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HOUSE BILL NO. 1207

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on December 16, 1998)

(Patron Prior to Substitute—Delegate Murphy)

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.17:1.1, relating to poultry waste management.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.17:1.1 as follows:

§ 62.1-44.17:1.1 Poultry waste management program.

A. As used in this section, unless the context requires a different meaning:

"Poultry grower" means any person who owns or operates a confined poultry feeding operation.

"Commercial poultry processor" means any animal food manufacturer, as defined in § 3.1-884.18, that contracts with poultry growers for the raising of poultry.

"Confined poultry feeding operation" means any confined animal feeding operation with 200 or more animal units of poultry.

"Nutrient management plan" means a plan developed or approved by the Department of Conservation and Recreation that requires proper storage, treatment and management of poultry waste, including dry litter, and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters.

B. The Board shall develop a regulatory program governing the storage, treatment and management of poultry waste, including dry litter, that:

1. Requires the development and implementation of nutrient management plans for any person owning or operating a confined poultry feeding operation;

2. Provides for waste tracking and accounting; and

3. Ensures proper storage of waste consistent with the terms and provisions of a nutrient management plan.

C. The program shall include, at a minimum:

1. Provisions for permitting confined poultry feeding operations under a general permit; however, the Board may require an individual permit upon determining that an operation is in violation of the program developed under this section;

2. Provisions requiring that:

a. Nitrogen application rates contained in nutrient management plans developed pursuant to this section shall not exceed crop nutrient needs as determined by the Department of Conservation and Recreation. The application of poultry waste shall be managed to minimize runoff, leaching, and volatilization losses, and reduce adverse water quality impacts from nitrogen;

b. For all nutrient management plans developed pursuant to this section after July 1, 2001, phosphorous application rates shall not exceed crop nutrient needs, except for soils with very high phosphorous content, for which application rates shall not exceed crop nutrient uptake, as determined by the Department of Conservation and Recreation. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous;

c. By December 31, 2005, the Department of Conservation and Recreation, in consultation with the Department of Environmental Quality, shall (i) complete an examination of current developments in scientific research and technology which shall include a review of land application of poultry waste, soil nutrient retention capacity, and water quality degradation, and (ii) adopt and implement regulatory or other changes, if any, to its nutrient management plan program that it concludes are appropriate as a result of this examination; and

d. For all nutrient management plans developed pursuant to this section after December 31, 2005, and not prior thereto, phosphorous application rates shall conform to the provisions of subdivision 2 b of this subsection and shall be in accordance with other regulatory criteria and standards, if any, amended or adopted by the Department of Conservation and Recreation pursuant to subdivision 2 c of this subsection to protect water quality or to reduce soil concentrations of phosphorous or phosphorous loadings. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous.

D. The program shall reflect Board consideration of existing state-approved nutrient management plans and existing general permit programs for other confined animal feeding operations, and may include such other provisions as the Board determines appropriate for the protection of state waters.

E. After July 1, 2001, all persons owning or operating a confined poultry feeding operation shall

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60 operate in compliance with the provisions of this section and any regulations promulgated thereunder.

61 F. Any person violating this section shall be subject only to the provisions of §§ 62.1-44.23 and
62 62.1-44.32(a), except that any civil penalty shall not exceed \$2500.

63 G. On or before January 1, 2000, or prior to commencing operations, each commercial poultry
64 processor operating in the Commonwealth shall file with the Board a plan under which the processor,
65 either directly or under contract with a third party, shall:

66 1. Provide technical assistance to the poultry growers with whom it contracts on the proper
67 management and storage of poultry waste in accordance with best management practices;

68 2. Provide education programs on poultry waste nutrient management for the poultry growers with
69 whom it contracts as well as for poultry litter brokers and persons utilizing poultry waste;

70 3. Provide a toll-free hotline and advertising program to assist poultry growers with excess amounts
71 of poultry waste to make available such waste to persons in other areas who can use such waste as a
72 fertilizer consistent with the provisions of subdivision C 2 or for other alternative purposes;

73 4. Participate in the development of a poultry waste transportation and alternative use equal
74 matching grant program between the Commonwealth and commercial poultry processors to (i) facilitate
75 the transportation of excess poultry waste in the possession of poultry growers with whom it contracts to
76 persons in other areas who can use such waste as a fertilizer consistent with the provisions of
77 subdivision C 2 or for other alternative purposes, and (ii) encourage alternative uses to land application
78 of poultry waste;

79 5. Conduct research on the reduction of phosphorus in poultry waste, innovative best management
80 practices for poultry waste, water quality issues concerning poultry waste, or alternative uses of poultry
81 waste; and

82 6. Conduct research on and consider implementation of nutrient reduction strategies in the
83 formulation of feed. Such nutrient reduction strategies may include the addition of phytase or other feed
84 additives or modifications to reduce nutrients in poultry waste.

85 H. Any amendments to the plan required by subsection G shall be filed with the Board before they
86 are implemented. After January 1, 2000, each commercial poultry processor shall implement its plan
87 and any amendments thereto. Each commercial poultry processor shall report annually to the Board on
88 the activities it has undertaken pursuant to its plan and any amendments thereto. Failure to comply with
89 the provisions of this section or to implement and follow a filed plan or any amendments thereto shall
90 constitute a violation of this section.

91 2. That the State Water Control Board shall adopt the regulations required by § 62.1-44.17:1.1 no
92 later than July 1, 2000. The Board shall impanel an advisory group to assist in the development of
93 the program in accordance with its public participation guidelines. Membership of the group shall
94 be balanced among organizations and persons expressing an interest in the program and shall
95 include a minimum of three representatives of poultry growers, three representatives of
96 commercial poultry processors and three representatives of environmental organizations.
97 3. That the Director of the Department of Conservation and Recreation, with the consultation of
98 the Director of the Department of Environmental Quality and the Commissioner of Agriculture
99 and Consumer Services shall, by December 20, 1999, recommend to the Governor, the Senate
100 Committee on Agriculture, Conservation and Natural Resources, the House Committee on
101 Conservation and Natural Resources and the House Committee on the Chesapeake and Its
102 Tributaries ways that the Commonwealth should assist poultry growers and processors to improve
103 the economic feasibility of transporting and selling poultry waste, and pursue alternative uses for
104 poultry waste, including the establishment of the equal matching grant program referred to in
105 subdivision G 4 of § 62.1-44.17:1.1.

106 4. That on or before December 31, 2003, the Director of the Department of Environmental
107 Quality, in consultation with the Director of the Department of Conservation and Recreation and
108 the Commissioner of Agriculture and Consumer Services, shall report to the Governor and the
109 General Assembly on the effectiveness of the plans implemented by commercial poultry processors
110 pursuant to subsection G of § 62.1-44.17:1.1 in assisting poultry growers with whom they contract
111 with the proper management, storage, disposal, and transportation of poultry waste, including
112 excess poultry waste, for the protection of water quality.