens the notion that P is very nasty stuff. Such a restriction embodies government distrust of business and disrespect for the intelligence of private citizens"

Starter and patch fertilizer is specifically formulated for grass establishment and research has shown that failure to apply starter fertilizer slows grass establishment, thereby increasing the potential for water runoff and phosphorus transport to surface waters from soil erosion; a dense lawn prevents this erosion/runoff.

The state of MN, the first state to implement a state wide phosphorus ban does not have a retail display ban on lawn fertilizer; Wisconsin is in fact, the only state that bans the retail display of these products. Sales of starter fertilizer in MN have actually gone down not up – they parallel the sales of grass seed providing assurance that the consumer is utilizing the product for the intended purpose. Allowing the retail display of starter and patch fertilizer has not detracted from the goals of the MN (or other state's) law and we can be confident it would not detract from the goals here in Wisconsin.

Again we ask for your support of Assembly Bill 165. Thank you.

## 2011 Assembly Bill 165

### Lawn Fertilizer Display Ban Questions and Answers Fact Sheet

Q: How many states ban the display of lawn fertilizers containing phosphorus?

A: One. Of the 9 states that have lawn fertilizer phosphorus restrictions, Wisconsin is the only one that bans the display of lawn fertilizers containing phosphorus. Another 6 states have P ban legislation pending. None is proposing bans or restrictions on the display of fertilizer containing phosphorus.

Q: How do other states accomplish the use ban and ensure phosphorus products are only used when seeding/sodding or to correct a soil deficiency as stated in the law?

A: Compliance is primarily accomplished by manufacturers and retailers who provide only zero-phosphorus lawn maintenance products at retail and provide phosphorus containing products that are specifically targeted and labeled for the allowable uses (seeding and correction of soil deficiency). Some states supplement this by requiring segregation of phosphorus-free and phosphorus containing products or retail signage that explains when phosphorus containing products are permitted to be used.

Q: Does Assembly Bill 165 weaken the lawn fertilizer phosphorus restriction law?

A: No, the bill does NOT change any of the phosphorus restrictions in the law, it ONLY allows for the display of lawn fertilizer products that are legally able to still be used. "Starter" fertilizer is specifically formulated for grass establishment. Research has shown that failure to apply starter fertilizer slows grass establishment, thereby increasing the potential for water runoff and P transport to surface waters.

Q: Won't allowing the display of lawn starter fertilizers containing phosphorus result in consumers purchasing more starter fertilizer for application to an established lawn?

A: No, this has not occurred in the numerous states where lawn phosphorus bans have been enacted. The attached table shows fertilizer sales data for Dane County, WI where retailers unknowingly continued to display starter fertilizer for the two years following enactment of the local ordinance. Retailers in the county replaced all lawn maintenance fertilizers with phosphorus-free alternatives but continued to display and sell starter fertilizer. The sales data show that when the display ban on maintenance fertilizer went into effect in 2004, sales of starter fertilizers stayed stable prior to and following the display ban, suggesting that consumers understand when fertilizers containing phosphorus are needed and can be legally applied..

Q: Won't the use of phosphorus fertilizer for seeding establishment and correction of phosphorus deficiencies identified through soil testing result in more phosphorus runoff to Wisconsin's lakes?

A: No, Research at the UW Madison, Minnesota, New York and Michigan State have all proven that healthy, dense lawns protect water quality by reducing both storm water volume and storm water nutrient content. This is accomplished primarily through a reduction in sediment loss from lawns. Grass plants knit the soil together preventing erosion of soil particles which contain phosphorus. Dense grass reduces the velocity of runoff water, allowing for more infiltration into soil and reduces its capacity to erode soil particles.

Q: Shouldn't we just err on the side of caution and not allow the use of any fertilizers containing phosphorus?

A: No, This approach would contradict established science and would end up doing more harm than good. Decades of turf science conducted at land grant universities across the country demonstrate the essential need for phosphorus to grow plants, including grass. Properly managed mature lawns often have sufficient phosphorus to maintain turf health and supplemental phosphorus is not usually needed. However phosphorus is critical for establishing new seed and for supplementing soils that are proven to be phosphorus deficient.

Research has shown that phosphorus runoff is not from lawn fertilizers but from sediment loss. A study conducted in Madison, Wisconsin showed the amount of tree canopy over streets accounted for all of the P in runoff from the streets. It has long been known that P loads from urban areas have two peaks—one at the time of leaf fall and the other during spring snow melt. It has also been well established that a well fertilized lawn allows less sediment loss than an unfertilized lawn and starter fertilizer containing phosphorus is an essential part of a well established lawn.

Q: One impetus for banning fertilizer containing phosphorus on turfgrass has been surveys showing many home lawns have excessive levels of soil-test phosphorus; shouldn't these levels prove the point that turf fertilizers containing phosphorus are not needed?

A: The surveys conducted have been confined to cities such as Madison. State-wide lawn soil test data have been compiled by the State Soil and Plant Analysis Laboratory in Madison. Per the attached table, soil tests for some counties indicate that 25% or more of the lawns are phosphorus deficient.

Q: Do the turf fertilizer phosphorus bans/restrictions improve lake water quality?

A: There is NO evidence of that currently. A Dane County, Wisconsin ordinance regulating P application on lawns took effect in January 2005. The Dane County Lakes Commission reported in late 2007 there was no evidence at that time of improvements in lake water

quality and has not updated that position since. When passing statewide restrictions on phosphorus applications on turfgrass in 2002, Minnesota legislators mandated the state's Department of Agriculture submit a report to the legislature by January 15, 2007 on the effectiveness of the legislation. As stated in that report, "Changes in water quality resulting from the law have not been documented at this time." The phosphorus law has resulted in significant reduction in phosphorus fertilizer use which is evidenced through state reporting of fertilizer sales data. All lawn maintenance fertilizers sold in the state no longer contain phosphorus.

Q: Will Assembly Bill 165 aid retailers and consumers and correct an inequity?

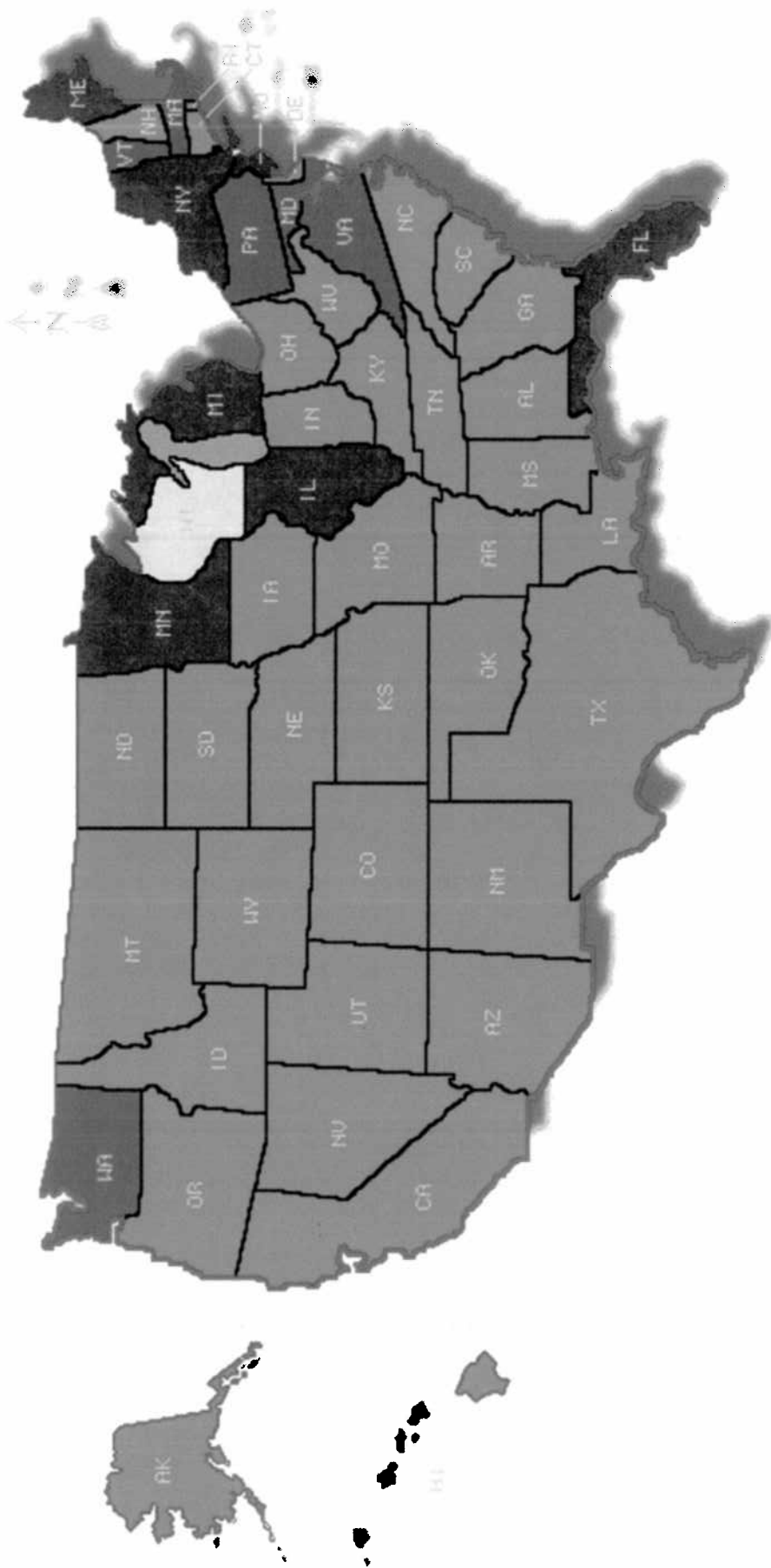
A: Yes. Under current Wisconsin law, organic fertilizers that contain phosphorus are exempt from the "no display" regulation while starter and patch fertilizers that are used in establishing and repairing lawns cannot be displayed. The response of many retailers has been to simply not stock these fertilizers. Consumers are frustrated when they need to apply starter fertilizer for grass establishment or their soil test recommendation is to apply maintenance fertilizer containing phosphorus for correction of soil phosphorus deficiencies and they have difficulty finding the product. The unavailability of product has also negatively impacted the grass seed category where product performance complaints and lack of performance have been experienced.

Wisconsin retailers that have continued to stock starter and patch fertilizers out of sight of consumers have reported large losses in sales of these products. Blain's Farm and fleet has reported a 43% reduction in sales and Scotts Miracle-Gro has reported a 90% reduction in sales of starter and patch fertilizers since the law took effect. Failure to apply phosphorus when it is needed results in thin, poor quality turf prone to soil erosion.

The requirement that P-containing fertilizers be hidden in a back room instills in the minds of citizens the notion that P is very nasty stuff. Such a restriction embodies government distrust of business and disrespect for the intelligence of private citizens.

*~Wayne Kussow Ph.D emeritus professor in the Department of Soil Science at the University of Wisconsin-Madison*

## States With Lawn Fertilizer Phosphorus Bans



- No Phosphorus Ban for Lawn fertilizers
- States with phosphorus ban with use allowed for low P soil test and starter fertilizer
- States with phosphorus ban with use allowed for low soil test and starter fertilizer that ban the display of allowed products
- Legislation introduced (with no display restrictions)

Supporting Data for Retail Display of Scotts Starter™ Fertilizer

Table 1. Statewide Grass Seed Sales in Wisconsin: The Scotts Company Jan- Dec, 2006

82 SKUs                      82 SKUs offered in WI, includes multiple package sizes  
 354,774 eaches sold      Sizes range from 3 lb packages to 20 lb packages  
 to consumers  
 2,089,819 pounds        Total pounds of Scotts grass seed sold to consumers in WI

Table 2. Unit sales of Scotts Starter Fertilizer in Dane County, WI 2004-2006.

<b>Product Name</b>	<b>2006 Units</b>	<b>2005 Units</b>	<b>2004 Units</b>
SCOTTS STARTER FERT 12M	373	416	354
SCOTTS STARTER FERT 14M	29		
SCOTTS STARTER FERTILIZER 5M	448	578	587
<b>TOTAL</b>	<b>850</b>	<b>994</b>	<b>941</b>

Note: Scotts Starter Fertilizer (as well as competitor brands) remained on display following the 2004 ordinance. Dane County informed registrants and retailer in 2007 that these products were not exempted from the display prohibition and they were subsequently de-listed. Sales remained flat prior to and after the ordinance which indicates that consumers are using the products appropriately (for establishment of newly seeded areas).

**Lawn and Garden Soil Samples Analyzed by SPAL: 2001-2008**  
**8,190 lawn and 7,025 garden samples**

Sample origin by county: top 10 in each category

<u>Lawn samples</u>			<u>Garden samples</u>		
<u>County</u>	<u>Number</u>	<u>% of total</u>	<u>County</u>	<u>Number</u>	<u>% of total</u>
Dane	1,408	17.1	Dane	858	12.2
Wood	564	6.9	Waukesha	357	5.1
Milwaukee	467	5.7	Brown	344	4.9
Waukesha	399	4.9	Wood	314	4.5
Marathon	381	4.6	Milwaukee	252	3.6
Brown	368	4.5	Marathon	227	3.2
Racine	292	3.6	Racine	211	3
Eau Claire	270	3.3	Oneida	195	2.8
Portage	212	2.6	St. Croix	166	2.4
St. Croix	<u>201</u>	<u>2.6</u>	Rock	<u>161</u>	<u>2.3</u>
Totals	4,562	55.7	Totals	3,085	43.9

Counties with lowest and highest average soil P and K analyses

<u>Lawn samples</u>			<u>Garden samples</u>		
<u>Phosphorus</u>	<u>ppm P</u>	<u>County</u>	<u>Phosphorus</u>	<u>ppm P</u>	<u>County</u>
Low	66	Ashland	Low	138	Door
High	188	Vilas	High	258	Burnett
<u>Potassium</u>			<u>Potassium</u>		
	<u>ppm K</u>	<u>County</u>		<u>ppm K</u>	<u>County</u>
Low	95	Marquette	Low	132	Adams
High	236	Manitowoc	High	453	Kewaunee

Top 10 counties with percent samples having less than optimum levels of P and K

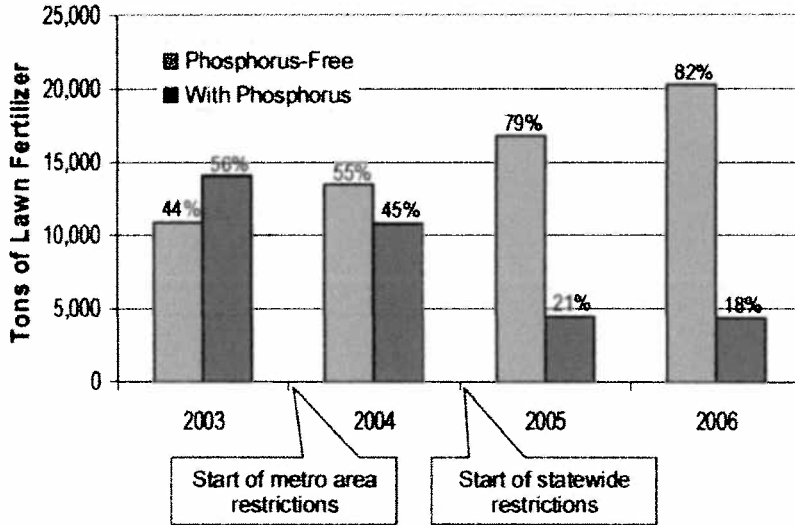
<u>Lawn Samples</u>				<u>Garden samples</u>			
<u>County</u>	<u>%P</u>	<u>County</u>	<u>%K</u>	<u>County</u>	<u>%P</u>	<u>County</u>	<u>%K</u>
Waupaca	38.5	Monroe	42.9	Ashland	22.7	Marquette	63.8
Ashland	28.6	Waupaca	38.5	Crawford	20.6	Adams	62.7
Outagamie	25	Burnett	32.7	Door	15.2	Sauk	54.2
Grant	23	Adams	32.3	Oconto	14.6	Green Lake	43.8
Kewaunee	18.2	Marquette	31	Juneau	13	Columbia	41.3
Taylor	17.1	Ashland	28.6	Manitowoc	11.6	Vilas	40.4
Racine	14.7	Vilas	21.7	Fond du L.	11.3	Jefferson	38.5
Ozaukee	13.3	Rusk	26.1	Rosk	10.9	Oneida	37.9
Milwaukee	13.1	Marinette	25.4	Racine	10.4	Ashland	36.4
Waukesha	10.3	Juneau	21.8	Ozaukee	10.4	Kenosha	36.2

**Excerpt from Minnesota 2007 Report on  
Effectiveness of Minnesota Phosphorus Lawn Fertilizer Law**

Has the law reduced phosphorus lawn fertilizer use?

- In 2006, 82% of lawn fertilizer used was phosphorus-free, based on weight. All of the top five lawn fertilizer products used in 2006 were phosphorus-free.
- Tons of phosphorus contained in lawn fertilizers used decreased 48% between 2003 and 2006.

**Phosphorus and phosphorus-free  
lawn fertilizer<sup>8</sup> used statewide**



**Information since MN Report**

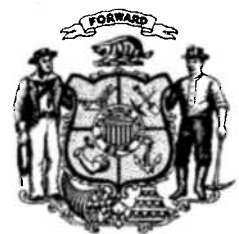


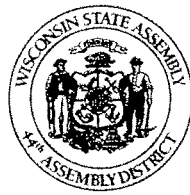
Sales of starter fertilizer went down even after maintenance fertilizer containing phosphorus was no longer marketed/available. Starter fertilizer was always allowed to be displayed at retail in Minnesota and has remained a very small percentage of fertilizer sales in the state (3 to 5% of total fertilizer sales).





# WISCONSIN STATE LEGISLATURE





# JOE KNILANS

STATE REPRESENTATIVE • 44<sup>TH</sup> ASSEMBLY DISTRICT

- Good Morning Mr. Chair and Committee Members. Thank you for the opportunity to testify before you, today, on Assembly Bill 165
- Assembly Bill 165 has a simple purpose. The retail display ban of turf fertilizer has become a large burden to retailers who sell lawn care products. Under the law, retailers are currently required to post a sign stating that grass fertilizer containing phosphorus is available upon request but cannot display it on their shelves.
- Retailers are losing valuable back room shelf space and the time that it takes associates to bring the product to the floor; their sales have also dropped 90% on the sale of starter fertilizer which has been a significant economic hit. This is a bill about Wisconsin retailers and not a bill about phosphorous or the environment.
- This proposal will not change any of the lawn fertilizer phosphorus restriction laws, it simply allows for the display of lawn fertilizer products that are legally able to still be used. Research has shown that failure to apply products such as starter fertilizer slows the growth of grass.
- This legislation also requires a retailer that sells grass fertilizer that contains phosphorus to post a sign describing the general prohibition against applying fertilizer that contains phosphorus to grass and the exceptions to the prohibition.
- Also, I would like to highlight the glaring fact that of the 9 states that have lawn fertilizer phosphorus restrictions, Wisconsin is the only one that bans the display of lawn fertilizers containing phosphorus.
- The biggest fears of those that oppose this bill are that it will stimulate more use of fertilizers with this chemical. However, in other states where a ban on phosphorous has been enacted this has not been the

case. Decades of turf science conducted at land grant universities across the country demonstrate the essential need for phosphorus to grow plants. Phosphorus is critical for establishing new seed and for supplementing soils that are proven to be phosphorus deficient.

- The fact of the matter is Wisconsin is losing large amounts of business due to this law. This is a legal product and is still being used by consumers whether they know enough to ask for it in Wisconsin or they go to Iowa or Illinois. In times when it is hard for business to stay afloat, we can not have our customers traveling to other states because they are unaware that these products are available in their local stores.
- I will end by saying again, this bill is about our Wisconsin Retailers and making sure that potential revenue stays in the hands of our hard working Wisconsin Business owners and within state borders. Our ~~mot~~ these past few months has been that we in Wisconsin are “Open for business”. Mr. Chair and members of the committee lets stay true to this and give the business owners of Wisconsin the same opportunity that every other state has.
- Thank you for your time.



AB 165 Order of Festivity

- ① Rep. Knifers. ↑
- ② Lisa Conley ↓.
- ③ Amy Winters ↑.
- ④ Scott ~~W~~ Newcomes ↑.
- ⑤ Scott Stenger ↑.
- ⑥ Wayne Kussow ↑.
- ⑦ Lisa Conley ↓  
(again).