
DEPARTMENT OF AGRICULTURE

Elimination of Agricultural Financing Commission

- Eliminates the Agricultural Financing Commission, which is required to make recommendations to and advise the Director of Agriculture concerning the Family Farm Loan Program, which was repealed in 2007.

Application of fertilizer and manure

- Prohibits, with certain exceptions, the application of fertilizer or manure in the western basin of Lake Erie on frozen ground, on saturated soil, and during certain weather conditions.
- Requires the Director of Agriculture to administer the fertilizer provisions and the Director of Natural Resources to administer the manure provisions.
- States that the prohibition does not affect any restrictions established in the Concentrated Animal Feeding Facilities Law or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that Law.
- Exempts a person in the western basin of Lake Erie from the prohibition if the person applies fertilizer or manure, as applicable, under specified circumstances, including injecting the fertilizer or manure into the ground and incorporating the fertilizer or manure within 24 hours of surface application.
- Authorizes the Director of Agriculture or the Director of Natural Resources to investigate complaints filed against a person that violates the above prohibition, including applying for a search warrant.
- Authorizes the applicable Director, to assess a civil penalty not to exceed \$10,000 against a person that violates the prohibition against the application of fertilizer or manure, as applicable, only if the person is afforded an opportunity for an adjudication hearing.
- Specifies that a violator of the prohibition against the application of manure is guilty of a first degree misdemeanor and also may be assessed damages for repairing any damage to property caused by the violation.
- Requires a legislative review of the above provisions four years after their effective date to determine if they should be repealed.



Certification of manure applicators

- Prohibits a person, for the purposes of the cultivation, primarily for sale, of plants on more than 50 acres, from applying manure obtained from a concentrated animal feeding facility issued a permit under the Concentrated Animal Feeding Facilities Law unless one of the following applies:
 - The person has been issued a livestock manager certification under that Law; or
 - The person has been certified under the bill to apply the manure by the Director of Agriculture.
- Requires the Director to issue, renew, and deny certifications for the application of manure in the same manner as for the certification of fertilizer applicators as required by current law enacted in 2014.

Review compliance certificates

- Eliminates provisions governing review compliance certificates issued under the Concentrated Animal Feeding Facilities Law, the operation of which has expired.

High Volume Breeder Kennel Control License Fund

- Eliminates the requirements that money may only be released from the High Volume Breeder Kennel Control License Fund with Controlling Board approval and that the Director request the release of not more than \$2,500,000 per biennium, thus removing the cap on expenditures from the Fund.

Wine tax diversion

- Extends through June 30, 2017, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

Elimination of Agricultural Financing Commission

(R.C. 901.61, 901.62, 901.63, and 901.64 (repealed) and 902.01)

The bill eliminates the Agricultural Financing Commission, which is required to make recommendations to and advise the Director of Agriculture concerning the Family Farm Loan Program, which was repealed in 2007.



Application of fertilizer and manure

(R.C. 905.326, 905.327, 1511.10, 1511.11, and 1511.99; Section 709.10)

Prohibition and exemptions

The bill establishes prohibitions governing the application of fertilizer and manure in Lake Erie's western basin. The Director of Agriculture or the Director's designee must administer and enforce the provisions governing the application of fertilizer. The Director of Natural Resources or the Director's designee must administer and enforce the provisions governing the application of manure. Under the bill, the western basin of Lake Erie is land in Ohio that is located in the St. Marys, Auglaize, Blanchard, Sandusky, Cedar-Portage, Lower and Upper Maumee, Tiffin, St. Joseph, Ottawa, and River Raisin watersheds.

Except as described below, the bill prohibits any person in the western basin from surface applying fertilizer or manure, as applicable, under any of the following circumstances:

- (1) On snow-covered or frozen soil;
- (2) When the top two inches of soil are saturated from precipitation; or
- (3) When the local weather forecast for the application area contains greater than a 50% chance of precipitation exceeding $\frac{1}{2}$ inch in a 24-hour period.

The bill states that the prohibition does not affect any restrictions established in the Concentrated Animal Feeding Facilities Law or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that Law. It also specifies that the prohibition does not apply if a person in the western basin applies fertilizer or manure, as applicable, under any of the following circumstances:

- (1) The fertilizer or manure application is injected into the ground;
- (2) The fertilizer or manure application is incorporated within 24 hours of surface application;
- (3) The fertilizer or manure application is applied onto a growing crop;
- (4) The fertilizer application consists of potash or gypsum; or
- (5) In the event of an emergency, the Director of Agriculture or the Director of Natural Resources, as applicable, provides written consent and the fertilizer or manure application is made in accordance with procedures established in the U.S. Department



of Agriculture Natural Resources Conservation Service Practice Standard Code 590 prepared for Ohio.

Enforcement

Upon receiving a complaint by any person or upon receiving information that would indicate a violation of the above prohibition, the applicable Director may investigate or make inquiries into any alleged violation of the prohibition.

After receiving a complaint or upon receiving information that would indicate a violation, the applicable Director may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged violation. If an individual denies access to the applicable Director, the Director may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises to determine if a violation occurred. The court must issue the search warrant for the purposes requested if there is probable cause to believe that the person violated the prohibition. The finding of probable cause may be based on hearsay, provided that there is a reasonable basis for believing that the source of the hearsay is credible.

Under the bill, the applicable Director may assess a civil penalty against a person that violates the above prohibition. The applicable Director may impose a civil penalty only if the applicable Director affords the person an opportunity for an adjudication hearing under the Administrative Procedure Act to challenge the Director's determination that the person violated the above prohibition. The person may waive the right to an adjudication hearing.

If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the applicable Director determines that a violation has occurred or is occurring, the Director may issue an order requiring compliance and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with the Administrative Procedure Act.

A violator must pay a civil penalty in an amount established in rules adopted by the applicable Director. The civil penalty cannot be more than \$10,000 for each violation. Each 30-day period during which a violation continues constitutes a separate violation. In addition, a violator of the prohibition against the application of manure is guilty of a first degree misdemeanor. The violator also may be assessed damages for repairing any damage to property caused by the violation.



Termination of prohibition

Not later than four years after the bill's effective date, the standing committees of the General Assembly that are primarily responsible for agriculture and natural resources matters must review the effectiveness of the prohibition and its enforcement. The committees must issue a joint report to the Governor containing their findings and recommendations. If they do not recommend continuing the above provisions, they may also recommend revisions to the governing statutes.

Certification of manure applicators

(R.C. 903.40)

The bill prohibits a person, for the purposes of the cultivation, primarily for sale, of plants or any parts of plants on more than 50 acres, from applying manure obtained from a concentrated animal feeding facility issued a permit under the Concentrated Animal Feeding Facilities Law unless one of the following applies:

(1) The person has been issued a livestock manager certification under that Law;
or

(2) The person has been certified under the bill to apply the manure by the Director of Agriculture.

Under the bill, the Director must issue, renew, and deny certifications for the application of manure in the same manner as for the certification of fertilizer applicators as required by current law enacted in 2014. Procedures, requirements, and other provisions governing the certification of fertilizer applicators apply to the certification of persons under the bill.

Review compliance certificates

(R.C. 903.01, 903.03, 903.07, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, and 903.25; R.C. 903.04 (repealed))

The bill eliminates provisions governing review compliance certificates issued under the Concentrated Animal Feeding Facilities Law, the operation of which has expired. Sub. S.B. 141 of the 123rd General Assembly, which took effect March 15, 2001, transferred the regulation of animal waste disposal at concentrated animal feeding facilities (CAFFs) from the Environmental Protection Agency to the Department of Agriculture. The act required the Director of Agriculture to finalize a program under which the Director was given the authority to issue, in part, permits to install and permits to operate for CAFFs. The Director finalized the program in August, 2002. Prior to the finalization, the Director of Environmental Protection issued installation permits



for the installation or modification of disposal systems for animal waste that involved 1,000 or more animal units or any parts of those disposal systems in compliance with the Federal Water Pollution Control Act.

Current law specifies that on and after the date that is two years after the date on which the Director of Agriculture finalized the program for the issuance of permits to install for CAFFs, which was in August, 2004, and until the issuance of a permit to operate, no person lawfully could operate a CAFF in existence prior to August, 2004, unless the person applied for a review compliance certificate issued by the Director. Upon the Director's review of specified information concerning a facility and inspection of the facility, the Director had to issue a review compliance certificate to the facility if the Director determined that it satisfied certain criteria. A permit to operate had to be obtained prior to expiration of the review compliance certificate, which was valid for five years. Because the above deadlines have passed, the statutes governing review compliance certificates are obsolete.

High Volume Breeder Kennel Control License Fund

(R.C. 956.18)

The bill eliminates the requirements that:

(1) Money may only be released from the existing High Volume Breeder Kennel Control License Fund with Controlling Board approval; and

(2) The Director request the release of not more than \$2,500,000 per biennium, thus removing the cap on expenditures from the Fund.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill extends through June 30, 2017, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to \$1.48 per gallon. From the taxes paid, a portion is credited to the fund for the encouragement of the state's grape and wine industry, and the remainder is credited to the GRF.

Under current law, the amount credited to the Ohio Grape Industries Fund is scheduled to decrease from 3¢ to 1¢ per gallon on July 1, 2015. The extra 2¢ earmark began in July 1995 and originally was scheduled to terminate in June 2001, but has been extended by two-year intervals since July 2001.

