

**2007 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB197)**

Received: **02/04/2008**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Gunderson (608) 266-3363**

By/Representing: **Mike Bruhn**

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.Gunderson@legis.wisconsin.gov**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Generally prohibit use of phosphorus fertilizer on turf, preempt local regulation of such fertilizer

**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>
/?	btradewe 02/04/2008	jdye 02/05/2008		_____			
/1			rschluet 02/05/2008	_____	sbasford 02/05/2008	sbasford 02/05/2008	
/2	btradewe 02/08/2008	kfollett 02/08/2008	nmatzke 02/08/2008	_____	sbasford 02/08/2008	sbasford 02/08/2008	
/3	btradewe	bkraft	pgreensl	_____	cduerst	cduerst	

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	02/11/2008	02/11/2008	02/11/2008	_____	02/11/2008	02/11/2008	
/4	btradewe 03/07/2008	kfollett 03/07/2008	rschluet 03/07/2008	_____	mbarman 03/07/2008	mbarman 03/07/2008	
/5	btradewe 03/11/2008	jdye 03/11/2008	jfrantze 03/11/2008	_____	mbarman 03/11/2008	mbarman 03/11/2008	

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/1		<i>53/jk</i> rschluet	02/05/2008	_____	sbasford 02/05/2008	sbasford 02/05/2008	
/2	btradewe 02/08/2008	kfollett 02/08/2008	nmatzke 02/08/2008	_____	sbasford 02/08/2008	sbasford 02/08/2008	
/3	btradewe	bkraft	pgreensl	_____	cduerst	cduerst	

*Jo 3/11*      *Jo/W 3/11*

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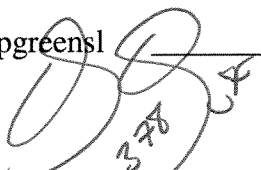
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/2	btradewe 02/08/2008	kfollett 02/08/2008	nmatzke 02/08/2008	_____	sbasford 02/08/2008	sbasford 02/08/2008	
/3	btradewe	bkraft 14kf 3/1/08	pgreensl 		cduerst	cduerst	

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13 bjk 2/11  
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PS/R

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/1		<i>12 kjf</i> <i>2/8</i>	rschluet 02/05/2008 <i>nwn</i> <i>2/8</i>	_____	sbasford 02/05/2008	sbasford 02/05/2008	

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/?	btradewe	1/2/5 JLD					
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FE Sent For:

<END>

**Tradewell, Becky**

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**From:** Bruhn, Mike  
**Sent:** Monday, February 04, 2008 12:31 PM  
**To:** Tradewell, Becky  
**Subject:** amendment for SB 197

Becky,

Rep. Gunderson would like an Assembly Substitute Amendment drafted for Senate Bill 197 which does the following:

1. Removes the restriction on displaying phosphorus containing fertilizer, and add that if an entity that sells fertilizers decides to display fertilizer that contains phosphorus; they must post a sign with a minimum size of 8 ½" by 11" that states: Phosphorus is known to cause pollution in our waters. Use of phosphorus is prohibited except when establishing grass on new lawns and on lawns that have a deficiency in phosphorus that is determined by a soil test. Violations may be subject to a fine under ss 94.643.
2. Creation of a statewide preemption on local municipalities creating ordinances that regulate phosphorus containing fertilizer.
3. The amendment should put all bio-solids on equal footing, so they have the same legal status in statute.

If you have any questions, please call me at 266-3363.

Sincerely,

Michael Bruhn  
Rep. Gunderson's office

2/4 Discussion with Mike -

I told him that I was unsure what to do about point 3 of the instructions. He said that there was concern that manure might be treated disadvantageously compared to a product like milorganite. I explained that unprocessed manure is not affected by the proposal at all because it is excluded from the definition of "fertilizer." He does not know what other "biosolids" people might be worried about.

ROT

Wanted Wed, 2/6

025411  
LRBs01854  
RCTjld&kjf:jf  
stays

Assembly

**SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2007 SENATE BILL 197**

note

December 3, 2007 - Offered by Senator MILLER.

prohibiting political subdivisions from regulating fertilizers containing phosphorus

that is unprocessed or

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 other turf fertilizer and providing
- 3 a penalty.

**Analysis by the Legislative Reference Bureau**

This substitute amendment 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 prohibition also does not apply to the use of manure that is mechanically dried, ground, or pelletized, or to a finished sewage sludge product. The substitute amendment authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The substitute amendment 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 substitute amendment prohibits the application of fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to turf when the ground is frozen. The substitute amendment also prohibits the application of turf fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to an impervious surface and requires a person who spills any of these substances onto an impervious surface to immediately remove it.

This substitute amendment prohibits the retail sale of turf fertilizer containing phosphorus unless the fertilizer is sold for one of the purposes for which it is

2/4
requires Analysis insert A
~~authorized to be used. The substitute amendment prohibits a retailer from displaying turf fertilizer that contains phosphorus, but authorizes a retailer to post a sign stating that turf fertilizer containing phosphorus is available upon request for the purposes for which the substitute amendment allows it to be used.~~

Analysis  
 Insert  
 B

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

- 1 SECTION 1. 94.643 of the statutes is created to read:
- 2 **94.643 Restrictions on the use and sale of fertilizer containing**
- 3 **phosphorus. (1) DEFINITIONS. In this section:**
- 4 (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"
- 5 does not include manipulated animal or vegetable manure or finished sewage sludge
- 6 product.
- 7 (ag) "Finished sewage sludge product" has the meaning given in s. 94.64 (1)
- 8 (fm).
- 9 (ar) "Manipulated" means treated by mechanical drying, grinding, or
- 10 pelletizing.
- 11 (b) "Turf" means land, including residential property, golf courses, and publicly
- 12 owned land, that is planted in closely mowed, managed grass, except that "turf" does
- 13 not include pasture, land used to grow grass for sod, or any other land used for
- 14 agricultural production.
- 15 **(2) RESTRICTIONS ON USE.** (a) Except as provided in par. (b), no person may apply
- 16 to turf fertilizer that is labeled as containing phosphorus.
- 17 (b) 1. Paragraph (a) does not apply to a person who applies fertilizer in order
- 18 to establish grass, using seed or sod, during the growing season in which the person
- 19 began establishing the grass.

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

5           (c) No person may apply fertilizer, manipulated animal or vegetable manure,  
6 or finished sewage sludge product to turf when the ground is frozen.

7           (d) No person may intentionally apply turf fertilizer, manipulated animal or  
8 vegetable manure, or finished sewage sludge product to an impervious surface. A  
9 person who accidentally applies turf fertilizer, manipulated animal or vegetable  
10 manure, or finished sewage sludge product to an impervious surface shall  
11 immediately remove it.

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

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

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

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

22           (4) RESTRICTION ON DISPLAY. No person who sells fertilizer at retail may display  
23 turf fertilizer that is labeled as containing phosphorus. A person who sells fertilizer  
24 at retail may <sup>shall</sup> post a sign <sup>Insert 3-24-A</sup> advising customers <sup>Insert 3-24-B ✓</sup> that turf fertilizer containing  
25 phosphorus is available upon request for uses permitted by sub. (2) (b).

⑤ Signs required.





2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0254/lins  
RCT:.....

**Analysis insert A**

\*  
\*  
# a person who sells lawn fertilizer containing phosphorus at retail to post a sign advising customers that phosphorus is known to cause water pollution and describing the prohibition in the ~~bill~~.

**Analysis insert**

substitute amendment  
B

The substitute amendment also prohibits cities, villages, towns, and counties from regulating the sale or use of fertilizer that contains phosphorus. ✓

**Insert 3-24-A**

# that is at least 8.5 inches by 11 inches ✓ #

**Insert 3-24-B**

# of all of the following: Phosphorus is known to cause pollution in our waters and that

Use of fertilizer containing phosphorus on lawns is prohibited except to establish new lawns or on lawns that are deficient in phosphorus, as shown by a soil test.

Persons who violate the prohibition may be required to pay a forfeiture under section

94.643 of the state statutes.

**Insert 4-3**

SECTION 1. 94.644 of the statutes is created to read:

**94.644 Fertilizer containing phosphorus; local regulation.** ✓ (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of fertilizer containing phosphorus.

(2) A city, village, town, or county may not regulate the sale or use of fertilizer, as defined in s. 94.64 (1) (e), that is labeled as containing phosphorus.

50254/12n

Michael Bruhn:

Please review this draft carefully, especially the preemption provision. Should there be any exceptions to the prohibition? Should it be limited to lawn fertilizer?

Please let me know if you have any questions or want any changes.

Pet

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0254/1dn  
RCTjld:rs

February 5, 2008

Michael Bruhn:

Please review this draft carefully, especially the preemption provision. Should there be any exceptions to the prohibition? Should it be limited to lawn fertilizer?

Please let me know if you have any questions or want any changes.

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

50254/1

2/7/08 - Per Mike:

- ✓ 1. On page 3, require that sign be posted in a location visible to customers.
- ✓ 2. Add SA 3 to SA 1, but add fertilizer labeled as containing phosphorus to it
- ✓ 3. Modify the other preemption to apply to fertilizer not labeled as containing phosphorus + use language like in siting law to allow some local regulation.
4. Want a companion to AB 396.

## Tradewell, Becky

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**From:** Bruhn, Mike  
**Sent:** Thursday, February 07, 2008 3:40 PM  
**To:** Tradewell, Becky  
**Subject:** amendment

Becky,

Here is the language. We are holding a hearing on Tuesday morning.

There is a preemption on local units of government from enacting local ordinances regulating fertilizer. It should state that DATCP has to approve what the local unit of government does. The language should be based on the ag siting law read something like: A local unit of government may adopt standards based on reasonable and scientifically defensible findings of facts that clearly show the requirement is necessary to protect public health and safety.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0254/1  
RCT:jld/kjf:rs

2

Today

↓  
9

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2007 SENATE BILL 197

↓ please regenerate

limiting

one of

- 1 AN ACT *to create* 94.643 and 94.644 of the statutes; **relating to:** restrictions on
- 2 the use of fertilizer containing phosphorus and other turf fertilizer, **prohibiting**
- 3 political subdivisions from **regulating** fertilizer containing phosphates, and
- 4 providing a penalty.

***Analysis by the Legislative Reference Bureau***

This substitute amendment 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 prohibition also does not apply to the use of manure that is unprocessed or that is mechanically dried, ground, or pelletized, or to a finished sewage sludge product. The substitute amendment authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The substitute amendment 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 substitute amendment prohibits the application of fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to turf when the ground is frozen. The substitute amendment also prohibits the application of turf fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to an impervious surface and requires a person who spills any of these substances onto an impervious surface to immediately remove it.

*limits local regulation of fertilizer.*

The substitute amendment requires a person who sells lawn fertilizer containing phosphorus at retail to post a sign advising customers that phosphorus is known to cause water pollution and describing the prohibitions in the substitute amendment.

The substitute amendment also prohibits cities, villages, towns, and counties from regulating the sale or use of fertilizer that contains phosphorus.

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

1            **SECTION 1.** 94.64<sup>2</sup> of the statutes is created to read:

2            **94.64<sup>2</sup> Restrictions on the use of fertilizer containing phosphorus. (1)**

3            DEFINITIONS. In this section:

4            (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
5            does not include manipulated animal or vegetable manure or finished sewage sludge  
6            product.

7            (ag) "Finished sewage sludge product" has the meaning given in s. 94.64 (1)  
8            (fm).

9            (ar) "Manipulated" means treated by mechanical drying, grinding, or  
10           pelletizing.

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

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

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

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

5           (c) No person may apply fertilizer, manipulated animal or vegetable manure,  
6 or finished sewage sludge product to turf when the ground is frozen.

7           (d) No person may intentionally apply turf fertilizer, manipulated animal or  
8 vegetable manure, or finished sewage sludge product to an impervious surface. A  
9 person who accidentally applies turf fertilizer, manipulated animal or vegetable  
10 manure, or finished sewage sludge product to an impervious surface shall  
11 immediately remove it.

12           (3) SIGNS REQUIRED. A person who sells, at retail, turf fertilizer that is labeled  
13 as containing phosphorus shall post a sign that is at least 8.5 inches by 11 inches  
14 *in a location that is clearly visible to customers* advising customers that phosphorus is known to cause pollution in our waters and  
15 that use of fertilizer containing phosphorus on lawns is prohibited except to establish  
16 new lawns or on lawns that are deficient in phosphorus, as shown by a soil test.  
17 Persons who violate the prohibition may be required to pay a forfeiture under sub.  
18 (4).

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

*Insert*  
*9/10/77/1*  
*Insert*  
*A*

SECTION 2. 94.644 of the statutes is created to read:

**94.644 Fertilizer containing phosphorus; local regulation.** (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of fertilizer containing phosphorus.





**SENATE AMENDMENT 3,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 197**

*Insert a 1077/1*

January 15, 2008 - Offered by Senators PLALE and TAYLOR.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 2: after "turf fertilizer" insert ", limiting local regulation of  
3 certain fertilizer,".

4 **2.** Page 4, line 3: after that line insert:

5 ~~SECTION 1m.~~ <sup>3</sup> 94.644 of the statutes is created to read: <sup>④</sup> and fertilizer containing

6 <sup>3</sup> 94.644 **Finished sewage sludge, and manipulated manure; local**

7 **regulation.** (1) This section is an enactment of statewide concern for the purpose

8 of providing uniform regulation of finished sewage sludge products, and manipulated

9 animal and vegetable manure <sup>②</sup> and fertilizer containing phosphorus

10 (2) In this section:

11 (a) "Distribution" means importation, consignment, sale, offering for sale,

12 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

→ (am) "Fertilizer" has the meaning given in s. 94.64 (1)(c), except that "fertilizer" does not include manipulated animal or vegetable manure or finished sewage sludge product.

(bm)

1 (b) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

2 (c) "Labeling" has the meaning given in 94.64 (1) (j).

3 (d) "Manipulated" means treated by mechanical drying, grinding, or  
4 pelletizing.

5 (e) "Political subdivision" means a city, village, town, or county.

6 (3) A political subdivision may not regulate the distribution or labeling of  
7 finished sewage sludge ~~or~~ manipulated animal or vegetable manure and may not  
8 regulate the use of finished sewage sludge ~~or~~ manipulated animal or vegetable  
9 manure when that use is in accordance with agronomic directions on the labeling,  
10 except that this prohibition does not apply to regulation under an ordinance in effect  
11 on the effective date of this subsection .... [revisor inserts date]".

12 (END) of insert a1077/1

, or fertilizer that is <sup>labeled</sup> labeled as containing phosphorus

**2007-2008 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0254/2ins  
RCT.....

**Insert A**

✓  
**SECTION 1.** 94.644 of the statutes is created to read:

**94.644 Local regulation of fertilizers not containing phosphorus. (1)**

In this section:

(a) "Distribution" means importation, consignment, sale, offering for sale, soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

(b) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer" does not include manipulated animal or vegetable manure or finished sewage sludge product.

✓  
(c) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

(d) "Manipulated" means treated by mechanical drying, grinding, or pelletizing.

(e) "Political subdivision" means a city, village, town, or county.

✓  
**(2)** A political subdivision may only regulate the distribution, labeling, or use of fertilizer that is not labeled as containing phosphorus if all of the following apply:

(a) The regulation is based on reasonable and scientifically defensible findings of fact that clearly show that the regulation is necessary to protect public health and safety.

✓  
(b) The department approves the regulation.

*end of insert A*

50254/2

2/11 Per Mike - delete material after "phosphorus" on page 4, line 18- through line 20.

RT



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0254/3  
RCT:jld&kjf:awn  
e  
e  
VMy  
6bk

→ Today

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 SENATE BILL 197

see p 4

SA ✓

regen. cat.

1 AN ACT to create 94.642, 94.643 and 94.644 of the statutes; relating to:  
2 restrictions on the use of fertilizer containing phosphorus and other turf  
3 fertilizer, limiting political subdivision regulation of fertilizer, and providing a  
4 penalty.

**Analysis by the Legislative Reference Bureau**

This substitute amendment 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 prohibition also does not apply to the use of manure that is unprocessed or that is mechanically dried, ground, or pelletized, or to a finished sewage sludge product. The substitute amendment authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The substitute amendment 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 substitute amendment prohibits the application of fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to turf when the ground is frozen. The substitute amendment also prohibits the application of turf fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to an impervious surface and requires a person who spills any of these substances onto an impervious surface to immediately remove it.

The substitute amendment requires a person who sells lawn fertilizer containing phosphorus at retail to post a sign advising customers that phosphorus is known to cause water pollution and describing the prohibitions in the substitute amendment.

The substitute amendment also limits local regulation of fertilizer.

---

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

1           SECTION 1. 94.642 of the statutes is created to read:

2           **94.642 Restrictions on the use of fertilizer containing phosphorus. (1)**

3           DEFINITIONS. In this section:

4           (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
5           does not include manipulated animal or vegetable manure or finished sewage sludge  
6           product.

7           (ag) "Finished sewage sludge product" has the meaning given in s. 94.64 (1)  
8           (fm).

9           (ar) "Manipulated" means treated by mechanical drying, grinding, or  
10          pelletizing.

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

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

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

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

5           (c) No person may apply fertilizer, manipulated animal or vegetable manure,  
6 or finished sewage sludge product to turf when the ground is frozen.

7           (d) No person may intentionally apply turf fertilizer, manipulated animal or  
8 vegetable manure, or finished sewage sludge product to an impervious surface. A  
9 person who accidentally applies turf fertilizer, manipulated animal or vegetable  
10 manure, or finished sewage sludge product to an impervious surface shall  
11 immediately remove it.

12           **(3) SIGNS REQUIRED.** A person who sells, at retail, turf fertilizer that is labeled  
13 as containing phosphorus shall post a sign that is at least 8.5 inches by 11 inches in  
14 a location that is clearly visible to customers advising customers that phosphorus is  
15 known to cause pollution in our waters and that use of fertilizer containing  
16 phosphorus on lawns is prohibited except to establish new lawns or on lawns that are  
17 deficient in phosphorus, as shown by a soil test. Persons who violate the prohibition  
18 may be required to pay a forfeiture under sub. (4).

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

22           **SECTION 2.** 94.643 of the statutes is created to read:

23           **94.643 Finished sewage sludge, manipulated manure, and fertilizer**  
24 **containing phosphorus; local regulation.** (1) This section is an enactment of  
25 statewide concern for the purpose of providing uniform regulation of finished sewage



1 sludge products, manipulated animal and vegetable manure, and fertilizer  
2 containing phosphorus.

3 (2) In this section:

4 (a) "Distribution" means importation, consignment, sale, offering for sale,  
5 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

6 (am) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that  
7 "fertilizer" does not include manipulated animal or vegetable manure or finished  
8 sewage sludge product.

9 (b) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

10 (c) "Labeling" has the meaning given in 94.64 (1) (j).

11 (d) "Manipulated" means treated by mechanical drying, grinding, or  
12 pelletizing.

13 (e) "Political subdivision" means a city, village, town, or county.

14 (3) A political subdivision may not regulate the distribution <sup>3</sup> or labeling <sup>for use</sup> of  
15 finished sewage sludge, manipulated animal or vegetable manure, or fertilizer that  
16 is labeled as containing phosphorus and may not regulate the use of finished sewage  
17 sludge, manipulated animal or vegetable manure, or fertilizer that is labeled as  
18 containing phosphorus when that use is in accordance with agronomic directions on  
19 the labeling, except that this prohibition does not apply to regulation under an  
20 ordinance in effect on the effective date of this subsection ... [revisor inserts date].

21 SECTION 3. 94.644 of the statutes is created to read:

22 **94.644 Local regulation of fertilizers not containing phosphorus. (1)**

23 In this section:

24 (a) "Distribution" means importation, consignment, sale, offering for sale,  
25 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

1 (b) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
2 does not include manipulated animal or vegetable manure or finished sewage sludge  
3 product.

4 (c) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

5 (d) "Manipulated" means treated by mechanical drying, grinding, or  
6 pelletizing.

7 (e) "Political subdivision" means a city, village, town, or county.

8 **(2)** A political subdivision may only regulate the distribution, labeling, or use  
9 of fertilizer that is not labeled as containing phosphorus if all of the following apply:

10 (a) The regulation is based on reasonable and scientifically defensible findings  
11 of fact that clearly show that the regulation is necessary to protect public health and  
12 safety.

13 (b) The department approves the regulation.

14 **SECTION 4. Effective date.**

15 (1) This act takes effect on the first day of the 12th month beginning after  
16 publication.

17 **(END)**



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/12/2008 (Per: RCT)



☞ Appendix A

☞ The 2007 drafting file for LRBs0254/3  
has been copied/added to the drafting file for  
**2007 LRBs0262**

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

3/7/08 Per Mike! Fix page 3, line 17, to clarify that the sign has to say that violators of the curfew may be required to pay a forfeiture.

2. Incorporate 0701580

3. Page 5, line 8 - add "or the environment".

4. Make it the Secretary who must approve the regulation

5. Exempt local units of government with existing ordinances from the prescription - make effective date for this the date when the bill is published.

RTT

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0254/3),  
TO 2007 SENATE BILL 197**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 3, line 22: delete the material beginning with that line and ending with  
3 page 4, line 16.

4 **2.** Page 4, line 18: delete “**not containing phosphorus**”.

5 **3.** Page 4, line 25: after that line insert:

6 “(cm) “Labeling” has the meaning given in s. 94.64 (1) (j).”.

7 **4.** Page 5, line 5: delete “that is not labeled as containing phosphorus”.

8 (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0254/4

RCT:jld/kjf/bk:pg

Now

Stays  
Vmr

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 SENATE BILL 197

regenerate

1 AN ACT *to create* 94.642, 94.643 and 94.644 of the statutes; relating to:  
2 restrictions on the use of fertilizer containing phosphorus and other turf  
3 fertilizer, limiting political subdivision regulation of fertilizer, and providing a  
4 penalty.

---

***Analysis by the Legislative Reference Bureau***

This substitute amendment 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 prohibition also does not apply to the use of manure that is unprocessed or that is mechanically dried, ground, or pelletized, or to a finished sewage sludge product. The substitute amendment authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The substitute amendment 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 substitute amendment prohibits the application of fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to turf when the ground is frozen. The substitute amendment also prohibits the application of turf fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to an impervious surface and requires a person who spills any of these substances onto an impervious surface to immediately remove it.

The substitute amendment requires a person who sells lawn fertilizer containing phosphorus at retail to post a sign advising customers that phosphorus is known to cause water pollution and describing the prohibitions in the substitute amendment.

The substitute amendment also limits local regulation of fertilizer.

---

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

1           **SECTION 1.** 94.642 of the statutes is created to read:

2           **94.642 Restrictions on the use of fertilizer containing phosphorus. (1)**

3           DEFINITIONS. In this section:

4           (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
5           does not include manipulated animal or vegetable manure or finished sewage sludge  
6           product.

7           (ag) "Finished sewage sludge product" has the meaning given in s. 94.64 (1)  
8           (fm).

9           (ar) "Manipulated" means treated by mechanical drying, grinding, or  
10          pelletizing.

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

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

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

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

5           (c) No person may apply fertilizer, manipulated animal or vegetable manure,  
6 or finished sewage sludge product to turf when the ground is frozen.

7           (d) No person may intentionally apply turf fertilizer, manipulated animal or  
8 vegetable manure, or finished sewage sludge product to an impervious surface. A  
9 person who accidentally applies turf fertilizer, manipulated animal or vegetable  
10 manure, or finished sewage sludge product to an impervious surface shall  
11 immediately remove it.

12           (3) SIGNS REQUIRED. A person who sells, at retail, turf fertilizer that is labeled  
13 as containing phosphorus shall post a sign that is at least 8.5 inches by 11 inches in  
14 a location that is clearly visible to customers advising customers that phosphorus is  
15 known to cause pollution in our waters <sup>and</sup> that use of fertilizer containing  
16 phosphorus on lawns is prohibited except to establish new lawns or on lawns that are  
17 deficient in phosphorus, as shown by a soil test. <sup>and that</sup> Persons who violate the prohibition  
18 may be required to pay a forfeiture under sub. (4).

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

22           SECTION 2. 94.643 of the statutes is created to read:

23           **94.643 Finished sewage sludge, manipulated manure, and fertilizer**  
24 **containing phosphorus; local regulation.** (1) This section is an enactment of  
25 statewide concern for the purpose of providing uniform regulation of finished sewage



1 sludge products, manipulated animal and vegetable manure, and fertilizer  
2 containing phosphorus.

3 (2) In this section:

4 (a) "Distribution" means importation, consignment, sale, offering for sale,  
5 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

6 (am) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that  
7 "fertilizer" does not include manipulated animal or vegetable manure or finished  
8 sewage sludge product.

9 (b) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

10 *make t* (c) *fm* "Labeling" has the meaning given in 94.64 (1) (j).

11 (d) "Manipulated" means treated by mechanical drying, grinding, or  
12 pelletizing.

13 (e) "Political subdivision" means a city, village, town, or county.

14 (3) A political subdivision may not regulate the distribution, labeling, or use  
15 of finished sewage sludge, manipulated animal or vegetable manure, or fertilizer  
16 that is labeled as containing phosphorus.

17 SECTION 3. 94.644 of the statutes is created to read:

18 **94.644 Local regulation of fertilizers not containing phosphorus.** (1)

19 In this section:

20 (a) "Distribution" means importation, consignment, sale, offering for sale,  
21 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

22 (b) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
23 does not include manipulated animal or vegetable manure or finished sewage sludge  
24 product.

25 (c) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

1 (d) "Manipulated" means treated by mechanical drying, grinding, or  
2 pelletizing.

3 (e) "Political subdivision" means a city, village, town, or county.

*except as provided in sub. (3);*

4 (2) A political subdivision may only regulate the distribution, labeling, or use  
5 of fertilizer that is not labeled as containing phosphorus if all of the following apply:

6 (a) The regulation is based on reasonable and scientifically defensible findings  
7 of fact that clearly show that the regulation is necessary to protect public health and  
8 safety. *or the environment*

*secretary*

9 (b) The ~~department~~ *secretary* approves the regulation.

10 **SECTION 4. Effective date.**

*Insert 5-11*

11 (1) This act takes effect on the first day of the 12th month beginning after  
12 publication.

13 (END)

(B) (3) (a) Subsection (2) does not apply to regulation under an ordinance that is in effect on the effective date of this paragraph.... [reviser inserts date].

(b) A political subdivision shall provide the department with a copy of an ordinance described in par. (a) no later than the first day of the 3rd month beginning after the effective date of this paragraph.... [reviser inserts date].

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → \*NS: → **effdate**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION # \_\_\_\_\_ . Effective date.**

( #1 ) ( ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → \*NS: → **effdateE**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

*Insert 5-11*

**SECTION # \_\_\_\_\_ . Effective dates;** .....

..... This act takes effect on the day after publication, except as follows:

*text: NS: → effdate#*

( #1 ) ( ) ..... The treatment of sections ..... *94.642*

of the statutes takes effect on *the first day of the 12th month beginning after publication.*

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → \*NS: → **94XX**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9400** department code.

**SECTION 94 \_\_\_\_\_ . Effective dates;** .....

( #1 ) ( ) ..... The treatment of sections .....

of the statutes takes effect on .....

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0254/4)  
TO 2007 SENATE BILL 197**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 10: after “fertilizer” insert “labeled as containing phosphorous”.

3 **2.** Page 4, line 14: after the period insert “The secretary may disapprove the regulation

4 if the secretary finds that the regulation is not in compliance with par. (a). The secretary shall

5 make the determination within 60 days after the political subdivision submits the ordinance

6 to the secretary.”.

7 (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0254/4 5  
RCT:jld/kjf/bk:rs

Today

YMY

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2007 SENATE BILL 197

Regen

- 1 AN ACT *to create* 94.642 and 94.644 of the statutes; **relating to:** restrictions on  
2 the use of fertilizer containing phosphorus and other turf fertilizer, limiting  
3 political subdivision regulation of fertilizer, and providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

This substitute amendment 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 prohibition also does not apply to the use of manure that is unprocessed or that is mechanically dried, ground, or pelletized, or to a finished sewage sludge product. The substitute amendment authorizes the use of fertilizer that contains phosphorus to establish grass during the first growing season. The substitute amendment 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 substitute amendment prohibits the application of fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to turf when the ground is frozen. The substitute amendment also prohibits the application of turf fertilizer, manure that is mechanically dried, ground, or pelletized, and finished sewage sludge product to an impervious surface and requires a person who spills any of these substances onto an impervious surface to immediately remove it.

The substitute amendment requires a person who sells lawn fertilizer containing phosphorus at retail to post a sign advising customers that phosphorus

is known to cause water pollution and describing the prohibitions in the substitute amendment.

The substitute amendment also limits local regulation of fertilizer.

---

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

1           **SECTION 1.** 94.642 of the statutes is created to read:

2           **94.642 Restrictions on the use of fertilizer containing phosphorus. (1)**

3           **DEFINITIONS.** In this section:

4           (a) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
5 does not include manipulated animal or vegetable manure or finished sewage sludge  
6 product.

7           (ag) "Finished sewage sludge product" has the meaning given in s. 94.64 (1)  
8 (fm).

9           (ar) "Manipulated" means treated by mechanical drying, grinding, or  
10 pelletizing.

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

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

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

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

5           (c) No person may apply fertilizer, manipulated animal or vegetable manure,  
6 or finished sewage sludge product to turf when the ground is frozen.

7           (d) No person may intentionally apply turf fertilizer, manipulated animal or  
8 vegetable manure, or finished sewage sludge product to an impervious surface. A  
9 person who accidentally applies turf fertilizer, manipulated animal or vegetable  
10 manure, or finished sewage sludge product to an impervious surface shall  
11 immediately remove it.

12           **(3) SIGNS REQUIRED.** A person who sells, at retail, turf fertilizer that is labeled  
13 as containing phosphorus shall post a sign that is at least 8.5 inches by 11 inches in  
14 a location that is clearly visible to customers advising customers that phosphorus is  
15 known to cause pollution in our waters, that use of fertilizer containing phosphorus  
16 on lawns is prohibited except to establish new lawns or on lawns that are deficient  
17 in phosphorus, as shown by a soil test, and that persons who violate the prohibition  
18 may be required to pay a forfeiture.

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

22           **SECTION 2.** 94.644 of the statutes is created to read:

23           **94.644 Local regulation of fertilizers.** (1) In this section:

24           (a) "Distribution" means importation, consignment, sale, offering for sale,  
25 soliciting orders for sale, or otherwise supplying a product for sale or use in this state.

1 (b) "Fertilizer" has the meaning given in s. 94.64 (1) (e), except that "fertilizer"  
2 does not include manipulated animal or vegetable manure or finished sewage sludge  
3 product.

4 (c) "Finished sewage sludge product" has the meaning given in s. 94.64 (1) (fm).

5 (cm) "Labeling" has the meaning given in 94.64 (1) (j).

6 (d) "Manipulated" means treated by mechanical drying, grinding, or  
7 pelletizing.

8 (e) "Political subdivision" means a city, village, town, or county.

9 (2) Except as provided in sub. (3), a political subdivision may only regulate the  
10 distribution, labeling, or use of fertilizer if all of the following apply: that is labeled as containing phosphorous ✓

11 (a) The regulation is based on reasonable and scientifically defensible findings  
12 of fact that clearly show that the regulation is necessary to protect public health and  
13 safety or the environment.

14 (b) The secretary approves the regulation. *Insert 4-14 ✓*

15 (3) (a) Subsection (2) does not apply to regulation under an ordinance that is  
16 in effect on the effective date of this paragraph .... [revisor inserts date].

17 (b) A political subdivision shall provide the department with a copy of an  
18 ordinance described in par. (a) no later than the first day of the 3rd month beginning  
19 after the effective date of this paragraph .... [revisor inserts date].

20 **SECTION 3. Effective dates.** This act takes effect on the day after publication,  
21 except as follows:

22 (1) The treatment of section 94.642 of the statutes takes effect on the first day  
23 of the 12th month beginning after publication.

24 (END)



**ASSEMBLY AMENDMENT ,**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0254/4)**  
**TO 2007 SENATE BILL 197**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 10: after "fertilizer" insert "labeled as containing phosphorous".

3 **2.** Page 4, line 14: after the period insert "The secretary may disapprove the regulation  
 4 if the secretary finds that the regulation is not in compliance with par. (a). The secretary shall  
 5 make the determination within 60 days after the political subdivision submits the ordinance  
 6 to the secretary."

*Insert  
4-14*

7

*(END)*