

BY: Economic and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 178

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 31, after “terms;” insert “requiring the Governor to target and coordinate certain funding; requiring the Secretary of Agriculture to submit a certain report by a certain date:”.

On page 2, in line 20, after “6-107.1,” insert “8-704.1, 8-704.2,”.

AMENDMENT NO. 2

On page 6, after line 5, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Agriculture

8-704.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMERCIAL POULTRY PRODUCER” MEANS ANY ENTITY THAT CONTRACTS WITH A FARMER TO RAISE POULTRY FOR THE PRODUCER ON PROPERTY OWNED OR LEASED BY THE FARMER.

(3) “PILOT PROJECT” MEANS THE POULTRY LITTER TRANSPORTATION PILOT PROJECT.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) FOR A 4-YEAR PERIOD THE STATE AND THE COMMERCIAL POULTRY

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PRODUCERS SHALL FACILITATE THE PROMPT TRANSPORTATION OF POULTRY LITTER FROM FARMS THAT EXPERIENCE PHOSPHORUS OVERENRICHMENT;

(2) THE PILOT PROJECT SHALL ENCOURAGE VOLUNTARY PARTICIPATION TO ACHIEVE THE REMOVAL OF POULTRY LITTER PRODUCED BY AT LEAST 20% OF THE POULTRY IN THE FOUR LOWER EASTERN SHORE COUNTIES IN MARYLAND; AND

(3) THE PILOT PROJECT SHALL BE IMPLEMENTED IN CONJUNCTION WITH THE POULTRY LITTER MATCHING SERVICE SET FORTH IN § 8-704.1 OF THIS SUBTITLE.

(C) THE PURPOSE OF THE PILOT PROJECT IS TO ESTABLISH A COST-SHARE MATCHING PROGRAM TO ASSIST IN THE TRANSPORTATION OF POULTRY LITTER FROM FARMS OVER A PERIOD OF 4 YEARS:

(1) TO BE USED ON LAND WITH SOIL HAVING THE CAPACITY TO HOLD ADDITIONAL PHOSPHORUS; OR

(2) TO BE USED IN ENVIRONMENTALLY ACCEPTABLE WAYS OTHER THAN LAND APPLICATION.

(D) THE STATE SHALL PROVIDE FUNDING FOR THE PILOT PROJECT BY MATCHING THE AMOUNT OF FUNDS CONTRIBUTED BY THE COMMERCIAL POULTRY PRODUCER INDUSTRY FOR ELIGIBLE COSTS, AS DETERMINED BY THE DEPARTMENT, ASSOCIATED WITH THE TRANSPORTATION, HANDLING, AND APPLICATION OF POULTRY LITTER, NOT TO EXCEED \$10 PER TON.

(E) THE DEPARTMENT SHALL DEVELOP CRITERIA TO ESTABLISH AND PRIORITIZE ELIGIBILITY, INCLUDING:

(1) THE EXISTING AVAILABILITY OF ACREAGE ON LANDS WHERE THE LITTER IS GENERATED;

(2) SOIL NUTRIENT LEVELS OF ACREAGE RECEIVING MANURE;

(3) ON THE LANDS WHERE THE LITTER IS GENERATED, THE OPERATOR'S ABILITY TO COMPLY AS APPLICABLE WITH EITHER A NITROGEN OR PHOSPHORUS-BASED NUTRIENT MANAGEMENT PLAN; AND

(4) BEST MANAGEMENT PRACTICES CURRENTLY AVAILABLE ON RECEIVING ACREAGE.

(F) THE DEPARTMENT OF AGRICULTURE SHALL ADOPT REGULATIONS AUTHORIZING THE DISBURSEMENT OF COST-SHARE MATCHING FUNDS CONSISTENT WITH THE PURPOSES OF THE PILOT PROGRAM.

(G) THE DEPARTMENT OF AGRICULTURE SHALL PROVIDE THE ASSISTANCE NECESSARY TO ENSURE THAT POULTRY LITTER IS TESTED IN ACCORDANCE WITH DEPARTMENTAL PROCEDURES BEFORE LAND APPLICATION OF TRANSPORTED LITTER OCCURS.”;

and in line 6, strike “2.” and substitute “3.”.

On page 8, after line 2, insert:

“8-704.1.

(A) IN THIS SECTION, “SERVICE” MEANS THE POULTRY LITTER MATCHING SERVICE.

(B) THE DEPARTMENT SHALL CREATE A POULTRY LITTER MATCHING SERVICE.

(C) THE PURPOSE OF THE SERVICE IS TO DEVELOP TRANSFER PROGRAMS AND MARKETING TECHNIQUES TO PROMOTE AND FACILITATE THE TRANSFER OF POULTRY LITTER.

(D) THE SERVICE SHALL BE IMPLEMENTED IN CONJUNCTION WITH THE

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POULTRY LITTER TRANSPORTATION PILOT PROJECT SET FORTH IN § 8-704.2 OF THIS SUBTITLE.

(E) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUFFICIENT FUNDS TO CARRY OUT THIS SECTION.”.

AMENDMENT NO. 3

On page 8, in line 15, after “pollution” insert “BY TRANSPORT OF POTENTIALLY BIOAVAILABLE NUTRIENTS”; in line 17, after “LEVELS” insert “AND CHEMICAL FORMS”; strike in their entirety lines 21 through 23, inclusive, and substitute:

“(1) LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND PHOSPHORUS IN THE SOIL;

(2) LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND PHOSPHORUS IN ALL FERTILIZER MATERIALS TO BE APPLIED;”;

in line 25, after “ERODIBILITY” insert “AND NUTRIENT RETENTION CAPACITY”; strike in their entirety lines 26 through 29, inclusive, and substitute:

“(5) PHYSICAL CHARACTERISTICS, INCLUDING DISTANCE AND TOPOGRAPHY;

(6) EXISTING BEST MANAGEMENT PRACTICES;

(7) THE BEST REASONABLE SCIENTIFIC METHODS ACCEPTED BY THE DEPARTMENT FROM RELIABLE SOURCES, INCLUDING THE UNIVERSITY OF MARYLAND, TO EVALUATE POTENTIAL WATER QUALITY IMPACTS; AND

(8) NUTRIENT CONTROLS PROVIDED BY OTHER IMPLEMENTED AGRICULTURAL BEST MANAGEMENT PRACTICES.”.

AMENDMENT NO. 4

On page 8, in line 24, strike “REALISTIC CROP YIELD GOALS” and substitute “THE

AMOUNT OF NITROGEN AND PHOSPHORUS NECESSARY TO ACHIEVE THE EXPECTED CROP YIELD FOR THE LAND THAT IS THE SUBJECT OF THE NUTRIENT MANAGEMENT PLAN, AS DETERMINED BY:

(I) THE FIELD'S ACTUAL YIELD RECORD AND SOIL PRODUCTIVITY FOR THAT CROP; OR

(II) IF INFORMATION CONCERNING ACTUAL YIELD RECORD AND SOIL PRODUCTIVITY FOR A CROP IS UNAVAILABLE, RELEVANT INFORMATION CONCERNING SIMILAR FIELDS AND SOIL”.

AMENDMENT NO. 5

On page 10, in line 20, after “(A)” insert “(1)”; in the same line, strike “OPERATES” and substitute “, IN OPERATING”; in the same line, after “FARM” insert “, USES CHEMICAL FERTILIZER,”; in line 21, after “PLAN” insert “FOR NITROGEN AND PHOSPHORUS”; after line 22, insert:

“(2) (I) BY JULY 1, 2000, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT MANAGEMENT PLAN FOR NITROGEN.

(II) BY JULY 1, 2002, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS.”;

in line 23, after “(B)” insert “(1)”; in line 23, strike “OPERATES” and substitute “, IN OPERATING”; in the same line, after “FARM” insert “, USES CHEMICAL FERTILIZER,”; in line 24, after “PLAN” insert “FOR NITROGEN AND PHOSPHORUS”; and after line 25, insert:

“(2) (I) BY JULY 1, 2002, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(II) BY JULY 1, 2004, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(C) A PERSON MAY MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION BY REQUESTING, AT LEAST 90 DAYS BEFORE THE APPLICABLE DATE SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE DEVELOPMENT OF A NUTRIENT MANAGEMENT PLAN BY A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT.”.

On page 10, in line 26, strike “(C)” and substitute “(D)(1)”.

AMENDMENT NO. 6

On page 10, strike beginning with the first “A” in line 28 down through “AND” in line 33 and substitute “:

(I) FOR A FIRST OFFENSE, A WARNING; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE.”;

and in line 34, after “VIOLATION,” insert “AN ADMINISTRATIVE PENALTY THAT MAY BE IMPOSED BY”.

On pages 10 and 11, strike beginning with “MAY” in line 35 through “SECTION” in line 2 on page 11.

On page 11, in line 3, after “UNDER” insert “PARAGRAPH (1)(II) OF”; in line 5, strike “\$250” and substitute “\$100”; and in the same line, strike “\$5,000” and substitute “\$2,500”.

AMENDMENT NO. 7

On page 13, in line 2, after “OWNER” insert “OR OPERATOR OF THE FARM”.

AMENDMENT NO. 8

On page 14, in lines 29 and 31, strike “\$1,500” and “\$2,500”, respectively, and substitute

“\$1,000” and “\$2,000”, respectively.

On page 15, in line 8, strike “\$15,000” and substitute “\$10,000”.

AMENDMENT NO. 9

On page 19, strike in their entirety lines 1 through 3 and substitute:

“(3) TO QUALIFY FOR THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION, A TAXPAYER SHALL FILE A STATEMENT FROM THE DEPARTMENT OF AGRICULTURE CERTIFYING COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

“(4) IF THE SUBTRACTION ALLOWED UNDER PARAGRAPH (2) OF THIS SUBSECTION EXCEEDS THE MARYLAND TAXABLE INCOME THAT IS COMPUTED WITHOUT THE MODIFICATION ALLOWED UNDER THIS SUBSECTION AND THE SUBTRACTION IS NOT USED FOR THE TAXABLE YEAR, THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS, NOT TO EXCEED 5, UNTIL THE FULL AMOUNT OF THE SUBTRACTION IS USED.”.

On page 18 in line 12, and on page 19 in line 16, strike “3.” and “4.”, respectively, and substitute “4.” and “5.”, respectively.

AMENDMENT NO. 10

On page 20 in line 8, strike “2006” and substitute “2008”.

AMENDMENT NO. 11

On page 20, in line 27, strike “5.” and substitute “6.”; after line 32, insert:

“SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective for a period of 4 years and, at the end of June 30, 2002, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.”; in lines 33 and 35, strike “6.” and “7.”, respectively, and substitute “8.” and “9.”; and after line 36,

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insert:

“SECTION 10. AND BE IT FURTHER ENACTED, That the Governor is requested to take the steps necessary to:

(1) target funding received by the State under the Conservation Reserve Enhancement Program of the U.S. Department of Agriculture to farms, located in critical watersheds, that implement nutrient management plans in accordance with this Act; and

(2) coordinate Program funds with Maryland Agricultural Cost share funds and other appropriate State funds in order best to leverage federal funds for water quality improvement and nutrient removal, and for habitat restoration and buffer creation on the shore of the Chesapeake Bay.

SECTION 11. AND BE IT FURTHER ENACTED, That the Secretary of Agriculture is requested to submit a report to the General Assembly, in accordance with §2-1246 of the State Government Article, by January 1, 2001 on the Poultry Litter Transportation Pilot Project established under this Act. The report shall include information on the participation levels in the Pilot Project, the amount of litter transported, and the amount of funds raised and distributed. The report shall also evaluate the potential economic impact on farmers if the Pilot Project is terminated.”.

On page 21, in line 1, strike “8.” and substitute “12.”.