



State of Wisconsin
2007 - 2008 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 396**

March 10, 2008 - Offered by COMMITTEE ON NATURAL RESOURCES.

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 certain 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 that is labeled as containing phosphorous
11 if all of the following apply:

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

15 (b) The secretary approves the regulation. The secretary may disapprove the
16 regulation if the secretary finds that the regulation is not in compliance with par. (a).
17 The secretary shall make the determination within 60 days after the political
18 subdivision submits the ordinance to the secretary.

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

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

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

