

HOUSE BILL 80

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HB 778/02 - ENV

2003 Regular Session
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By: **Delegates Glassman, Boutin, James, McComas, and Parrott**
Introduced and read first time: January 22, 2003
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture - Nutrient Management Plans - Applicability**

3 FOR the purpose of increasing the minimum gross income of an agricultural
4 operation subject to nutrient management plan requirements.

5 BY repealing and reenacting, with amendments,
6 Article - Agriculture
7 Section 8-803.1
8 Annotated Code of Maryland
9 (1999 Replacement Volume and 2002 Supplement)

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

12 **Article - Agriculture**

13 8-803.1.

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

16 (b) This section does not apply to:

17 (1) An agricultural operation with less than [\$2,500] \$10,000 in gross
18 income; or

19 (2) A livestock operation with less than eight animal units defined as
20 1,000 pounds of live animal weight per animal unit.

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

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

24 (2) Meet the technical assistance and evaluation requirements of this
25 section;

1 (3) Meet the State's requirements for the implementation of the Manure
2 Transportation Project under § 8-704.2 of this title; and

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

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

9 (2) The Secretary of Agriculture shall adopt regulations authorizing the
10 disbursement of State cost sharing funds under this subsection.

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

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

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

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

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

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

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

32 (h) (1) If a person violates the provisions of subsection (e) of this section, the
33 Department shall notify the person that the person is in violation of the requirement
34 to have a nutrient management plan.

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

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

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

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

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

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

11 (ii) Assessed with consideration given to:

12 1. The willfulness of the violation, the extent to which the
13 existence of the violation was known to but uncorrected by the violator, and the extent
14 to which the violator exercised reasonable care;

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

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

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

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

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

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

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

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

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

31 (k) The Department shall determine compliance with the provisions of this
32 section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect October 1, 2003.

