

1 SB83
2 121553-2
3 By Senator Benefield
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 12-JAN-10
6 PFD: 01/05/2010

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To prohibit a county or municipal government from
12 adopting any ordinance, rule, or resolution pertaining to the
13 subject of fertilizers; to reserve the entire subject of
14 fertilizers to the Department of Agriculture and Industries;
15 and to provide certain exceptions.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. (a) A county commission or municipal
18 governing body may not adopt or continue in effect any
19 ordinance, rule, or resolution regulating the registration,
20 packaging, labeling, sale, distribution, or application of
21 fertilizers. The entire subject matter of the foregoing shall
22 be subject to the jurisdiction of the Department of
23 Agriculture and Industries.

24 (b) For purposes of this section, the term
25 "fertilizer" means any substance containing one or more
26 recognized plant nutrients which is used for its plant
27 nutrient content and which is designed for use or claimed to

1 have value in promoting plant growth, except unmanipulated
2 animal and vegetable manures, marl, lime, limestone, wood
3 ashes, boiler ashes produced by the pulp and paper or the
4 electric utility industries, and similar other products
5 exempted by regulation by the Commissioner of Agriculture and
6 Industries.

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

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

1 shall lapse upon restoration of water quality as determined by
2 ADEM and if the MS4 is not subject to an applicable TMDL. 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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Senate

Read for the first time and referred to the Senate
committee on Agriculture, Conservation, and For-
estry 12-JAN-10

Read for the second time and placed on the calen-
dar 01-APR-10

Read for the third time and passed as amended ... 14-APR-10

Yeas 28
Nays 0

McDowell Lee
Secretary