

SENATE BILL 178

Unofficial Copy
M4

1998 Regular Session
8lr6190
CF 8lr6191

By: **The President (Administration) and Senators Frosh, Blount, Hollinger, Collins, Conway, Pinsky, Van Hollen, Currie, Dorman, Forehand, Green, Hoffman, Kasemeyer, Kelley, Lawlah, McFadden, Ruben, Stone, and Teitelbaum**

Introduced and read first time: January 23, 1998
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Water Quality Improvement Act of 1998**

3 FOR the purpose of establishing an Animal Waste Technology Fund as a special,
4 continuing, nonlapsing fund; authorizing the Department of Business and
5 Economic Development to provide financial assistance from the Fund for certain
6 purposes; requiring certain commercial contract feed to contain certain
7 ingredients by a certain date; requiring each nutrient management plan to be
8 developed considering certain factors; requiring certain persons to have nutrient
9 management plans and comply with nutrient management plans by certain
10 dates; establishing certain penalties; authorizing the Department of the
11 Environment to take certain action against certain persons under certain
12 circumstances; requiring certain persons to be certified by the Department of
13 Agriculture as nutrient applicators under certain circumstances; establishing
14 certain requirements for certification and certain penalties for failure to be
15 certified; altering the membership of the Nutrient Management Advisory
16 Committee; authorizing the Department of Agriculture to adopt certain
17 regulations; authorizing the Department of Agriculture to charge certain fees;
18 requiring certain reports; authorizing the Department of the Environment to
19 adopt certain regulations to limit the size of swine farm operations; providing a
20 subtraction modification under the Maryland individual and corporate income
21 tax for certain expenses associated with the purchase of certain agricultural
22 machinery under certain conditions; providing that the subtraction may be
23 carried over to succeeding taxable years under certain circumstances; providing
24 for a tax credit under the Maryland individual and corporate income tax for
25 certain expenses associated with certain costs necessary to convert agricultural
26 production to a certain nutrient management plan under certain circumstances;
27 placing certain restrictions, conditions, and limits on the use of the tax credit;
28 providing that the tax credit may be carried over to succeeding taxable years
29 under certain circumstances; requiring an individual or corporation to receive a
30 certain certification from the Department of Agriculture and file proof of the
31 certification; defining certain terms; providing for the termination of certain
32 provisions of this Act; and generally relating to nutrient management and water

- 1 quality.
- 2 BY adding to
3 Article 83A - Department of Business and Economic Development
4 Section 6-801 through 6-807, inclusive, to be under the new subtitle "Subtitle 8.
5 Animal Waste Technology Fund"
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1997 Supplement)
- 8 BY repealing and reenacting, without amendments,
9 Article - Agriculture
10 Section 6-101(a), (d), and (e), 6-102, 6-113, 6-201(f), and 8-805
11 Annotated Code of Maryland
12 (1985 Replacement Volume and 1997 Supplement)
- 13 BY repealing and reenacting, with amendments,
14 Article - Agriculture
15 Section 6-106
16 Annotated Code of Maryland
17 (1985 Replacement Volume and 1997 Supplement)
- 18 BY adding to
19 Article - Agriculture
20 Section 6-107.1, 8-801.1, 8-803.1, 8-803.2, 8-803.3, 8-803.4, and 8-807
21 Annotated Code of Maryland
22 (1985 Replacement Volume and 1997 Supplement)
- 23 BY repealing and reenacting, with amendments,
24 Article - Agriculture
25 Section 8-801 through 8-804, inclusive, and 8-806 to be under the amended
26 subtitle "Subtitle 8. Nutrient Management"
27 Annotated Code of Maryland
28 (1985 Replacement Volume and 1997 Supplement)
- 29 BY repealing and reenacting, without amendments,
30 Article - Environment
31 Section 9-313
32 Annotated Code of Maryland
33 (1996 Replacement Volume and 1997 Supplement)
- 34 BY adding to
35 Article - Environment
36 Section 9-325.1
37 Annotated Code of Maryland

1 (1996 Replacement Volume and 1997 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Tax - General

4 Section 10-208(a) and 10-308(a)

5 Annotated Code of Maryland

6 (1997 Replacement Volume)

7 BY adding to

8 Article - Tax - General

9 Section 10-208(m) and 10-704.9

10 Annotated Code of Maryland

11 (1997 Replacement Volume)

12 BY repealing and reenacting, with amendments,

13 Article - Tax - General

14 Section 10-308(b)

15 Annotated Code of Maryland

16 (1997 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article 83A - Department of Business and Economic Development**

20 **SUBTITLE 8. ANIMAL WASTE TECHNOLOGY FUND.**

21 6-801.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
25 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
26 THAT IS INTENDED TO:

27 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;

28 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;

29 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR

30 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

31 (C) "FUND" MEANS THE ANIMAL WASTE TECHNOLOGY FUND.

32 (D) "PROGRAM" MEANS THE ORGANIZATIONAL UNIT IN THE DEPARTMENT
33 THAT ADMINISTERS THE ANIMAL WASTE TECHNOLOGY FUND.

1 6-802.

2 THE PURPOSE OF THE ANIMAL WASTE TECHNOLOGY FUND IS TO PROVIDE
3 FINANCIAL ASSISTANCE TO INDIVIDUALS AND BUSINESS ENTERPRISES THAT
4 CONDUCT RESEARCH OR DEVELOP TECHNOLOGIES THAT ARE INTENDED TO REDUCE
5 THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE, ALTER THE COMPOSITION OF
6 ANIMAL WASTE, DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT
7 STRATEGIES, OR USE ANIMAL WASTE IN A PRODUCTION PROCESS. THE GOAL OF THE
8 FUND IS TO ENCOURAGE THE DEVELOPMENT AND IMPLEMENTATION OF
9 ECONOMICALLY FEASIBLE TECHNOLOGIES THAT HELP PROTECT THE PUBLIC
10 HEALTH AND THE ENVIRONMENT BY REDUCING THE AMOUNT OF NUTRIENTS FROM
11 ANIMAL WASTE THAT ARE RELEASED INTO STATE WATERS.

12 6-803.

13 (A) THERE IS AN ANIMAL WASTE TECHNOLOGY FUND IN THE DEPARTMENT.

14 (B) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND NOT SUBJECT
15 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

16 (C) THE FUND MAY CONSIST OF:

17 (1) MONEYS APPROPRIATED BY THE STATE;

18 (2) MONEYS MADE AVAILABLE THROUGH FEDERAL PROGRAMS OR
19 PRIVATE CONTRIBUTIONS;

20 (3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
21 FROM MONEYS IN THE FUND;

22 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
23 FROM THE FUND;

24 (5) INCOME FROM EQUITY INVESTMENTS THAT THE DEPARTMENT
25 MAKES FROM THE FUND;

26 (6) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY
27 THE DEPARTMENT OF COLLATERAL RELATED TO ANY FINANCING PROVIDED BY THE
28 DEPARTMENT UNDER THIS SUBTITLE;

29 (7) APPLICATION OR OTHER FEES PAID TO THE PROGRAM IN
30 CONNECTION WITH THE PROCESSING OF REQUESTS FOR ASSISTANCE; AND

31 (8) ANY OTHER MONEYS MADE AVAILABLE TO THE FUND.

32 (D) THE PROGRAM MAY USE MONEYS IN THE FUND TO:

33 (1) PROVIDE FINANCIAL ASSISTANCE TO DEFRAID THE COSTS OF
34 ANIMAL WASTE TECHNOLOGY PROJECTS; AND

1 (2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND
2 TECHNICAL SERVICES ASSOCIATED WITH OPERATING THE FUND.

3 6-804.

4 FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:

5 (1) USED ONLY TO PAY THE COSTS OF CARRYING OUT AN ANIMAL
6 WASTE TECHNOLOGY PROJECT; AND

7 (2) IN THE FORM OF:

8 (I) A GRANT;

9 (II) A LOAN;

10 (III) A LOAN GUARANTEE;

11 (IV) A LOAN THAT IS CONVERTIBLE IN WHOLE OR IN PART TO A
12 GRANT ON THE SATISFACTION OF SPECIFIED CONDITIONS; OR

13 (V) AN EQUITY INVESTMENT.

14 6-805.

15 (A) TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN ANIMAL WASTE
16 TECHNOLOGY PROJECT MUST HAVE STRONG POTENTIAL FOR:

17 (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

18 (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND

19 (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE
20 STATE.

21 (B) IF THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED EXCEEDS THE
22 AMOUNT OF MONEYS AVAILABLE IN THE FUND, THE PROGRAM SHALL GIVE
23 PREFERENCE TO THE ANIMAL WASTE TECHNOLOGY PROJECTS THAT DEMONSTRATE
24 THE GREATEST POTENTIAL FOR:

25 (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

26 (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND

27 (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE
28 STATE.

29 6-806.

30 THE PROGRAM MAY IMPOSE TERMS AND CONDITIONS ON FINANCIAL
31 ASSISTANCE PROVIDED FROM THE FUND.

1 6-807.

2 (A) THE STATE TREASURER SHALL HOLD THE FUND AND THE STATE
3 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

4 (B) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE
5 FUND.

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

8 **Article - Agriculture**

9 6-101.

10 (a) In this subtitle the following words have the meanings indicated.

11 (d) "Commercial feed" means a material which is distributed for use as feed or
12 for mixing in feed for any animal, other than man, except:

13 (1) Unmixed and unprocessed whole seeds or meal made directly from
14 the entire seeds;

15 (2) Unground hay; or

16 (3) Whole or ground straw, stover, silage, cobs, and hulls not mixed with
17 any other material.

18 (e) "Contract feed" means a commercial feed which is formulated according to
19 an agreement between a distributor and a contract feeder.

20 6-102.

21 The State Chemist shall administer the provisions of this subtitle subject to the
22 supervision of the Secretary.

23 6-106.

24 (a) The Secretary shall sample, inspect, test and make analyses of commercial
25 feed distributed in the State at any time and place and to the extent the Secretary
26 considers necessary to ensure compliance with this subtitle.

27 (b) The Secretary shall adopt the methods of sampling and analysis from
28 sources, such as the journal of the Association of Official Analytical Chemists, or
29 methods that insure representative sampling and accurate examination.

30 (c) In determining for administrative purposes whether a commercial feed is
31 deficient in any component, the Secretary shall be guided solely by the official sample
32 obtained and analyzed as provided by this section.

1 (d) When inspection and analysis of an official sample indicates a commercial
2 feed is adulterated [or], misbranded, OR DOES NOT CONTAIN AN ENZYME OR OTHER
3 ADDITIVE OR BOTH IN ACCORDANCE WITH § 6-107.1 OF THIS SUBTITLE, the Secretary
4 shall forward the results of the analysis to the person who registers the product and
5 the person from whom the sample is taken. The Secretary shall furnish the
6 distributor with a portion of the sample concerned within 30 days if he requests it.

7 (e) The Secretary may enter on any public or private premises, including any
8 transportation vehicle, during regular business hours to obtain access to commercial
9 feeds or to records relating to their distribution.

10 6-107.1.

11 (A) BY JANUARY 1, 2000, ALL CONTRACT FEED THAT IS FED TO CHICKENS
12 MUST INCLUDE PHYTASE OR OTHER ENZYME OR ADDITIVE THAT REDUCES
13 PHOSPHORUS IN POULTRY WASTE, OR BOTH.

14 (B) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH:

15 (1) THE APPROPRIATE LEVEL OF PHYTASE OR OTHER ENZYME OR
16 ADDITIVE TO BE INCLUDED IN CONTRACT FEED THAT IS FED TO CHICKENS; AND

17 (2) APPROPRIATE LABELING AND DISTRIBUTION REQUIREMENTS.

18 6-113.

19 (a) The Secretary may issue and enforce a written stop-sale order to the
20 owner, custodian, or distributor of any commercial feed that the Secretary finds is in
21 violation of any provision of this subtitle or regulation under this subtitle, or has been
22 found by federal or State authorities to cause unreasonable adverse effects to
23 humans, animals, or the environment.

24 (b) The order prohibits sale or distribution of the commercial feed until the
25 Secretary has evidence that the feed is in compliance with the law and until the
26 Secretary provides a written release from the stop-sale order.

27 (c) The Secretary may file a petition for condemnation in the circuit court of
28 the county in which the commercial feed is located. If the court finds the commercial
29 feed to be in violation of the provisions of this subtitle and orders the condemnation,
30 the commercial feed shall be disposed of in any manner consistent with the quality of
31 the commercial feed and the laws of the State. The court may not dispose of the
32 commercial feed without first giving the claimant an opportunity to apply to the court
33 for release of it or for permission to process or relabel the commercial feed so that it
34 complies with the provisions of this subtitle.

35 6-201.

36 (f) "Commercial fertilizer" means any substance containing a recognized plant
37 nutrient used for its plant nutrient content and designed for use or claimed to have

1 (2) THE DEPARTMENT SHALL APPROVE EACH NUTRIENT MANAGEMENT
2 PLAN THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

3 (3) IF THE DEPARTMENT DOES NOT DISAPPROVE A NUTRIENT
4 MANAGEMENT PLAN WITHIN 45 DAYS AFTER THE NUTRIENT MANAGEMENT PLAN IS
5 FILED, IT SHALL BE DEEMED APPROVED.

6 (4) THE DEPARTMENT SHALL MAINTAIN A COPY OF EACH NUTRIENT
7 MANAGEMENT PLAN FOR 3 YEARS IN A MANNER THAT PROTECTS THE IDENTITY OF
8 THE INDIVIDUAL FOR WHOM THE NUTRIENT MANAGEMENT PLAN WAS PREPARED.

9 8-802.

10 (A) A PERSON MAY NOT PREPARE A NUTRIENT MANAGEMENT PLAN UNLESS
11 THE PERSON IS CERTIFIED OR LICENSED BY THE STATE.

12 [(a)] (B) An individual may apply to the Department for certification as a
13 certified nutrient management consultant.

14 [(b)] (C) A person engaged in the business of providing a nutrient
15 management plan provided under this subtitle shall hold an annual license from the
16 Department.

17 (D) THE DEPARTMENT MAY IMPOSE A PENALTY NOT EXCEEDING \$250 FOR A
18 VIOLATION OF THE PROVISIONS OF THIS SECTION.

19 8-803.

20 (a) To apply for certification AS A NUTRIENT MANAGEMENT CONSULTANT, an
21 applicant shall:

22 (1) Submit to the Department an application on the form the
23 Department requires; and

24 (2) Pay to the Department the certification fee stated in § 8-806 of this
25 subtitle.

26 (b) The Department shall certify any individual who:

27 (1) Meets the requirements of this subtitle;

28 (2) Meets the Department's educational requirements;

29 (3) Passes a Department approved examination; and

30 (4) (i) Is employed by a person licensed under this subtitle; or

31 (ii) Holds a license as required by this subtitle.

32 (c) To apply for a license an applicant shall:

1 (1) Submit to the Department an application on the form the
2 Department requires; and

3 (2) Pay to the Department the applicable license fee stated in § 8-806 of
4 this subtitle.

5 (d) The Department shall license a person who meets the requirements of this
6 subtitle.

7 (e) A certificate or license is issued for 1 year unless the certificate or license
8 is renewed as provided by this subtitle.

9 (f) The Department shall renew the certificate or license of any applicant for
10 an additional 1-year term if the applicant:

11 (1) Submits a renewal application on the form that the Department
12 requires;

13 (2) Pays to the Department the applicable fee stated in § 8-806 of this
14 subtitle;

15 (3) Complies with applicable continuing education requirements; [and]

16 (4) COMPLIES WITH APPLICABLE RECORDKEEPING AND REPORTING
17 REQUIREMENTS; AND

18 [(4)] (5) Otherwise is entitled to be certified or licensed.

19 8-803.1.

20 (A) BY JULY 1, 2000, A PERSON WHO OPERATES A FARM SHALL HAVE A
21 NUTRIENT MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF THIS
22 SUBTITLE.

23 (B) BY JULY 1, 2002, A PERSON WHO OPERATES A FARM SHALL COMPLY WITH
24 A NUTRIENT MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF THIS
25 SUBTITLE.

26 (C) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION OR OF ANY
27 RULE, REGULATION, OR ORDER ADOPTED OR ISSUED UNDER THIS SECTION IS
28 SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 TO BE COLLECTED IN A CIVIL
29 ACTION BROUGHT BY THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION
30 WITH THE DEPARTMENT OF AGRICULTURE. EACH DAY A VIOLATION OCCURS IS A
31 SEPARATE VIOLATION UNDER THIS SUBSECTION.

32 (D) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
33 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
34 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT OF THE
35 ENVIRONMENT IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE MAY

1 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SECTION OR ANY
2 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS SECTION.

3 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
4 SHALL BE:

5 (I) UP TO \$250 FOR EACH VIOLATION, BUT NOT EXCEEDING \$5,000
6 TOTAL; AND

7 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

8 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
9 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
10 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
11 REASONABLE CARE;

12 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
13 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
14 THIS STATE OR THE NATURAL RESOURCES OF THIS STATE;

15 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
16 OF NATURAL RESOURCES;

17 4. THE NATURE AND DEGREE OF INJURY TO OR
18 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

19 5. THE EXTENT TO WHICH THE LOCATION OF THE
20 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF
21 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
22 OR TO HUMAN HEALTH OR SAFETY;

23 6. THE AVAILABLE TECHNOLOGY AND ECONOMIC
24 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

25 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
26 POLLUTANT OR POLLUTANTS INVOLVED; AND

27 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
28 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
29 COMMITTED BY THE VIOLATOR.

30 (3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER
31 THIS SUBSECTION.

32 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
33 THIS STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE
34 COLLECTION OF DEBTS.

1 (5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
2 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
3 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

4 (I) A LIEN IN FAVOR OF THIS STATE ON ANY PROPERTY, REAL OR
5 PERSONAL, OF THE PERSON; AND

6 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
7 COUNTY IN WHICH THE PROPERTY IS LOCATED.

8 (E) IF A PERSON VIOLATES ANY PROVISION OF THIS SECTION, THE
9 DEPARTMENT MAY:

10 (1) REGARDING ANY STATE COST-SHARING FUNDS UNDER SUBTITLE 7
11 OF THIS TITLE:

12 (I) REQUIRE REPAYMENT OF ANY FUNDS FOR A PROJECT STARTED
13 ON OR AFTER JULY 1, 1998; OR

14 (II) DENY OR RESTRICT FUTURE PAYMENT; AND

15 (2) LIMIT THE EXTENT OF THE PERSON'S FARM OPERATIONS TO WHAT
16 THEY WERE AT THE TIME OF THE VIOLATION.

17 (F) (1) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE
18 IN THIS SECTION, THE DEPARTMENT OF THE ENVIRONMENT, IN CONSULTATION
19 WITH THE DEPARTMENT OF AGRICULTURE, MAY:

20 (I) ISSUE, MODIFY, OR REVOKE A COMPLAINT OR ORDER
21 REQUIRING CORRECTIVE ACTION, COLLECT A PENALTY, AND ADOPT ANY OTHER
22 REASONABLE REMEDIAL MEASURES IN ORDER TO ACHIEVE COMPLIANCE WITH THIS
23 SECTION;

24 (II) REQUIRE PAYMENT OF A PENALTY ASSESSED UNDER THIS
25 SECTION TO THE MARYLAND CLEAN WATER FUND; AND

26 (III) GIVE NOTICE AND HOLD A HEARING UNDER THIS SECTION IN
27 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

28 (2) WITHIN 10 DAYS OF BEING ISSUED AN ORDER UNDER THIS
29 SUBSECTION, THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE
30 THE DEPARTMENT OF THE ENVIRONMENT.

31 (3) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE
32 DEPARTMENT OF THE ENVIRONMENT IN CONNECTION WITH THE ISSUANCE OF AN
33 ORDER UNDER THIS SUBSECTION MAY TAKE A DIRECT JUDICIAL APPEAL IN
34 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

35 (G) APPROVAL OF A NUTRIENT MANAGEMENT PLAN IS CONTINGENT ON THE
36 PROPERTY OWNER GRANTING TO THE DEPARTMENT OF AGRICULTURE AND THE

1 DEPARTMENT OF THE ENVIRONMENT A RIGHT OF ENTRY ONTO THE PROPERTY AT
2 ANY REASONABLE TIME TO EVALUATE IF THE PROPERTY OWNER IS COMPLYING
3 WITH THE NUTRIENT MANAGEMENT PLAN.

4 8-803.2.

5 THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDING IN EACH FISCAL YEAR'S
6 BUDGET TO MEET THE TECHNICAL ASSISTANCE AND EVALUATION REQUIREMENTS
7 OF § 8-803.1 OF THIS SUBTITLE.

8 8-803.3.

9 (A) THIS SECTION DOES NOT APPLY TO A PERSON WHO APPLIES NUTRIENTS
10 TO:

11 (1) 10 ACRES OR LESS OF LAND EACH YEAR; AND

12 (2) PROPERTY THAT THE PERSON OWNS OR MANAGES.

13 (B) A PERSON MAY NOT APPLY NUTRIENTS TO LAND UNLESS THE PERSON IS:

14 (1) A CERTIFIED NUTRIENT APPLICATOR; OR

15 (2) UNDER THE SUPERVISION OF A CERTIFIED NUTRIENT APPLICATOR.

16 (C) TO APPLY FOR CERTIFICATION AS A NUTRIENT APPLICATOR, A PERSON
17 SHALL:

18 (1) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THE
19 DEPARTMENT REQUIRES; AND

20 (2) PAY TO THE DEPARTMENT A CERTIFICATION FEE IN ACCORDANCE
21 WITH § 8-806 OF THIS SUBTITLE.

22 (D) THE DEPARTMENT SHALL CERTIFY ANY PERSON WHO:

23 (1) MEETS THE REQUIREMENTS OF THIS SUBTITLE;

24 (2) MEETS EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE
25 DEPARTMENT; AND

26 (3) PASSES AN EXAMINATION APPROVED BY THE DEPARTMENT.

27 (E) A CERTIFICATE IS VALID FOR 2 YEARS UNLESS IT IS RENEWED BY THE
28 DEPARTMENT.

29 (F) THE DEPARTMENT SHALL RENEW A CERTIFICATE FOR AN ADDITIONAL
30 2-YEAR TERM IF THE PERSON:

31 (1) SUBMITS A RENEWAL APPLICATION ON THE FORM THE
32 DEPARTMENT REQUIRES;

1 (2) PAYS TO THE DEPARTMENT A RENEWAL FEE IN ACCORDANCE WITH §
2 8-806 OF THIS SUBTITLE;

3 (3) COMPLIES WITH APPLICABLE CONTINUING EDUCATION
4 REQUIREMENTS;

5 (4) COMPLIES WITH APPLICABLE RECORDKEEPING AND REPORTING
6 REQUIREMENTS; AND

7 (5) IS OTHERWISE ENTITLED TO BE CERTIFIED.

8 (G) THE DEPARTMENT MAY IMPOSE A PENALTY NOT EXCEEDING \$250 FOR A
9 VIOLATION OF THE PROVISIONS OF THIS SECTION.

10 8-803.4.

11 (A) THIS SECTION APPLIES TO AN APPLICATION OF COMMERCIAL FERTILIZER,
12 AS DEFINED IN § 6-201 OF THIS ARTICLE:

13 (1) THAT IS PERFORMED BY:

14 (I) A PERSON WHO APPLIES COMMERCIAL FERTILIZER FOR HIRE;
15 OR

16 (II) AN EMPLOYEE OF THE OWNER OR MANAGER OF THE
17 PROPERTY; AND

18 (2) TO PROPERTY THAT IS:

19 (I) NOT USED FOR AGRICULTURAL PURPOSES; AND

20 (II) 1. THREE OR MORE ACRES; OR

21 2. STATE PROPERTY.

22 (B) A PERSON MAY APPLY COMMERCIAL FERTILIZER ONLY IF THE PERSON:

23 (1) CONDUCTS A SOIL TEST BEFORE APPLYING THE COMMERCIAL
24 FERTILIZER; AND

25 (2) APPLIES THE COMMERCIAL FERTILIZER IN A MANNER THAT IS
26 CONSISTENT WITH THE NUTRIENT MANAGEMENT GUIDELINES AND CRITERIA
27 UNDER § 8-801.1 OF THIS SUBTITLE.

28 (C) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS
29 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$1,500 FOR A FIRST VIOLATION.

30 (2) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS
31 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$2,500 FOR EACH SUBSEQUENT
32 VIOLATION.

1 (3) EACH DAY A VIOLATION OCCURS UNDER THIS SECTION IS A
2 SEPARATE VIOLATION.

3 (4) IN ADDITION TO THE DENIAL, SUSPENSION, OR REVOCATION OF THE
4 CERTIFICATE, THE SECRETARY MAY IMPOSE A CIVIL PENALTY ON THE HOLDER OF A
5 CERTIFICATE.

6 (5) THE TOTAL PENALTIES IMPOSED ON A PERSON FOR VIOLATIONS OF
7 THIS SECTION THAT RESULT FROM THE SAME SET OF FACTS AND CIRCUMSTANCES
8 MAY NOT EXCEED \$15,000.

9 (D) THE PENALTY IMPOSED ON A PERSON UNDER THIS SECTION SHALL BE
10 ASSESSED WITH CONSIDERATION GIVEN TO:

11 (1) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE
12 EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED
13 BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
14 REASONABLE CARE;

15 (2) ANY ACTUAL HARM TO HUMAN HEALTH OR TO THE ENVIRONMENT
16 INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THE STATE
17 OR THE NATURAL RESOURCES OF THE STATE;

18 (3) THE COST OF CONTROL;

19 (4) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH
20 GENERAL WELFARE, HEALTH, AND PROPERTY;

21 (5) THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION,
22 INCLUDING LOCATION NEAR AREAS OF HUMAN POPULATION, CREATES THE
23 POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;
24 AND

25 (6) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
26 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
27 BY THE VIOLATOR.

28 (E) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL
29 BE PAID INTO THE GENERAL FUND OF THE STATE.

30 8-804.

31 (a) The Department shall establish a Nutrient Management Advisory
32 Committee. The Secretary shall appoint to the Committee representatives of the
33 agricultural community, the environmental community, [industry] THE
34 COMMERCIAL LAWN CARE, BIOSOLIDS, AND AGRICULTURAL FERTILIZER
35 INDUSTRIES, academia, and appropriate government units.

36 (b) In consultation with the Nutrient Management Advisory Committee, the
37 Department shall by regulation:

1 (1) Prescribe the criteria, form, and content for certified nutrient
2 management plans applicable to licensees and certificate holders;

3 (2) Establish continuing education requirements for [certificate
4 holders] CERTIFIED NUTRIENT MANAGEMENT CONSULTANTS AND CERTIFIED
5 NUTRIENT APPLICATORS; [and]

6 (3) ESTABLISH GUIDELINES AND CRITERIA RELATED TO THE
7 CERTIFICATION OF NUTRIENT APPLICATORS; AND

8 [(3)] (4) Adopt guidelines and requirements for licensees, CERTIFIED
9 NUTRIENT MANAGEMENT CONSULTANTS, AND CERTIFIED NUTRIENT APPLICATORS
10 on record keeping and on reporting requirements to the Department on nutrient
11 management plans.

12 (C) IN DEVELOPING STANDARDS AND REQUIREMENTS UNDER THIS SECTION,
13 THE DEPARTMENT MAY ADOPT DIFFERENT STANDARDS FOR NUTRIENT
14 APPLICATORS WHO APPLY NUTRIENTS:

15 (1) FOR HIRE; AND

16 (2) ONLY TO PROPERTY OWNED OR MANAGED BY THE PERSON.

17 8-805.

18 Subject to the provisions of the Administrative Procedure Act, the Department
19 may deny, suspend, or revoke a certificate or license for a violation of this subtitle or
20 for a violation of any regulation adopted under this subtitle by the Department.

21 8-806.

22 (a) Except for a government agency, the Department shall charge the
23 following fees under this subtitle:

24 (1) Certificate (NUTRIENT MANAGEMENT CONSULTANT AND NUTRIENT
25 APPLICATOR)\$50;

26 (2) NUTRIENT APPLICATOR CERTIFICATE FOR A PERSON WHO APPLIES
27 NUTRIENTS FOR HIRE\$100;

28 [(2)] (3) License (individual or sole proprietorship)\$50;

29 [(3)] (4) License (corporation or partnership) \$100; and

30 [(4)] (5) Renewal\$50.

31 (b) The Department shall charge an applicant for the full cost of any training
32 provided by the Department under this subtitle.

33 (c) All moneys collected under this subtitle shall be deposited in the General
34 Fund of the State.

1 8-807.

2 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT OF
3 AGRICULTURE AND THE DEPARTMENT OF THE ENVIRONMENT SHALL REPORT TO
4 THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
5 ARTICLE, THE GENERAL ASSEMBLY, ON THE FARM ACREAGE COVERED BY NUTRIENT
6 MANAGEMENT PLANS AND THE IMPLEMENTATION AND EVALUATION OF THOSE
7 PLANS.

8 **Article - Environment**

9 9-313.

10 (a) The Department may adopt rules and regulations to carry out the
11 provisions of this subtitle.

12 (b) In adopting any rule or regulation under this subtitle, the Department
13 shall consider:

- 14 (1) Existing physical conditions;
- 15 (2) The character of the area involved, including surrounding land uses;
- 16 (3) Priority ranking of waters as to effluent limits;
- 17 (4) Zoning;
- 18 (5) The nature of the existing receiving body of water;
- 19 (6) The technical feasibility of measuring or reducing the particular type
20 of water pollution;
- 21 (7) The economic reasonableness of measuring or reducing the particular
22 type of water pollution; and
- 23 (8) The purposes of this subtitle.

24 (c) Except as this subtitle otherwise provides for a particular type of rule or
25 regulation, a rule or regulation adopted under this subtitle may:

- 26 (1) Impose, as circumstances require, different requirements for
27 different pollutant sources and for different geographical areas;
- 28 (2) Apply to sources located outside this State that cause, contribute to,
29 or threaten environmental damage in this State; and
- 30 (3) Make special provisions for alert and abatement standards and
31 procedures for occurrences or emergencies of pollution or on other short term
32 conditions that are an acute danger to health or to the environment.

1 9-325.1.

2 (A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
3 AGRICULTURE, SHALL ADOPT REGULATIONS TO LIMIT THE SIZE OF SWINE FARM
4 OPERATIONS TO MINIMIZE POTENTIAL WATER QUALITY IMPACT TO THE WATERS OF
5 THE STATE.

6 (B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE A
7 PROVISION TO GRANDFATHER SWINE FARM OPERATIONS IN EXISTENCE AT THE
8 TIME THE REGULATIONS TAKE EFFECT.

9 (C) THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE SHALL
10 CONSULT WITH LOCAL GOVERNMENTS AND REPRESENTATIVES OF THE
11 AGRICULTURAL COMMUNITY BEFORE DEVELOPING THE REGULATIONS.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Tax - General**

15 10-208.

16 (a) In addition to the modification under § 10-207 of this subtitle, the
17 amounts under this section are subtracted from the federal adjusted gross income of
18 a resident to determine Maryland adjusted gross income.

19 (M) (1) IN THIS SUBSECTION, "POULTRY OR LIVESTOCK MANURE
20 SPREADING EQUIPMENT" MEANS EQUIPMENT THAT IS USED BY A FARM OWNER OR
21 TENANT ON FARMLAND IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN
22 PREPARED BY AN INDIVIDUAL LICENSED BY THE SECRETARY OF AGRICULTURE IN
23 ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE IF THE
24 MANURE SPREADING EQUIPMENT IS USED:

25 (I) TO SPREAD POULTRY MANURE AND BEDDING FROM NORMAL
26 POULTRY PRODUCTION WITH A CAPABILITY OF BEING CALIBRATED TO 1.0 TON PER
27 ACRE; OR

28 (II) TO APPLY SOLID OR LIQUID LIVESTOCK WASTE.

29 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
30 INCLUDES 100% OF THE EXPENSE THAT A TAXPAYER INCURS TO BUY A POULTRY OR
31 LIVESTOCK MANURE SPREADING EQUIPMENT IF THE TAXPAYER:

32 (I) PURCHASED THE SPREADING EQUIPMENT AFTER DECEMBER
33 31, 1997; AND

34 (II) OWNS THE SPREADING EQUIPMENT FOR AT LEAST 3 YEARS
35 AFTER THE TAXABLE YEAR IN WHICH THE SUBTRACTION IS MADE.

1 (3) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (2) OF THIS
2 SUBSECTION MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS, NOT TO
3 EXCEED 5 YEARS, UNTIL THE FULL AMOUNT OF THE SUBTRACTION IS USED.

4 10-308.

5 (a) In addition to the modification under § 10-307 of this subtitle, the
6 amounts under this section are subtracted from the federal taxable income of a
7 corporation to determine Maryland modified income.

8 (b) The subtraction under subsection (a) of this section includes the amounts
9 allowed to be subtracted for an individual under:

10 (1) § 10-208(d) of this title (conservation tillage equipment expenses);

11 (2) § 10-208(i) of this title (reforestation or timber stand expenses);
12 [and]

13 (3) § 10-208(k) of this title (wage expenses for targeted jobs); AND

14 (4) § 10-208(M) OF THIS TITLE (POULTRY OR LIVESTOCK MANURE
15 SPREADING EQUIPMENT).

16 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article - Tax - General**

19 10-704.9.

20 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, AN INDIVIDUAL OR A
21 CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR A
22 TAXABLE YEAR IN THE AMOUNT EQUAL TO 50% OF THE CERTIFIED ADDITIONAL
23 COMMERCIAL FERTILIZER COSTS NECESSARY TO CONVERT AGRICULTURAL
24 PRODUCTION TO A NUTRIENT MANAGEMENT PLAN UNDER TITLE 8, SUBTITLE 8 OF
25 THE AGRICULTURE ARTICLE.

26 (B) (1) THE CREDIT ALLOWED UNDER THIS SECTION MAY ONLY BE
27 CLAIMED BY AN INDIVIDUAL OR A CORPORATION FOR UP TO 3 CONSECUTIVE
28 TAXABLE YEARS.

29 (2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED
30 \$4,500 IN ANY TAXABLE YEAR.

31 (3) (I) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY
32 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL
33 OR CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION
34 MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE
35 EARLIER OF:

- 1 1. THE FULL AMOUNT OF THE EXCESS IS USED; OR
2 2. THE EXPIRATION OF THE 5TH SUCCEEDING TAXABLE
3 YEAR.

4 (II) ANY EXCESS CREDIT CARRIED FORWARD UNDER THIS
5 PARAGRAPH DOES NOT APPLY TO THE CREDIT LIMIT SPECIFIED IN PARAGRAPH (2) OF
6 THIS SUBSECTION.

7 (C) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE EARNED FOR
8 ANY CREDIT YEAR BEGINNING ON OR AFTER JANUARY 1, 2006.

9 (D) (1) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, AN INDIVIDUAL
10 OR A CORPORATION MUST RECEIVE A STATEMENT FROM THE DEPARTMENT OF
11 AGRICULTURE CERTIFYING:

12 (I) THAT THE INDIVIDUAL OR CORPORATION HAS SUBMITTED A
13 NUTRIENT MANAGEMENT PLAN TO THE DEPARTMENT IN ACCORDANCE WITH TITLE
14 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE;

15 (II) THAT THE ADDITIONAL COMMERCIAL FERTILIZER COSTS ARE
16 NECESSARY TO CONVERT AGRICULTURAL PRODUCTION TO COMPLY WITH A
17 NUTRIENT MANAGEMENT PLAN UNDER TITLE 8, SUBTITLE 8 OF THE AGRICULTURE
18 ARTICLE; AND

19 (III) THE AMOUNT OF THE CREDIT THAT THE INDIVIDUAL OR
20 CORPORATION IS ELIGIBLE TO TAKE FOR THE TAXABLE YEAR.

21 (2) AN INDIVIDUAL OR A CORPORATION MUST FILE PROOF OF
22 CERTIFICATION BY THE DEPARTMENT OF AGRICULTURE IN A MANNER PRESCRIBED
23 BY THE COMPTROLLER.

24 (E) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE STATE
25 DEPARTMENT OF AGRICULTURE SHALL ADOPT REGULATIONS NECESSARY TO CARRY
26 OUT THE PROVISIONS OF THIS SECTION.

27 SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
28 remain effective for a period of 3 years and, at the end of June 30, 2001, with no
29 further action required by the General Assembly, Section 1 of this Act shall be
30 abrogated and of no further force and effect. Any money remaining in the Animal
31 Waste Technology Fund on June 30, 2001 or due to the Animal Waste Technology
32 Fund after June 30, 2001 shall be paid into the General Fund.

33 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
34 be applicable to all taxable years beginning after December 31, 1997.

35 SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall
36 be applicable to all taxable years beginning after December 31, 1998.

1 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 1998.