

Legislative Bill Drafting Commission
09115-03-9

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

***ENVCONLA* *Department of Environ-
mental Conservation 4 R-2*
(Relates to the sale and use of
fertilizer)**

En Con L. sale/use of fertilizer

AN ACT

to amend the environmental conserva-
tion law, in relation to the sale or
use of fertilizer restricted in
Nassau and Suffolk counties; and
providing for the repeal of certain
provisions upon expiration thereof

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s02 Flanagan	s09 Kaminsky	s25 Montgomery	s23 Savino
s52 Akshar	s55 Funke	s07 Kaplan	s20 Myrie	s32 Sepulveda
s46 Amedore	s59 Gallivan	s26 Kavanagh	s58 O'Mara	s41 Serino
s50 Antonacci	s05 Gaughran	s63 Kennedy	s62 Ortt	s29 Serrano
s36 Bailey	s12 Gianaris	s28 Krueger	s21 Parker	s51 Seward
s30 Benjamin	s22 Gounardes	s24 Lanza	s19 Persaud	s39 Skoufis
s34 Biaggi	s47 Griffo	s01 LaValle	s13 Ramos	s16 Stavisky
s04 Boyle	s40 Harckham	s45 Little	s61 Ranzenhofer	s35 Stewart- Cousins
s44 Breslin	s54 Helming	s11 Liu	s48 Ritchie	
s08 Brooks	s27 Hoylman	s03 Martinez	s33 Rivera	s49 Tedisco
s38 Carlucci	s31 Jackson	s53 May	s56 Robach	s06 Thomas
s14 Comrie	s60 Jacobs	s37 Mayer	s18 Salazar	s57 Young
s17 Felder	s43 Jordan	s42 Metzger	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a072 De La Rosa	a029 Hyndman	a144 Norris	a090 Sayegh
a092 Abinanti	a034 DenDekker	a104 Jacobson	a069 O'Donnell	a140 Schimminger
a084 Arroyo	a003 DeStefano	a097 Jaffee	a051 Ortiz	a099 Schmitt
a107 Ashby	a070 Dickens	a011 Jean-Pierre	a091 Otis	a076 Seawright
a035 Aubry	a054 Dilan	a135 Johns	a132 Palmesano	a052 Simon
a120 Barclay	a081 Dinowitz	a115 Jones	a002 Palumbo	a036 Simotas
a030 Barnwell	a147 DiPietro	a077 Joyner	a088 Paulin	a005 Smith
a106 Barrett	a016 D'Urso	a040 Kim	a141 Peoples- Stokes	a118 Smullen
a060 Barron	a048 Eichenstein	a131 Kolb		a022 Solages
a082 Benedetto	a004 Englebright	a105 Lalor	a058 Perry	a114 Stec
a042 Bichotte	a074 Epstein	a013 Lavine	a023 Pheffer	a110 Steck
a079 Blake	a109 Fahy	a134 Lawrence	Amato	a010 Stern
a117 Blankenbush	a061 Fall	a050 Lentol	a086 Pichardo	a127 Stirpe
a098 Brabene	a080 Fernandez	a125 Lifton	a089 Pretlow	a102 Tague
a026 Braunstein	a126 Finch	a009 LiPetri	a073 Quart	a071 Taylor
a138 Bronson	a008 Fitzpatrick	a123 Lupardo	a019 Ra	a001 Thiele
a093 Buchwald	a124 Friend	a129 Magnarelli	a012 Raia	a031 Titus
a142 Burke	a046 Frontus	a064 Malliotakis	a006 Ramos	a033 Vanel
a119 Buttenschon	a095 Galef	a130 Manktelow	a018 Raynor	a116 Walczyk
a094 Byrne	a137 Gantt	a108 McDonald	a062 Reilly	a055 Walker
a133 Byrnes	a007 Garbarino	a014 McDonough	a087 Reyes	a143 Wallace
a103 Cahill	a148 Giglio	a146 McMahan	a043 Richardson	a112 Walsh
a044 Carroll	a066 Glick	a017 Mikulin	a078 Rivera	a041 Weinstein
a047 Colton	a150 Goodell	a101 Miller, B.	a068 Rodriguez	a024 Weprin
a032 Cook	a075 Gottfried	a038 Miller, M. G.	a136 Romeo	a059 Williams
a085 Crespo	a021 Griffin	a020 Miller, M. L.	a027 Rosenthal, D.	a113 Woerner
a122 Crouch	a100 Gunther	a015 Montesano	a067 Rosenthal, L.	a056 Wright
a039 Cruz	a139 Hawley	a145 Morinello	a025 Rozic	a096 Zebrowski
a063 Cusick	a083 Heastie	a057 Mosley	a149 Ryan	
a045 Cymbrowitz	a028 Hevesi	a065 Niou	a121 Salka	
a053 Davila	a128 Hunter	a037 Nolan	a111 Santabarbara	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

1 Section 1. Section 17-2101 of the environmental conservation law is
2 amended by adding six new subdivisions 5, 6, 7, 8, 9 and 10 to read as
3 follows:

4 5. "Slowly available nitrogen" shall mean nitrogen in a form that
5 releases, or converts to a plant-available form, plant nutrients at a
6 slower rate relative to a reference soluble product; nitrogen engineered
7 to provide nutrients over time at a predictable rate under specified
8 conditions; or nitrogen in a form that has been amended with an additive
9 that reduces the rate of transformation extending the time of nutrient
10 availability to the plant relative to its unamended form.

11 6. "Low nitrogen fertilizer" shall mean fertilizer that contains at
12 least fifty percent slowly available nitrogen.

13 7. "Athletic fields" shall mean outdoor facilities used for sporting
14 activities such as softball, baseball, football, soccer, and other non-
15 motorized sports, but shall not include residential properties and golf
16 courses.

17 8. "Person" or "persons" means the same as "person" as defined in
18 subdivision one of section 17-0105 of this article.

19 9. "Retailer" shall mean any person who sells or offers for sale
20 specialty fertilizer to consumers, but shall not include wholesale.

21 10. "Wholesaler" shall mean any person, company, corporation or other
22 entity that sells or distributes specialty fertilizer for resale to an
23 entity other than a consumer.

24 § 2. Paragraph (b) of subdivision 3 of section 17-2103 of the environ-
25 mental conservation law, as added by chapter 205 of the laws of 2010, is
26 amended to read as follows:

27 (b) any impervious surface including parking lots, roadways, storm
28 drains, frozen ground, and sidewalks, or where there is standing water

1 on turf. If such application occurs, the fertilizer must be immediately
2 contained and either legally applied to lawn or non-agricultural turf or
3 placed in an appropriate container; or

4 § 3. The environmental conservation law is amended by adding a new
5 section 17-2107 to read as follows:

6 § 17-2107. Sale or use of fertilizer in Nassau and Suffolk counties.

7 1. Effective immediately, no person shall apply, or authorize any
8 person by way of a service contract or other arrangement to apply,
9 fertilizer on lawn or non-agricultural turf, unless the application
10 occurs between April 2 and October 31 annually.

11 2. No retailer shall:

12 (a) sell fertilizer for use on lawn or non-agricultural turf between
13 November 1 and March 15 annually; or

14 (b) display fertilizer for use on lawn or non-agricultural turf in
15 stores between November 8 and March 15 annually.

16 3. Nothing in this title shall impair or supersede the authority of
17 the commissioner of agriculture and markets pursuant to articles 10 and
18 25-AA of the agriculture and markets law.

19 4. Athletic fields and golf courses are exempt from the requirements
20 of this section.

21 5. The department is authorized to promulgate rules and regulations
22 necessary to implement and administer this section.

23 § 4. The environmental conservation law is amended by adding a new
24 section 17-2109 to read as follows:

25 § 17-2109. Sale or use of low nitrogen fertilizer in Nassau and Suffolk
26 counties.

27 1. Only low nitrogen fertilizer shall be applied to lawn or non-agri-
28 cultural turf.

1 2. No person shall apply, or authorize any person by way of a service
2 contract or other arrangement to apply, low nitrogen fertilizer on lawn
3 or non-agricultural turf, unless the application occurs:

4 (a) between April 2 and October 31 annually;

5 (b) in an amount not to exceed an applicant rate of 0.6 pounds of
6 total nitrogen per thousand square feet of lawn or non-agricultural turf
7 in any single application; and

8 (c) in an amount not to exceed an application rate of 1.8 pounds of
9 total nitrogen per thousand square feet of lawn or non-agricultural turf
10 in any annual application.

11 3. Retailers shall only offer for sale low nitrogen fertilizer for use
12 on lawns and other non-agriculture turf grass that is manufactured in
13 accordance with subdivision five of this section.

14 4. No retailers offering low nitrogen fertilizer for sale shall:

15 (a) sell low nitrogen fertilizer for use on lawn or non-agricultural
16 turf between November 1 and March 15 annually; or

17 (b) display low nitrogen fertilizer for use on lawn or non-agricultur-
18 al turf in stores between November 8 and March 15 annually.

19 5. Manufacturers shall ensure that low nitrogen fertilizer products
20 they manufacture and distribute for sale in Nassau and Suffolk counties:

21 (a) contain application directions on product packaging in both
22 English and Spanish;

23 (b) include on product packaging a statement containing both the
24 single and annual application rates for low nitrogen fertilizer as set
25 forth in paragraphs (b) and (c), respectively, of subdivision two of
26 this section;

27 (c) include on product packaging only application equipment settings
28 for the single application rate of 0.6 pounds of total nitrogen per

1 thousand square feet of lawn or non-agricultural turf as set forth in
2 paragraph (b) of subdivision two of this section;

3 (d) clearly state on product packaging the square footage of lawn or
4 non-agricultural turf that would be covered by the entire package when
5 the contents are applied in accordance with the single application rate
6 as set forth in paragraph (b) of subdivision two of this section;

7 (e) clearly state on product packaging the percentage of slowly avail-
8 able nitrogen of total nitrogen contained in the product; and

9 (f) include on product packaging the following statement "Apply this
10 product as directed on the label. Do not over apply product. Over appli-
11 cation can lead to poor water quality."

12 6. Any person who applies, or authorizes any person by way of service
13 contract or other arrangement to apply, fertilizer shall keep records
14 showing dates and rates of application of fertilizer for each property.
15 A copy of records of applications of fertilizer done by service contract
16 or other arrangements shall be given to the property owner. Such records
17 shall be maintained for five years from the date of application.

18 7. Nothing in this title shall impair or supersede the authority of
19 the commissioner of agriculture and markets pursuant to articles 10 and
20 25-AA of the agriculture and markets law.

21 8. Athletic fields and golf courses are exempt from the requirements
22 of this section.

23 9. The department is authorized to promulgate rules and regulations
24 necessary to implement and administer this section.

25 § 5. The environmental conservation law is amended by adding a new
26 section 17-2111 to read as follows:

27 § 17-2111. Use of fertilizer on golf courses in Nassau and Suffolk coun-
28 ties.

1 1. Golf courses shall only apply fertilizer that has at least forty
2 percent slowly available nitrogen.

3 2. No person who is the owner of a golf course, or his/her represen-
4 tative, shall apply, or authorize any person by way of a service
5 contract or other arrangement to apply, fertilizer to a golf course,
6 unless the application occurs:

7 (a) between April 2 and October 31 annually;

8 (b) in an amount not to exceed the application rate of 0.7 pounds per
9 thousand square feet of total nitrogen in any single application;

10 (c) in an amount not to exceed the application rate of 2.7 pounds per
11 thousand square feet of total nitrogen annually, except that such appli-
12 cation rate may be exceeded where turf grass has suffered a loss greater
13 than ten percent per thousand square feet; and

14 (d) in an amount not to exceed 0.5 pounds per thousand square feet per
15 application of one hundred percent liquid, water soluble fertilizer.

16 3. The person who is the owner of a golf course, or his or her repre-
17 sentative, shall keep records showing dates and rates of application of
18 fertilizer for each golf course. Records of applications of fertilizer
19 done by service contract or other arrangement shall be given to the
20 owner of the golf course. Such records shall be maintained for five
21 years from date of application.

22 4. The department is authorized to promulgate rules and regulations
23 necessary to implement and administer this section.

24 § 6. Section 71-1945 of the environmental conservation law, as added
25 by chapter 205 of the laws of 2010, is amended to read as follows:

26 § 71-1945. Enforcement of title 21 of article 17.

27 1. Except as otherwise provided in this section, any person who
28 violates any provision of title 21 of article 17 of this chapter or any

1 rule, regulation or order issued thereunder shall be liable to the
2 people of the state for a civil penalty not to exceed five hundred
3 dollars for a first violation, and not to exceed one thousand dollars
4 for each subsequent violation, to be assessed by the commissioner after
5 a hearing or opportunity to be heard. Such person may also be enjoined
6 from such conduct.

7 2. Any property owner or owner's agent, or occupant of a household who
8 violates any provision of title 21 of article 17 of this chapter or any
9 rule, regulation, or order issued thereunder shall, for a first
10 violation [be issued a written warning and be provided educational mate-
11 rials. Upon a second violation, the owner or owner's agent, or occupant
12 of a household shall be liable to the people of the state for a civil
13 penalty not to exceed one hundred dollars, and for any subsequent
14 violations shall] be liable to the people of the state for a civil
15 penalty not to exceed two hundred fifty dollars. No owner or owner's
16 agent of a household shall be held liable for any violation by an occu-
17 pant. Such penalties may be assessed by the commissioner after a hearing
18 or opportunity to be heard. Such person may also be enjoined from such
19 conduct.

20 3. Except as otherwise provided in this section, any person who
21 violates any provision specified in section 17-2107 or 17-2111 of this
22 chapter or any rule, regulation, permit or order issued thereunder shall
23 be liable to the people of the state for a civil penalty not to exceed
24 one thousand dollars for a first violation, and not to exceed two thou-
25 sand dollars for each subsequent violation. Such penalties may be
26 assessed by the commissioner after a hearing or opportunity to be heard.
27 Such person may also be enjoined from such conduct.

1 4. Any property owner or owner's agent, or occupant of a household who
2 violates provisions specified in subdivision one of section 17-2107 of
3 this chapter or any rule, regulation, permit or order issued thereunder
4 shall, for a first violation be liable to the people of the state for a
5 civil penalty not to exceed one thousand dollars. No owner or owner's
6 agent of a household shall be held liable for any violation by an occu-
7 pant. Such penalties may be assessed by the commissioner after a hearing
8 or opportunity to be heard. Such person may also be enjoined from such
9 conduct.

10 § 7. Subdivisions 3 and 4 of section 71-1945 of the environmental
11 conservation law, as added by section six of this act, are amended to
12 read as follows:

13 3. Except as otherwise provided in this section, any person who
14 violates any provision specified in section [17-2107] 17-2109 or 17-2111
15 of this chapter or any rule, regulation, permit or order issued there-
16 under shall be liable to the people of the state for a civil penalty not
17 to exceed one thousand dollars for a first violation, and not to exceed
18 two thousand dollars for each subsequent violation. Such penalties may
19 be assessed by the commissioner after a hearing or opportunity to be
20 heard. Such person may also be enjoined from such conduct.

21 4. Any property owner or owner's agent, or occupant of a household who
22 violates provisions specified in [subdivision one of section 17-2107]
23 subdivision one, two, or six of section 17-2109 of this chapter or any
24 rule, regulation, permit or order issued thereunder shall, for a first
25 violation be liable to the people of the state for a civil penalty not
26 to exceed one thousand dollars. No owner or owner's agent of a household
27 shall be held liable for any violation by an occupant. Such penalties

1 may be assessed by the commissioner after a hearing or opportunity to be
2 heard. Such person may also be enjoined from such conduct.

3 § 8. This act shall take effect immediately; provided, however that
4 section three of this act shall expire and be deemed repealed December
5 31, 2020; provided further, however, sections four and seven of this act
6 shall take effect January 1, 2021.