

SENATE BILL 496

M4

6lr1276
CF HB 599

By: **Senators Madaleno, Conway, Benson, Feldman, Guzzone, Kelley, King, Lee, Manno, Nathan-Pulliam, Pinsky, Ramirez, Raskin, and Young**

Introduced and read first time: February 3, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Poultry Litter Management Act**

3 FOR the purpose of requiring an integrator to place poultry only at a contract operation
4 that maintains a certain nutrient management plan; requiring an integrator to be
5 responsible for confirming that a contract grower is in possession of a certain
6 nutrient management plan before placing poultry at any contract operation;
7 requiring an integrator to be responsible for the removal and delivery of all excess
8 manure in accordance with certain requirements; requiring an integrator to remove
9 excess manure in a certain manner and in accordance with a certain schedule;
10 requiring a contract grower to store excess manure in accordance with certain
11 regulations; authorizing a contract grower to voluntarily elect to retain all or part of
12 the manure produced by an integrator's poultry; prohibiting an integrator from
13 charging a fee under certain circumstances; providing that the amount of manure
14 retained by a contract grower may not exceed the amount of manure that may be
15 annually land applied at the contract operation under a nutrient management plan
16 except under certain circumstances; requiring certain integrators and manure
17 brokers or manure transporters to maintain certain records in accordance with
18 certain requirements; requiring certain records to be submitted to the Department
19 of Agriculture and made publicly available in a certain manner; prohibiting public
20 funds from being used to pay for the transportation of manure under this Act;
21 requiring integrators, or certain manure brokers or manure transporters, to deliver
22 excess manure only to certain facilities; requiring certain integrators to comply with
23 certain regulations and requirements; establishing certain penalties for certain
24 violations; prohibiting the Secretary from settling a certain claim without the
25 concurrence of the Attorney General; requiring a certain settlement to include a
26 certain agreement; authorizing a contract grower to bring a certain action under
27 certain circumstances; prohibiting a contract grower from having to post a bond,
28 prove the absence of an adequate remedy at law, or show the existence of special
29 circumstances in order to obtain injunctive relief; requiring a court to award
30 reasonable attorney's fees and other expenses to a contract grower under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circumstances; defining certain terms; and generally relating to poultry litter
2 management.

3 BY adding to

4 Article – Agriculture

5 Section 8–1101 through 8–1104 to be under the new subtitle “Subtitle 11. Poultry
6 Litter Management”

7 Annotated Code of Maryland

8 (2007 Replacement Volume and 2015 Supplement)

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

11 **Article – Agriculture**

12 **SUBTITLE 11. POULTRY LITTER MANAGEMENT.**

13 **8–1101.**

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) “AGRICULTURAL OPERATION” MEANS A BUSINESS OR AN ACTIVITY
17 WHERE A PERSON TILLS, CROPS, KEEPS, PASTURES, OR PRODUCES AN
18 AGRICULTURAL PRODUCT, INCLUDING LIVESTOCK, POULTRY, PLANTS, TREES, SOD,
19 FOOD, FEED, OR FIBER BY IN–GROUND, OUT–OF–GROUND, OR OTHER CULTURE.

20 (C) “ALTERNATIVE USE FACILITY” MEANS A FACILITY THAT IS DESIGNED TO
21 USE MANURE IN A MANNER THAT DOES NOT RESULT IN ANY ADDITIONAL NUTRIENT
22 LOADS TO THE CHESAPEAKE BAY WATERSHED.

23 (D) “ALTERNATIVE USE PLAN” MEANS A PLAN THAT IS DESIGNED TO USE
24 MANURE IN A MANNER THAT DOES NOT RESULT IN ANY ADDITIONAL NUTRIENT
25 LOADS TO THE CHESAPEAKE BAY WATERSHED.

26 (E) “CONTRACT GROWER” MEANS A PERSON THAT RAISES POULTRY AT A
27 CONTRACT OPERATION OPERATED IN ACCORDANCE WITH A PRODUCTION
28 CONTRACT.

29 (F) “CONTRACT OPERATION” MEANS A FACILITY USED TO RAISE POULTRY
30 UNDER A PRODUCTION CONTRACT.

31 (G) “EXCESS MANURE” MEANS ANY MANURE PRODUCED BY POULTRY
32 OWNED BY THE INTEGRATOR AND RAISED ON THE CONTRACT OPERATION THAT IS

1 IN EXCESS OF THE AMOUNT OF MANURE ABLE TO BE FULLY UTILIZED UNDER A
2 CERTIFIED NUTRIENT MANAGEMENT PLAN DEVELOPED FOR THE CONTRACT
3 OPERATION OR FOR ADJACENT LAND UNDER THE CONTRACT GROWER'S CONTROL.

4 (H) "INTEGRATOR" MEANS A PERSON OR COMPANY THAT OWNS POULTRY
5 THAT IS RAISED BY A CONTRACT GROWER AT THE CONTRACT GROWER'S CONTRACT
6 OPERATION.

7 (I) "MANURE" MEANS THE FECAL AND URINARY EXCRETION OF POULTRY
8 AND INCLUDES POULTRY LITTER AND MATERIALS USED AS BEDDING.

9 (J) "NUTRIENT MANAGEMENT PLAN" HAS THE MEANING STATED IN § 8-801
10 OF THIS TITLE.

11 (K) "POULTRY" MEANS ANY DOMESTICATED FOWL, INCLUDING CHICKENS,
12 TURKEY, DUCKS, AND GEESE.

13 (L) "PRODUCTION CONTRACT" MEANS A WRITTEN AGREEMENT THAT
14 PROVIDES FOR THE RAISING OF POULTRY BY A CONTRACT GROWER AND IS
15 EXECUTED WHEN IT IS AGREED TO BY EACH PARTY TO THE CONTRACT OR BY A
16 PERSON AUTHORIZED TO ACT ON THE PARTY'S BEHALF.

17 8-1102.

18 (A) (1) AN INTEGRATOR SHALL PLACE POULTRY ONLY AT A CONTRACT
19 OPERATION THAT MAINTAINS AN UNEXPIRED NUTRIENT MANAGEMENT PLAN THAT
20 THE CONTRACT GROWER REPRESENTS HAS BEEN FULLY IMPLEMENTED.

21 (2) AN INTEGRATOR IS RESPONSIBLE FOR CONFIRMING THAT A
22 CONTRACT GROWER IS IN POSSESSION OF AN UNEXPIRED NUTRIENT MANAGEMENT
23 PLAN BEFORE PLACING POULTRY AT ANY CONTRACT OPERATION.

24 (B) (1) AN INTEGRATOR IS RESPONSIBLE FOR THE REMOVAL AND
25 DELIVERY OF ALL EXCESS MANURE IN ACCORDANCE WITH § 8-1103(D) OF THIS
26 SUBTITLE.

27 (2) AN INTEGRATOR SHALL REMOVE EXCESS MANURE AT NO COST TO
28 THE CONTRACT GROWER.

29 (3) AN INTEGRATOR SHALL REMOVE EXCESS MANURE FROM A
30 CONTRACT OPERATION AT LEAST ONCE EVERY CALENDAR YEAR.

1 **(4) BEFORE REMOVAL OF EXCESS MANURE BY AN INTEGRATOR, A**
2 **CONTRACT GROWER SHALL STORE ALL EXCESS MANURE IN ACCORDANCE WITH**
3 **CURRENT MANURE STORAGE REGULATIONS, INCLUDING THE REQUIREMENT TO**
4 **CONTAIN ALL EXCESS WASTE IN ANIMAL WASTE STORAGE STRUCTURES.**

5 **(C) (1) A CONTRACT GROWER MAY VOLUNTARILY ELECT TO RETAIN ALL**
6 **OR PART OF THE MANURE PRODUCED BY AN INTEGRATOR'S POULTRY.**

7 **(2) AN INTEGRATOR MAY NOT CHARGE A FEE TO A CONTRACT**
8 **GROWER TO RETAIN MANURE THAT IS NOT EXCESS MANURE.**

9 **(3) THE AMOUNT OF MANURE RETAINED BY A CONTRACT GROWER**
10 **ANNUALLY MAY NOT EXCEED THE AMOUNT OF MANURE THAT MAY BE ANNUALLY**
11 **LAND APPLIED AT THE CONTRACT OPERATION UNDER AN UNEXPIRED NUTRIENT**
12 **MANAGEMENT PLAN, EXCEPT THAT A CONTRACT GROWER WHO WISHES TO RETAIN**
13 **ANY EXCESS MANURE SHALL:**

14 **(I) RECEIVE PERMISSION IN WRITING FROM THE INTEGRATOR**
15 **APPROVING THE AMOUNT TO BE RETAINED; AND**

16 **(II) OBTAIN A MANURE ALTERNATIVE USE PLAN APPROVAL**
17 **FROM THE DEPARTMENT FOR ANY AMOUNT OF EXCESS MANURE RETAINED BY THE**
18 **CONTRACT GROWER.**

19 **8-1103.**

20 **(A) (1) INTEGRATORS AND MANURE BROKERS OR MANURE**
21 **TRANSPORTERS WORKING UNDER CONTRACT WITH INTEGRATORS SHALL MAINTAIN**
22 **WRITTEN RECORDS OF ALL MANURE REMOVED FROM CONTRACT OPERATIONS.**

23 **(2) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS**
24 **SUBSECTION SHALL INCLUDE:**

25 **(I) THE NAME AND ADDRESS OF THE INTEGRATOR AND**
26 **BROKER OR TRANSPORTER;**

27 **(II) THE AMOUNT OF MANURE REMOVED, BY WEIGHT;**

28 **(III) THE NUTRIENT ANALYSIS OF THE MANURE BEING**
29 **TRANSPORTED;**

30 **(IV) THE NAME AND LOCATION OF THE CONTRACT OPERATION**
31 **FROM WHICH THE MANURE WAS REMOVED;**

1 (V) THE NAME AND LOCATION OF EACH FACILITY TO WHICH
2 MANURE WAS DELIVERED; AND

3 (VI) THE AMOUNT OF MANURE DELIVERED TO EACH FACILITY,
4 BY WEIGHT.

5 (B) THE RECORDS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
6 SHALL BE:

7 (1) SUBMITTED TO THE DEPARTMENT ANNUALLY; AND

8 (2) MADE PUBLICLY AVAILABLE BY THE DEPARTMENT ON REQUEST.

9 (C) PUBLIC FUNDS MAY NOT BE USED TO PAY FOR THE TRANSPORTATION
10 OF MANURE UNDER THIS SUBTITLE.

11 (D) AN INTEGRATOR, OR MANURE BROKER OR MANURE TRANSPORTER
12 WORKING UNDER CONTRACT WITH AN INTEGRATOR, SHALL DELIVER EXCESS
13 MANURE ONLY TO ONE OF THE FOLLOWING FACILITIES:

14 (1) AN AGRICULTURAL OPERATION THAT HAS CAPACITY TO ACCEPT
15 MANURE FOR LAND APPLICATION, WHICH MUST BE DEMONSTRATED BY ITS
16 UNEXPIRED NUTRIENT MANAGEMENT PLAN;

17 (2) AN ALTERNATE USE FACILITY THAT HAS CAPACITY TO PROVIDE
18 INDOOR STORAGE OF ALL EXCESS MANURE; OR

19 (3) A STORAGE FACILITY THAT HAS THE CAPACITY TO PROVIDE
20 INDOOR STORAGE FOR ALL EXCESS MANURE.

21 (E) AN INTEGRATOR THAT REMOVES MANURE OR MANURE TRANSPORTERS
22 WORKING UNDER CONTRACT WITH INTEGRATORS SHALL COMPLY WITH ALL
23 BIOSECURITY AND PUBLIC HEALTH OR SAFETY REGULATIONS, INCLUDING THE
24 FOLLOWING REQUIREMENTS:

25 (1) ALL EXCESS MANURE TRANSPORTED SHALL BE COVERED WHILE
26 ON A PUBLIC ROAD OR HIGHWAY;

27 (2) A TRANSPORT VEHICLE, INCLUDING ANY APPLICATION
28 EQUIPMENT, SHALL CONTAIN THE EXCESS MANURE WITHIN THE CARGO AREA
29 WITHOUT ANY LOSS OF MATERIAL OR LIQUID DURING TRANSPORT ON A PUBLIC
30 ROAD;

1 **(3) BEFORE OPERATING ON OR NEAR ANOTHER POULTRY**
2 **OPERATION, ALL TRANSPORTING AND HANDLING EQUIPMENT USED TO FACILITATE**
3 **THE TRANSPORTATION OF MANURE SHALL BE CLEANED, WASHED, AND**
4 **DISINFECTED;**

5 **(4) AN INTEGRATOR OR A TRANSPORTER SHALL COMPLY WITH ALL**
6 **STATE AND COUNTY ANIMAL AND PUBLIC HEALTH REGULATIONS; AND**

7 **(5) AN INTEGRATOR MAY NOT TRANSPORT OR OFFER FOR**
8 **TRANSPORT POULTRY LITTER CONTAINING DEAD BIRDS THAT ARE NOT COMPOSTED**
9 **COMPLETELY.**

10 **8-1104.**

11 **(A) (1) A PERSON THAT WILLFULLY VIOLATES ANY PROVISION OF THIS**
12 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE**
13 **NOT EXCEEDING \$50,000 PER VIOLATION.**

14 **(2) EACH PRODUCTION CONTRACT INVOLVED IN A CRIMINAL ACTION**
15 **BROUGHT UNDER THIS SUBTITLE CONSTITUTES A SEPARATE VIOLATION.**

16 **(B) (1) IN ADDITION TO ANY CRIMINAL PENALTY IMPOSED UNDER THIS**
17 **SECTION, AN INTEGRATOR THAT VIOLATES ANY PROVISION OF THIS SUBTITLE:**

18 **(I) IS LIABLE FOR A CIVIL PENALTY OF UP TO \$50,000 TO BE**
19 **COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT FOR ANY COUNTY;**

20 **(II) SHALL BE ENJOINED FROM CONTINUING THE VIOLATION;**
21 **AND**

22 **(III) SHALL BE REQUIRED TO DEMONSTRATE THAT SIMILAR**
23 **PRACTICES OR ACTIVITIES THAT GAVE RISE TO THE VIOLATION EITHER DO NOT**
24 **EXIST OR HAVE CEASED WITH RESPECT TO THE REMOVAL AND PROPER USE OF**
25 **MANURE FOR OTHER CONTRACT GROWERS.**

26 **(2) (I) WHETHER OR NOT A COURT ACTION HAS BEEN FILED, THE**
27 **SECRETARY MAY NOT SETTLE ANY CLAIM FOR A CIVIL PENALTY UNDER THIS**
28 **SECTION WITHOUT THE CONCURRENCE OF THE ATTORNEY GENERAL.**

29 **(II) ANY SETTLEMENT MUST INCLUDE AN AGREEMENT THAT**
30 **SUBJECTS THE INTEGRATOR TO AN ENHANCED SCHEDULE OF INSPECTIONS BY THE**
31 **DEPARTMENT AND DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT**

1 AND ATTORNEY GENERAL THAT SIMILAR PRACTICES OR ACTIVITIES THAT GAVE
2 RISE TO THE VIOLATION HAVE CEASED WITH RESPECT TO THE REMOVAL AND
3 PROPER USE OF MANURE FOR OTHER CONTRACT GROWERS.

4 (3) A CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION SHALL BE
5 ASSESSED WITH CONSIDERATION GIVEN TO:

6 (I) THE WILLFULNESS OF THE VIOLATION;

7 (II) THE EXTENT OF HARM TO HUMAN HEALTH, THE
8 ENVIRONMENT, PUBLIC OR PRIVATE PROPERTY, OR THE GENERAL WELFARE;

9 (III) THE ECONOMIC BENEFIT GAINED BY THE VIOLATOR; AND

10 (IV) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART
11 OF A RECURRENT PATTERN OF SIMILAR VIOLATIONS COMMITTED BY THE VIOLATOR.

12 (C) (1) IN ADDITION TO ANY ACTION TAKEN UNDER THIS SECTION, A
13 CONTRACT GROWER THAT SUFFERS DAMAGES BECAUSE OF AN INTEGRATOR'S
14 VIOLATION OF THIS SUBTITLE MAY BRING AN ACTION TO OBTAIN APPROPRIATE
15 LEGAL AND EQUITABLE RELIEF, INCLUDING DAMAGES.

16 (2) TO OBTAIN INJUNCTIVE RELIEF, A CONTRACT GROWER MAY NOT
17 BE REQUIRED TO POST A BOND, PROVE THE ABSENCE OF AN ADEQUATE REMEDY AT
18 LAW, OR SHOW THE EXISTENCE OF SPECIAL CIRCUMSTANCES UNLESS THE COURT
19 FOR GOOD CAUSE ORDERS OTHERWISE.

20 (3) IF A CONTRACT GROWER IS THE PREVAILING PARTY IN A CIVIL
21 ACTION AGAINST AN INTEGRATOR UNDER THIS SUBSECTION, THE COURT SHALL
22 AWARD THE CONTRACT GROWER REASONABLE ATTORNEY'S FEES AND OTHER
23 LITIGATION EXPENSES.

24 (D) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
25 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN
26 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY
27 IMPOSE A PENALTY FOR FAILING TO REMOVE AND PROPERLY USE MANURE IN
28 ACCORDANCE WITH THIS SUBTITLE.

29 (2) THE ADMINISTRATIVE PENALTY IMPOSED UNDER THIS
30 SUBSECTION SHALL BE EQUAL TO \$100 FOR EACH TON OF EXCESS MANURE THAT AN
31 INTEGRATOR REMOVES OR FAILS TO REMOVE IN ACCORDANCE WITH THIS SUBTITLE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2016.