

SUMMARY OF SENATE BILL 150

AS PASSED BY THE SENATE AND HOUSE

Senate Bill 150 unanimously passed the Senate on Jan. 23, 2014 and was passed by the House on April 9, 2014.

The bill requires a fertilizer applicator certification, which will educate farmers on the 4Rs, be economically feasible and based on best management practices, and will serve as part of a comprehensive state nutrient reduction strategy addressing all sources of nutrients.

SB 150 grants farmers a voluntary affirmative defense option if they meet specific criteria, including operating under a “voluntary nutrient management plan”. The bill ensures farmers had a choice and ease for developing nutrient management plans that would fulfill the requirement for the affirmative defense.

Fertilizer Applicator Certification

- Required for anyone applying fertilizer on more than 50 acres for the purposes of growing crops.
- Administered through the Ohio Department of Agriculture- minimizes multi-agency oversight of fertilizer.
- The application fee will be no more than the private pesticide application fee. Those farmers with a private or commercial pesticide applicator’s license can obtain certification at no cost when renewing their pesticide license.
- The fertilizer applicator certification will:
 - educate an applicant on the time, place, form, amount, handling and application of fertilizer (the 4Rs);
 - serve as part of a comprehensive state nutrient reduction strategy addressing all sources of nutrients;
 - support generally practical economically feasible best management practices.
- Certification is required to be renewed every three years.

Revocation of a Fertilizer Applicator Certification

Focuses on bad actors

- Allows the ODA to suspend the certification of a fertilizer applicator in an emergency situation if the director believes the fertilizer is being applied in a reckless way that causes a clear and present threat to the health of people and animals.

Records Retention

- Requires records to be kept for three years from the date of fertilizer application. The records to be kept are; the date of fertilizer application, the place of application, the rate of application, an analysis of the fertilizer, and the name of the person applying the fertilizer.
- Records are NOT to be submitted to ODA but can be reviewed by ODA personnel.
- There is no penalty for a record keeping violation.

Voluntary Affirmative Defense Option

- SB 150 provides the option that farmers can obtain an affirmative defense to help fight against being sued for applying fertilizer. This means if a farmer that has the affirmative defense is sued for applying fertilizer that farmer can greatly reduce the legal costs by getting the court to issue a favorable decision earlier on in the litigation based on that affirmative defense.
- There are three elements that need to be met to achieve the affirmative defense:
 1. the person applying fertilizer has a fertilizer applicator certification;
 2. records of fertilizer application have been properly maintained;
 3. the fertilizer has been applied according to and in substantial compliance with the (approved) voluntary nutrient management plan.
- There are three options available for a voluntary nutrient management plan;
 1. the farmer has a nutrient management plan in the form of an OSU nutrient management workbook (which can be filled out in workbook form or online),
 2. a comprehensive nutrient management plan, or
 3. an equivalent document that the ODA director develops.
- A voluntary NMP is only needed if the farmer wants to obtain the affirmative defense and is otherwise not required in the bill.
- There are also options for the development of voluntary nutrient management plans. Farmers can develop a plan, have someone else develop a plan, or have the soil and water district develop a plan.
- Once the plan is developed, it has to be approved if the farmer wants to obtain the affirmative defense. If the voluntary NMP is developed by the farmer or someone on his behalf then it has to be approved by the soil and water district. If the soil and water district develops the plan it is deemed approved.