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## **AN ACT**

to amend the environmental conservation law, in relation to the sale or use of lawn fertilizer in Nassau and Suffolk counties;

The People of the State of New York, represented in the Senate and Assembly, do enact as follows:

Section 1721-01 of the environmental conservation law is amended by adding six new subdivisions 5, 6, 7 and 8, to read as follows:

5. "Slowly Available Nitrogen" shall mean water insoluble nitrogen; or nitrogen in a form that releases, or converts to a plant-available form, plant nutrients at a significantly slower rate relative to a reference soluble product; nitrogen engineered to provide nutrients over time at a predictable rate under specified conditions; or nitrogen in a form that has been amended with an additive that reduces the rate of transformation extending the time of nutrient availability to the plant relative to its un-amended form.

6. "Low Nitrogen Fertilizer" shall mean fertilizer containing not more than fifteen percent nitrogen by weight, of which at least half must be Slowly Available Nitrogen.

7. "Person" or "Persons" means the same as "person" as defined in subdivision one of section 17-0105 of this article.

8. "Retailer" shall mean any person who sells or offers for sale fertilizer to consumers or applicators.

§ 2. Paragraph (b) of subdivision 3 of section 17-2103 of the environmental conservation law, as added by Chapter 205 of the Laws of 2010, is amended to read as follows:

(b) Any impervious surface including parking lots, roadways, storm drains, frozen ground, and sidewalks, or where there is standing water on turf. If such application occurs, the fertilizer must be immediately contained and either legally applied to lawn or non-agricultural turf or placed in an appropriate container; or

§ 3. The environmental conservation law is amended by adding a new section 17-2107 to read as follows:

**§ 17-2017. Sale or Use of Fertilizer in Nassau and Suffolk Counties**

1. Effective immediately, no person shall apply, or authorize any person by way of a service contract or other arrangement, to apply, fertilizer on lawn or non-agricultural turf unless the application occurs between April 2nd and October 31 annually.

2. No retailer shall:

(a) sell fertilizer for use on lawn or non-agricultural turf between November 1 and March 15 annually; or

(b) display fertilizer for use on lawn or non-agricultural turf in stores between November 8 and March 15 annually.

3. Nothing in this title shall impair or supersede the authority of the Commissioner of Agriculture and Markets pursuant to articles 10 and 25-AA of the Agriculture and Markets law.

4. Golf courses are exempt from the requirements of this section.

5. The Department is authorized to promulgate rules and regulations necessary to implement and administer this section.

§ 4. The environmental conservation law is amended by adding a new section 17-2109 to read as follows:

**§ 17-2109. Sale or Use of Low Nitrogen Fertilizer in Nassau and Suffolk Counties**

1. Beginning January 1, 2021, no person shall apply, or authorize any person by way of service contract or other arrangement to apply, in Nassau or Suffolk county, any fertilizer on lawn or non-agricultural turf other than low nitrogen fertilizer.

2. No person shall apply, or authorize any person by way of a service contract or other arrangement to apply, low nitrogen fertilizer on lawn or non-agricultural turf unless the applications occurs:

(a) between April 2 and October 31 annually;

(b) in an amount not to exceed an application rate of 0.6 pounds of total nitrogen per thousand square feet of lawn or non-agricultural turf in any single application; and

(c) in an amount not to exceed an application rate of 1.8 pounds of total nitrogen per thousand square feet of lawn or non-agricultural turf in any annual application.

3. Beginning January 1, 2021, retailers shall only offer for sale low nitrogen fertilizer for use on lawns and other non-agricultural turf grass that is manufactured in accordance with subdivision five of this section.

4. No retailers offering low nitrogen fertilizer for sale shall:

(a) sell low nitrogen fertilizer for use on lawn or non-agricultural turf between November 1 and March 15 annually; or

(b) display low nitrogen fertilizer for use on lawn or non-agricultural turf in stores between November 8 and March 15 annually.

5. Manufacturers shall ensure that low nitrogen fertilizer products they manufacture and distribute for sale in Nassau and Suffolk Counties;

(a) contain application directions on product packaging in both English and Spanish;

(b) include on product packaging a statement containing both the single and annual application rate for low nitrogen fertilizer as set forth in paragraph (b) and (c), respectively, of subdivision Two of this section;

(c) include on product packaging only application equipment settings for the single application rate of 0.6 pounds of total nitrogen per thousand square feet of lawn or non-agricultural turf as set forth in paragraph (b) of subdivision Two of this section;

(d) clearly state on product packaging the square footage of lawn or non-agricultural turf that would be covered by the entire package when the contents are applied in accordance with the single application rate as set forth in paragraph (b) of subdivision Two of this section;

(e) clearly state on product packaging the percentage of slowly available nitrogen of total nitrogen contained in the product; and

(f) include on product packaging the following statement "Apply this product as directed on the label. Do not over apply product. Over application can lead to poor water quality. Leaving grass clippings on your lawn can contribute up to 1 pound of nitrogen annually."

6. Any person who applies, by way of service contract, fertilizer, shall keep records showing dates and rates of application of fertilizer for each property. A copy of records of applications of fertilizer done by service contract or other arrangements shall be given to the property owner. Such records shall be maintained by the applicator for five years from the date of application.

7. Nothing in this title shall impair or supersede the authority of the commissioner of agriculture and markets pursuant to articles 10 and 25-AA of the agriculture and markets law.

8. Golf courses are exempt from the requirements of this section.

9. The Department is authorized to promulgate rules and regulations necessary to implement and administer this section.

§5. The environmental conservation law is amended by adding a new section 17-2111 to read as follows:

**§ 17-2111. Use of Fertilizer on Golf Courses in Nassau and Suffolk Counties.**

1. Golf courses shall only apply fertilizer that has at least 40% slowly available nitrogen.

2. No person who is the owner of a golf course or his/her representative, shall apply, or authorize any person by way of a service contract or other arrangement to apply, fertilizer to a golf course, unless the application occurs:

(a) between April 2 and October 31 annually;

(b) in an amount not to exceed the application rate of 0.7 pounds per thousand square feet of total nitrogen in any single application;

(c) in an amount not to exceed the application rate of 2.7 pounds per thousand square feet of total nitrogen annually, except that such application rate may be exceeded where turf grass has suffered a loss greater than 10% per thousand square feet; and

(d) in an amount not to exceed 0.5 pounds per thousand square feet per application of 100% liquid, water-soluble fertilizer.

3. The person who is the owner of a golf course, or his/her representative, shall keep records showing dates and rates of application of fertilizer for each golf course. Records of applications of fertilizer done by service contract or other arrangement shall be given to the owner of the golf course. Such records shall be maintained for five years from date of application.

4. The Department is authorized to promulgate rules and regulations necessary to implement and administer this section.

§ 6. Section 71-1945 of the environmental conservation law, as added by chapter 205 of the laws of 2010, is amended to read as follows:

**§ 71-1945 Enforcement of title 21 of article 17.**

1. Except as otherwise provided in this section, any person who violates any provision of title 21 of article 17 of this chapter or any rule, regulation or order issued thereunder shall be liable to the people of the state for a civil penalty not to exceed five hundred dollars for a first violation, and not to exceed one thousand dollars for each subsequent violation, to be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

2. Any property owner or owner's agent, or occupant of a household who violates any provision of title 21 of article 17 of this chapter or any rule, regulation or order issued thereunder, shall for a first violation [be issued a written warning and be provided educational materials. Upon a second violation, the owner or owner's agent, or occupant of a household shall be liable to the people of the state for a civil penalty not to exceed one hundred dollars, and for any subsequent violations shall] be liable to the people of the state for a civil penalty not to exceed two hundred fifty dollars. No owner or owner's agent of a household shall be held liable for any violation by an occupant. Such penalties may be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

3. Except as otherwise provided in this section, any person who violates any provision specified in section 17-2107 or 17-2111 of this chapter or any rule, regulation, permit or order issued thereunder shall be liable to the people of the state for a civil penalty not to exceed one thousand dollars for a first violation, and not to exceed two thousand dollars for each subsequent violation. Such penalties may be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

4. Any property owner or owner's agent, or occupant of a household who violates provisions specified in subdivision one of section 17-2107 of this chapter or any rule, regulation, permit or order issued thereunder shall, for a first violation be liable to the people of the state for a civil penalty not to exceed one thousand dollars. No owner or owner's agent of a household shall be held liable for any violation by an occupant. Such penalties may be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

§ 7. Subdivisions 3 and 4 of section 71-1945 of the environmental conservation law, as added by section six of this act, are amended to read as follows:

3. Except as otherwise provided in this section, any person who violates any provision specified in section [17-2107] 17-2109 or 17-2111 of this chapter or any rule, regulation, permit or order issued thereunder shall be liable to the people of the state for a civil penalty not to exceed one thousand dollars for a first violation, and not to exceed two thousand dollars for each subsequent violation. Such penalties may be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

4. Any property owner or owner's agent, or occupant of a household who violates provisions specified in [subdivision one of section 17-2107] subdivision one, two, or six of section 17-2109

of this chapter or any rule, regulation, permit or order issued thereunder shall, for a first violation be liable to the people of the state for a civil penalty not to exceed one thousand dollars. No owner or owner's agent of a household shall be held liable for any violation by an occupant. Such penalties may be assessed by the commissioner after a hearing or opportunity to be heard. Such person may also be enjoined from such conduct.

§ 8. This act shall take effect immediately; provided, however that section three of this act shall expire and be deemed repealed December 31, 2020; provided further, however, sections four and seven of this act shall take effect January 1, 2021.