

BY: Conference Committee

AMENDMENTS TO HOUSE BILL NO. 599, AS AMENDED

AMENDMENT NO. 1

On page 1 of the Economic and Environmental Affairs Committee Amendments (HB0599/724514/1), in Amendment No. 1, in line 8, after “date” insert “and to a certain extent; requiring the Secretary of Agriculture to suspend or recommend to the General Assembly the modification or termination of the requirement under certain circumstances”; strike beginning with “authorizing” in line 15 down through “certified” in line 19 and substitute “establishing certain requirements for the certification of nutrient management consultants; establishing certain requirements for certain individuals receiving certain vouchers of completion from the Department of Agriculture; establishing certain requirements for persons applying commercial fertilizers under certain circumstances”; in line 19, after “membership” insert “and responsibilities”; and strike beginning with “authorizing” in line 22 down through “operations;” in line 23.

On page 2 of the Committee Amendments, in line 10 of Amendment No. 1, after “date;” insert “requiring the University of Maryland Cooperative Extension Service to submit a certain annual report to the Nutrient Management Advisory Committee, the Governor, and the General Assembly; requiring the Maryland Department of Agriculture to provide certain notice to farmers of the availability of certain assistance and of the requirements of this Act; authorizing the transfer between certain departments of certain appropriations and positions for fiscal year 1999;”.

On page 3 of the Committee Amendments, in Amendment No. 1, strike in their entirety lines 13 through 22, inclusive.

AMENDMENT NO. 2

On page 9 of the Committee Amendments, in Amendment No. 2, in line 3, after “FARMS” insert “IN ALL AREAS OF THE STATE”; in line 21, after “TRANSPORTATION” strike the comma and substitute “AND”; in the same line strike “, AND APPLICATION”; in line 22, strike “LITTER,” and substitute “LITTER. THE STATE SHARE MAY”; and in the same line, strike “TO”.

(Over)

On pages 9 and 10 of the Committee Amendments, strike in their entirety the lines beginning with line 23 on page 9 through line 8 on page 10, inclusive.

On page 10 of the Committee Amendments, in lines 9 and 12, strike “(F)” and “(G)”, respectively, and substitute “(E)” and “(F)”, respectively; and in line 14, strike “LAND APPLICATION OF TRANSPORTED” and substitute “TRANSPORTATION OF THE”.

AMENDMENT NO. 3

On page 11 of the Committee Amendments, in line 22, strike “OR BOTH”.

On page 12 of the Committee Amendments, in line 7, strike “JANUARY 1, 2000” and substitute “DECEMBER 31, 2000”; in line 9, strike “, OR BOTH” and substitute “TO THE MAXIMUM EXTENT THAT IS COMMERCIALY AND BIOLOGICALLY FEASIBLE”; in line 10, after “(B)” insert “SUBJECT TO THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION,”; in the same line, strike “THAT ESTABLISH:” and substitute “TO MONITOR COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION,”; strike in their entirety lines 11 through 13, inclusive, and substitute:

“(C) IF THE SECRETARY DETERMINES THAT THE REQUIREMENTS SET FORTH IN SUBSECTION (A) OF THIS SECTION HAVE A SIGNIFICANT DETRIMENTAL EFFECT ON POULTRY PRODUCTION OR THE POULTRY MARKET, THE SECRETARY SHALL:

(1) SUSPEND THE PROGRAM FOR A REASONABLE PERIOD OF TIME; OR

(2) RECOMMEND TO THE GENERAL ASSEMBLY THAT THE REQUIREMENT BE MODIFIED OR TERMINATED.

(D) IN DEVELOPING REGULATIONS UNDER SUBSECTION (B) OF THIS SECTION AND IN MAKING A DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE SECRETARY SHALL CONSULT WITH THE DELMARVA POULTRY INDUSTRY, THE MARYLAND FARM BUREAU, AND THE UNIVERSITY OF MARYLAND DEPARTMENT OF ANIMAL AND AVIAN SCIENCE.”

AMENDMENT NO. 4

On page 14 of the Committee Amendments, strike in their entirety lines 14 through 18,

inclusive; in line 19, strike the brackets; in the same line, strike “(C)”; in line 21, strike the brackets; in the same line, strike “(D)”; and in line 24, strike “POTENTIALLY”.

On page 15 of the Committee Amendments, strike in their entirety lines 1 through 3, inclusive.

On page 17 of the Committee Amendments, in line 12, after “requirements” insert “INCLUDING A PROGRAM ON THE PROPER APPLICATION OF NUTRIENTS”.

On pages 23 through 25 of the Committee Amendments, strike in their entirety the lines beginning with line 11 on page 23 through line 2 on page 25, inclusive, and substitute:

“8-803.2.

(A) A PERSON WHO APPLIES NUTRIENTS FOR HIRE TO LAND USED FOR AGRICULTURAL PURPOSES SHALL BE A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT OR WORK UNDER A NUTRIENT MANAGEMENT CONSULTANT CERTIFIED UNDER § 8-803 OF THIS SUBTITLE.

(B) A PERSON WHO APPLIES NUTRIENTS FOR HIRE TO LAND USED FOR AGRICULTURAL PURPOSES, WHO IS NOT A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT, SHALL MAKE AVAILABLE DOCUMENTATION, IN THE FORM OF A WORK ORDER, BILL OF LADING, OR SIMILAR DOCUMENT, TO THE LANDOWNER OR LAND MANAGER THAT THE PERSON IS WORKING UNDER A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT.

(C) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

8-803.3.

(A) THIS SECTION DOES NOT APPLY TO:

(Over)

(1) A PERSON WHO APPLIES NUTRIENTS TO 10 ACRES OR LESS OF LAND EACH YEAR; OR

(2) A PERSON WHO APPLIES NUTRIENTS FOR HIRE.

(B) A PERSON WHO ENGAGES IN THE ACTIVITY OF APPLYING NUTRIENTS TO LAND WHICH THE PERSON OWNS OR MANAGES AND WHICH IS USED FOR AGRICULTURAL PURPOSES SHALL COMPLETE AN EDUCATIONAL PROGRAM IN NUTRIENT APPLICATION EVERY 3 YEARS.

(C) (1) THE SECRETARY, IN CONSULTATION WITH THE NUTRIENT MANAGEMENT ADVISORY COMMITTEE UNDER § 8-804 OF THIS SUBTITLE, SHALL CREATE OR APPROVE EDUCATIONAL PROGRAMS UNDER THIS SECTION.

(2) THE NUTRIENT APPLICATION EDUCATIONAL PROGRAMS ARE TO BE OFFERED AT SITES DISTRIBUTED THROUGHOUT THE STATE.

(3) THE DEPARTMENT SHALL ISSUE TO A PARTICIPANT UPON COMPLETION OF AN EDUCATION PROGRAM UNDER THIS SECTION, A VOUCHER OF COMPLETION.

(4) THE DEPARTMENT SHALL MAINTAIN A REGISTRY OF PERSONS WHO HAVE RECEIVED VOUCHERS OF COMPLETION IN A NUTRIENT APPLICATION EDUCATIONAL PROGRAM UNDER THIS SECTION.”.

On page 25 of the Committee Amendments, strike beginning with the second “PERSON” in line 15 down through “SUBTITLE” in line 20 and substitute “PERSON APPLIES THE COMMERCIAL FERTILIZER IN A MANNER THAT IS CONSISTENT WITH THE RECOMMENDATIONS OF THE UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION SERVICE”.

On page 26 of the Committee Amendments, strike in their entirety lines 8 through 10, inclusive; and in line 11, strike “(5)” and substitute “(4)”.

On page 27 of the Committee Amendments, in line 23, strike “CERTIFIED NUTRIENT APPLICATORS” and substitute “PERSONS RECEIVING VOUCHERS OF COMPLETION UNDER § 8-803.3 OF THIS SUBTITLE”.

On page 28 of the Committee Amendments, strike in their entirety lines 1 and 2; in line 3, strike the brackets; in the same line, strike “(4)”; in the same line, strike the comma and substitute “AND”; in line 4, strike “, AND CERTIFIED NUTRIENT APPLICATORS”; strike in their entirety lines 6 through 10, inclusive; in lines 18 and 19, strike “AND NUTRIENT APPLICATOR”; strike in their entirety lines 20 and 21; in line 22, strike the brackets; and in the same line, strike “(3)”.

On page 29 of the Committee Amendments, in line 1, strike the brackets; in the same line, strike “(4)”; in line 2, strike the brackets; and in the same line, strike “(5)”.

AMENDMENT NO. 5

On page 15 of the Committee Amendments, in line 5, after “(A)” insert “(1)”; in lines 7, 9, 11, 14, 16, 19, and 22, strike “(1)”, “(2)”, “(3)”, “(I)”, “(II)”, “(4)”, and “(6)”, respectively, and substitute “(I)”, “(II)”, “(III)”, “1.”, “2.”, “(IV)”, and “(VI)”, respectively; in lines 7 and 9, in each instance, strike “POTENTIALLY”; strike lines 20 and 21 in their entirety, and substitute:

“(V) THE BEST REASONABLE SCIENTIFIC METHODS ACCEPTED BY THE DEPARTMENT AND THE UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION SERVICE; AND”;

and in line 22, strike the semicolon and substitute a period.

On page 16 of the Committee Amendments, strike in their entirety lines 1 through 5, inclusive, and substitute:

“(2) EACH NUTRIENT MANAGEMENT PLAN SHALL PROVIDE FLEXIBILITY FOR MANAGEMENT DECISIONS THAT MAY BE REQUIRED BY CONDITIONS BEYOND THE CONTROL OF THE FARMER.”.

AMENDMENT NO. 6

On page 16 of the Committee Amendments, strike in their entirety lines 10 through 14, inclusive and substitute:

“(2) SUBMISSION OF THE PLAN SHALL INCLUDE A GRANT BY THE PROPERTY OWNER OR OPERATOR TO THE DEPARTMENT OF A RIGHT OF ENTRY ON THE PROPERTY TO EVALUATE COMPLIANCE WITH THE PLAN AS LONG AS THE DEPARTMENT:

(I) ENTERS THE PROPERTY IN DAYLIGHT HOURS AT A REASONABLE TIME THAT ALLOWS THE PROPERTY OWNER OR OPERATOR THE OPPORTUNITY TO BE PRESENT; AND

(II) CONDUCTS ITS EVALUATION IN A MANNER THAT MINIMIZES ANY INCONVENIENCE TO THE FARMER.”;

in line 15, strike “(4)” and substitute “(3)”; and in line 19, after “PLAN” insert “, FOR PURPOSES OF MEETING THE REQUIREMENTS OF THIS SUBTITLE,”.

On page 22 of the Committee Amendments, strike in their entirety lines 19 through 23, inclusive, and substitute:

“(L) THE DEPARTMENT SHALL DETERMINE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.”.

AMENDMENT NO. 7

On page 18 of the Committee Amendments, after line 12, insert:

“(A) IN THIS SECTION, “GROSS INCOME” MEANS THE ACTUAL INCOME THAT IS RECEIVED IN A CALENDAR YEAR THAT RESULTS DIRECTLY FROM THE FARM OR AGRICULTURAL USE OF THE LAND.

(B) THIS SECTION DOES NOT APPLY TO:

(1) AN AGRICULTURAL OPERATION WITH LESS THAN \$2,500 IN GROSS INCOME; OR

(2) A LIVESTOCK OPERATION WITH LESS THAN EIGHT ANIMAL UNITS AS DEFINED IN 40 C.F.R. PART 122, APPENDIX B.

(C) THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDING IN EACH FISCAL YEAR'S BUDGET TO:

(1) ASSIST IN THE DEVELOPMENT OF NUTRIENT MANAGEMENT PLANS;

(2) MEET THE TECHNICAL ASSISTANCE AND EVALUATION REQUIREMENTS OF THIS SECTION;

(3) MEET THE STATE'S REQUIREMENTS FOR THE IMPLEMENTATION OF THE POULTRY LITTER TRANSPORTATION PILOT PROJECT UNDER § 8-704.2 OF THIS TITLE; AND

(4) PROVIDE STATE ASSISTANCE UNDER THE MARYLAND AGRICULTURAL WATER QUALITY COST SHARE PROGRAM IN THE DEPARTMENT.

(D) (1) STATE COST SHARING MAY BE MADE AVAILABLE TO FARMERS TO HELP OFFSET THE COSTS OF HAVING A NUTRIENT MANAGEMENT PLAN PREPARED BY A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT WHO IS NOT EMPLOYED BY THE FEDERAL, STATE, OR A LOCAL GOVERNMENT.

(2) STATE COST SHARE FUNDS ARE TO BE MADE AVAILABLE FOR ELIGIBLE COSTS UP TO 50% PER ACRE, NOT TO EXCEED \$3 PER ACRE.

(3) THE SECRETARY OF AGRICULTURE SHALL ADOPT REGULATIONS AUTHORIZING THE DISBURSEMENT OF STATE COST SHARING FUNDS UNDER THIS SUBSECTION.”;

in line 13, strike “(A)” and substitute “(E)”; in the same line, strike “JULY 1, 2000” and substitute “DECEMBER 31, 2001”; in lines 16 and 19, strike “JULY 1, 2000” and “JULY 1, 2002”,

(Over)

respectively and substitute "DECEMBER 31, 2001" and "JULY 1, 2004", respectively; in line 22, strike "(B)" and substitute "(F)"; in the same line, strike "JULY 1, 2002" and substitute "DECEMBER 31, 2002".

On page 19 of the Committee Amendments, in line 4, strike "JULY 1, 2002" and substitute "DECEMBER 31, 2002"; in line 7, strike "JULY 1, 2004" and substitute "JULY 1, 2005"; in line 11, strike "(C)" and substitute "(G)"; in the same line, strike "(A)" and substitute "(E)"; in line 12, strike "90" and substitute "60"; in line 13, strike "(A)" and substitute "(E)"; after line 14, insert:

"(H) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (E) AND (F) OF THIS SECTION, IF A PERSON RECEIVES STATE FUNDS FOR THE DEVELOPMENT OF A NUTRIENT MANAGEMENT PLAN FOR CHEMICAL FERTILIZER OR A NUTRIENT MANAGEMENT PLAN FOR SLUDGE AND ANIMAL MANURE BASED ON NITROGEN, THE PERSON SHALL IMPLEMENT THE PLAN UPON COMPLETION OF THE DEVELOPMENT OF THE PLAN.

(I) (1) IF A PERSON VIOLATES THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PERSON THAT THE PERSON IS IN VIOLATION OF THE REQUIREMENT TO HAVE A NUTRIENT MANAGEMENT PLAN.

(2) AFTER A REASONABLE PERIOD OF TIME, IF THE PERSON FAILS TO HAVE A NUTRIENT MANAGEMENT PLAN, THE PERSON IS SUBJECT TO AN ADMINISTRATIVE PENALTY NOT TO EXCEED \$250."

in line 15, strike "(D)" and substitute "(J)"; in the same line, after "OF" insert "SUBSECTION (F) OF"; in line 22, strike "THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION WITH"; and in lines 18 and 19, in each instance, strike "OFFENSE" and substitute "VIOLATION".

On page 20 of the Committee Amendments, in lines 1 and 2, strike "\$2,500 TOTAL" and substitute "\$2,000 PER FARMER OR OPERATOR PER YEAR"; strike beginning with "INCLUDING" in line 9 down through the second "STATE" in line 10; strike lines 11 through 18 in their entirety; in line 19, strike "6." and substitute "3."; in line 21, after "VIOLATION;" insert "AND"; and strike lines 22 and 23 in their entirety; in line 24, strike "8." and substitute "4.".

On page 21 of the Committee Amendments, in line 2, after “(3)” insert “(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,”; after line 3, insert “(II) DAILY PENALTIES DO NOT CONTINUE TO ACCRUE AS LONG AS THE FARMER TAKES REASONABLE STEPS TO CORRECT THE VIOLATION.”; strike beginning with “THIS” in line 5 down through “DEBTS” in line 6 and substitute “THE MARYLAND AGRICULTURAL WATER QUALITY COST SHARE PROGRAM WITHIN THE DEPARTMENT”.

On pages 22 and 23 of the Committee Amendments, strike in their entirety the lines beginning with line 24 on page 22 through line 10 on page 23, inclusive.

AMENDMENT NO. 8

On page 21 of the Committee Amendments, strike in their entirety lines 7 through 13, inclusive; in line 14, strike “(E)” and substitute “(K)”; and strike lines 16 through 19, inclusive, and substitute:

“(1) REQUIRE REPAYMENT OF COST SHARE FUNDS UNDER SUBTITLE 7 OF THIS TITLE FOR THE PROJECT THAT IS IN VIOLATION; OR

(2) DENY OR RESTRICT FUTURE COST SHARE PAYMENTS UNDER SUBTITLE 7 OF THIS TITLE.”.

On pages 21 and 22 of the Committee Amendments, strike in their entirety the lines beginning with line 20 on page 21 through line 18 on page 22, inclusive.

AMENDMENT NO. 9

On page 27 of the Committee Amendments, strike in their entirety lines 10 through 12, inclusive, and substitute:

“8-803.5.

IF REQUESTED, THE DEPARTMENT SHALL ADOPT REGULATIONS PROVIDING FOR RELIGIOUS EXEMPTIONS TO THIS SUBTITLE IN THE EVENT THE REQUIREMENTS

(Over)

OF THIS SUBTITLE CONFLICT WITH THE BONA FIDE RELIGIOUS BELIEFS AND PRACTICES OF PERSONS SUBJECT TO THIS SUBTITLE.”.

AMENDMENT NO. 10

On page 27 of the Committee Amendments, in line 14, after “(a)” insert “(1)”; in line 17, after “units.” insert “THE SECRETARY ALSO SHALL APPOINT TO THE COMMITTEE A REPRESENTATIVE OF COUNTY GOVERNMENT FROM A LIST SUBMITTED BY THE MARYLAND ASSOCIATION OF COUNTIES. THE PRESIDENT OF THE SENATE OF MARYLAND SHALL APPOINT TO THE COMMITTEE ONE SENATOR AND THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT TO THE COMMITTEE ONE DELEGATE.”; and after line 17, insert:

“(2) (I) THE NUTRIENT MANAGEMENT ADVISORY COMMITTEE SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, BY JULY 1 OF EACH YEAR ON THE IMPLEMENTATION OF THE REQUIREMENTS OF THE WATER QUALITY IMPROVEMENT ACT OF 1998.

(II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE INFORMATION REGARDING:

1. THE LEVEL OF PARTICIPATION IN THE NUTRIENT MANAGEMENT PLAN PROGRAM;

2. ADDITIONAL RESOURCES THAT MAY BE NEEDED TO MEET THE REQUIREMENTS OF § 8-803.1 OF THIS SUBTITLE;

3. THE EFFECTIVENESS OF NUTRIENT APPLICATION EDUCATION PROGRAMS; AND

4. THE EFFECTIVENESS OF THE POULTRY LITTER TRANSPORTATION PILOT PROJECT SET FORTH IN § 8-704.2 OF THIS TITLE AND THE POTENTIAL ECONOMIC IMPACT ON FARMERS IF THE PILOT PROJECT IS TERMINATED.”.

AMENDMENT NO. 11

On page 29 of the Committee Amendments, in line 9, strike “AND THE DEPARTMENT OF THE ENVIRONMENT”.

On pages 29 through 31, strike in their entirety the lines beginning with line 14 on page 29 through line 4 on page 31.

AMENDMENT NO. 12

On page 34 of the Committee Amendments, in line 5, strike “2008” and substitute “2009”.

AMENDMENT NO. 13

On page 35 of the Committee Amendments, in lines 6 and 8, strike “3” and “4”, respectively, and substitute “4” and “5”, respectively; strike in their entirety lines 10 through 17, inclusive, and substitute:

“SECTION 10. AND BE IT FURTHER ENACTED, That the Governor is requested to take the steps necessary to target funding received by the State under the Conservation Reserve Enhancement Program of the U.S. Department of Agriculture to farms, located in watersheds that contribute to water bodies and basin segments listed as impaired by nutrients by the State under § 303 of the federal Clean Water Act, that implement nutrient management plans in accordance with this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That the Governor is requested to support and fund, in cooperation with the private sector and appropriate public agencies, continuing research into management and remediation of phosphorus as a nutrient derived from animal waste and as a pollutant, including:

(1) The development of a reliable phosphorus index;

(2) Composting and incineration of animal waste and litter;

(3) Marketing and transportation of products derived from animal waste and litter;

and

(Over)

(4) Commercial animal feed management and additives that may reduce phosphorus deposition in animal waste.”;

in line 18, strike “11.” and substitute “12.”; after line 23, insert:

“SECTION 13. AND BE IT FURTHER ENACTED, That:

(a) By December 1 of each year, the University System of Maryland shall report to the Nutrient Management Advisory Committee, the Governor, and in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) The latest developments in phosphorus mitigation, including the effectiveness of phytase and other enzymes, genetically engineered corn, soil additives, and other innovations; and

(2) For targeted areas determined by the Secretary of Agriculture, background levels of phosphorus in the soil, current levels of phosphorus in the soil, and the movement of phosphorus in and on the land.

(b) In preparing the report, the University System of Maryland shall coordinate the activities at member institutions and consult with the agricultural industry. To the extent possible, the University System shall coordinate its efforts with research projects conducted by the agricultural industry.

SECTION 14. AND BE IT FURTHER ENACTED, That the Maryland Department of Agriculture shall provide written notice to farmers concerning the requirements of this Act and explaining the State financial and technical assistance that is available to assist farmers in complying with the requirements of this Act.

SECTION 15. AND BE IT FURTHER ENACTED, That under the provisions of § 7-209(e)(2)(iv) of the State Finance and Procurement Article for fiscal year 1999 only, appropriations and positions may be transferred between the Departments of Agriculture, Business and Economic Development, and the Environment to carry out the intent of this legislation.”;

and in line 24, strike "12." and substitute "16.".