

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1809 Session of
2003

INTRODUCED BY EGOLF, HERSHEY, BASTIAN, CLYMER, COLEMAN,
DENLINGER, FAIRCHILD, GABIG, GORDNER, HORSEY, JAMES, LEH,
MAJOR, R. MILLER, S. MILLER, PICKETT, SAYLOR AND YOUNGBLOOD,
JULY 3, 2003

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, MARCH 29, 2004

AN ACT

1 Providing for a commercial manure hauler and broker
2 certification program; and establishing requirements.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Commercial
7 Manure Hauler and Broker Certification Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Agricultural operation" or "operation." ~~Animals, facilities~~ <—
13 ~~and land used~~ THE MANAGEMENT AND USE OF FARMING RESOURCES for <—
14 the production ~~or management~~ of crops, livestock or poultry. The <—
15 term shall include all land owned or leased by the agricultural
16 operator where manure from the facility may be applied.

1 "Agricultural operator." ~~An individual, partnership,~~ <—
2 ~~corporation or other entity~~ A PERSON that has management control <—
3 of, ~~and legal responsibility for,~~ an agricultural operation. <—
4 "Board." The Nutrient Management Advisory Board created
5 under section 8 of the act of May 20, 1993 (P.L.12, No.6), known
6 as the Nutrient Management Act.
7 "Commercial manure broker." ~~An individual or business~~ <—
8 ~~entity,~~ A PERSON THAT IS not working for or under the control of <—
9 an agricultural operator AND that assumes temporary control or <—
10 ownership of manure from an agricultural operation and arranges
11 for transport to and utilization at an importing operation or
12 other location.
13 ~~"Commercial manure hauler." An individual or business entity~~ <—
14 "COMMERCIAL MANURE HAULER." A PERSON that transports or <—
15 land-applies manure as a contract agent for an agricultural
16 operator or commercial manure broker under the direction of the
17 operator or broker.
18 "Commission." The State Conservation Commission established
19 under the act of May 15, 1945 (P.L.547, No.217), known as the
20 Conservation District Law.
21 "Concentrated Animal Feeding Operation" or "CAFO." An
22 agricultural operation that meets the criteria established by
23 the Department of Environmental Protection under ~~the Federal~~ <—
24 ~~Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et~~
25 ~~seq.) and the National Pollution Discharge Elimination System~~
26 ~~(NPDES) Program regulations 40 CFR 122.23 (relating to~~
27 ~~concentrated animal feeding operations (applicable to State~~
28 ~~NPDES programs)) and which is required to follow the DEP Final~~
29 ~~Strategy for Concentrated Animal Feeding Operations.~~ 25 PA. CODE <—
30 § 92.1 (RELATING TO DEFINITIONS).

1 "Concentrated Animal Operation" or "CAO." An agricultural
2 operation that meets the criteria established under the act of
3 May 20, 1993 (P.L.12, No.6), known as the Nutrient Management
4 Act, AND IMPLEMENTING REGULATIONS. <—

5 "DEP." The Department of Environmental Protection of the
6 Commonwealth.

7 ~~"DEP Final Strategy for Concentrated Animal Feeding~~ <—
8 ~~Operations." The document entitled "Final Strategy for Meeting~~
9 ~~Federal Requirements for Controlling the Water Quality Impacts~~
10 ~~of Concentrated Animal Feeding Operations" adopted by the~~
11 ~~Department of Environmental Protection and published in the~~
12 ~~Pennsylvania Bulletin on March 13, 1999, and all subsequent~~
13 ~~revisions thereto.~~

14 "Department" or "PDA." The Department of Agriculture of the
15 Commonwealth.

16 "Importer" or "importing operation." ~~An agricultural~~ <—
17 ~~operation or other entity~~ A PERSON that receives and utilizes or <—
18 processes manure not produced by poultry or livestock ~~that are~~ <—
19 ~~part of that agricultural operation or other entity.~~

20 ~~"Manure Management Manual." The publication referenced by~~
21 ~~and authorized under the act of June 22, 1937 (P.L.1987,~~
22 ~~No.394), known as The Clean Streams Law and 25 Pa. Code Ch. 91~~
23 ~~(relating to environmental protection)~~ UNDER THE MANAGEMENT <—
24 CONTROL OF THAT PERSON.

25 "Nutrient." A substance or recognized plant nutrient,
26 element or compound that is used or sold for its plant nutritive
27 content or its claimed nutritive value. The term includes, but
28 is not limited to, livestock and poultry manures, compost used
29 as fertilizer, commercially manufactured chemical fertilizers,
30 sewage sludge or combinations thereof.

1 "Nutrient balance sheet" or "NBS." A written, site-specific
2 document, meeting the requirements established by the State
3 Conservation Commission UNDER THIS ACT AND THE ACT OF MAY 20, <—
4 1993 (P.L.12, NO.6), KNOWN AS THE NUTRIENT MANAGEMENT ACT, used
5 to determine appropriate manure, fertilizer and other nutrient
6 source application rates on importing operations. ~~necessary to~~ <—
7 ~~protect water resources from the misapplication of crop~~
8 ~~nutrients. The NBS:~~

9 ~~(1) Documents the analysis the agricultural operator~~
10 ~~undertakes to determine the appropriate nutrient application~~
11 ~~rate for crops grown on an agricultural operation based on~~
12 ~~expected crop yields, residual soil nitrogen and nutrient~~
13 ~~content of the nutrient sources utilized.~~

14 ~~(2) Accounts for all nutrients generated and/or used by~~
15 ~~the agricultural operation, including on farm manure,~~
16 ~~imported manure, sewage sludge, commercially manufactured~~
17 ~~fertilizers and any other nutrient source intended to be~~
18 ~~utilized during the crop year under consideration.~~

19 ~~(3) Includes a description of the planned application~~
20 ~~schedule and procedures to be used.~~

21 ~~(4) Utilizes nutrient application criteria that are~~
22 ~~consistent with those set forth in the regulations~~
23 ~~promulgated under the authority of the act of May 20, 1993~~
24 ~~(P.L.12, No.6), known as the Nutrient Management Act, and the~~
25 ~~criteria established for the DEP Final Strategy for~~
26 ~~Concentrated Animal Feeding Operations.~~

27 "Nutrient management plan." A written site-specific plan
28 which incorporates best management practices to manage the use
29 of manure and other plant nutrients for crop production and
30 water quality protection consistent with the criteria

1 established under the act of May 20, 1993 (P.L.12, No.6), known
2 as the Nutrient Management Act.

3 "VOLUNTEER OPERATION." AN AGRICULTURAL OPERATION THAT <—
4 VOLUNTARILY MEETS THE REQUIREMENTS OF THE ACT OF MAY 20, 1993
5 (P.L.12, NO.6), KNOWN AS THE NUTRIENT MANAGEMENT ACT.

6 Section 3. Commercial manure hauler and broker certification
7 program.

8 (a) Duty and responsibility of the department:

9 (1) The department shall establish, within ~~one-year~~ 18 <—
10 MONTHS of the effective date of this act, in consultation
11 with the commission and the board, a commercial manure hauler
12 and broker certification program for the purpose of
13 certifying ~~individuals~~ PERSONS as certified manure haulers or <—
14 brokers. The department shall by regulation establish such
15 terms, conditions and fees for certification as it deems
16 appropriate.

17 (2) For purposes of the certification program, the
18 department shall develop, in consultation with the commission
19 and the board, such training and educational requirements,
20 testing and other criteria as it deems necessary for
21 certification. Training shall at a minimum address the
22 following topics:

23 (i) Laws and regulations pertaining to manure
24 application.

25 (ii) Information necessary for understanding and
26 following a nutrient management plan and nutrient balance
27 sheet.

28 (iii) Best management practices with respect to
29 manure hauling and application, transport safety
30 procedures, calibration of application rates for various

1 types of application equipment, setbacks from water
2 sources and property lines, nutrient runoff concerns and
3 incorporation techniques.

4 (iv) Recordkeeping by certified manure haulers or
5 brokers necessary to meet all regulatory requirements of
6 THIS ACT AND the act of May 20, 1993 (P.L.12, No.6), <—
7 known as the Nutrient Management Act., and the DEP Final <—
8 ~~Strategy for Concentrated Animal Feeding Operations.~~

9 (v) Certified manure broker training shall include
10 procedures necessary for the development and filing of an
11 NBS.

12 (b) Training program approval.--The department shall have
13 the authority to approve, for the purposes of training and
14 education, programs developed by The Pennsylvania State
15 University and other educational institutions or entities that
16 meet the requirements of this section.

17 ~~Section 4. Requirements for commercial manure haulers and~~ <—
18 ~~brokers.~~

19 ~~(a) General rule. All commercial manure haulers and~~
20 ~~brokers, prior to engaging in transporting or land applying~~
21 ~~manure on behalf of an agricultural operation, shall have~~
22 ~~successfully completed a manure hauler or broker certification~~
23 ~~program approved by the department and received the appropriate~~
24 ~~certification by the department.~~

25 SECTION 4. REQUIREMENTS FOR COMMERCIAL MANURE HAULERS AND <—
26 COMMERCIAL MANURE BROKERS.

27 (A) PROHIBITION.--NO COMMERCIAL MANURE HAULER OR BROKER MAY
28 TRANSPORT OR LAND-APPLY MANURE IN THIS COMMONWEALTH ON BEHALF OF
29 AN AGRICULTURAL OPERATION, REGARDLESS OF WHERE THE MANURE IS
30 GENERATED, UNLESS THE HAULER OR BROKER HAS:

(1) SUCCESSFULLY COMPLETED A MANURE HAULER OR BROKER
CERTIFICATION, AS APPLICABLE, APPROVED BY THE DEPARTMENT;

(2) RECEIVED THE APPROPRIATE CERTIFICATION BY THE
DEPARTMENT; AND

(3) MAINTAINED CERTIFICATION UNDER THE REQUIREMENTS OF
THE CERTIFICATION PROGRAM.

(b) Land-applying of manure.--All ~~certified~~ COMMERCIAL
manure haulers and ~~certified~~ COMMERCIAL manure brokers shall,
when land-applying manure on behalf of an agricultural ~~producer~~
OPERATOR required under the provisions of section 5 to use a
certified MANURE hauler or CERTIFIED MANURE broker, do so only
in accordance with the provisions of an approved nutrient
management plan or nutrient balance sheet.

(c) Records.--All ~~certified~~ COMMERCIAL manure haulers and
COMMERCIAL MANURE brokers shall maintain such records of all
manure they broker, transport or land-apply as the department,
in consultation with the commission and the board, determines to
be necessary to meet the requirements of this act AND the
regulations promulgated under the act of May 20, 1993 (P.L.12,
No.6), known as the Nutrient Management Act., ~~and the DEP Final~~
~~Strategy for Concentrated Animal Feeding Operations.~~

Section 5. Exporting requirements.

~~In order to export manure to other agricultural operations or~~
~~other entities, all concentrated animal operations and~~
~~concentrated animal feeding operations shall:~~

~~(1) Prepare and have approved a nutrient balance sheet~~
~~for all importing operations receiving manure from the~~
~~operation or in the event that the operator enters into a~~
~~contract or other agreement with a commercial manure broker,~~
~~the broker shall prepare and have approved a nutrient balance~~

~~sheet for the importing operation.~~

IN ORDER TO EXPORT MANURE TO OTHER AGRICULTURAL OPERATIONS OR
OTHER PERSONS, ALL CAOS, CAFOS AND VOLUNTEER OPERATIONS SHALL DO
ALL OF THE FOLLOWING:

(1) NO LATER THAN THE TIME OF TRANSFER OF THE MANURE,
PROVIDE A NUTRIENT BALANCE SHEET TO ALL IMPORTING OPERATIONS
RECEIVING MANURE FOR LAND APPLICATION FROM THE CAO, CAFO OR
VOLUNTEER OPERATION. IF THE CAO, CAFO OR VOLUNTEER OPERATION
ENTERS INTO A CONTRACT OR OTHER AGREEMENT WITH A COMMERCIAL
MANURE BROKER, THE BROKER SHALL PROVIDE, NO LATER THAN THE
TIME OF TRANSFER, A NUTRIENT BALANCE SHEET TO THE IMPORTING
OPERATION AND COPIES OF THE NUTRIENT BALANCE SHEET SHALL BE
PROVIDED TO THE COUNTY CONSERVATION DISTRICTS IN THE COUNTIES
IN WHICH THE IMPORTING AND EXPORTING OPERATIONS ARE LOCATED.

~~Utilize~~ WHEN USING A COMMERCIAL MANURE HAULER OR
COMMERCIAL BROKER TO EXPORT MANURE FROM AN AGRICULTURAL
OPERATION, UTILIZE only certified manure haulers or certified
manure brokers for the transport and land application of
manure exported from the operation.

~~(3) Maintain records sufficient to:~~

~~(i) meet all regulatory requirements with respect to~~

(3) MAINTAIN RECORDS SUFFICIENT TO MEET ALL REGULATORY
REQUIREMENTS WITH RESPECT TO manure export, transport and
land application or other use at an importing operation
established by the commission, in consultation with the
department and the board, under the authority of THIS ACT AND
the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient
Management Act. ~~and~~

~~(ii) in the case of an agricultural operation~~

~~designated as a CAFO, meet the requirements of the DEP~~

~~Final Strategy for Concentrated Animal Feeding
Operations.~~

(4) IN THE CASE OF AN AGRICULTURAL OPERATION DESIGNATED
AS A CAFO, MEET ANY ADDITIONAL REQUIREMENTS UNDER THE ACT OF
JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS
LAW.

SECTION 6. UNLAWFUL CONDUCT.

IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH OR TO CAUSE OR
ASSIST IN THE VIOLATION OF A PROVISION OF THIS ACT, A REGULATION
PROMULGATED UNDER THIS ACT OR AN ORDER ISSUED UNDER THIS ACT.

SECTION 7. ADMINISTRATIVE PENALTIES.

(A) ADMINISTRATIVE PENALTY.--

(1) IN ADDITION TO PROCEEDING UNDER ANY OTHER REMEDY
AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A PROVISION
OF THIS ACT, THE DEPARTMENT MAY ASSESS AN ADMINISTRATIVE
PENALTY OF NOT MORE THAN \$500 FOR THE FIRST DAY OF EACH
OFFENSE AND \$100 FOR EACH ADDITIONAL DAY OF CONTINUING
VIOLATION. THE FACTORS FOR CONSIDERATION IN DETERMINING THE
AMOUNT OF THE PENALTY ARE:

(I) THE GRAVITY OF THE VIOLATION.

(II) THE POTENTIAL HARM TO THE PUBLIC.

(III) THE POTENTIAL EFFECT ON THE ENVIRONMENT.

(IV) THE WILLFULNESS OF THE VIOLATION.

(V) PREVIOUS VIOLATIONS.

(VI) THE ECONOMIC BENEFIT TO THE VIOLATOR FOR
FAILING TO COMPLY WITH THIS ACT.

(2) IF THE DEPARTMENT FINDS THAT A VIOLATION DID NOT
CAUSE HARM TO HUMAN HEALTH OR AN ADVERSE EFFECT ON THE
ENVIRONMENT, THE DEPARTMENT MAY ISSUE A WARNING IN LIEU OF
ASSESSING A PENALTY IF THE AGRICULTURAL OPERATOR, COMMERCIAL

1 MANURE BROKER OR COMMERCIAL MANURE HAULER UPON NOTICE, TAKES
2 IMMEDIATE ACTION TO RESOLVE THE VIOLATION AND COME INTO
3 COMPLIANCE.

4 (3) A PERSON MAY APPEAL A PENALTY UNDER THIS SUBSECTION
5 TO THE DEPARTMENT AS FOLLOWS:

6 (I) THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE
7 DATE OF THE PENALTY ASSESSMENT.

8 (II) THE DEPARTMENT SHALL ISSUE A DECISION ON THE
9 APPEAL WITHIN 30 DAYS OF THE FILING OF AN APPEAL UNDER
10 SUBPARAGRAPH (I). IF THE DEPARTMENT DOES NOT MEET THE
11 TIME PERIOD UNDER THIS SUBPARAGRAPH, THE PENALTY SHALL BE
12 DEEMED AFFIRMED.

13 (4) THIS SUBSECTION IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH.
14 A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
15 AGENCIES) AND CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF
16 COMMONWEALTH AGENCY ACTION).

17 (B) COLLECTION.--IN CASES OF INABILITY TO COLLECT THE
18 ADMINISTRATIVE PENALTY OR FAILURE OF A PERSON TO PAY ALL OR A
19 PORTION OF THE PENALTY, THE DEPARTMENT MAY REFER THE MATTER TO
20 THE OFFICE OF GENERAL COUNSEL OR THE OFFICE OF ATTORNEY GENERAL,
21 WHICH SHALL INSTITUTE AN ACTION IN THE APPROPRIATE COURT TO
22 RECOVER THE PENALTY. A PENALTY ASSESSED SHALL OPERATE AS A LIEN
23 ON THE PROPERTY OF THE PERSON AGAINST WHOM THE PENALTY HAS BEEN
24 ASSESSED.

25 SECTION 8. CIVIL REMEDIES.

26 (A) LAW.--THE GENERAL COUNSEL MAY INSTITUTE AN ACTION AT LAW
27 IN A COURT OF COMPETENT JURISDICTION TO RECOVER DAMAGES FOR A
28 VIOLATION OF THIS ACT, A REGULATION PROMULGATED UNDER THIS ACT
29 OR AN ORDER ISSUED UNDER THIS ACT.

30 (B) EQUITY.--THE GENERAL COUNSEL MAY INSTITUTE AN ACTION IN

1 EQUITY IN A COURT OF COMPETENT JURISDICTION TO RESTRAIN A
2 VIOLATION OF THIS ACT, A REGULATION PROMULGATED UNDER THIS ACT
3 OR AN ORDER ISSUED UNDER THIS ACT.

4 (1) THE COURT MAY FIX A REASONABLE TIME DURING WHICH THE
5 PERSON RESPONSIBLE FOR THE VIOLATION MAY MAKE PROVISION FOR
6 THE ABATEMENT OF THE VIOLATION.

7 (2) IN CASES WHERE THE CIRCUMSTANCES REQUIRE IT OR THE
8 PUBLIC HEALTH IS ENDANGERED, THE COURT MAY ISSUE A MANDATORY
9 PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR TEMPORARY
10 RESTRAINING ORDER.

11 (3) IN A PROCEEDING UNDER THIS SUBSECTION:

12 (I) THE COMMONWEALTH SHALL NOT BE REQUIRED TO
13 FURNISH BOND.

14 (II) THE COURT SHALL ISSUE A PROHIBITORY OR
15 MANDATORY PRELIMINARY INJUNCTION IF IT FINDS THAT THE
16 DEFENDANT IS ENGAGING IN UNLAWFUL CONDUCT AS DEFINED BY
17 THIS ACT OR IS ENGAGED IN CONDUCT WHICH IS CAUSING
18 IMMEDIATE AND IRREPARABLE HARM TO THE PUBLIC.

19 (4) EQUITABLE RELIEF UNDER THIS SUBSECTION IS IN
20 ADDITION TO DAMAGES UNDER SUBSECTION (A).

21 SECTION 9. ENFORCEMENT ORDERS; REVOCATION OR SUSPENSION OF
22 CERTIFICATION.

23 (A) ORDERS.--THE DEPARTMENT MAY ISSUE ORDERS NECESSARY TO
24 AID IN THE ENFORCEMENT OF THE PROVISIONS OF THIS ACT. AN ORDER
25 ISSUED UNDER THIS SECTION SHALL TAKE EFFECT UPON NOTICE UNLESS
26 THE ORDER SPECIFIES OTHERWISE.

27 (B) REVOCATION OR SUSPENSION OF CERTIFICATION.--THE
28 DEPARTMENT MAY SUSPEND OR REVOKE A CERTIFICATION GRANTED UNDER
29 THIS ACT IF IT FINDS THAT THE BROKER OR HAULER HAS FAILED OR
30 CONTINUES TO FAIL TO COMPLY WITH A PROVISION OF THIS ACT, THE

CERTIFICATION CRITERIA, THE REGULATIONS PROMULGATED UNDER THIS
ACT OR AN ORDER OF THE DEPARTMENT UNDER THIS ACT.

(C) PROCEDURE.--A PERSON MAY APPEAL AN ACTION UNDER THIS
SECTION TO THE DEPARTMENT AS FOLLOWS:

(1) THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE
OF THE ORDER, REVOCATION OR SUSPENSION.

(2) THE DEPARTMENT SHALL ISSUE A DECISION ON THE APPEAL
WITHIN 30 DAYS OF THE FILING OF AN APPEAL UNDER PARAGRAPH
(1). IF THE DEPARTMENT DOES NOT MEET THE TIME PERIOD UNDER
THIS PARAGRAPH, THE ORDER, REVOCATION OR SUSPENSION SHALL BE
DEEMED AFFIRMED.

(3) THIS SUBSECTION IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH.
A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
AGENCIES) AND 2 PA.C.S. CH. 7 SUBCH. A (RELATING TO JUDICIAL
REVIEW OF COMMONWEALTH AGENCY ACTION).

SECTION 10. POWERS RESERVED UNDER EXISTING LAWS.

(A) RESERVATION.--NOTHING IN THIS ACT SHALL LIMIT THE POWERS
CONFERRED UPON THE DEPARTMENT, THE STATE CONSERVATION
COMMISSION, THE DEP OR A COUNTY CONSERVATION DISTRICT UNDER LAWS
OTHER THAN THIS ACT, INCLUDING THE ACT OF JUNE 22, 1937
(P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW; THE ACT OF
JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
MANAGEMENT ACT; AND COMMON LAW. THESE POWERS ARE PRESERVED.

(B) EXHAUSTION.--A COURT EXERCISING EQUITABLE JURISDICTION
IN ACCORDANCE WITH SECTION 8(B) SHALL NOT BE DEPRIVED OF
JURISDICTION EVEN THOUGH A NUISANCE OR CONDITION DETRIMENTAL TO
HEALTH IS SUBJECT TO REGULATION OR OTHER ACTION BY THE
DEPARTMENT UNDER THIS ACT.

SECTION 11. PREEMPTION OF LOCAL ORDINANCES.

(A) GENERAL RULE.--THIS ACT AND ITS PROVISIONS ARE OF

1 STATEWIDE CONCERN AND OCCUPY THE WHOLE FIELD OF REGULATION
2 REGARDING THE CERTIFICATION AND REGULATION OF COMMERCIAL MANURE
3 BROKERS AND COMMERCIAL MANURE HAULERS, THE TRANSPORTATION OF
4 ANIMAL MANURE BY COMMERCIAL MANURE HAULERS AND COMMERCIAL MANURE
5 BROKERS AND THE EXPORTING OF ANIMAL MANURE FROM AGRICULTURAL
6 OPERATIONS TO IMPORTING OPERATIONS, TO THE EXCLUSION OF ALL
7 LOCAL REGULATIONS. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN
8 THIS ACT, NO ORDINANCE OR REGULATION OF A POLITICAL SUBDIVISION
9 MAY PROHIBIT OR ATTEMPT TO REGULATE THE CERTIFICATION OR
10 OPERATIONS OF COMMERCIAL MANURE BROKERS AND COMMERCIAL MANURE
11 HAULERS, THE TRANSPORTATION OF ANIMAL MANURE BY BROKERS AND
12 HAULERS OR THE EXPORTING OF ANIMAL MANURE FROM AGRICULTURAL
13 OPERATIONS TO IMPORTING OPERATIONS.

14 (B) LOCAL POWER.--

15 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), NOTHING IN
16 THIS ACT SHALL PREVENT A POLITICAL SUBDIVISION FROM ADOPTING
17 AND ENFORCING ORDINANCES OR REGULATIONS WHICH ARE CONSISTENT
18 WITH AND NO MORE STRINGENT THAN THE REQUIREMENTS OF THIS ACT
19 AND THE REGULATIONS PROMULGATED UNDER THIS ACT.

20 (2) NO PENALTY SHALL BE ASSESSED UNDER A LOCAL ORDINANCE
21 OR REGULATION FOR A VIOLATION FOR WHICH A PENALTY HAS BEEN
22 ASSESSED UNDER THIS ACT.

23 SECTION 12. LIMITATION OF LIABILITY.

24 IF A PERSON OPERATING AS A COMMERCIAL MANURE HAULER OR
25 COMMERCIAL MANURE BROKER IS PROPERLY CERTIFIED UNDER THIS ACT
26 AND HAS COMPLIED WITH THIS ACT IN THE TRANSPORTATION,
27 UTILIZATION, LAND APPLICATION AND ACTIVITIES RELATED TO THE
28 MANAGEMENT OF ANIMAL MANURE, CERTIFICATION AND COMPLIANCE SHALL
29 BE GIVEN APPROPRIATE CONSIDERATION AS A MITIGATING FACTOR IN AN
30 ACTION UNDER SECTION 7 OR 8(A) ALLEGED TO HAVE BEEN CAUSED BY

1 THE MANAGEMENT OR UTILIZATION OF NUTRIENTS TRANSPORTED OR LAND
2 APPLIED BY THE HAULER OR BROKER.

3 Section 6 30. Effective date.

<—

4 ~~This act shall take effect in 60 days.~~

<—

5 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

<—

6 (1) SECTION 4(A) SHALL TAKE EFFECT IN 18 MONTHS.

7 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

8 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
9 DAYS.