

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S2/26/07

A Bill

HOUSE BILL 1318

5 By: Representatives Sullivan, Petrus, Thyer, *George*
6 By: *Senator Laverty*
7

For An Act To Be Entitled

10 AN ACT TO CREATE THE SURPLUS POULTRY LITTER
11 REMOVAL INCENTIVES ACT; TO PROVIDE ECONOMIC
12 DEVELOPMENT INCENTIVES FOR POULTRY LITTER
13 REMOVAL; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO CREATE THE SURPLUS POULTRY
16 LITTER REMOVAL INCENTIVES ACT AND TO
17 PROVIDE ECONOMIC DEVELOPMENT INCENTIVES
18 FOR POULTRY LITTER REMOVAL.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 15, Chapter 20 is amended to add an
25 additional subchapter to read as follows:

26 15-20-1201. Title.

27 This subchapter shall be known and may be cited as the "Surplus
28 Nutrient Removal Incentives Act".
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30 15-20-1202. Definitions.

31 As used in this subchapter:

32 (1) "Litter" means byproducts associated with the confinement of
33 poultry, including excrement, feed wastes, bedding materials, composted
34 carcasses, and any combinations thereof; and

35 (2) "Nutrient surplus area" means an area declared a nutrient
36 surplus area under § 15-20-1104.



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2 15-20-1203. Applicability – Effective date.

3 (a) The tax credits provided by this subchapter shall apply to taxable
4 years beginning on or after January 1, 2007, and all taxable years
5 thereafter.

6 (b) No taxpayer claiming a tax credit under this subchapter may claim
7 a credit under any similar act for any costs related to surplus litter
8 purchase and transportation outside the nutrient surplus area.

9 (c) Tax credits issued under this subchapter to partnerships, limited
10 liability companies, Subchapter S corporations, or fiduciaries may pass
11 through to their members, managers, partners, shareholders or beneficiaries.

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13 15-20-1204. Credit granted.

14 (a) For the purchase and transportation of excess litter from any
15 nutrient surplus area to be used or disposed of within Arkansas but outside
16 nutrient surplus area, there shall be allowed as a credit against the tax
17 imposed by the Income Tax Act of 1929, § 26-51-101, et seq., in an amount
18 equal to fifteen dollars (\$15.00) for each ton of excess litter purchased and
19 transported outside nutrient surplus area.

20 (b) The tax credit created in this section shall be available to a
21 person that:

22 (1) Purchases surplus litter from a poultry feeding operation
23 registered under the Arkansas Poultry Feeding Operations Registration Act, §
24 15-20-901; and

25 (2) Transports or arranges for the transportation of the surplus
26 litter outside the nutrient surplus area.

27 (c) The amount of the tax credit that may be used by a taxpayer for a
28 taxable year may not exceed the amount of individual or corporate income tax
29 otherwise due.

30 (d) Any unused credit may be:

31 (1) Carried forward for a maximum of five (5) consecutive
32 taxable years following the taxable year in which the credit originated.

33 (2) Carried back for a maximum of two (2) consecutive taxable
34 years preceding the taxable year in which the credit originated.

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36 15-20-1205. Application of transported litter.

1 Litter that is transported from a nutrient surplus area and then land
2 applied shall be applied in a manner consistent with soil test
3 recommendations.

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5 15-20-1206. Application and approval procedure – Administration.

6 (a) The Arkansas Natural Resources Commission shall promulgate rules
7 necessary to administer the tax credits provided under this subchapter.

8 (b) The Department of Finance and Administration shall promulgate
9 rules necessary to administer the tax credits provided under this subchapter.

10 (c) The commission shall not adopt rules without the approval of the
11 department.

12 (d)(1) The commission may charge a reasonable application fee to
13 process tax credit applications.

14 (2) All fees received under subdivision (d)(1) of this section
15 shall be deposited into the Arkansas Water Development Fund.

16 (e) To claim the benefits of this subchapter, a taxpayer shall:

17 (1) Obtain documentation from the commission certifying to the
18 department that the taxpayer has met all requirements and qualifications set
19 forth in this subchapter; and

20 (2) File the certificate of tax credit approval with his or her
21 income tax return.

22
23 15-20-1207. Annual compilation of credits – Expiration of the
24 subchapter.

25 (a) The Department of Finance and Administration shall compile the
26 total amount of tax credits used under this subchapter for each calendar
27 year.

28 (b)(1) When the total amount of tax credits used under this subchapter
29 exceeds one million dollars (\$1,000,000) in any calendar year, the tax
30 credits established by this subchapter shall expire on December 31 of the
31 calendar year following the calendar year in which the tax credits used under
32 this subchapter exceeded one million dollars(\$1,000,000).

33 (2) However, any taxpayer having been issued a certificate of
34 tax credit approval on or before December 31 of a year in which the tax
35 credit under this subchapter expires may complete the surplus litter removal
36 project and shall be entitled to the tax credits provided under this

1 subchapter without regard to the fact that the availability of the tax
2 credits has otherwise expired.

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4 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that lawsuits concerning poultry
6 litter have created a crisis in poultry litter distribution in Arkansas; that
7 tax incentives for transportation of poultry litter will provide immediate
8 relief to both Arkansas poultry producers and Arkansas poultry litter
9 applicators; and that this act is immediately necessary because many poultry
10 litter applications are made once a year and any delay in transportation will
11 further exacerbate the already serious crisis. Therefore, an emergency is
12 declared to exist and this act being necessary for the preservation of the
13 public peace, health, and safety shall become effective on:

14 (1) The date of its approval by the Governor;

15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or

18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

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21 /s/ Sullivan
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