
By: **Chairman, Environmental Matters Committee (Departmental - Agriculture)**

Introduced and read first time: January 31, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Agriculture - Nutrient Management**

3 FOR the purpose of altering the name and purpose of the Department of Agriculture's
4 cost-share poultry matching service to include all livestock manure;
5 establishing a cost-share rate for livestock manure; altering the definition of
6 livestock for those agricultural operations required to have a nutrient
7 management plan; eliminating a certain cap on the amount of available State
8 cost-share funds; expanding the application of certain requirements for the
9 application of commercial fertilizer to include all nonagricultural land; repealing
10 the requirement that the Department adopt certain regulations providing for
11 religious exemptions; and authorizing the Department to adopt certain
12 regulations for certain research and educational exemptions to the nutrient
13 management law.

14 BY repealing and reenacting, with amendments,
15 Article - Agriculture
16 Section 8-704.1, 8-704.2, 8-803.1, and 8-803.4
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 1999 Supplement)

19 BY repealing
20 Article - Agriculture
21 Section 8-803.5
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 1999 Supplement)

24 BY adding to
25 Article - Agriculture
26 Section 8-803.5
27 Annotated Code of Maryland
28 (1999 Replacement Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Agriculture**

4 8-704.1.

5 (a) In this section, "Service" means the [Poultry Litter] MANURE Matching
6 Service.

7 (b) The Department shall create a [Poultry Litter] MANURE Matching
8 Service.

9 (c) The purpose of the Service is to develop transfer programs and marketing
10 techniques to promote and facilitate the transfer of poultry [litter] AND LIVESTOCK
11 MANURE.

12 (d) The Service shall be implemented in conjunction with the Poultry Litter
13 Transportation Pilot Project set forth in § 8-704.2 of this subtitle.

14 (e) The Governor shall include in the annual budget bill sufficient funds to
15 carry out this section.

16 8-704.2.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) "Commercial poultry producer" means any entity that contracts with
19 a farmer to raise poultry for the producer on property owned or leased by the farmer.

20 (3) "Pilot Project" means the [Poultry Litter] MANURE Transportation
21 Pilot Project.

22 (b) It is the intent of the General Assembly that:

23 (1) For a 4-year period the State and the commercial poultry producers
24 shall facilitate the prompt transportation of poultry litter from farms in all areas of
25 the State that experience phosphorus overenrichment;

26 (2) THE STATE SHALL FACILITATE THE TRANSFER OF LIVESTOCK
27 MANURE FROM FARMS IN ALL PARTS OF THE STATE THAT EXPERIENCE
28 PHOSPHORUS OVERENRICHMENT.

29 [(2)] (3) The Pilot Project shall encourage voluntary participation to
30 achieve the removal of poultry litter produced by at least 20% of the poultry in the
31 four lower Eastern Shore counties in Maryland; and

32 [(3)] (4) The Pilot Project shall be implemented in conjunction with the
33 [Poultry Litter] MANURE Matching Service set forth in § 8-704.1 of this subtitle.

1 (c) The purpose of the Pilot Project is to establish a cost-share matching
2 program to assist in the transportation of poultry [litter] OR LIVESTOCK MANURE
3 from farms over a period of 4 years:

4 (1) To be used on land with soil having the capacity to hold additional
5 phosphorus; or

6 (2) To be used in environmentally acceptable ways other than land
7 application.

8 (d) The State shall provide funding for the Pilot Project by matching the
9 amount of funds contributed by the commercial poultry producer industry for eligible
10 costs, as determined by the Department, associated with the transportation and
11 handling of poultry litter. The State share may not exceed \$10 per ton FOR POULTRY
12 MANURE OR 87.5% UP TO \$20 PER TON FOR LIVESTOCK MANURE.

13 (e) The Department of Agriculture shall adopt regulations authorizing the
14 disbursement of cost-share matching funds consistent with the purposes of the Pilot
15 Project.

16 (f) The Department of Agriculture shall provide the assistance necessary to
17 ensure that poultry [litter] OR LIVESTOCK MANURE is tested in accordance with
18 departmental procedures before transportation of the [litter] MANURE occurs.

19 8-803.1.

20 (a) In this section, "gross income" means the actual income that is received in
21 a calendar year that results directly from the farm or agricultural use of the land.

22 (b) This section does not apply to:

23 (1) An agricultural operation with less than \$2,500 in gross income; or

24 (2) A livestock operation with less than eight animal units [as] defined
25 [in 40 C.F.R. Part 122, Appendix B] AS 1,000 POUNDS OF LIVE ANIMAL WEIGHT PER
26 ANIMAL UNIT.

27 (c) The Governor shall provide sufficient funding in each fiscal year's budget
28 to:

29 (1) Assist in the development of nutrient management plans;

30 (2) Meet the technical assistance and evaluation requirements of this
31 section;

32 (3) Meet the State's requirements for the implementation of the Poultry
33 Litter Transportation Pilot Project under § 8-704.2 of this title; and

34 (4) Provide State assistance under the Maryland Agricultural Water
35 Quality Cost Share Program in the Department.

1 (d) (1) State cost sharing may be made available to farmers to help offset the
2 costs of having a nutrient management plan prepared by a certified nutrient
3 management consultant who is not employed by the federal, State, or a local
4 government.

5 (2) [State cost share funds are to be made available for eligible costs up
6 to 50% per acre, not to exceed \$3 per acre.

7 (3)] The Secretary of Agriculture shall adopt regulations authorizing the
8 disbursement of State cost sharing funds under this subsection.

9 (e) (1) By December 31, 2001, a person who, in operating a farm, uses
10 chemical fertilizer, shall have a nutrient management plan for nitrogen and
11 phosphorus that meets the requirements of this subtitle.

12 (2) (i) By December 31, 2001, a person who, in operating a farm, uses
13 sludge or animal manure, shall have a nutrient management plan for nitrogen.

14 (ii) By July 1, 2004, a person who, in operating a farm, uses sludge
15 or animal manure, shall have a nutrient management plan for nitrogen and
16 phosphorus.

17 (f) (1) By December 31, 2002, a person who, in operating a farm, uses
18 chemical fertilizer, shall comply with a nutrient management plan for nitrogen and
19 phosphorus that meets the requirements of this subtitle.

20 (2) (i) By December 31, 2002, a person who, in operating a farm, uses
21 sludge or animal manure, shall comply with a nutrient management plan for nitrogen
22 that meets the requirements of this subtitle.

23 (ii) By July 1, 2005, a person who, in operating a farm, uses sludge
24 or animal manure, shall comply with a nutrient management plan for nitrogen and
25 phosphorus that meets the requirements of this subtitle.

26 (g) A person may meet the requirements of subsection (e) of this section by
27 requesting, at least 60 days before the applicable date set forth in subsection (e) of
28 this section, the development of a nutrient management plan by a certified nutrient
29 management consultant.

30 (h) Notwithstanding the provisions of subsections (e) and (f) of this section, if
31 a person receives State funds for the development of a nutrient management plan for
32 chemical fertilizer or a nutrient management plan for sludge and animal manure
33 based on nitrogen, the person shall implement the plan upon completion of the
34 development of the plan.

35 (i) (1) If a person violates the provisions of subsection (e) of this section, the
36 Department shall notify the person that the person is in violation of the requirement
37 to have a nutrient management plan.

1 (2) After a reasonable period of time, if the person fails to have a
2 nutrient management plan, the person is subject to an administrative penalty not to
3 exceed \$250.

4 (j) (1) A person who violates any provision of subsection (f) of this section or
5 of any rule, regulation, or order adopted or issued under this section is subject to:

6 (i) For a first violation, a warning; and

7 (ii) For a second or subsequent violation, after an opportunity for a
8 hearing which may be waived in writing by the person accused of a violation, an
9 administrative penalty that may be imposed by the Department of Agriculture.

10 (2) The penalty imposed on a person under paragraph (1)(ii) of this
11 subsection shall be:

12 (i) Up to \$100 for each violation, but not exceeding \$2,000 per
13 farmer or operator per year; and

14 (ii) Assessed with consideration given to:

15 1. The willfulness of the violation, the extent to which the
16 existence of the violation was known to but uncorrected by the violator, and the extent
17 to which the violator exercised reasonable care;

18 2. Any actual harm to the environment or to human health;

19 3. The available technology and economic reasonableness of
20 controlling, reducing, or eliminating the violation; and

21 4. The extent to which the current violation is part of a
22 recurrent pattern of the same or similar type of violation committed by the violator.

23 (3) (i) Except as provided in subparagraph (ii) of this paragraph, each
24 day a violation occurs is a separate violation under this subsection.

25 (ii) Daily penalties do not continue to accrue as long as the farmer
26 takes reasonable steps to correct the violation.

27 (4) Any penalty imposed under this subsection is payable to the
28 Maryland Agricultural Water Quality Cost Share Program within the Department.

29 (k) If a person violates any provision of this section, the Department may:

30 (1) Require repayment of cost share funds under Subtitle 7 of this title
31 for the project that is in violation; or

32 (2) Deny or restrict future cost share payments under Subtitle 7 of this
33 title.

1 (l) The Department shall determine compliance with the provisions of this
2 section.

3 8-803.4.

4 (a) This section applies to an application of commercial fertilizer, as defined in
5 § 6-201 of this article:

6 (1) That is performed by:

7 (i) A person who applies commercial fertilizer for hire; or

8 (ii) An employee of the owner or manager of the property; and

9 (2) To property that is:

10 (i) Not used for agricultural purposes; [and] OR

11 (ii) [1. Three or more acres; or

12 2.] State property.

13 (b) A person may apply commercial fertilizer only if the person applies the
14 commercial fertilizer in a manner that is consistent with the recommendations of the
15 University of Maryland Cooperative Extension Service.

16 (c) (1) A person who violates any provision of this section is subject to a civil
17 penalty of not more than \$1,000 for a first violation.

18 (2) A person who violates any provision of this section is subject to a civil
19 penalty of not more than \$2,000 for each subsequent violation.

20 (3) Each day a violation occurs under this section is a separate violation.

21 (4) The total penalties imposed on a person for violations of this section
22 that result from the same set of facts and circumstances may not exceed \$10,000.

23 (d) The penalty imposed on a person under this section shall be assessed with
24 consideration given to:

25 (1) The willfulness of the violation, the extent to which the existence of
26 the violation was known to the violator but uncorrected by the violator, and the extent
27 to which the violator exercised reasonable care;

28 (2) Any actual harm to human health or to the environment including
29 injury to or impairment of the use of the waters of the State or the natural resources
30 of the State;

31 (3) The cost of control;

1 (4) The nature and degree of injury to or interference with general
2 welfare, health, and property;

3 (5) The extent to which the location of the violation, including location
4 near areas of human population, creates the potential for harm to the environment or
5 to human health or safety; and

6 (6) The extent to which the current violation is part of a recurrent
7 pattern of the same or similar type of violation committed by the violator.

8 (e) Penalties collected by the Secretary under this section shall be paid into
9 the General Fund of the State.

10 [8-803.5.

11 If requested, the Department shall adopt regulations providing for religious
12 exemptions to this subtitle in the event the requirements of this subtitle conflict with
13 the bona fide religious beliefs and practices of persons subject to this subtitle.]

14 8-803.5.

15 THE DEPARTMENT MAY ADOPT REGULATIONS FOR AGRICULTURAL RESEARCH,
16 EDUCATION, AND DEMONSTRATION EXEMPTIONS TO THIS SUBTITLE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2000.