

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1827

5 By: Representative Milligan
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS POULTRY FEEDING
9 OPERATIONS REGISTRATION ACT; TO TRANSFER DUTIES FROM
10 THE ARKANSAS NATURAL RESOURCES COMMISSION TO THE
11 DEPARTMENT OF AGRICULTURE; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND THE ARKANSAS POULTRY FEEDING
15 OPERATIONS REGISTRATION ACT; AND TO
16 TRANSFER DUTIES FROM THE ARKANSAS NATURAL
17 RESOURCES COMMISSION TO THE DEPARTMENT OF
18 AGRICULTURE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. TEMPORARY LANGUAGE. Rules.

25 (a)(1) The transfer of duties from the Arkansas Natural Resources
26 Commission to the Department of Agriculture under this act does not affect
27 the orders, rules, regulations, directives, registration, licensing, or
28 standards made or promulgated by the Arkansas Natural Resources Commission
29 before the effective date of this act.

30 (2) The orders, rules, regulations, directives, or standards
31 under subdivision (a)(1) of this section shall continue with full force and
32 effect until amended or repealed under authority given by law.

33 (b) A proposed rule that has been initiated by the Arkansas Natural
34 Resources Commission under the Arkansas Poultry Feeding Operations
35 Registration Act, § 15-20-901 et seq. but is not final shall be transferred
36 to the department to continue through the rule promulgation process under the



1 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

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 3 SECTION 2. Arkansas Code § 15-20-902 through § 15-20-906 are amended
 4 to read as follows:

5 15-20-902. Legislative intent.

6 It is found by the General Assembly that:

- 7 (1) Litter provides nutrients that are beneficial to plant
 8 growth;
- 9 (2) The proper utilization of litter allows the addition of
 10 nutrients to the soil at a low cost;
- 11 (3) Improper utilization may result in a buildup of nutrients in
 12 the soil and result in the nutrients' leaving the soil and entering the
 13 waters within the state;
- 14 (4) In order to encourage the proper utilization of litter,
 15 litter sources must be located and the amount of litter produced in Arkansas
 16 quantified; and
- 17 (5) It is necessary for poultry feeding operations to register
 18 annually with the ~~Arkansas Natural Resources Commission~~ Department of
 19 Agriculture.

20
 21 15-20-903. Definitions.

22 As used in this subchapter:

- 23 (1) ~~“Commission” means the Arkansas Natural Resources~~
 24 ~~Commission;~~
- 25 ~~(2) “Conservation district” means a conservation district~~
 26 ~~created under the Conservation Districts Law, § 14-125-101 et seq.;~~
- 27 ~~(3) [Repealed.]~~
- 28 ~~(4) “Land application” means the application of litter, in whole~~
 29 ~~or in part, to land;~~
- 30 ~~(5)~~(2) “Litter” means byproducts associated with the confinement
 31 of poultry, including excrement, feed wastes, bedding materials, composted
 32 carcasses, and any combinations thereof;
- 33 ~~(6)~~(3) “Litter management system” means any method used to
 34 dispose or utilize litter;
- 35 ~~(7)~~(4) “Person” means any individual, partnership, company,
 36 association, fiduciary, corporation, or any organized group of persons

1 whether incorporated or not;

2 ~~(8)~~(5) "Poultry" means chickens, turkeys, ducks, geese, and any
3 other domesticated birds;

4 ~~(9)(A)~~(6)(A) "Poultry feeding operation" means any lot or
5 facility where two thousand five hundred (2,500) or more poultry are housed
6 or confined and fed or maintained on any one (1) day in the preceding twelve-
7 month period.

8 (B) Multiple poultry houses within a reasonable proximity
9 to one another under the control of one (1) owner shall be considered one (1)
10 facility;

11 ~~(10)~~(7) "Poultry processor" means an entity that processes
12 poultry or eggs for commercial sale; and

13 ~~(11)~~(8) "Waters within the state" means all streams, lakes,
14 marshes, ponds, watercourses, waterways, wells, springs, irrigation systems,
15 drainage systems, and all other bodies or accumulations of water, surface and
16 underground, natural or artificial, public or private, that are contained
17 within, flow through, or border upon this state or any portion of the state.

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19 15-20-904. Registration.

20 (a) The ~~Arkansas Natural Resources Commission~~ Department of
21 Agriculture shall operate an annual registration program, ~~to be administered~~
22 ~~by the Department of Agriculture~~, for the purpose of assembling and
23 maintaining information on the number, composition, and practices of poultry
24 feeding operations in the state.

25 (b) All poultry feeding operations shall register annually with the
26 ~~commission~~ department.

27 (c) The ~~commission~~ department shall promulgate rules that require a
28 poultry feeding operation to submit, at a time and in a manner determined by
29 the ~~commission~~ department, information regarding:

30 (1) The number and kind of poultry housed or maintained in the
31 poultry feeding operation;

32 (2) The location of the poultry feeding operation;

33 (3) The litter management system used;

34 (4) The litter storage system used and the amount of litter
35 stored;

36 (5) The acreage owned or controlled by the poultry feeding

1 operation and used for land application of litter;

2 (6) The land application practices used by the poultry feeding
3 operation and the amount of litter applied;

4 (7) The amount and destination of litter transferred or
5 otherwise utilized by the poultry feeding operation and the type of transfer
6 or utilization;

7 (8) The poultry processor or processors with which the poultry
8 feeding operation has contracted to provide poultry; and

9 (9) Any other relevant information necessary to effect the
10 purposes of this subchapter.

11 (d) Each poultry feeding operation required to register under this
12 subchapter shall pay an annual fee ~~of ten dollars (\$10.00) to the commission~~
13 established by rule by the department.

14 (e) All rules shall be promulgated ~~pursuant to~~ under the Arkansas
15 Administrative Procedure Act, § 25-15-201 et seq.

16 (f)(1) Information collected about an individual poultry feeding
17 operation shall not be a public record.

18 (2) Compilation or summary information that prevents
19 identification of individual poultry feeding operations shall be a public
20 record.

21 ~~(g) The commission may delegate portions of the annual registration~~
22 ~~program for implementation to the department or conservation districts, or~~
23 ~~both.~~

24
25 15-20-905. Enforcement.

26 (a)(1) ~~Agents of the~~ The Department of Agriculture may enter on
27 private property to determine compliance with this subchapter.

28 (2)(A) Entry shall not occur without prior notification of the
29 owner, operator, or agent in charge of the property.

30 (B) Notice shall be given to the owner, operator, or agent
31 in charge of the property at least seventy-two (72) hours before entry.

32 (3) Documentation of biosecurity measures taken and biosecurity
33 certification received by an ~~inspection agent~~ employee of the department ~~or~~
34 ~~by a conservation district officer~~, including a biosecurity log book, shall
35 be available to the owner upon request.

36 (4) Upon notice of disease outbreak by the department,

1 inspection under this subchapter shall be automatically suspended until
 2 notification by the department that it is safe to resume inspections.

3 (b)(1) The ~~Arkansas Natural Resources Commission~~ department may impose
 4 administrative penalties not to exceed five hundred dollars (\$500) per
 5 violation against the owner of a poultry feeding operation that fails to
 6 comply with the requirements of this subchapter.

7 (2) The imposition of administrative penalties shall be
 8 conducted ~~pursuant to~~ under the Arkansas Administrative Procedure Act, § 25-
 9 15-201 et seq.

10 (3) If the person against whom an administrative penalty has
 11 been imposed by the ~~commission~~ department under this section fails to pay the
 12 penalty to the ~~commission~~ department, the ~~commission~~ department may file an
 13 action to collect the administrative penalty in the circuit court of the
 14 county in which the poultry feeding operation is located.

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 16 15-20-906. Disposition of fees and penalties.

17 (a) Fees paid and penalties collected shall be deposited into the
 18 Arkansas Water Development Fund and used in furtherance of the nutrient
 19 management program, including this subchapter, ~~except that a portion of the~~
 20 ~~fee may be retained by the conservation districts if a portion of the program~~
 21 ~~has been delegated to conservation districts.~~

22 (b) Fees or penalties collected shall be cash funds when received by
 23 the Treasurer of State and shall not be deposited into or deemed to be a part
 24 of the State Treasury for the purposes of:

- 25 (1) Arkansas Constitution, Article 5, § 29;
- 26 (2) Arkansas Constitution, Article 16, § 12;
- 27 (3) Arkansas Constitution, Amendment 20; or
- 28 (4) Any other constitutional or statutory provision.

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 31 **APPROVED: 4/11/23**
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