

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

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8 SYNOPSIS: Existing law does not prohibit a county or
9 municipality from adopting an ordinance, rule, or
10 resolution regulating fertilizers if the ordinance
11 or rule does not conflict with state law.

12 This bill would prohibit local governments
13 from adopting any ordinance, rule, or resolution
14 pertaining to the subject matter of fertilizers and
15 would reserve actions relating to the entire
16 subject of fertilizers to the Department of
17 Agriculture and Industries. The bill would also
18 provide for exceptions.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To prohibit a county or municipal government from
25 adopting any ordinance, rule, or resolution pertaining to the
26 subject of fertilizers; to reserve actions relating to the

1 entire subject of fertilizers to the Department of Agriculture
2 and Industries; and to provide certain exceptions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) A county commission or municipal
5 governing body may not adopt or continue in effect any
6 ordinance, rule, or resolution regulating the registration,
7 packaging, labeling, sale, distribution, transportation,
8 storage, or application of fertilizers. The entire subject
9 matter of the foregoing shall be subject to the jurisdiction
10 of the Department of Agriculture and Industries.

11 (b) For purposes of this section, the term
12 "fertilizer" means any substance containing one or more
13 recognized plant nutrients which is used for its plant
14 nutrient content and which is designed for use or claimed to
15 have value in promoting plant growth, except unmanipulated
16 animal and vegetable manures, marl, lime, limestone, wood
17 ashes, boiler ashes produced by the pulp and paper or the
18 electric utility industry, and similar products exempted by
19 regulation of the Commissioner of Agriculture and Industries.

20 (c) This section shall not affect, supersede, or
21 override any zoning ordinance or business license enacted by a
22 county or municipal government, except to the extent the
23 zoning ordinance or business license purports to regulate
24 fertilizer as prohibited by this section, which provisions are
25 null and void.

26 (d) A political subdivision of the state is not
27 subject to the requirements of subsections (a), (b), and (c)

1 if the political subdivision's National Pollutant Discharge
2 Elimination System permit or other ADEM administrative action
3 requires, based on federal or state requirements for impaired
4 water bodies, a stricter standard than this section imposes.
5 The political subdivision must demonstrate to the satisfaction
6 of ADEM that the discharges from the municipal separate storm
7 sewer system (MS4) within its jurisdiction have the potential
8 to impact an impaired water body and whether the MS4 is
9 subject to an applicable total maximum daily load (TMDL)
10 requirement for the impaired water body. The political
11 subdivision must document in the public record the rationale
12 supporting the exemption provided in this section, including
13 all documents utilized to support the exemption. Any exemption
14 pursuant to this section shall lapse upon restoration of water
15 quality as documented in the Alabama's Water Quality Report to
16 Congress and there are no federal or state requirements
17 requiring a stricter standard than this section imposes. Upon
18 lapse of the exemption, subsections (a), (b), and (c) shall
19 apply.

20 Section 2. All laws or parts of laws which conflict
21 with this act are repealed.

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