

1 SB123  
2 126200-4  
3 By Senators Whatley and Scofield  
4 RFD: Governmental Affairs  
5 First Read: 01-MAR-11

1 SB123

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4 ENROLLED, An Act,

5 To prohibit a county or municipal government from  
6 adopting any ordinance, rule, or resolution pertaining to the  
7 subject of fertilizers; to reserve actions relating to the  
8 entire subject of fertilizers to the Department of Agriculture  
9 and Industries; and to provide certain exceptions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. (a) A county commission or municipal  
12 governing body may not adopt or continue in effect any  
13 ordinance, rule, or resolution regulating the registration,  
14 packaging, labeling, sale, distribution, transportation,  
15 storage, or application of fertilizers. The entire subject  
16 matter of the foregoing shall be subject to the jurisdiction  
17 of the Department of Agriculture and Industries.

18 (b) For purposes of this section, the term  
19 "fertilizer" means any substance containing one or more  
20 recognized plant nutrients which is used for its plant  
21 nutrient content and which is designed for use or claimed to  
22 have value in promoting plant growth, except unmanipulated  
23 animal and vegetable manures, marl, lime, limestone, wood  
24 ashes, boiler ashes produced by the pulp and paper or the

1 electric utility industry, and similar products exempted by  
2 regulation of the Commissioner of Agriculture and Industries.

3 (c) This section shall not affect, supersede, or  
4 override any zoning ordinance or business license enacted by a  
5 county or municipal government, except to the extent the  
6 zoning ordinance or business license purports to regulate  
7 fertilizer as prohibited by this section, which provisions are  
8 null and void.

9 (d) A political subdivision of the state is not  
10 subject to the requirements of subsections (a), (b), and (c)  
11 if the political subdivision's National Pollutant Discharge  
12 Elimination System permit or other ADEM administrative action  
13 requires, based on federal or state requirements for impaired  
14 water bodies, a stricter standard than this section imposes.  
15 The political subdivision must demonstrate to the satisfaction  
16 of ADEM that the discharges from the municipal separate storm  
17 sewer system (MS4) within its jurisdiction have the potential  
18 to impact an impaired water body and whether the MS4 is  
19 subject to an applicable total maximum daily load (TMDL)  
20 requirement for the impaired water body. The political  
21 subdivision must document in the public record the rationale  
22 supporting the exemption provided in this section, including  
23 all documents utilized to support the exemption. Any exemption  
24 pursuant to this section shall lapse upon restoration of water  
25 quality as documented in the Alabama's Water Quality Report to

1 Congress and there are no federal or state requirements  
2 requiring a stricter standard than this section imposes. Upon  
3 lapse of the exemption, subsections (a), (b), and (c) shall  
4 apply.

5 Section 2. All laws or parts of laws which conflict  
6 with this act are repealed.

7 Section 3. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB123

Senate 05-APR-11

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 01-JUN-11

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By: Senator Whatley