

# SENATE BILL No. 648

September 15, 2011, Introduced by Senators MARLEAU, KOWALL, EMMONS, HANSEN, ROBERTSON, NOFS, GREEN, JONES, BOOHER and GLEASON and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 8501 and 8512b (MCL 324.8501 and 324.8512b),  
section 8501 as amended and section 8512b as added by 2010 PA 299.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 8501. As used in this part:

(a) "Adulterated product" means a product that contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown on the label.

(b) "Agricultural use" means that term as defined in section 36101.

1 (c) "Aquifer" means a geologic formation, group of formations,  
2 or part of a formation capable of yielding a significant amount of  
3 groundwater to wells or springs.

4 (d) "Aquifer sensitivity" means a hydrogeologic function  
5 representing the inherent abilities of materials surrounding the  
6 aquifer to attenuate the movement of nitrogen fertilizers into that  
7 aquifer.

8 (e) "Aquifer sensitivity region" means an area in which  
9 aquifer sensitivity estimations are sufficiently uniform to warrant  
10 their classification as a unit.

11 **(F) "BIOSOLIDS" MEANS A PRODUCT CONSISTING IN WHOLE OR IN PART**  
12 **OF SEWAGE SLUDGE THAT IS DISTRIBUTED TO THE PUBLIC AND THAT IS**  
13 **DISINFECTED BY MEANS OF COMPOSTING, PASTEURIZATION, WET AIR**  
14 **OXIDATION, HEAT TREATMENT, OR OTHER MEANS.**

15 (G) ~~(f)~~—"Brand or product name" means a term, design, or  
16 trademark used in connection with 1 or more grades of fertilizer.

17 (H) ~~(g)~~—"Bulk fertilizer" means fertilizer distributed in a  
18 nonpackaged form.

19 (I) ~~(h)~~—"Custom blend" means a fertilizer blended according to  
20 specifications provided to a blender in a soil test nutrient  
21 recommendation or blended as specifically requested by the consumer  
22 prior to blending.

23 (J) ~~(i)~~—"Department" means the department of agriculture **AND**  
24 **RURAL DEVELOPMENT.**

25 (K) ~~(j)~~—"Director" means the director of the department or his  
26 or her designee.

27 (L) ~~(k)~~—"Distribute" means to import, consign, sell, barter,

1 offer for sale, solicit orders for sale, or otherwise supply  
2 fertilizer for sale or use in this state.

3 (M) ~~(H)~~—"Distributor" means any person who distributes  
4 fertilizer for sale or use in this state.

5 (N) ~~(m)~~—"Fertilizer" means a substance containing 1 or more  
6 recognized plant nutrients, which substance is used for its plant  
7 nutrient content and which is designed for use, or claimed to have  
8 value, in promoting plant growth. Fertilizer does not include  
9 unmanipulated animal and vegetable manures, marl, lime, limestone,  
10 wood ashes, and other materials exempted by rules promulgated under  
11 this part.

12 (O) ~~(n)~~—"Fertilizer material" means a fertilizer to which 1 or  
13 more of the following apply:

14 (i) Contains not more than 1 of the following as primary  
15 nutrients:

16 (A) Total nitrogen (N).

17 (B) Available phosphate ( $P_2O_5$ ).

18 (C) Soluble potash ( $K_2O$ ).

19 (ii) Has 85% or more of its plant nutrient content present in  
20 the form of a single chemical compound.

21 (iii) Is derived from a plant or animal residue or by-product or  
22 natural material deposit that has been processed in such a way that  
23 its content of plant nutrients has not been materially changed  
24 except by purification and concentration.

25 ~~—— (o) "Finished sewage sludge product" means a product~~  
26 ~~consisting in whole or in part of sewage sludge that is distributed~~  
27 ~~to the public and that is disinfected by means of composting,~~

~~pasteurization, wet air oxidation, heat treatment, or other means.~~

(p) "Fund" means the fertilizer control fund created under section 8514.

(q) "Grade" means the percentage guarantee of total nitrogen (N), available phosphate ( $P_2O_5$ ), and soluble potash ( $K_2O$ ), of a fertilizer. Grade shall be stated in the same order given in this subdivision. Indication of grade does not apply to peat or peat moss or soil conditioners.

(r) "Groundwater" means underground water within the zone of saturation.

(s) "Groundwater stewardship practices" means any of a set of voluntary practices adopted by the commission of agriculture **AND RURAL DEVELOPMENT** pursuant to part 87, designed to protect groundwater from contamination by fertilizers.

(t) "Guaranteed analysis" means the minimum percentage of each plant nutrient guaranteed or claimed to be present.

(u) "Impervious surface" means a paved highway, street, sidewalk, parking lot, driveway, or other outdoor structure that prevents infiltration of water into the soil.

(v) "Label" means any written, printed, or graphic matter on or attached to packaged fertilizer or used to identify fertilizer distributed in bulk or held in bulk storage.

(w) "Labeling" means all labels and other written, printed, electronic, or graphic matter upon or accompanying any fertilizer at any time, and includes advertising, sales literature, brochures, posters, and internet, television, and radio announcements used in promoting the sale of that fertilizer.

1           (x) "Licensee" means the person who receives a license to  
2 manufacture or distribute fertilizers under this part.

3           (y) "Lot" means an identifiable quantity of fertilizer that  
4 can be sampled officially according to methods adopted under  
5 section 8510, that is contained in a single vehicle, or that is  
6 delivered under a single invoice.

7           (z) "Manipulated manure" means animal or vegetable manure that  
8 is ground, pelletized, mechanically dried, packaged, supplemented  
9 with plant nutrients or other substances other than phosphorus, or  
10 otherwise treated in a manner to assist with the sale or  
11 distribution of the manure as a fertilizer or soil or plant  
12 additive.

13           (aa) "Manufacture" means to process, granulate, compound,  
14 produce, mix, blend, or alter the composition of fertilizer or  
15 fertilizer materials.

16 ~~(bb) "Organic manure" means manure derived solely from living~~  
17 ~~organisms without manipulation.~~

18           **(BB) "NATURAL FERTILIZER" MEANS A SUBSTANCE COMPOSED ONLY OF**  
19 **NATURAL ORGANIC, NATURAL INORGANIC, OR BOTH TYPES OF FERTILIZER**  
20 **MATERIALS AND NATURAL FILLERS.**

21           (cc) "Sewage sludge" means sewage sludge generated in the  
22 treatment of domestic sewage, other than only septage or industrial  
23 waste.

24           (dd) "Turf" means land, including residential, commercial, or  
25 industrial property, golf courses, or publicly owned land, that is  
26 planted in closely mowed, managed grass, except land used in the  
27 operation of a commercial farm.

1       Sec. 8512b. (1) Beginning January 1, 2012, except as provided  
2     in subsection (2), (3), (4), or (5), a person shall not apply to  
3     turf a fertilizer labeled as containing the plant nutrient  
4     available phosphate ( $P_2O_5$ ).

5       (2) If a tissue, soil, or other test performed within the  
6     preceding 3 years by a laboratory experienced in conducting tests  
7     for phosphorus that adhere to recognized national standards  
8     indicates that the level of available phosphate ( $P_2O_5$ ) in the soil  
9     is deficient to support healthy turf grass growth or establishment,  
10    a person may apply fertilizer to the turf at an application rate  
11    for available phosphate ( $P_2O_5$ ) not exceeding that necessary to  
12    correct the deficiency.

13       (3) If new turf is being established using seed or sod, it is  
14    the first growing season for the turf grass at the site, and a test  
15    described in subsection (2) has not been performed, a person may  
16    apply fertilizer to the turf at an application rate for available  
17    phosphate ( $P_2O_5$ ) not exceeding the standard rate for new turf grass  
18    establishment, which shall be specified by the director after  
19    consultation with the Michigan state university extension.

20       (4) A person may apply ~~a finished sewage sludge product, an~~  
21    ~~organic manure, BIOSOLIDS, A NATURAL FERTILIZER,~~ or a manipulated  
22    manure to turf at a rate of not more than 0.25 pounds of phosphorus  
23    **AVAILABLE PHOSPHATE ( $P_2O_5$ )** per 1,000 square feet at any 1 time.

24       (5) In addition **TO THE APPLICATIONS AUTHORIZED UNDER**  
25    **SUBSECTIONS (2), (3), AND (4),** a person may apply fertilizer  
26    labeled as containing the plant nutrient available phosphate ( $P_2O_5$ )  
27    to a golf course if 1 or more of the following apply:

1 (a) The golf course has been certified by an organization as a  
2 result of the golf course's staff having successfully completed a  
3 training program approved by the director. The director shall  
4 approve a training program if it is a continuing program,  
5 adequately addresses best management practices for use of turf  
6 fertilizer containing available phosphate ( $P_2O_5$ ), and requires  
7 trainees to demonstrate successful implementation of those best  
8 management practices.

9 (b) If a tissue, soil, or other test performed within the  
10 preceding 3 years by a laboratory experienced in conducting tests  
11 for phosphorus that adhere to recognized national standards  
12 indicates that the level of available phosphate ( $P_2O_5$ ) in the soil  
13 is deficient to support healthy golf course turf grass growth or  
14 establishment, the golf course may apply fertilizer at an  
15 application rate for available phosphate ( $P_2O_5$ ) not exceeding that  
16 necessary to correct the deficiency.

17 (c) If new turf is being established using seed or sod, it is  
18 the first growing season for the turf grass at the site, and a test  
19 described in subdivision (b) has not been performed, a golf course  
20 may apply fertilizer to the turf at an application rate for  
21 available phosphate ( $P_2O_5$ ) not exceeding the rate necessary for new  
22 golf course turf grass establishment.

23 (6) A person shall not apply fertilizer to turf less than 15  
24 feet from any surface water, unless 1 or more of the following  
25 apply:

26 (a) A continuous natural vegetative buffer at least 10 feet  
27 wide separates the turf from the surface water.

1 (b) A spreader guard, deflector shield, or drop spreader is  
2 used when applying the fertilizer, and the fertilizer is not  
3 applied less than 3 feet from the surface water.

4 (7) A person shall not clean a fertilizer spreader that is  
5 used to apply fertilizer to turf in a manner that allows wash water  
6 from the spreader to discharge directly into waters of this state,  
7 including, but not limited to, a drain under the drain code of  
8 1956, 1956 PA 40, MCL 280.1 to 280.630.

9 (8) The department shall post information concerning the  
10 requirements of subsections (1) to (5) on its website and publicize  
11 the availability of that information by whatever means the  
12 department determines to be appropriate.