
DEPARTMENT OF AGRICULTURE

Agricultural easements; Farmland Preservation Advisory Board

- Authorizes an agricultural easement acquired by the Director of Agriculture or a political subdivision or charitable organization that has received a matching grant from the Director to include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.
- Requires one representative on the existing Farmland Preservation Advisory Board to be from a nonprofit organization dedicated to the preservation of farmland rather than from a national nonprofit organization that is so dedicated as under current law.

Concentrated animal feeding facilities

- Establishes a general prohibition in the Concentrated Animal Feeding Facilities (CAFF) Law against violations of specified requirements governing national pollutant discharge elimination system (NPDES) permits and the NPDES provisions of permits to operate issued under that Law.
- Establishes an additional general prohibition against violations or failures to perform duties required by specified provisions of the CAFF Law, rules adopted under that Law, and orders and terms or conditions of permits issued under that Law or rules adopted under it that are not related to NPDES permits and permit provisions.
- Requires the Attorney General, upon the written request of the Director of Agriculture, to prosecute any person who violates either of the above prohibitions.
- Replaces the criminal penalties established in current law for violations of specified provisions of the CAFF Law with criminal penalties that are based on the culpable mental state of the violator, and establishes a different standard for actions that constitute acting negligently for purposes of those penalties.

Apiaries

- Credits money that is collected from registration fees and fines under the Apiaries Law to the existing Plant Pest Program Fund rather than the GRF as in current law.



- Requires money credited to the Plant Pest Program Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in current law.

Auctioneers

- Exempts from the licensure requirements established in the Auctioneers Law an approved bid calling contest that is conducted for the purposes of the advancement or promotion of the auction profession in Ohio and an auction at which a national or international bid calling champion appears, provided that certain conditions are met for each exemption.
- Makes technical changes in the Auctioneers' Law to clarify that it applies to limited liability companies.

Other provisions

- Revises the procedures governing the approval by the Director of Agriculture of an amendment to an agricultural commodity marketing program that was established before April 10, 1985, by requiring a majority of the producers who vote in a referendum on the amendment to vote in favor of the amendment in order for the Director to approve it.
- Requires the Director to use a portion of the money collected from high volume breeder license application fees and credited to the High Volume Breeder Kennel Control License Fund to reimburse the county in which a high volume breeder is located or will be located rather than requiring the Treasurer of State to transfer the applicable amount to a county as in current law.

Agricultural easements; Farmland Preservation Advisory Board

(R.C. 901.21, 901.22, and 901.23; Section 803.20)

The bill authorizes the Director of Agriculture to include, in an agricultural easement acquired by the Director, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural. Similarly, an agricultural easement acquired as a result of a matching grant awarded by the Director may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

Under existing law, the Director, municipal corporations, counties, townships, and soil and water conservation districts may purchase or acquire by gift, devise, or bequest agricultural easements to retain the use of land predominantly in agriculture. Charitable organizations that are exempt from federal income taxation and organized for certain land preservation or protection purposes also may acquire and hold agricultural easements. If a municipal corporation, county, township, soil and water conservation district, or charitable organization cannot fund the purchase of an easement on its own, it may apply for a matching grant from the Director. The Director must use money from the Agricultural Easement Purchase Fund and the Clean Ohio Agricultural Easement Fund exclusively to purchase agricultural easements in the name of the state and to provide matching grants to charitable organizations, municipal corporations, counties, townships, and soil and water conservation districts for the purchase of such easements.

Under Ohio law, an agricultural easement is a property right or interest in land that is held for the public purpose of retaining the use of land predominantly in agriculture; that imposes limitations on the use or development of the land that are appropriate at the time of creation of the easement to achieve that purpose; that is in the form of articles of dedication, easement, covenant, restriction, or condition; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

The bill alters the membership of the existing Farmland Preservation Advisory Board by requiring one member to be a representative of a nonprofit organization dedicated to the preservation of farmland rather than of a national nonprofit organization dedicated for that purpose as under current law. The member that is currently serving on the Board representing the national nonprofit organization must continue to serve until the expiration of the term for which the member was appointed. At the end of that term, a member must be appointed in accordance with the bill.

Concentrated animal feeding facilities

(R.C. 903.30 and 903.99)

The bill establishes a general prohibition in the Concentrated Animal Feeding Facilities Law against violations of specified requirements governing national pollutant discharge elimination system (NPDES) permits and the NPDES provisions of permits to operate issued under that Law. It also establishes a second general prohibition against violations or failures to perform duties required by specified provisions of that Law, rules adopted by the Director of Agriculture under that Law, and orders and terms or conditions of permits issued by the Director under that Law or rules adopted under it that are not related to NPDES permits and permit provisions.



The bill requires the Attorney General, upon the written request of the Director, to prosecute any person who violates either of the above prohibitions. It then replaces the existing criminal penalties for violations of specified provisions of the Concentrated Animal Feeding Facilities Law with the following criminal penalties:

(1) For negligent violations of the prohibition discussed above regarding NPDES permits and the NPDES provisions of permits to operate, a fine of not more than \$10,000, imprisonment for not more than 90 days, or both;

(2) For reckless violations of either of the prohibitions discussed above, a fine of not more than \$10,000, imprisonment for not more than one year, or both; and

(3) For knowing violations of either of the prohibitions discussed above, a fine of not more than \$25,000, imprisonment for not more than three years, or both. Additionally, the violator is guilty of a felony.

For purposes of the penalties discussed above for negligent violations, the bill specifies that a person acts negligently when, because of a lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. Under the existing Criminal Code, a person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. Thus, by removing the stipulation that there be a *substantial* lapse from due care, the bill lowers the threshold for what constitutes negligence for the above purpose. The Criminal Code's provisions establishing what actions constitute acting recklessly and knowingly apply to items (2) and (3), above.

With regard to violations of either of the prohibitions discussed above, the bill specifies that each day of violation constitutes a separate offense.

Current law instead establishes penalties for violations of specific prohibitions in the Concentrated Animal Feeding Facilities Law. First, a person that does either of the following is guilty of a third degree misdemeanor on a first offense, a second degree misdemeanor on a second offense, and a first degree misdemeanor on a third or subsequent offense:

(1) Modifies an existing or constructs a new concentrated animal feeding facility (CAFF) without first obtaining a permit to install issued by the Director; or



(2) Owns or operates a CAFF without a permit to operate issued by the Director.

Each ten-day period that the offense continues constitutes a separate offense.

Second, a person that does any of the following must be fined not more than \$25,000:

(1) Violates the terms and conditions of a permit to install or a permit to operate;

(2) Discharges pollutants from a concentrated animal feeding operation into waters of the state without first obtaining a national pollutant discharge elimination system (NPDES) permit issued by the Director;

(3) Discharges storm water resulting from an animal feeding facility without first obtaining a NPDES permit issued by the Director in accordance with rules adopted by the Director when such a permit is required by the federal Water Pollution Control Act;

(4) Violates any effluent limitation established by the Director in rules;

(5) Violates any other provision of a NPDES permit issued by the Director; or

(6) Violates the NPDES provisions of a permit to operate.

Each day of violation constitutes a separate offense.

Finally, a person that knowingly does either of the following must be fined not more than \$25,000:

(1) Makes any false statement, representation, or certification in an application for a NPDES permit or in any form, notice, or report required to be submitted to the Director pursuant to terms and conditions established in a NPDES permit issued by the Director; or

(2) Renders inaccurate any monitoring method or device that is required under the terms and conditions of a NPDES permit issued by the Director.

Each day of violation constitutes a separate offense.

Apiaries

(R.C. 909.15 and 927.54)

The bill credits money that is collected from registration fees and fines under the Apiaries Law to the existing Plant Pest Program Fund rather than the General Revenue Fund as in current law. It then also requires money credited to the Plant Pest Program



Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in current law.

Auctioneers

(R.C. 4707.02, 4707.073, and 4707.10)

The bill adds the following exemptions to the existing exemptions from the prohibition against acting as an auction firm, auctioneer, or apprentice auctioneer within Ohio without a license issued by the Department of Agriculture:

(1) A bid calling contest that is approved by the State Auctioneers Commission and that is conducted for the purposes of the advancement or promotion of the auction profession in Ohio, provided that no compensation is paid to the sponsor of or participants in the contest other than a prize or award for winning the contest; and

(2) An auction at which the champion of a national or international bid calling contest appears, provided that the champion is not paid a commission and the auction is conducted under the direct supervision of an auctioneer licensed under the Auctioneers Law in order to ensure that the champion complies with the Law and rules adopted under it.

The bill also makes technical changes in the Auctioneers' Law to clarify that it applies to limited liability companies.

Agricultural commodity marketing programs

(R.C. 924.06)

The bill revises the procedures governing the approval by the Director of Agriculture of an amendment to any agricultural commodity marketing program, regardless of when the program was established, by requiring a majority of the producers who vote in a referendum on the amendment to vote in favor of the amendment in order for the Director to approve it. It then eliminates the requirement in existing law that if a marketing program was established before April 10, 1985, one of the following results of a referendum must occur in order for the Director to approve an amendment to the program:

(1) At least 66 and $\frac{2}{3}$ % of the producers who vote in the referendum must vote in favor of the amendment and represent a majority of the volume of the affected commodity that was produced in the preceding marketing year by all producers who voted in the referendum; or



(2) A majority of the producers who vote in the referendum must vote in favor of the amendment and represent at least 66 and $\frac{2}{3}$ % of the volume of the affected commodity that was so produced.

High Volume Breeder Kennel Control License Fund

(R.C. 956.07 and 956.18)

The bill revises current law by requiring the Director of Agriculture to use \$50 of the application fee submitted by a high volume dog breeder, which is credited to the High Volume Breeder Kennel Control License Fund, or an amount equal to the fee collected for the registration of a dog kennel that is charged by a county, whichever is greater, to reimburse the county in which the high volume breeder is located or will be located. Under current law, the Treasurer of State must transfer the applicable amount to a county.

