

HOUSE BILL 466

M3

8lr1776

By: **Delegate Kullen**

Introduced and read first time: January 30, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Pollution Control Fund – Fertilizer Application**
3 **Environmental Impact Fee**

4 FOR the purpose of establishing a fertilizer application environmental impact fee for
5 certain fertilizer applications; establishing a formula to determine the amount
6 of the fee; requiring a fertilizer applicator to charge the fee to certain customers,
7 subject to certain exceptions; requiring a fertilizer applicator to include the fee
8 in a certain form on a bill for fertilizer application; requiring a fertilizer
9 applicator to remit fees collected and provide a record of customers excepted
10 from payment of the fee to the Comptroller; providing for the administration,
11 collection, and enforcement of the fee; authorizing the Comptroller to adopt
12 certain regulations; requiring the Comptroller to deposit the fees in a certain
13 fund in a certain manner; specifying certain uses related to stormwater
14 management for revenues derived from the fees; altering the areas of the State
15 eligible for certain stormwater runoff financial assistance; establishing a
16 preference for financial assistance for certain stormwater projects based on
17 certain criteria; altering the caps on the percentage and total amount of State
18 funding that may be awarded for certain stormwater runoff projects; defining
19 certain terms; and generally relating to the establishment of the fertilizer
20 application environmental impact fee.

21 BY adding to
22 Article – Agriculture
23 Section 6–210.2
24 Annotated Code of Maryland
25 (2007 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article – Environment
28 Section 9–345 and 9–350(a)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2007 Replacement Volume and 2007 Supplement)

2 BY repealing and reenacting, without amendments,
3 Article – Tax – General
4 Section 13–1006
5 Annotated Code of Maryland
6 (2004 Replacement Volume and 2007 Supplement)

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

9 **Article – Agriculture**

10 **6–210.2.**

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.

13 (2) “FEE” MEANS THE FERTILIZER APPLICATION
14 ENVIRONMENTAL IMPACT FEE ESTABLISHED UNDER THIS SECTION.

15 (3) “FERTILIZER APPLICATOR” MEANS A PERSON WHO AS PART
16 OF THE PERSON’S BUSINESS PROVIDES FERTILIZER APPLICATION SERVICES.

17 (B) (1) THERE IS A FERTILIZER APPLICATION ENVIRONMENTAL
18 IMPACT FEE.

19 (2) THE FEE SHALL BE IN THE AMOUNT OF 10% OF THE TOTAL
20 COST OF THE FERTILIZER APPLICATION.

21 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, A FERTILIZER APPLICATOR SHALL CHARGE THE FEE TO EACH
23 CUSTOMER WHO PURCHASES FERTILIZER APPLICATION SERVICES.

24 (2) A FERTILIZER APPLICATOR MAY NOT CHARGE A FEE TO A
25 CUSTOMER WHO DEMONSTRATES THAT THE FERTILIZER IS TO BE APPLIED:

26 (I) FOR AGRICULTURAL PURPOSES; OR

27 (II) ON A GOLF COURSE.

28 (D) A FERTILIZER APPLICATOR SHALL INCLUDE THE FEE IN AN
29 ITEMIZED FORM ON A CUSTOMER’S FERTILIZER APPLICATION BILL.

1 (E) A FERTILIZER APPLICATOR SHALL REMIT ANY FEES COLLECTED
 2 UNDER THIS SECTION AND PROVIDE A RECORD OF CUSTOMERS EXCEPTED
 3 FROM PAYMENT OF THE FEE UNDER SUBSECTION (C)(2) OF THIS SECTION TO
 4 THE COMPTROLLER.

5 (F) EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS
 6 SECTION, THE PROVISIONS OF TITLE 13 OF THE TAX – GENERAL ARTICLE THAT
 7 ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE
 8 ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE FEE UNDER THIS
 9 SECTION.

10 (G) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO
 11 ADMINISTER, COLLECT, AND ENFORCE THE FEE.

12 (H) THE COMPTROLLER SHALL DEPOSIT ANY FEES COLLECTED UNDER
 13 THIS SECTION INTO THE WATER POLLUTION CONTROL FUND ESTABLISHED
 14 UNDER § 9-345 OF THE ENVIRONMENT ARTICLE IN A MANNER AGREED ON BY
 15 THE DEPARTMENT OF THE ENVIRONMENT AND THE COMPTROLLER.

16 (I) REVENUE DEPOSITED IN THE WATER POLLUTION CONTROL FUND
 17 IN ACCORDANCE WITH THIS SECTION SHALL BE USED FOR:

18 (1) FINANCIAL ASSISTANCE TO IMPLEMENT STORMWATER
 19 MANAGEMENT PRACTICES IN DEVELOPED AREAS OF COUNTIES AND
 20 MUNICIPALITIES UNDER §§ 9-345 AND 9-350 OF THE ENVIRONMENT ARTICLE;
 21 AND

22 (2) THE REASONABLE COSTS TO THE DEPARTMENT OF THE
 23 ENVIRONMENT, NOT TO EXCEED 8% OF THE REVENUE COLLECTED UNDER THIS
 24 SECTION, OF ADMINISTERING THE FEE.

25 Article – Environment

26 9-345.

27 (a) There is a Water Pollution Control Fund consisting of [moneys]:

28 (1) THE FERTILIZER APPLICATION ENVIRONMENTAL IMPACT
 29 FEES COLLECTED UNDER § 6-210.2 OF THE AGRICULTURE ARTICLE;

30 (2) MONEY made available under water quality loan authorizations
 31 [or by funds]; AND

32 (3) FUNDS appropriated in the State budget.

1 (b) The Board of Public Works, upon the recommendation of the Secretary,
2 may award financial assistance for the following types of projects:

3 (1) Construction of sewerage systems under §§ 9–347 and 9–348 of
4 this subtitle;

5 (2) Industrial user pretreatment projects under § 9–349 of this
6 subtitle;

7 (3) Best management practices to control or prevent agriculturally
8 related nonpoint source pollution under § 9–350 of this subtitle and Title 8, Subtitle 7
9 of the Agriculture Article; and

10 (4) Practices to reduce pollution from stormwater runoff in [existing
11 urbanized areas] **DEVELOPED AREAS OF COUNTIES AND MUNICIPALITIES** under §
12 9–350 of this subtitle.

13 (c) (1) The Secretary, with the approval of the Board of Public Works,
14 shall adopt rules and regulations that establish application procedures and criteria for
15 the award of financial assistance under this subtitle. The criteria shall provide the
16 basis for project priority rankings and shall include, as appropriate:

17 (i) The water quality or public health impacts caused by
18 existing circumstances;

19 (ii) Previous efforts expended to correct any existing problem;

20 (iii) Financial capacity of the applicant;

21 (iv) The problem prevention aspects of a proposed project;

22 (v) Cost effectiveness of a proposed project;

23 (vi) Planning requirements;

24 (vii) Provisions for monitoring and review; and

25 (viii) Measures to assure accountability for all funds awarded
26 under this subtitle.

27 (2) **FOR FINANCIAL ASSISTANCE AWARDED UNDER SUBSECTION**
28 **(B)(4) OF THIS SECTION, THE CRITERIA SHALL INCLUDE A PREFERENCE GIVEN**
29 **TO PROJECTS IN LOCATIONS THAT:**

30 (I) **ARE IN CLOSEST PROXIMITY TO A WATERWAY THAT**
31 **FLOWS DIRECTLY INTO THE CHESAPEAKE BAY; AND**

1 **(II) HAVE THE GREATEST PERCENTAGE OF IMPERVIOUS**
2 **SURFACES.**

3 **(3)** Project priority systems shall be established. Prior to adopting
4 rules and regulations and establishing project priority rankings under this section, the
5 Secretary shall consult with the Secretaries of Natural Resources, Agriculture, and
6 Business and Economic Development and the Secretary of the Department of
7 Planning.

8 9–350.

9 (a) (1) **(I)** Grants may be awarded to **DEVELOPED AREAS OF** counties
10 and municipalities for projects to reduce pollution from stormwater runoff in [existing
11 urbanized] **THESE** areas.

12 **(II) A GRANT AWARDED UNDER THIS PARAGRAPH MAY BE**
13 **AWARDED FOR UP TO 100 PERCENT OF ALL ELIGIBLE COSTS.**

14 (2) **(I)** Grants may be used for construction on privately owned
15 property if:

16 [(i)] **1.** Necessary for the purpose of the project; and

17 [(ii)] **2.** An agreement has been made with the property
18 owner.

19 [(3)] **(II)** A grant awarded under this [subsection] **PARAGRAPH:**

20 [(i)] **1.** Shall not exceed 75 percent of all eligible costs; and

21 [(ii)] **2.** Shall not exceed \$500,000.

22 **Article – Tax – General**

23 13–1006.

24 (a) A person, including an officer of a corporation, who is required to collect
25 the sales and use tax and who willfully fails to collect the tax as required under Title
26 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not
27 exceeding \$10,000 or imprisonment not exceeding 5 years or both.

28 (b) A person, including an officer of a corporation, who is required to pay over
29 the sales and use tax and who willfully fails to pay over the tax as required under Title
30 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not
31 exceeding \$10,000 or imprisonment not exceeding 5 years or both.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.