

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 1652

4
5 By: Representatives Scroggin, Agee, Berry, Gillespie, Borhauer, Edwards, Judy
6 By: Senators Baker, Horn, Whitaker

For An Act To Be Entitled

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10 ARKANSAS SOIL NUTRIENT MANAGEMENT PLANNER AND
11 APPLICATOR CERTIFICATION ACT; AND FOR OTHER
12 PURPOSES.

Subtitle

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15 AN ACT TO CERTIFY SOIL NUTRIENT
16 MANAGEMENT PLANNERS AND SOIL NUTRIENT
17 APPLICATORS

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Effective January 1, 2004, Arkansas Code Title 15, Chapter
26 20, is amended to add an additional subchapter to read as follows:

27 15-20-1001. Title.

28 This subchapter shall be known and may be cited as the "Arkansas Soil
29 Nutrient Management Planner and Applicator Certification Act".

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31 15-20-1002. Legislative intent.

32 The Arkansas General Assembly finds that:

33 (1) proper application of nutrients is necessary for maximum soil
34 fertility and proper plant growth;

35 (2) Failure to properly apply nutrients to soil may result in, a waste
36 of a valuable resource and may negatively impact waters of the state;



1 (3) Persons developing soil nutrient plans or applying nutrients to
2 soil should have certain knowledge, skills, and abilities to ensure the
3 proper use of soil nutrients; and

4 (4) A certification system must be developed to determine that persons
5 certified have the knowledge, skill, and abilities to properly develop
6 nutrient management plans or properly apply soil nutrients.

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8 15-20-1003. Definitions.

9 As used in this subchapter:

10 (1) "Commission" means the Arkansas Soil and Water Conservation
11 Commission;

12 (2) "Crop" means any vegetative cover;

13 (3) "Director" means the Executive Director of the Arkansas Soil and
14 Water Conservation Commission;

15 (4) "Litter" means byproducts associated with the confinement of
16 livestock, including excrement, feed wastes, bedding materials, composted
17 carcasses, and any combinations thereof;

18 (5) "Livestock" means animals kept or raised for use or pleasure,
19 especially farm animals kept for use and profit, including horses, cattle,
20 swine, and poultry;

21 (6)(A) "Nutrient" means a substance or recognized plant nutrient,
22 element or compound which is used or sold for its plant nutritive content or
23 its claimed nutritive value.

24 (B) "Nutrient" includes litter, compost as fertilizer,
25 commercially manufactured chemical or organic fertilizers, sewage sludge, or
26 combinations thereof;

27 (7) "Nutrient applicator" means any person who applies nutrients to
28 soil or associated crops;

29 (8) "Nutrient application" means the process by which humans apply
30 nutrients to soil or associated crops;

31 (9) "Nutrient management plan" means any plan prepared to assist
32 landowners and operators in the proper management and utilization of nutrient
33 sources for maximum soil fertility and protection of the waters of the state;

34 (10) "Person" means any natural person; and

35 (11) "Waters of the state" means all streams, lakes, marshes, ponds,
36 watercourses, waterways, wells, springs, irrigation systems, drainage

1 systems, and all other bodies or accumulations of water, surface and
2 underground, natural or artificial, public or private, that are contained
3 within, flow through, or border upon this state or any portion of the state.
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5 15-20-1004. Nutrient planner program.

6 (a) The Arkansas Soil and Water Conservation Commission shall develop
7 and implement a nutrient management education, training, and certification
8 program to certify the minimal competence and knowledge of a person preparing
9 a nutrient management plan.

10 (b) The commission shall promulgate regulations that:

11 (1) Specify qualifications and standards for a person to be
12 deemed competent in nutrient management plan preparation, and providing for
13 the issuance of documentation of certification to the person;

14 (2) Specify the conditions under which a certification issued
15 may be suspended or revoked;

16 (3) Establish fees to be paid by a person enrolling in the
17 training and certification programs;

18 (4) Provide for the performance of other duties and the exercise
19 of other powers by the Executive Director of the Arkansas Soil and Water
20 Conservation Commission as may be necessary to provide for the training and
21 certification of a person preparing nutrient management plans; and

22 (5) Give due consideration to relevant existing agricultural or
23 other certification programs.
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25 15-20-1005. Nutrient applicator program.

26 (a) The Arkansas Soil and Water Conservation Commission shall develop
27 and implement a nutrient applicator training and certification program to
28 certify the competence and knowledge of a person making nutrient application.

29 (b) The commission shall promulgate regulations that:

30 (1) Specify the qualifications and standards for a person to be
31 deemed competent in nutrient application, and provide for the issuance of
32 documentation of certification to the person;

33 (2) Specify the conditions under which a certification issued
34 may be suspended or revoked;

35 (3) Establish fees to be paid by persons enrolling in the
36 training and certification programs; and

1 (4) Provide for the performance of other duties and the exercise
2 of other powers by the Executive Director of the Arkansas Soil and Water
3 Conservation Commission as may be necessary to provide for the training and
4 certification of a person making nutrient application.

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6 15-20-1006. Procedure.

7 (a) The process for the development of regulations and the imposition
8 of administrative penalties shall be conducted pursuant to the Arkansas
9 Administrative Procedure Act, § 25-15-201, et seq.

10 (b) Any records collected by the commission in furtherance of this
11 subchapter that contain information about a specific nutrient management plan
12 or specific nutrient application shall not be made public record.

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14 15-20-1007. Disposition of fees and penalties.

15 (a) Fees paid and penalties collected shall be deposited in the
16 Arkansas Water Development Fund and used in furtherance of the nutrient
17 management program, including this subchapter.

18 (b) Fees collected shall be cash funds when received by the Treasurer
19 of the State and shall not be deposited or deemed to be a part of the State
20 Treasury for the purposes of Arkansas Constitution, Article 5, § 29; Arkansas
21 Constitution, Article 16, §12; Arkansas Constitution, Amendment 20; or any
22 other constitutional or statutory provision.

23 15-20-1008. Administrative penalties.

24 (a) The Arkansas Soil and Water Conservation Commission may impose
25 administrative penalties not to exceed one thousand dollars (\$1,000) per
26 violation against any person violating this subchapter or regulations adopted
27 pursuant to this subchapter.

28 (b) The commission or the director may issue subpoenas under Arkansas
29 Code § 15-22-208.

30 (c) If a person against whom an administrative penalty has been
31 imposed by the commission, as authorized in this section, fails to pay the
32 penalty to the commission, the commission may file an action to collect the
33 administrative penalty in the circuit court of the county in which the person
34 resides.

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36 15-20-909. Criminal penalties.

1 (a) It shall be a violation of this subchapter for any person to hold himself
2 or herself out as being certified under this subchapter if the person is not
3 so certified, or for a person to enter into a contract requiring certified
4 nutrient planning or certified nutrient application unless the person holds a
5 certification under this subchapter.

6 (b)(1) In addition to administrative penalties, a violation of
7 subsection(a) of this section is a Class A misdemeanor.

8 (2) Any person who pleads guilty or nolo contendere to or is
9 found guilty of a Class A misdemeanor for violation of subsection(a) of this
10 section, and who continues to engage in the behavior or activity giving rise
11 to the violation, shall be guilty of a Class D felony for the second or any
12 subsequent offense.

13 (3) Any law enforcement officer of this state or any political
14 subdivision of this state may arrest persons described in this section.

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