

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 161

(Chair, Environment and Transportation Committee)(By
Request - Departmental - Agriculture)

Environment and Transportation

Education, Health, and Environmental Affairs

**Nutrient Management – Nonagricultural Fertilizer Application – Requirements
and Penalties**

This departmental bill codifies the requirement that each place of business that employs a person to apply fertilizer to property (including State property) that is not used for agricultural purposes (1) have a professional fertilizer on staff who has obtained a fertilizer application certification (in accordance with current law requirements) and (2) be licensed annually by the Maryland Department of Agriculture (MDA). A license applicant must submit an application to MDA and pay an application fee, as specified. The bill also expands the application of existing civil penalty provisions to apply to a person who *employs* a person who violates related professional fertilizer applicator provisions.

Fiscal Summary

State Effect: Since the bill largely codifies current practice and regulations, the bill is not expected to materially impact State finances.

Local Effect: Since the bill largely codifies current practice and regulations, the bill is not expected to materially impact local finances.

Small Business Effect: MDA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: The Fertilizer Use Act of 2011 (Chapters 484 and 485) made various changes to State law related to the nitrogen and phosphorus content of, and application of, fertilizers used on turf. It has served as a component of the State's strategy to reach the State's targets for reduction of nitrogen, phosphorus, and sediment loading under the Chesapeake Bay Total Maximum Daily Load established by the U.S. Environmental Protection Agency in December 2010. The law helps protect the Chesapeake Bay from excess nutrients entering its waters from a wide range of nonagricultural sources, including urban and suburban lawns.

Statute prohibits a professional fertilizer applicator from (1) applying fertilizer to turf without first obtaining a fertilizer application certification (unless the person is under the direct supervision of a certified professional fertilizer applicator) or (2) applying fertilizer intended for use on turf onto an impervious surface. These restrictions apply to a professional fertilizer applicator who applies fertilizer to property that is not used for agricultural purposes; they do not apply to the application of fertilizer on commercial farms.

Current regulations require that each business location that employs a person who is paid to fertilize turf to have a license. To obtain or renew a license, an applicant must (1) apply to MDA on a departmental form; (2) designate an employee who is a certified professional fertilizer applicator; and (3) pay a \$50 fee.

A person who violates these provisions is subject to a civil penalty up to \$1,000 for the first violation and up to \$2,000 for each subsequent violation. Each day a violation occurs constitutes a separate violation. When assessing a penalty, several factors must be considered, including the willfulness, any actual harm to human health or the environment, and the cost of control. Penalties collected pursuant to these provisions are paid into the general fund.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): University System of Maryland; Maryland Department of Agriculture; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History:
rh/lgc

First Reader - February 10, 2020

Third Reader - March 14, 2020

Revised - Amendment(s) - March 14, 2020

Revised - Correction - March 14, 2020

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Nutrient Management – Professional Fertilizer Applicators – Requirements and Penalties

BILL NUMBER: HB161

PREPARED BY: Cassie Shirk

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The department does not anticipate an impact on Maryland small businesses.