

House Calendar

Wednesday, February 23, 2011

50th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Favorable with amendment

H. 26

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf

Rep. McCullough of Williston, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1266b is added to read:

§ 1266b. SALE AND USE OF PHOSPHORUS AND NITROGEN
FERTILIZER

(a) Definitions. As used in this section:

(1) “Fertilizer” shall have the same meaning as in 6 V.S.A. § 363(5).

(2) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(3) “Manipulated animal or vegetable manure” means manure that is ground, pelletized, mechanically dried, supplemented with plant nutrients or substances other than phosphorus or phosphate, or otherwise treated to assist with the use of manure as fertilizer.

(4) “Nitrogen fertilizer” means fertilizer labeled for use on turf in which the nitrogen content consists of less than 15 percent slow-release nitrogen.

(5) “Phosphorus fertilizer” means fertilizer in which the available phosphate content is greater than 0.67 percent by weight.

(6) “Slow release nitrogen” means nitrogen in a form that is released over time and that is not water-soluble nitrogen.

(7)(A) “Turf” means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas.

(B) “Turf” shall not include:

(i) pasture, cropland, land used to grow sod, or any other land used for agricultural production; or

(ii) private and public golf courses.

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

(9) "Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow release properties.

(b) Sale and use of phosphorus fertilizer.

(1) No person shall sell phosphorus fertilizer and no person shall apply phosphorus fertilizer to turf except for:

(A) phosphorus fertilizer necessary for application to turf that is deficient in phosphorus as shown by a soil test performed no more than 36 months before the application of the fertilizer;

(B) phosphorus fertilizer that is labeled as starter fertilizer and that is intended for application to turf when a property owner or an agent of a property owner is first establishing grass in turf via seed or sod procedures, and the application of starter fertilizer is limited to the first growing season;

(C) phosphorus fertilizer that is labeled as repair or patch fertilizer and that is intended for application to damaged turf; or

(D) phosphorus fertilizer that consists of manipulated animal or vegetable manure that, when applied pursuant to the instructions on the container, results in no more than 0.25 pounds of phosphorus applied per 1,000 square feet of turf.

(2) The secretary of agriculture, food and markets shall approve a standard for the soil test required under subdivision (1)(A) of this subsection.

(c) Sale and use of nitrogen fertilizer. No person shall sell nitrogen fertilizer or apply nitrogen fertilizer to turf.

(d) Application of fertilizer to impervious surface; in proximity to water; and seasonal restriction. No person shall apply any fertilizer:

(1) to an impervious surface. Fertilizer applied or released to an impervious surface shall be immediately collected and returned to a container for legal application;

(2) to turf before April 1 or after October 15 in any calendar year or at any time when the ground is frozen; or

(3) to turf within 25 feet of a water of the state.

(e) Retail display of phosphorus fertilizer. A retailer who sells phosphorus fertilizer or who offers phosphorus fertilizer for sale to consumers shall:

(1) Display nonphosphorus fertilizer separately from phosphorus fertilizer; and

(2) Post in the location where phosphorus fertilizer is displayed a clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states "Phosphorus runoff poses a threat to water quality. Under Vermont law, fertilizer containing phosphorus shall not be applied to lawn unless applied to new lawn, damaged lawn, or lawn that is deficient for phosphorus as indicated by a soil test."

(f) Violations. A person who violates this section shall be subject to a civil penalty of not more than \$500.00 per violation. A violation of this section shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by the agency of agriculture, food and markets or the agency of natural resources. A violation enforced by the agency of natural resources under this section shall be treated as an environmental violation under chapter 29 of Title 4 for the purposes of appeal and setting the applicable penalty.

Sec. 2. 6 V.S.A. § 381 is added to read:

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

Beginning July 1, 2012, as a condition of the permit issued to golf courses under chapter 87 of this title and regulations adopted thereunder, a golf course shall be required to submit to the secretary of agriculture, food and markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

(2) Civil ordinance violations alleged to have been committed on or after July 1, 1994.

(3) Minor fish and wildlife violations alleged to have been committed on or after September 1, 1996.

* * *

(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

(22) Violations of 10 V.S.A. § 1266b, relating to the application of fertilizer to nonagricultural turf.

(c) The judicial bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 4. Sec. X. Sec. E.700.1 of Act No. 1 2009 Special Sess. is amended to read:

Sec. E.700.1 REPORT AND RULEMAKING ON WATER

MANAGEMENT TYPING FOR THE WHITE RIVER BASIN

AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, ~~2011~~ 2012, the Two Rivers Ottauquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E.700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under this section, the agency of natural resources shall post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) ~~Within three months of receipt of the recommended water management type designations under this section, the~~ The natural resources board shall

initiate rulemaking to amend the water management types in order to consider the recommended water management type designations for the White River basin and the West, Williams and Saxons River basin.

Sec. 5. EFFECTIVE DATE

(a) This section and Sec. 4 (water management typing) of this act shall take effect on passage

(b) Secs. 1 (sale and use of fertilizer), 2 (golf course management plans) and 3 (judicial bureau offense) of this act shall take effect on January 1, 2012.

(Committee Vote: 7-0-1)

Action Under Rule 52

J.R.H. 11

Joint resolution urging Congress to approve a streamlined sales tax agreement that will authorize the national collection of sales tax from online sales

(For text see House Journal 2/22/11)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 299

An act relating to repealing the provision that some school district budgets be presented to the voters by means of a divided question.

(Rep. Peltz of Woodbury will speak for the Committee on Education.)

Favorable with Amendment

H. 275

An act relating to the recently deployed veteran tax credit.

(Rep. Kitzmiller of Montpelier will speak for the Committee on Commerce and Economic Development.)

Rep. Weston of Burlington, for the Committee on **Ways and Means**, recommends the bill be amended as follows:

First: In Sec. 1, 32 V.S.A. § 5930nn, by adding a new subsection (b) to read:

(b) A recently deployed veteran shall be eligible for a credit against the income tax liability imposed under this chapter in an amount equal to \$2,000.00 for expenses associated with one start-up business. A credit under this subsection may only be taken for a business started on or before

December 31, 2012, that is located within Vermont, and that shows a net profit for the year in which the credit is taken.

and by redesignating the current subsections (b)–(d) as (c)–(e)

Second: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (c), after the word “hire,” by adding , or in the tax year following the date that the start-up business was created.

Third: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (d)(3), by adding (C) to read:

(C) for the purposes of the credit in subsection (b) of this section, a person who at the time of starting up a new business:

(i) is collecting or eligible to collect unemployment benefits; or

(ii) has exhausted his or her unemployment benefits.

Fourth: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (d), by adding a (4) to read:

(4) “Expense associated with a start-up business” means the following expenses:

(i) Expenses associated with the development of a business plan;

(ii) Professional services associated with the formation of the business (e.g., attorney and accounting services);

(iii) An analysis or survey of potential markets, products, labor supply, or transportation facilities;

(iv) Advertisements for the opening of the business;

(v) Salaries and wages for employees who are being trained and their instructors;

(vi) Travel and other necessary costs for securing prospective distributors, suppliers, or customers;

(vii) Salaries and fees for executives and consultants, or for similar professional services.

Fifth: Sec. 1, 32 V.S.A. § 5930nn, in redesignated (e)(3), after the word “compliance,” by inserting , or in the case of a credit under subsection (b) of this section, a recently deployed veteran’s compliance.

(Committee Vote 9-1-1)

Public Hearings

February 23, 2011 - Room 11 - 9:00 – 11:00 A.M. - - House Committee on Appropriations - Governor's Proposed FY 2012 State Budget

Thursday, February 24, 2011 - Room 11 - 7:00 P.M. - Joint Judicial Retention Committee - Retention of Judges

March 9, 2011, 5:30 - 7:30 p.m. - Room 11 - Gubernatorial appointment of the Secretary of Education and the structure of the State Board of Education

Information Notice

HOUSE BILL INTRODUCTION DEADLINES

To All House Members:

During the first year of the biennium, a member may request introduction of a bill drafted in *short* form and submitted to the Legislative Council anytime during the session.

Introduction Deadline - Except with prior consent of the Committee on Rules, all bills drafted in standard form, shall be introduced by February 28, 2011. Sign out sheets must be to Legislative Council by February 24, 2011.

During the first year of the biennium Committee bills may be introduced at anytime.