

**H. B. 4523**

(By Delegates Manypenny, Sponaugle, A. Evans,  
Guthrie and Walker)

[Introduced February 13, 2014; referred to the  
Committee on Agriculture and Natural Resources then the  
Judiciary.]

A BILL to amend and reenact §19-15-12 of the Code of West Virginia,  
1931, as amended, relating to the West Virginia fertilizer  
law; requiring that the Commissioner of Agriculture propose  
rules for legislative approval that prohibit lawn maintenance  
fertilizer containing more than zero percent phosphorus or  
other compounds containing phosphorus, such as phosphate, from  
being registered with the commissioner or offered for sale,  
distribution or use in the state beginning July 1, 2014;  
providing grace period; and penalty for failure to comply.

*Be it enacted by the Legislature of West Virginia:*

That §19-15-12 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 15. WEST VIRGINIA FERTILIZER LAW.**

**§19-15-12. Rules.**

(a) The commissioner may propose rules for legislative  
approval in accordance with the provisions of article three,  
chapter twenty-nine-a of this code. The commissioner may enforce  
such rules relating to investigational allowances, definitions,

1 records, fees and the distribution of regulated products as may be  
2 necessary to carry into effect the full intent and meaning of this  
3 article, including protection of the environment.

4 (b) The commissioner shall propose rules for legislative  
5 approval in accordance with the provisions of article three,  
6 chapter twenty-nine-a of this code providing that beginning July 1,  
7 2014, no lawn maintenance fertilizer containing more than zero  
8 percent phosphorus or other compounds containing phosphorus, such  
9 as phosphate, may be registered with the commissioner or offered  
10 for sale, distribution or use in the state. This prohibition does  
11 not include lawn fertilizer, manipulated manure, yard waste  
12 compost, products derived from sewage sludge, soils containing  
13 fertilizer, fertilizer products intended primarily for gardening,  
14 tree, shrub, and indoor plant application, including nurseries or  
15 reclaimed water. The rule may not restrict the continued sale by  
16 retailers of any prohibited fertilizer from any existing  
17 inventories in stock on July 1, 2014.

18 (c) The commissioner shall give the guarantor or manufacturer  
19 of any unregistered regulated product in commerce in the state, a  
20 grace period of fifteen working days from issuance of notification  
21 within which to register the regulated product. Any person  
22 required to register any regulated product who fails to register  
23 the regulated product within the grace period shall pay to the  
24 commissioner a \$50 late fee in addition to the registration fee.  
25 The commissioner may issue a stop sale, use, removal or seizure  
26 order upon any regulated product until the registration is issued.

NOTE: The purpose of this bill is to require the Commissioner of Agriculture to propose rules for legislative approval that prohibit lawn maintenance fertilizer containing more than zero percent phosphorus or other compounds containing phosphorus, such as phosphate, from being registered with the commissioner or offered for sale, distribution or use in the state beginning July 1, 2014. The bill provides a grace period and penalty for failure to comply.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.