HOUSE DOCKET, NO. 1751 FILED ON: 2/18/2011

HOUSE . . . . . No. 3270

The Commonwealth of Massachusetts

PRESENTED BY:

John V. Fernandes and Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to reducing phosphorus runoff .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John V. Fernandes	*10th Worcester*
Cory Atkins	*14th Middlesex*
Karen E. Spilka	☐ *[District]* ☐
Chris Walsh	*6th Middlesex*

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By Representative Fernandes of Milford and Senator Moore, a joint petition (accompanied by bill, House, No. 3270) of John V. Fernandes, Richard T. Moore and others for legislation to reduce pollution caused by phosphorus runoff. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

An Act relative to reducing phosphorus runoff .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The third paragraph of section 5R of chapter 111 of the General Laws, as amended by section 3 of chapter 47 of the acts of 2008, is hereby further amended by striking out, in line 53 the words “a commercial dishwashing process,”.

SECTION 2. Said section 5R of said chapter 111, as so amended, is hereby further amended by inserting, after the third paragraph, the following paragraph:-

No household cleansing product used in dishwashers shall be distributed, sold, offered or exposed for sale in the commonwealth which contains a phosphorous compound in excess of .5 per cent by weight expressed as phosphorus.

SECTION 3. Section 64 of chapter 128 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after the definition of “Commercial fertilizer” the following definition:-

“Compost”, the biologically stable humus-like material derived from composting or the aerobic, thermophilic decomposition of organic matter.

SECTION 4. Said section 64 of said chapter, as so appearing, is hereby further amended by inserting, after the definition of “Labeling”, the following definition:-

“Lawn” or “non-agricultural turf”, any non-crop land area that is covered by any grass species, excluding flower or vegetable gardens, pasture, hay land, trees, shrubs, turf grown on turf farms, or any form of agricultural production.

SECTION 5. Said section 64 of said chapter is hereby further amended by inserting, after the definition of “Phosphoric acid”, the following definition:-

21 “Phosphorus fertilizer”, fertilizer in which the available phosphate content is greater than
22 .67 per cent by weight, excluding compost.

23 SECTION 6. Chapter 128 of the General Laws is hereby further amended by inserting,
24 after section 65, the following section:-

25 Section 65A. Restrictions on Sale or Use of Phosphorus Fertilizer.

26 (a)No person shall apply or authorize any person, by way of service contract or other
27 arrangement to apply in the commonwealth any phosphorus fertilizer on lawn or non-agricultural
28 turf, except when:

29 (1) a soil test indicates that additional phosphorus is needed for growth of that lawn or
30 non-agricultural turf; or

31 (2) the phosphorus fertilizer is used for a newly established lawn or non-agricultural
32 turf during the first growing season.

33 (b)Any retailer selling or offering for sale phosphorus fertilizer for use on lawn or non-
34 agricultural turf shall comply with retail sale requirements.

35 (c)No person shall apply fertilizer to:

36 (1) lawn or non-agricultural turf between December 1 and April 1 annually;

37 (2) any impervious surface including parking lots, roadways, and sidewalks. If such
38 application occurs, the fertilizer must immediately be contained and either legally applied to
39 lawn or non-agricultural turf or placed in an appropriate container; or

40 (3) any lawn or non-agricultural turf on any real property within 20 feet of any surface
41 water, except that this restriction shall not apply where a continuous natural vegetative buffer, at
42 least 10 feet wide, separates an area of lawn or non-agricultural turf and surface water, and
43 except that, where a spreader guard, deflector shield or drop spreader is used to apply fertilizer,
44 such application may not occur within 3 feet of any surface water. This paragraph shall not apply
45 to an application of fertilizer for newly established lawn or non-agricultural turf during the first
46 growing season.

47 Any municipality may enact more stringent standards for the application of fertilizer for
48 lawn or non-agricultural turf than set forth in this section; provided, however, that the
49 municipality that enacts such standards after January 1, 2013 must demonstrate to the department
50 prior to enactment that additional or more stringent standards are necessary to address local
51 water quality conditions.

52 Except as otherwise provided, any person found liable for a violation of this section shall
53 be assessed a civil fine of up to $500 for a first violation, and up to $1,000 for each subsequent
54 violation.

55 Any owner, or agent of an owner, or occupant of a household who violates this section
56 shall, for a first violation, be issued a written warning and provided with educational materials.
57 If found liable for a second violation, the owner or agent of the owner, or occupant of a
58 household shall be assessed a civil fine of up to $100, and for any subsequent violation, shall be
59 assessed a fine of up to $250. No owner or agent of an owner shall be liable for any violation by
60 an occupant.

61 SECTION 7. Said chapter 128 of the General Laws is hereby further amended by
62 inserting, after section 74, the following section:-

63 Section 74A. Any retailer who sells or offers for sale to consumers, specialty fertilizer in
64 which the available phosphate content is greater than .67 per cent shall:

65 (1) display such phosphorus containing specialty fertilizer separately from non-
66 phosphorus specialty fertilizer; and

67 (2) post in a location where phosphorus-containing specialty fertilizer is displayed a
68 clearly visible and conspicuous sign which is at least 8.5 by 11 inches in size and states the
69 following:

70 "PHOSPHORUS RUNOFF POSES A THREAT TO WATER QUALITY.
71 THEREFORE, UNDER MASSACHUSETTS LAW, PHOSPHORUS-CONTAINING
72 FERTILIZER MAY ONLY BE APPLIED TO LAWN OR NON-AGRICULTURAL TURF
73 WHEN

74 (i) a soil test indicates that additional phosphorus is needed for growth of that lawn
75 or non-agricultural turf; or

76 (ii) the fertilizer is used for a newly established lawn or non-agricultural turf during
77 the first growing season."

78 SECTION 8. Retailers shall have 60 days from the effective date of this section to sell
79 through the products held in inventory on said effective date. Persons may continue to use
80 phosphorus fertilizer on lawn and non-agricultural turf, if the fertilizer was purchased prior to
81 January 1, 2013.

82 SECTION 9. Sections 1 and 2 of this act shall take effect 30 days after the effective date.

83 SECTION 10. Sections 3 to 8, inclusive, of this act shall take effect on January 1, 2013.