

HOUSE No. 3309

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy R. Madden and Daniel A. Wolf

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act regulating the content and application of fertilizer used in the town of Nantucket.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Timothy R. Madden

Barnstable, Dukes and Nantucket

Daniel A. Wolf

Cape and Islands

HOUSE No. 3309

By Mr. Madden of Nantucket and Senator Wolf, a joint petition (accompanied by bill, House, No. 3309) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) relative to regulating the content and application of fertilizer used in the town of Nantucket. Environment, Natural Resources and Agriculture. [Local Approval Received.]

The Commonwealth of Massachusetts

An Act regulating the content and application of fertilizer used in the town of Nantucket.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1. Findings

2 1.1. There is sound scientific evidence to conclude that nitrogen and phosphorus in
3 fertilizers are contaminants that negatively affect fresh and salt waters when present in excessive
4 amounts. These excessive amounts of nitrogen and phosphorus contribute to undesirable algae
5 and aquatic plant growth within all Nantucket water bodies. This undesirable algae and aquatic
6 plant growth has a adverse affect on public health through the degradation of waters used for
7 drinking water, shellfishing, and recreational swimming and boating.

8 Section 2. Purpose

9 2.1. It is necessary to control by regulation in the Town of Nantucket the use of fertilizer
10 that contains phosphorus and nitrogen so as to improve the water quality of the Town.

11 2.2. The soils of Nantucket are unique insofar as Nantucket has significant amounts of
12 coarse, sandy soils that are subject to rapid water infiltration, percolation and leaching of
13 nutrients, and such unique local conditions require that Nantucket retain localized control over
14 the amounts of nitrogen and phosphorus added to soils through the application of fertilizers.

15 2.3. The Nantucket Board of Health has established a fertilizer regulation based on Best
16 Management Practices developed by a broad group of stakeholders representing diverse interests
17 that has been reviewed by soil and turf scientists and educators and has been determined
18 appropriate for the unique soils and climate of Nantucket.

19 2.4. This Act provides for a reduction of nitrogen and phosphorus going into Nantucket's
20 waters and wetlands by means of an organized system of education, licensure, and regulation of

21 practice and should help Nantucket to achieve compliance with the Total Maximum Daily Loads
22 (TMDL) prescribed by the Commonwealth of Massachusetts for nitrogen and phosphorus in its
23 waters.

24 Section 3. Local Regulation by the Town of Nantucket

25 3.1. This Act shall apply to the content and application of fertilizer used in the Town of
26 Nantucket, notwithstanding any General or Special law to the contrary, including but not limited
27 to any General or Special law conferring exclusive authority upon the Department of Agriculture
28 to regulate and control the application of fertilizers elsewhere in the Commonwealth.

29 3.2. The Town of Nantucket is hereby specially authorized to regulate the content and
30 application of fertilizer used in the Town of Nantucket either through a general bylaw enacted by
31 a majority vote of its Town Meeting and/or through a regulation adopted by its Board of Health
32 in accordance with the procedure set forth in Section 3.3 of this Act.

33 3.3. Notwithstanding the requirements of G.L. c. 111, §31, no such Board of Health
34 regulations shall be adopted or amended until such time as the Board of Health shall hold a
35 public hearing thereon, notice of the time, place and subject matter of which, sufficient for
36 identification, shall be given by publishing in a newspaper of general circulation in the Town
37 once in each of two successive weeks, the first publication to be not less than fourteen days prior
38 to the date set for such hearing. No such amendment shall be effective unless the proposed
39 amendment has been reviewed and commented upon by soil and turf scientists and educators and
40 it is passed by a four-fifths vote of the Board of Health.

41 Section 4. Effective Date

42 This act shall take effect upon passage