

# SENATE BILL 748

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CF HB 561

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By: **Senator Middleton**

Introduced and read first time: February 1, 2013

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Nutrient Management – Waters of the State**

3 FOR the purpose of altering the definition of “waters of the State” as it relates to the  
4 requirements of the nutrient management program administered by the  
5 Department of Agriculture; and generally relating to nutrient management.

6 BY repealing and reenacting, without amendments,  
7 Article – Agriculture  
8 Section 8–801(a), 8–803.6(a), and 8–803.7(c)  
9 Annotated Code of Maryland  
10 (2007 Replacement Volume and 2012 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Agriculture  
13 Section 8–801(n)  
14 Annotated Code of Maryland  
15 (2007 Replacement Volume and 2012 Supplement)  
16 (As enacted by Chapters 484 and 485 of the Acts of the General Assembly of  
17 2011)

18 BY repealing and reenacting, without amendments,  
19 Article – Agriculture  
20 Section 8–803.4(e) and (i) and 8–803.5(b) and (d)  
21 Annotated Code of Maryland  
22 (2007 Replacement Volume and 2012 Supplement)  
23 (As enacted by Chapters 484 and 485 of the Acts of the General Assembly of  
24 2011)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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**Article – Agriculture**

2 8–801.

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

4 (n) **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
5 **SUBSECTION, “WATERS OF THE STATE”** has the meaning stated in § 5–101 of the  
6 Environment Article.7 **(2) “Waters of the State” DOES NOT INCLUDE:**8 **(I) UNDERGROUND WATERS WITHIN THE BOUNDARIES OF**  
9 **THE STATE THAT ARE SUBJECT TO ITS JURISDICTION; OR**10 **(II) A FLOODPLAIN OF FREE–FLOWING WATERS AS**  
11 **DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF**  
12 **THE 100–YEAR FLOOD FREQUENCY.**

13 8–803.4.

14 (e) (1) Except as provided in paragraph (2) of this subsection, a  
15 professional fertilizer applicator may not apply fertilizer containing phosphorus or  
16 nitrogen to turf that is within 15 feet of waters of the State.17 (2) When a drop spreader, rotary spreader with a deflector, or targeted  
18 spray liquid is used for fertilizer application, the setback required under paragraph (1)  
19 of this subsection may be reduced to 10 feet.20 (3) The establishment of setbacks for fertilizer application under this  
21 subsection does not preclude the establishment or applicability of, or compliance with,  
22 any other environmental standards established under any other State or federal law,  
23 rule, or regulation.24 (i) The penalty imposed on a person under this section shall be assessed  
25 with consideration given to:26 (1) The willfulness of the violation, the extent to which the existence of  
27 the violation was known to the violator but uncorrected by the violator, and the extent  
28 to which the violator exercised reasonable care;29 (2) Any actual harm to human health or to the environment including  
30 injury to or impairment of the use of the waters of the State or the natural resources of  
31 the State;

32 (3) The cost of control;

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

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

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

8   8–803.5.

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

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

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

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

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

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

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

24   8–803.6.

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

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

29                           (i)    The proper use and calibration of fertilizer application  
30 equipment;

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

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

4                   (iv)    The correct interpretation of fertilizer labeling information;  
5 and

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

8                           1.    Apply fertilizer when rain is forecast; and

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

11 8-803.7.

12           (c)    The University of Maryland shall review its fertilizer turf guidelines  
13 every 3 years and revise the guidelines as necessary, with consideration of plant  
14 nutrient requirements and established State goals to protect water quality in the  
15 waters of the State.

16           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2013, the effective date of Chapters 484 and 485 of the Acts of the General  
18 Assembly of 2011. If the effective dates of Chapters 484 and 485 are amended, this Act  
19 shall take effect on the taking effect of Chapters 484 and 485.