

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 679*

Short Title: Turfgrass Fertilizer Assessment. (Public)

Sponsors: Senators Dalton; Allran, Ballantine, Bingham, Carpenter, Carrington, Carter, Dannelly, Forrester, Foxx, Garrou, Garwood, Gulley, Hagan, Harris, Hartsell, Hoyle, Lee, Lucas, Moore, Odom, Plyler, Purcell, Reeves, Rucho, Soles, Swindell, Thomas, Warren, and Weinstein.

Referred to: Finance.

March 26, 2001

A BILL TO BE ENTITLED

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

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:

"Article 70.

"Turfgrass Fertilizer Assessment.

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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

1 defined in G.S. 106-657, that is dry and that is sold for use on
2 turfgrass.

3 **"§ 106-832. Turfgrass assessment; collection; penalties; audits.**

4 (a) Collection of Assessment. – An assessment in the amount of five dollars
5 (\$5.00) per ton shall be added to the purchase price of all turfgrass fertilizer sold in
6 North Carolina. The Department shall notify all manufacturers of turfgrass fertilizer of
7 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 wholesale purchaser of turfgrass fertilizer with an invoice that contains a
11 statement that states the amount of the assessment collected on the purchase covered by
12 the invoice, as follows: 'TURFGRASS RESEARCH ASSESSMENT.....(amount of
13 assessment collected on the purchase covered by the invoice)'. No later than the
14 fifteenth of each month, each manufacturer of turfgrass fertilizer shall report on the
15 forms provided by the Department the tonnage of turfgrass fertilizer sold during the
16 previous month and shall remit to the Department the assessments on turfgrass fertilizer
17 sold during the previous month.

18 (c) Duties of Purchasers. – Persons who purchase turfgrass fertilizer on which the
19 assessment was not paid within 30 days by the manufacturer shall report these
20 purchases and pay the assessment to the Department.

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

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

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

37 **"§ 106-833. Use of funds.**

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

- 41 (1) Seventy-five percent (75%) shall be transferred to the North Carolina
42 Agricultural Foundation, Inc., to be used for research concerning
43 turfgrass production and maintenance.

1 (2) Twenty-five percent (25%) shall be transferred to the Council to be
2 used for promoting turfgrass and its uses.

3 **"§ 106-834. Turfgrass Funding Committee.**

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

8 (1) Six members shall be members of the Council and shall be appointed
9 by the Board of Directors of the Council.

10 (2) Three members shall be members of the faculty of the College of
11 Agriculture and Life Sciences at North Carolina State University, shall
12 be nominated by the Dean of that College, and shall be appointed by
13 the Commissioner of Agriculture.

14 (b) Terms. – The terms of three of the members appointed by the Board of
15 Directors of the Council shall expire on June 30 of years that precede by one year those
16 years that are evenly divisible by three. The terms of three of the members appointed by
17 the Board of Directors of the Council shall expire on June 30 of years that are evenly
18 divisible by three. The terms of the three members appointed by the faculty of the
19 College of Agriculture and Life Sciences at North Carolina State University shall expire
20 on June 30 of years that follow by one year years that are evenly divisible by three.
21 Upon the expiration of a term, a member may continue to serve until a successor is
22 appointed. After the terms of the initial appointments expire, the term of office of a
23 member is three years.

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

26 (d) Vacancies. – An appointment to fill a vacancy shall be for the unexpired
27 balance of the term.

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

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

32 (g) Annual Report. – The Turfgrass Funding Committee shall make a report to
33 the Dean of the College of Agriculture and Life Sciences at North Carolina State
34 University and the Commissioner of Agriculture regarding total receipts and
35 disbursements of assessments collected for the previous year.

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

39 **"§ 106-835. Refund of assessment.**

40 Any person who has purchased for use turfgrass fertilizer upon which the assessment
41 has been paid has the right to receive a refund of the assessment by making demand in
42 writing to the Department within 30 days of purchase of the turfgrass fertilizer. Such
43 demand must be accompanied by proof of purchase of the fertilizer satisfactory to the
44 Turfgrass Funding Committee."

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

3 **SECTION 3.** The initial appointments of the Turfgrass Funding Committee,
4 created by G.S. 106-834, as enacted in Section 1 of this act, shall be appointed no later
5 than October 1, 2001.

6 **SECTION 4.** G.S. 106-832(d), as enacted by Section 1 of this act, becomes
7 effective July 1, 2002, and applies to unpaid assessments and resulting penalties under
8 G.S. 106-832, as enacted in Section 1 of this act, that accrue on or after that date. The
9 remainder of this act becomes effective July 1, 2001, and applies to turfgrass fertilizer
10 sold on or after that date.