

HB 1293-FN - AS INTRODUCED

2024 SESSION

24-2158
08/02

HOUSE BILL ***1293-FN***

AN ACT relative to prohibiting the use of certain fertilizers using phosphorus.

SPONSORS: Rep. Ball, Rock. 25; Rep. Rung, Hills. 12; Rep. B. Boyd, Hills. 12; Rep. Ankarberg,
Straf. 7; Rep. Read, Rock. 10; Rep. Bordes, Belk. 5; Rep. Petrigno, Hills. 43

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill prohibits the use of certain fertilizers using phosphorus.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to prohibiting the use of certain fertilizers using phosphorus.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Fertilizer Containing Phosphorus. RSA 431:4-b is repealed and reenacted to read as follows:

2 431:4-b Phosphorus Content of Fertilizer.

3 I. In this section.

4 (a) "Compost" means a stable humus-like material produced by the controlled biological
5 decomposition of organic matter through active management, but shall not mean sewage, septage, or
6 materials derived from sewage or septage.

7 (b) "Frozen ground" means a person can not dig 6 to 8 inches into the ground where
8 fertilizer will be applied.

9 (c) "Heavy rain" means precipitation equal to, or greater, than 2 inches in 24 hours.

10 (d) "Impervious surface" means those man made surfaces, including paved and unpaved
11 roads, parking areas, roofs, driveway, and walkways, from which precipitation runs off rather than
12 infiltrates.

13 (e) "Phosphorus deficiency" means soil test results from a laboratory indicate that
14 additional phosphorus is needed for that lawn or turf.

15 (f) "Phosphorus fertilizer" means fertilizer labeled for use on turf in which the available
16 phosphorus content is greater than 0.67 percent by weight, except that phosphorus fertilizer shall
17 not include compost or manipulated animal or vegetable manure.

18 (g) "Septage" means excrement and other waste material contained in or removed from a
19 septic tank.

20 (h) "Turf" means land planted in closely mowed, managed grasses, including residential
21 and commercial property and publicly owned land, parks, and recreation areas. "Turf" shall not
22 include pasture, cropland, land used to grow sod, or any other land used for agricultural production;
23 or private and public golf courses.

24 (i) "Water" means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs,
25 and all bodies of surface water, artificial or natural, that are contained within, flow through, or
26 border upon the state or any portion of it.

27 II. No fertilizer sold at retail that is intended for use on turf shall exceed a content level of
28 0.67 percent available phosphate unless specifically labeled for establishing new lawns, for repairing
29 a lawn, for seeding, or for use when a soil test indicates a phosphorus deficiency.

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1 III. No fertilizer sold at retail that is intended for use on newly established or repaired
2 lawns or for lawns testing deficient in phosphorus shall exceed an application rate of one pound per
3 1,000 square feet annually of available phosphate.

4 IV. If a retailer sells or offers for sale phosphorus fertilizer to consumers and consumers
5 have direct access to the phosphorus fertilizer, the retailers shall:

6 (a) Display nonphosphorus fertilizer separately from phosphorus in the retail area
7 where phosphorus fertilizer is accessible by a consumer.

8 (b) Post in the retail location where phosphorus fertilizer is accessible by the consumer a
9 clearly visible sign that is at least 8.5 inches by 11 inches in size which states: "Phosphorus runoff
10 poses a threat to water. Most New Hampshire soils provide all the phosphorus that a home lawn
11 needs. Under New Hampshire law, fertilizers shall not be applied to a lawn unless applied to a new
12 lawn or lawn that is deficient for phosphorus as indicted by a soil test. State law prohibits the use of
13 fertilizer containing phosphorus within 25 feet of any and all water surfaces and storm drains."

14 V. The following uses of phosphorus fertilizer are authorized:

15 (a) To treat soil with a phosphorus deficiency as shown by a soil test, performed by a
16 laboratory, no more than 18 months prior to application of fertilizer.

17 (b) Establishing a newly seeded and/or sodded lawn during the first growing season of
18 establishment.

19 (c) Establishing turf at a sod farm.

20 (d) Turf repair.

21 (e) Agricultural use.

22 (f) Gardening.

23 (g) Golf courses management plan.

24 VI. Application of fertilizers containing phosphorus is prohibited during heavy rain or when
25 heavy rain is predicted, on saturated or frozen ground, or from October 15 through April 1, including
26 applications by professionals. Ground is considered frozen when a person can not dig down 6 to 8
27 inches in the ground where fertilizer will be applied.

28 VII. On-line sales and shipping of fertilizer containing phosphorus into the state of New
29 Hampshire, other than for purposes stated in paragraph V, shall be prohibited.

30 VIII. Application to paved or impervious surfaces is prohibited. Fertilizer inadvertently
31 released on an impervious surface shall be immediately collected and returned to the container for
32 legal application or disposal.

33 IX. Setbacks from storm drains in all applications shall be 25 feet. Removal of fertilizer
34 from impervious surfaces into storm drains is prohibited.

35 X. Setbacks from waters, including rivers, streams, creeks, brooks, reservoirs, ponds, lakes,
36 springs, and all bodies of surface water, artificial or natural, that are contained within, flow through,
37 or border upon the state or any portion of it, in all applications shall be 25 feet.

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1 XI. Phosphorus fertilizer restrictions shall apply to all persons including licensed
2 commercial, certified applicators unless otherwise noted.

3 XII. No natural organic turf fertilizer shall exceed a per application rate of one pound of
4 available phosphate per 1,000 square feet when applied according to the instructions on the label.

5 2 Effective Date. This act shall take effect January 1, 2025.

HB 1293-FN- FISCAL NOTE
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AN ACT relative to prohibiting the use of certain fertilizers using phosphorus.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	Decrease of \$0 to \$127,000	Decrease of \$0 to \$127,000	Decrease of \$0 to \$127,000
<i>Revenue Fund(s)</i>	General Fund			
Expenditures	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

METHODOLOGY:

This bill prohibits the use of certain fertilizers using phosphorus. The Department of Agriculture, Markets and Food, Division of Regulatory Services indicates the decrease in state revenue from fertilizer product registrations is indeterminable, but provided the following information:

- There are approximately 4,632 fertilizer products registered with an annual fee of \$75 = \$347,400
- About 1,696 of the product contain more than 0.67% phosphorous: 1,696 X \$75 fee = \$127,200

The Department notes the information above is derived without looking at each of the 1,696 products individually, and based upon the product names. The Department does not know how many of the registered products containing phosphorous are specific to turf care generally or to turf care specific to new lawns, repairing, or seeding. Registration, sale, and use of the products containing over 0.67% phosphorous would still be allowed when establishing, repairing, and seeding lawns. Estimating the number of products that would no longer be registered is not possible. Based on this information, the annual decrease in state general fund revenue would be

between \$0 and \$127,200. There would be no impact on state, county or local expenditures or on county and local revenue.

AGENCIES CONTACTED:

Department of Agriculture, Markets and Food