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

Introduced and read first time: January 31, 2000

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2000

CHAPTER _____

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; eliminating certain requirements of immediate
9 implementation of nutrient management plans for agricultural operations that
10 use State cost-share funds for the preparation of nutrient management plans;
11 ~~expanding altering~~ the application of certain requirements for the application of
12 commercial fertilizer to include ~~all~~ certain nonagricultural land; repealing the
13 requirement that the Department adopt certain regulations providing for
14 religious exemptions; and authorizing the Department to adopt certain
15 regulations for certain research and educational exemptions to the nutrient
16 management law.

17 BY repealing and reenacting, with amendments,
18 Article - Agriculture
19 Section 8-704.1, 8-704.2, 8-803.1, and 8-803.4
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 1999 Supplement)

22 BY repealing
23 Article - Agriculture
24 Section 8-803.5

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 1999 Supplement)

3 BY adding to
4 Article - Agriculture
5 Section 8-803.5
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 1999 Supplement)

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

10 **Article - Agriculture**

11 8-704.1.

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

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

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

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

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

23 8-704.2.

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

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

27 (3) "Pilot Project" means the [Poultry Litter] MANURE Transportation
28 Pilot Project.

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

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

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

4 [(2)] (3) The Pilot Project shall encourage voluntary participation to
5 achieve the removal of poultry litter produced by at least 20% of the poultry in the
6 four lower Eastern Shore counties in Maryland; and

7 [(3)] (4) The Pilot Project shall be implemented in conjunction with the
8 [Poultry Litter] MANURE Matching Service set forth in § 8-704.1 of this subtitle.

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

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

14 (2) To be used in environmentally acceptable ways other than land
15 application.

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

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

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

27 8-803.1.

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

30 (b) This section does not apply to:

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

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

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

- 1 (1) Assist in the development of nutrient management plans;
- 2 (2) Meet the technical assistance and evaluation requirements of this
3 section;
- 4 (3) Meet the State's requirements for the implementation of the Poultry
5 Litter Transportation Pilot Project under § 8-704.2 of this title; and
- 6 (4) Provide State assistance under the Maryland Agricultural Water
7 Quality Cost Share Program in the Department.
- 8 (d) (1) State cost sharing may be made available to farmers to help offset the
9 costs of having a nutrient management plan prepared by a certified nutrient
10 management consultant who is not employed by the federal, State, or a local
11 government.
- 12 (2) [State cost share funds are to be made available for eligible costs up
13 to 50% per acre, not to exceed \$3 per acre.
- 14 (3)] The Secretary of Agriculture shall adopt regulations authorizing the
15 disbursement of State cost sharing funds under this subsection.
- 16 (e) (1) By December 31, 2001, a person who, in operating a farm, uses
17 chemical fertilizer, shall have a nutrient management plan for nitrogen and
18 phosphorus that meets the requirements of this subtitle.
- 19 (2) (i) By December 31, 2001, a person who, in operating a farm, uses
20 sludge or animal manure, shall have a nutrient management plan for nitrogen.
- 21 (ii) By July 1, 2004, a person who, in operating a farm, uses sludge
22 or animal manure, shall have a nutrient management plan for nitrogen and
23 phosphorus.
- 24 (f) (1) By December 31, 2002, a person who, in operating a farm, uses
25 chemical fertilizer, shall comply with a nutrient management plan for nitrogen and
26 phosphorus that meets the requirements of this subtitle.
- 27 (2) (i) By December 31, 2002, a person who, in operating a farm, uses
28 sludge or animal manure, shall comply with a nutrient management plan for nitrogen
29 that meets the requirements of this subtitle.
- 30 (ii) By July 1, 2005, a person who, in operating a farm, uses sludge
31 or animal manure, shall comply with a nutrient management plan for nitrogen and
32 phosphorus that meets the requirements of this subtitle.
- 33 (g) A person may meet the requirements of subsection (e) of this section by
34 requesting, at least 60 days before the applicable date set forth in subsection (e) of
35 this section, the development of a nutrient management plan by a certified nutrient
36 management consultant.

1 (h) ~~Notwithstanding the provisions of subsections (e) and (f) of this section, if~~
2 ~~a person receives State funds for the development of a nutrient management plan for~~
3 ~~chemical fertilizer or a nutrient management plan for sludge and animal manure~~
4 ~~based on nitrogen, the person shall implement the plan upon completion of the~~
5 ~~development of the plan.~~

6 (†) (1) If a person violates the provisions of subsection (e) of this section, the
7 Department shall notify the person that the person is in violation of the requirement
8 to have a nutrient management plan.

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

12 (†) (I) (1) A person who violates any provision of subsection (f) of this
13 section or of any rule, regulation, or order adopted or issued under this section is
14 subject to:

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

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

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

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

23 (ii) Assessed with consideration given to:

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

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

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

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

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

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

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

3 ~~(I)~~ (J) If a person violates any provision of this section, the Department
4 may:

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

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

9 ~~(H)~~ (K) The Department shall determine compliance with the provisions of
10 this section.

11 8-803.4.

12 (a) This section applies to an application of commercial fertilizer, as defined in
13 § 6-201 of this article:

14 (1) That is performed by:

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

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

17 (2) To:

18 (I) TEN ACRES OR MORE ANNUALLY, WHETHER ONE OR MULTIPLE
19 PARCELS, OF property that is:

20 ~~(i)~~ ~~Not~~ NOT used for agricultural purposes; [and]OR

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

22 2.] State property THAT IS NOT USED FOR AGRICULTURAL
23 PURPOSES.

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

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

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

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

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

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

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

8 (2) Any actual harm to human health or to the environment including
9 injury to or impairment of the use of the waters of the State or the natural resources
10 of the State;

11 (3) The cost of control;

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

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

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

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

21 [8-803.5.

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

25 8-803.5.

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

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

