

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Lawn Care Products Application and Notice  
5 Act is amended by changing Sections 2 and 7 and adding Sections  
6 5a and 9 as follows:

7 (415 ILCS 65/2) (from Ch. 5, par. 852)

8 Sec. 2. Definitions.

9 For purposes of this Act:

10 "Application" means the spreading of lawn care products on  
11 a lawn.

12 "Applicator for hire" means any person who makes an  
13 application of lawn care products to a lawn or lawns for  
14 compensation, including applications made by an employee to  
15 lawns owned, occupied or managed by his employer and includes  
16 those licensed by the Department as licensed commercial  
17 applicators, commercial not-for-hire applicators, licensed  
18 public applicators, certified applicators and licensed  
19 operators and those otherwise subject to the licensure  
20 provisions of the Illinois Pesticide Act, as now or hereafter  
21 amended.

22 "Buffer" means an area adjacent to a body of water that is  
23 left untreated with any fertilizer.

1 "Day care center" means any facility that qualifies as a  
2 "day care center" under the Child Care Act of 1969.

3 "Department" means the Illinois Department of Agriculture.

4 "Department of Public Health" means the Illinois  
5 Department of Public Health.

6 "Facility" means a building or structure and appurtenances  
7 thereto used by an applicator for hire for storage and handling  
8 of pesticides or the storage or maintenance of pesticide  
9 application equipment or vehicles.

10 "Fertilizer" means any substance containing nitrogen,  
11 phosphorus or potassium or other recognized plant nutrient or  
12 compound, which is used for its plant nutrient content.

13 "Golf course" means an area designated for the play or  
14 practice of the game of golf, including surrounding grounds,  
15 trees, ornamental beds and the like.

16 "Golf course superintendent" means any person entrusted  
17 with and employed for the care and maintenance of a golf  
18 course.

19 "Impervious surface" means any structure, surface, or  
20 improvement that reduces or prevents absorption of stormwater  
21 into land, and includes pavement, porous paving, paver blocks,  
22 gravel, crushed stone, decks, patios, elevated structures, and  
23 other similar structures, surfaces, or improvements.

24 "Lawn" means land area covered with turf kept closely mown  
25 or land area covered with turf and trees or shrubs. The term  
26 does not include (1) land area used for research for

1 agricultural production or for the commercial production of  
2 turf, (2) land area situated within a public or private  
3 right-of-way, or (3) land area which is devoted to the  
4 production of any agricultural commodity, including, but not  
5 limited to plants and plant parts, livestock and poultry and  
6 livestock or poultry products, seeds, sod, shrubs and other  
7 products of agricultural origin raised for sale or for human or  
8 livestock consumption.

9 "Lawn care products" means fertilizers or pesticides  
10 applied or intended for application to lawns.

11 "Lawn repair products" means seeds, including seeding  
12 soils, that contain or are coated with or encased in fertilizer  
13 material.

14 "Person" means any individual, partnership, association,  
15 corporation or State governmental agency, school district,  
16 unit of local government and any agency thereof.

17 "Pesticide" means any substance or mixture of substances  
18 defined as a pesticide under the Illinois Pesticide Act, as now  
19 or hereafter amended.

20 "Plant protectants" means any substance or material used to  
21 protect plants from infestation of insects, fungi, weeds and  
22 rodents, or any other substance that would benefit the overall  
23 health of plants.

24 "Soil test" means a chemical and mechanical analysis of  
25 soil nutrient values and pH level as it relates to the soil and  
26 development of a lawn.

1       "Spreader" means any commercially available fertilizing  
2       device used to evenly distribute fertilizer material.

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

5       "0% phosphate fertilizer" means a fertilizer that contains  
6       no more than 0.67% available phosphoric acid (P<sub>2</sub>O<sub>5</sub>).

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

8             (415 ILCS 65/5a new)

9       Sec. 5a. Fertilizer; application restrictions.

10       (a) No applicator for hire shall:

11             (1) Apply phosphorus-containing fertilizer to a lawn,  
12             except as demonstrated to be necessary by a soil test that  
13             establishes that the soil is lacking in phosphorous when  
14             compared against the standard established by the  
15             University of Illinois. The soil test required under this  
16             paragraph (1) shall be conducted no more than 36 months  
17             before the intended application of the fertilizer and by a  
18             soil testing laboratory that has been identified by the  
19             University of Illinois as an acceptable laboratory for soil  
20             testing. However, a soil test shall not be required under  
21             this paragraph (1) if the fertilizer to be applied is a 0%  
22             phosphate fertilizer or the fertilizer is being applied to  
23             establish a lawn in the first 2 growing seasons.

24             (2) Apply fertilizer to an impervious surface, except  
25             where the application is inadvertent and fertilizer is

1 swept or blown back into the target area or returned to  
2 either its original or another appropriate container for  
3 reuse.

4 (3) Apply fertilizer using a spray, drop, or rotary  
5 spreader with a deflector within a 3 foot buffer of any  
6 water body, except that when this equipment is not used,  
7 fertilizer may not be applied within a 15 foot buffer of  
8 any water body.

9 (4) Apply fertilizer at any time when the lawn is  
10 frozen or saturated. For the purposes of this paragraph  
11 (4), a lawn is frozen when its root system is frozen  
12 (typically 3 or 4 inches down), and a lawn is saturated  
13 when it bears ample evidence of being or having been  
14 inundated by standing water.

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

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

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

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

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

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

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

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

16           Upon prosecution by a State's Attorney, a violation of this  
17 Act or rules shall be a petty offense subject to a fine of \$250  
18 ~~\$100~~ for a first offense, a fine of \$500 ~~\$200~~ for a second  
19 offense and a fine of \$1,000 ~~\$500~~ for a third or subsequent  
20 offense.

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

22           (415 ILCS 65/9 new)

23           Sec. 9. Home rule.

24           (a) On and after the effective date of this amendatory Act  
25 of the 96th General Assembly, a unit of local government may

1 not regulate fertilizer in a manner more restrictive than the  
2 regulation of fertilizer by the State under this Act, unless  
3 the Department of Agriculture determines that a proposed  
4 ordinance of a unit of local government is reasonable under the  
5 specific circumstances based on standards that the Department  
6 shall adopt by rule. This Section is a limitation under  
7 subsection (i) of Section 6 of Article VII of the Illinois  
8 Constitution on the concurrent exercise by home rule units of  
9 powers and functions exercised by the State.

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

13 (415 ILCS 65/8 rep.)

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

16 Section 99. Effective date. This Act takes effect July 1,  
17 2010.