

SENATE BILL 748

M4

3lr2226
CF HB 561

By: **Senator Middleton**

Introduced and read first time: February 1, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2013

CHAPTER _____

1 AN ACT concerning

2 **Agriculture – Nutrient Management – ~~Waters of the State~~ Limiting**
3 **Applicability**

4 FOR the purpose of ~~altering the definition of “waters of the State” as it relates to the~~
5 specifying that certain requirements of the nutrient management program
6 administered by the Department of Agriculture apply to certain surface waters,
7 the Chesapeake Bay and its tributaries, and other certain bodies of water; and
8 generally relating to nutrient management.

9 ~~BY repealing and reenacting, without amendments,~~
10 ~~Article – Agriculture~~
11 ~~Section ~~8-801(a)~~, ~~8-803.6(a)~~, and ~~8-803.7(e)~~~~
12 ~~Annotated Code of Maryland~~
13 ~~(2007 Replacement Volume and 2012 Supplement)~~

14 BY repealing and reenacting, with amendments,
15 Article – Agriculture
16 Section ~~8-801(n)~~ ~~8-803.4(e)~~ and ~~8-803.5(d)~~
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2012 Supplement)
19 (As enacted by Chapters 484 and 485 of the Acts of the General Assembly of
20 2011)

21 BY repealing and reenacting, without amendments,
22 Article – Agriculture

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 8-803.4~~(e) and~~ (i) and 8-803.5(b) ~~and (d)~~
 2 Annotated Code of Maryland
 3 (2007 Replacement Volume and 2012 Supplement)
 4 (As enacted by Chapters 484 and 485 of the Acts of the General Assembly of
 5 2011)

6 BY repealing and reenacting, with amendments,
 7 Article – Agriculture
 8 Section 8-803.6(a)
 9 Annotated Code of Maryland
 10 (2007 Replacement Volume and 2012 Supplement)

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

13 **Article – Agriculture**

14 ~~8-801.~~

15 (a) ~~In this subtitle the following words have the meanings indicated.~~

16 (n) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
 17 ~~SUBSECTION, “WATERS OF THE STATE” has the meaning stated in § 5-101 of the~~
 18 ~~Environment Article.~~

19 ~~(2) “Waters of the State” DOES NOT INCLUDE:~~

20 ~~(I) UNDERGROUND WATERS WITHIN THE BOUNDARIES OF~~
 21 ~~THE STATE THAT ARE SUBJECT TO ITS JURISDICTION; OR~~

22 ~~(II) A FLOODPLAIN OF FREE-FLOWING WATERS AS~~
 23 ~~DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF~~
 24 ~~THE 100-YEAR FLOOD FREQUENCY.~~

25 8-803.4.

26 (e) (1) Except as provided in paragraph (2) of this subsection, a
 27 professional fertilizer applicator may not apply fertilizer containing phosphorus or
 28 nitrogen to turf that is within 15 feet of ~~waters of the State;~~

29 (I) SURFACE WATER SUBJECT TO THE JURISDICTION OF
 30 THE STATE;

31 (II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

32 (III) A POND WITHIN THE STATE;

- 1 **(IV) A LAKE WITHIN THE STATE;**
2 **(V) A RIVER WITHIN THE STATE;**
3 **(VI) A STREAM WITHIN THE STATE;**
4 **(VII) A PUBLIC DITCH WITHIN THE STATE;**
5 **(VIII) A TAX DITCH WITHIN THE STATE; OR**
6 **(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE,**
7 **OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE**
8 **OF SANITARY SEWAGE.**

9 (2) When a drop spreader, rotary spreader with a deflector, or targeted
10 spray liquid is used for fertilizer application, the setback required under paragraph (1)
11 of this subsection may be reduced to 10 feet.

12 (3) The establishment of setbacks for fertilizer application under this
13 subsection does not preclude the establishment or applicability of, or compliance with,
14 any other environmental standards established under any other State or federal law,
15 rule, or regulation.

16 (i) The penalty imposed on a person under this section shall be assessed
17 with consideration given to:

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

21 (2) Any actual harm to human health or to the environment including
22 injury to or impairment of the use of the waters of the State or the natural resources of
23 the State;

24 (3) The cost of control;

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

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

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

1 8-803.5.

2 (b) (1) This section applies to a person who applies fertilizer to:

3 (i) Property that is not used for agricultural purposes; or

4 (ii) State property that is not used for agricultural purposes.

5 (2) This section does not apply to the application of fertilizer on
6 commercial farms.

7 (d) (1) Except as provided in paragraph (2) of this subsection, a person
8 may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15
9 feet of ~~waters of the State~~:

10 (I) SURFACE WATER SUBJECT TO THE JURISDICTION OF
11 THE STATE;

12 (II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

13 (III) A POND WITHIN THE STATE;

14 (IV) A LAKE WITHIN THE STATE;

15 (V) A RIVER WITHIN THE STATE;

16 (VI) A STREAM WITHIN THE STATE;

17 (VII) A PUBLIC DITCH WITHIN THE STATE;

18 (VIII) A TAX DITCH WITHIN THE STATE; OR

19 (IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE,
20 OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE
21 OF SANITARY SEWAGE.

22 (2) When a drop spreader, rotary spreader with a deflector, or targeted
23 spray liquid is used for fertilizer application, the setback required under paragraph (1)
24 of this subsection may be reduced to 10 feet.

25 (3) The establishment of setbacks for fertilizer application under this
26 subsection does not preclude the establishment or applicability of, or compliance with,
27 any other environmental standards established under any other State or federal law,
28 rule, or regulation.

1 8-803.6.

2 (a) (1) The Department shall, in consultation with the University of
3 Maryland, establish a program to certify professional fertilizer applicators.

4 (2) The certification program shall provide professional fertilizer
5 applicators with training and education in the following subject areas:

6 (i) The proper use and calibration of fertilizer application
7 equipment;

8 (ii) The hazards involved in, and the environmental impact of,
9 applying fertilizer, including nutrient pollution to ~~the waters of the State;~~

10 **1. SURFACE WATER SUBJECT TO THE JURISDICTION**
11 **OF THE STATE;**

12 **2. THE CHESAPEAKE BAY AND ITS TRIBUTARIES;**

13 **3. A POND WITHIN THE STATE;**

14 **4. A LAKE WITHIN THE STATE;**

15 **5. A RIVER WITHIN THE STATE;**

16 **6. A STREAM WITHIN THE STATE;**

17 **7. A PUBLIC DITCH WITHIN THE STATE;**

18 **8. A TAX DITCH WITHIN THE STATE; AND**

19 **9. A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE,**
20 **OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE**
21 **OF SANITARY SEWAGE;**

22 (iii) All applicable State and federal laws, rules, and regulations;

23 (iv) The correct interpretation of fertilizer labeling information;
24 and

25 (v) The recommendations developed by the University of
26 Maryland for nutrient management on turf, including the appropriate time to:

27 1. Apply fertilizer when rain is forecast; and

1 2. Apply fertilizer when soils are wet and the potential
2 for fertilizer movement off-site exists.

3 ~~§ 803.7.~~

4 ~~(e) The University of Maryland shall review its fertilizer turf guidelines~~
5 ~~every 3 years and revise the guidelines as necessary, with consideration of plant~~
6 ~~nutrient requirements and established State goals to protect water quality in the~~
7 ~~waters of the State.~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2013, the effective date of Sections 4 and 5 of Chapters 484 and 485 of the
10 Acts of the General Assembly of 2011. If the effective dates of Sections 4 and 5 of
11 Chapters 484 and 485 are amended, this Act shall take effect on the taking effect of
12 Sections 4 and 5 of Chapters 484 and 485.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.