

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 688
Committee Substitute Favorable 5/2/01

Short Title: Turfgrass Fertilizer Assessment.

(Public)

Sponsors:

Referred to:

March 19, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER
3 AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS
4 ASSESSMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 106 of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 70.

9 "Turfgrass Fertilizer Assessment.

10 "**§ 106-830. Findings and purpose.**

11 The General Assembly finds that turfgrass production and maintenance makes an
12 important contribution to the State's economy and that it is appropriate for the State to
13 provide a means whereby turfgrass fertilizer users may pay an assessment that is
14 refundable upon request in order to provide funds for turfgrass research and promotion.

15 "**§ 106-831. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) 'Council' means the Turfgrass Council of North Carolina, Inc.
18 (2) 'Department' means the Department of Agriculture and Consumer
19 Services.
20 (3) 'Turfgrass' means grassy areas that are maintained. Turfgrass includes
21 lawns; golf courses; commercial, industrial, and institutional lawn
22 areas; athletic fields; sod production fields; roadsides; and cemeteries.
23 (4) 'Turfgrass fertilizer' means commercial fertilizer, as defined in G.S.
24 106-657, that is dry and that is sold for use on turfgrass or labeled for
25 use on turfgrass. Turfgrass fertilizer also means bulk fertilizer, as
26 defined in G.S. 106-657, that is dry and that is sold for use on
27 turfgrass.

28 "**§ 106-832. Turfgrass assessment; collection; penalties; audits.**

1 (a) Collection of Assessment. – Each manufacturer of turfgrass fertilizer shall
2 add an assessment in the amount of five dollars (\$5.00) per ton to the purchase price of
3 all turfgrass fertilizer sold for use in North Carolina. This assessment shall not apply to
4 any fertilizer that is used for an agricultural purpose, including production of row crops;
5 production of hay, silage, or other animal feed; or to maintain any pasture used for
6 grazing livestock. The Department shall notify all manufacturers of turfgrass fertilizer
7 of the assessment under this section and shall provide forms to the manufacturers to be
8 used to report the assessment under subsection (b) of this section.

9 (b) Duties of Manufacturers. – Each manufacturer of turfgrass fertilizer shall
10 provide each purchaser of turfgrass fertilizer with an invoice that includes, as a separate
11 item, the amount of the assessment collected on the purchase covered by the invoice as
12 follows: 'TURFGRASS RESEARCH ASSESSMENT\$ (amount of
13 assessment)'. No later than the fifteenth of each month, each manufacturer of turfgrass
14 fertilizer shall report on the forms provided by the Department the tonnage of turfgrass
15 fertilizer sold during the previous month and shall remit to the Department the
16 assessments on turfgrass fertilizer sold during the previous month.

17 (c) Duties of Purchasers. – A person who purchases turfgrass fertilizer on which
18 the manufacturer did not pay the assessment shall report the purchase and pay the
19 assessment to the Department within 30 days of the purchase.

20 (d) Penalty. – Any manufacturer of turfgrass fertilizer who fails to report and
21 remit the assessment under subsection (b) of this section for the previous month's sales
22 by the end of the month in which it is due shall pay a penalty of five percent (5%) of the
23 unpaid assessment, plus an additional penalty of one percent (1%) of the unpaid
24 assessment for each month that the assessment remains unpaid.

25 (e) Audits. – The Department may conduct audits and check the remittances paid
26 by the manufacturers under this section in the same manner and at the same time as
27 audits are made with regard to the inspection tax on commercial fertilizers under G.S.
28 106-671. If the audit reveals that a manufacturer of turfgrass fertilizer has willfully
29 failed to remit assessments when due, the manufacturer shall pay the Department the
30 reasonable costs of the audit.

31 (f) Action to Collect. – The Council may bring an action to collect unpaid
32 assessments, penalties, and reasonable costs of any audit as provided in this section
33 against any manufacturer of turfgrass fertilizer who fails to pay the assessment and
34 penalties due. If the Council prevails in the action brought, the manufacturer is liable for
35 the cost of the action, including attorneys' fees.

36 **"§ 106-833. Use of funds.**

37 The Department shall remit all assessments it collects under G.S. 106-832, less
38 reasonable administrative costs not to exceed six percent (6%) of the revenue generated
39 in the previous fiscal year, as follows:

- 40 (1) Seventy-five percent (75%) shall be transferred to the North Carolina
41 Agricultural Foundation, Inc., to be used for research concerning

1 turfgrass production and maintenance, the impact of turfgrass fertilizer
2 on the environment, and ways to reduce environmental impacts.

- 3 (2) Twenty-five percent (25%) shall be transferred to the Council to be
4 used for promoting turfgrass and its uses and for educational activities
5 related to turfgrass use and care, including the proper use of turfgrass
6 fertilizer.

7 **"§ 106-834. Turfgrass Funding Committee.**

8 (a) Committee Established. – The Turfgrass Funding Committee is established.
9 No moneys shall be disbursed from assessments collected under this Article unless
10 approved by the Turfgrass Funding Committee. The Turfgrass Funding Committee shall
11 consist of nine members as follows:

- 12 (1) Six members shall be members of the Council and shall be appointed
13 by the Board of Directors of the Council. These six members shall
14 hold positions designated as A, B, C, D, E, and F.

- 15 (2) Three members shall be selected from the faculty of the College of
16 Agriculture and Life Sciences at North Carolina State University and
17 North Carolina Agricultural and Technical State University, shall be
18 nominated by the Dean of that College, and shall be appointed by the
19 Commissioner of Agriculture. These three members shall hold
20 positions designated as G, H, and I.

21 (b) Terms; Vacancies. – The term of office of members of the Committee is three
22 years. The terms of members appointed to positions A, D, and G under subsection (a) of
23 this section shall expire on 1 July of years that precede by one year those years that are
24 evenly divisible by three. The terms of members appointed to positions B, E, and H
25 under subsection (a) of this section shall expire on 1 July of those years that are evenly
26 divisible by three. The terms of members appointed to positions C, F, and I under
27 subsection (a) of this section shall expire on 1 July of years that follow by one year
28 those years that are evenly divisible by three. A member of the Committee may be
29 reappointed to an additional term. Upon the expiration of a term, a member may
30 continue to serve until a successor is appointed. An appointment to fill a vacancy shall
31 be for the unexpired balance of the term.

32 (c) Chair. – The Board of Directors of the Council shall appoint one member to
33 serve as Chair.

34 (d) Office May Be Held Concurrently With Others. – The office of member of
35 the Turfgrass Funding Committee may be held concurrently with any other elected or
36 appointed office, as authorized by Article VI, Section 9, of the Constitution of North
37 Carolina.

38 (e) Meetings. – The Turfgrass Funding Committee shall meet at least once each
39 year and may meet more often if called by the Chair to meet.

40 (f) Quorum. – A majority of the Turfgrass Funding Committee is a quorum for
41 the transaction of business.

1 (g) Annual Report. – The Turfgrass Funding Committee shall make a report to
2 the Dean of the College of Agriculture and Life Sciences at North Carolina State
3 University, North Carolina Agricultural and Technical State University, and the
4 Commissioner of Agriculture regarding total receipts and disbursements of assessments
5 collected for the previous year.

6 (h) Reimbursement of Expenses. – Turfgrass Funding Committee members may
7 be reimbursed for necessary expenses, as determined by the Board of Directors of the
8 Council.

9 **"§ 106-835. Refund of assessment.**

10 Any person who purchases turfgrass fertilizer upon which the assessment has been
11 paid has the right to receive a refund of the assessment by making demand in writing to
12 the Department within 30 days of purchase of the turfgrass fertilizer. A demand must be
13 accompanied by proof of purchase of the turfgrass fertilizer satisfactory to the Turfgrass
14 Funding Committee."

15 **SECTION 2.** The Department of Agriculture and Consumer Services may
16 adopt rules to implement this act.

17 **SECTION 3.** The initial appointments to the Turfgrass Funding Committee,
18 created by G.S. 106-834, as enacted in Section 1 of this act, shall be made no later than
19 1 October 2001. Notwithstanding G.S. 106-834(b), the initial appointments to positions
20 A, D, and G shall expire 1 July 2003; the initial appointments to positions B, E, and F
21 shall expire 1 July 2004; and the initial appointments to positions C, F, and I shall
22 expire 1 July 2006.

23 **SECTION 4.** G.S. 106-832 and G.S. 106-833, as enacted by Section 1 of this
24 act, become effective 1 January 2002, and apply to turfgrass fertilizer sold on or after
25 that date. The remainder of this act becomes effective 1 July 2001.

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