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22 BY repealing

Article - Agriculture

Section 8-803.5

2000 Regular Session 0lr0054

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 cost-share poultry matching service to include all livestock manure; establishing a cost-share rate for livestock manure; altering the definition of 5 livestock for those agricultural operations required to have a nutrient 6 management plan; eliminating a certain cap on the amount of available State 7 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; expanding altering the application of certain requirements for the application of 11 commercial fertilizer to include all certain nonagricultural land; repealing the 12 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 management law. 16 17 BY repealing and reenacting, with amendments, Article - Agriculture 18 19 Section 8-704.1, 8-704.2, 8-803.1, and 8-803.4 20 Annotated Code of Maryland

(1999 Replacement Volume and 1999 Supplement)

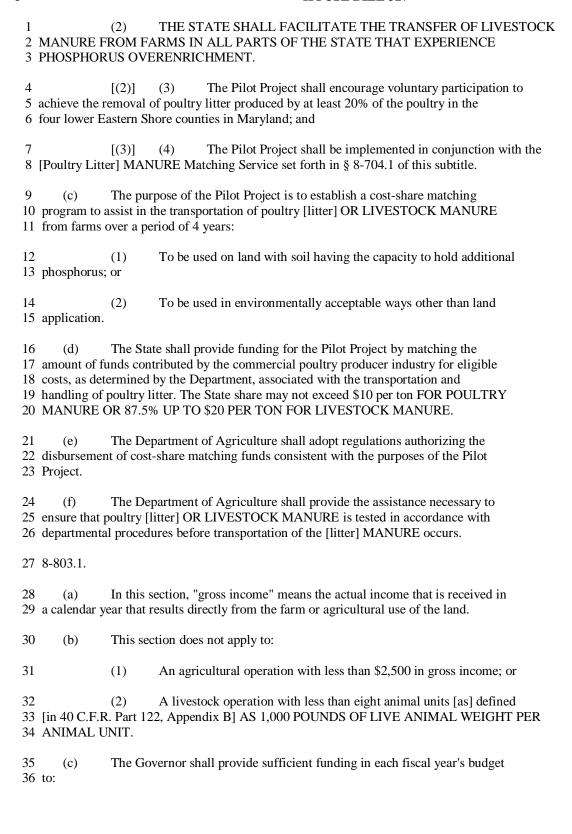
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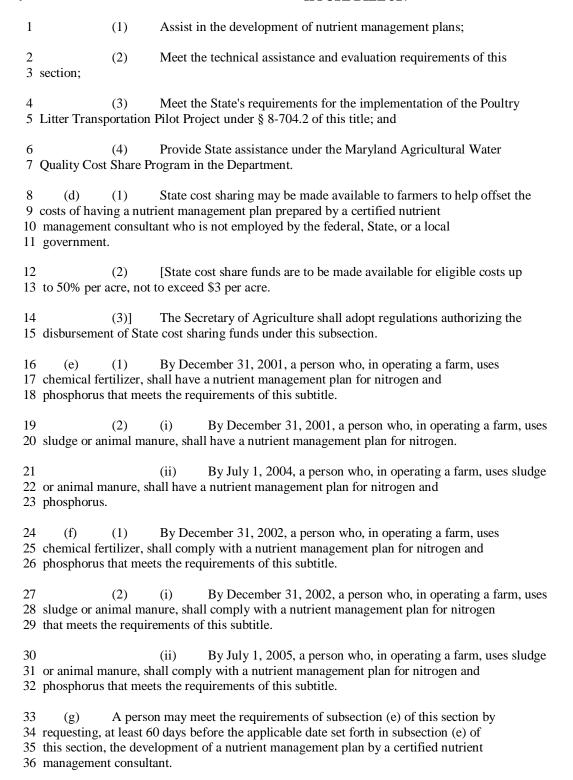
(b)

- 2 **HOUSE BILL 327** 1 Annotated Code of Maryland 2 (1999 Replacement Volume and 1999 Supplement) 3 BY adding to 4 Article - Agriculture 5 Section 8-803.5 Annotated Code of Maryland 6 7 (1999 Replacement Volume and 1999 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 8 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. The purpose of the Service is to develop transfer programs and marketing 16 (c) 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 In this section the following words have the meanings indicated. (a) (1) "Commercial poultry producer" means any entity that contracts with 25 (2) 26 a farmer to raise poultry for the producer on property owned or leased by the farmer. "Pilot Project" means the [Poultry Litter] MANURE Transportation 27 28 Pilot Project.
- 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

It is the intent of the General Assembly that:

32 the State that experience phosphorus overenrichment;





3 4	(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.							
	(j) (I) section or of any rule subject to:	(1) A person who violates any provision of subsection (f) of this rule, regulation, or order adopted or issued under this section is						
15		(i)	For a first violation, a warning; and					
			For a second or subsequent violation, after an opportunity for a in writing by the person accused of a violation, an sy be imposed by the Department of Agriculture.					
19 20	(2) subsection shall be:	The pen	alty imposed on a person under paragraph (1)(ii) of this					
21 22	farmer or operator pe	(i) er year; ar	Up to \$100 for each violation, but not exceeding \$2,000 per nd					
23		(ii)	Assessed with consideration given to:					
	1. The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;							
27			2. Any actual harm to the environment or to human health;					
28 29	controlling, reducing	, or elimi	3. The available technology and economic reasonableness of nating the violation; and					
30 31	recurrent pattern of the	ne same o	4. The extent to which the current violation is part of a or similar type of violation committed by the violator.					
32 33	(3) day a violation occur	(i) s is a sep	Except as provided in subparagraph (ii) of this paragraph, each arate violation under this subsection.					
34 35	takes reasonable step	(ii) s to corre	Daily penalties do not continue to accrue as long as the farmer act the violation.					

1 2	Maryland Ag	(4) Any penalty imposed under this subsection is payable to the Iaryland Agricultural Water Quality Cost Share Program within the Department.							
3	<del>(k)</del> may:	<u>(J)</u>	If a person violates any provision of this section, the Department						
5 6	for the projec	(1) Require repayment of cost share funds under Subtitle 7 of this title the project that is in violation; or							
7 8	title.	(2)	Deny or restrict future cost share payments under Subtitle 7 of this						
9 10	(1) this section.	<u>(K)</u>	The Department shall determine compliance with the provisions of						
11	8-803.4.								
12 13	2 (a) This section applies to an application of commercial fertilizer, as defined in 8 § 6-201 of this article:								
14		(1)	That is performed by:						
15			(i)	A perso	n who applies commercial fertilizer for hire; or				
16			(ii)	An emp	ployee of the owner or manager of the property; and				
17		(2)	То <u>:</u>						
18 19	PARCELS,	<u>OF</u> prope	( <u>I)</u> erty that i		CRES OR MORE ANNUALLY, WHETHER ONE OR MULTIPLE				
20			<del>(i)</del>	Not NO	<u>T</u> used for agricultural purposes; [and]OR				
21			(ii)	[1. Thre	ee or more acres; or				
22 23	<u>PURPOSES</u>			2.]	State property THAT IS NOT USED FOR AGRICULTURAL				
	4 (b) A person may apply commercial fertilizer only if the person applies the commercial fertilizer in a manner that is consistent with the recommendations of the University of Maryland Cooperative Extension Service.								
27 28	(c) (1) A person who violates any provision of this section is subject to a civil penalty of not more than \$1,000 for a first violation.								
29 30	(2) A person who violates any provision of this section is subject to a civil 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.