

House Bill 1548

By: Representative Leverett of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 12 of Title 2 of the Official Code of Georgia Annotated,
2 relating to soil amendments, so as to prohibit application of soil amendments for any purpose
3 other than to foster the growth of a crop; to provide for certain exceptions; to provide for
4 related rules and regulations; to authorize concurrent local enforcement of laws, rules, and
5 regulations related to soil amendments; to provide for penalties; to provide for construction;
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 12 of Title 2 of the Official Code of Georgia Annotated, relating to soil
10 amendments is amended by revising Code Section 2-12-79, relating to prohibited acts, as
11 follows:

12 "2-12-79.

13 It shall be a violation of this article for any person to:

- 14 (1) Distribute an unregistered soil amendment;
15 (2) Distribute an unlabeled soil amendment;
16 (3) Distribute a misbranded soil amendment;

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- 17 (4) Distribute an adulterated soil amendment;
- 18 (5) Fail to comply with a stop sale, use, or removal order; ~~or~~
- 19 (6) Fail to submit semiannual reports; or
- 20 (7) Apply a soil amendment for any purpose other than to foster the growth of a crop,
- 21 unless the soil amendment is:
- 22 (A) Unadulterated;
- 23 (B) Free of any substance or material that has a propensity to generate a significant
- 24 odor; and
- 25 (C) Applied in compliance with applicable rules and regulations pertaining to
- 26 maximum rate and frequency of application."

27 **SECTION 2.**

28 Said article is further amended by revising Code Section 2-12-80, relating to promulgation

29 and adoption of rules and regulations and sharing of information, as follows:

30 "2-12-80.

31 The Commissioner is authorized to:

32 (1) Promulgate and adopt:

33 (A) Such rules and regulations as may be necessary to enforce this article. Such

34 regulations may relate to, but shall not be limited to, methods of inspection and

35 examination, designation of ingredients, identification of substances or materials that

36 have a propensity to generate a significant odor, maximum application rates and

37 frequency, and identity of products; and

38 (B) Rules and regulations relative to soil amendments derived from industrial

39 by-products which may include, but not be limited to, application rates, proper

40 conditions for application, application record keeping and retention, use of site-specific

41 nutrient management plans, and storage and containment in or on lands where soil

42 amendments are applied, but shall exclude forest products, soil amendments derived

43 from industrial by-products generated solely from forest products, excluding chemical
44 by-products of pulp digestion, slates, clays, shells, gypsum, and lime; provided,
45 however, that pursuant to Code Section 2-1-6, no local government shall be prohibited
46 or impaired from adopting or enforcing any zoning ordinance, including the adoption
47 of buffers and setbacks; provided, further, that no such buffer or setback shall
48 exceed 100 feet in width; and

49 (C) Rules and regulations that require every owner and operator of a farm on which
50 soil amendments are being applied to procure a site-specific nutrient management plan
51 and make a copy of such plan available for inspection at the request of the department;
52 and

53 (2) Share such information and consult with other agencies such as, but not limited to,
54 the Environmental Protection Division of the Department of Natural Resources and the
55 United States Department of Agriculture's Natural Resources Conservation Service."

56 **SECTION 3.**

57 Said article is further amended by revising Code Section 2-12-83, relating to penalties, as
58 follows:

59 "2-12-83.

60 (a) Except as otherwise provided in this Code section, any person violating any provision
61 of this article or regulation adopted under this article shall be guilty of a misdemeanor.

62 (b) Except as otherwise provided in this Code section, any person violating any provision
63 of this article or regulation adopted under this article shall be liable for a civil penalty of
64 not more than \$5,000.00 per violation.

65 ~~(b)~~(c) Any person who distributes or applies a soil amendment which contains domestic
66 septage as such term is defined in 40 CFR 503.9 shall be guilty of a misdemeanor for the
67 first offense. For the second or any subsequent offense, any person who distributes or
68 applies a soil amendment which contains domestic septage as such term is defined in 40

69 CFR 503.9 shall be guilty of a misdemeanor of a high and aggravated nature and, upon
70 conviction, shall be punished as provided in Code Section 17-10-4. Each such violation
71 shall constitute a separate offense.

72 ~~(e)~~(d) Any person who distributes or applies a soil amendment which contains domestic
73 septage as such term is defined in 40 CFR 503.9 shall be liable for a civil penalty of not
74 more than \$25,000.00 per violation. For the second or any subsequent offense, any person
75 who distributes or applies a soil amendment which contains domestic septage as such term
76 is defined in 40 CFR 503.9 shall be liable for a civil penalty of not more than \$50,000.00
77 per violation."

78 **SECTION 4.**

79 Said article is further amended by adding a new Code section to read as follows:

80 "2-12-84.

81 Notwithstanding the provisions of Code Section 2-1-6 or any other provision of this title:

82 (1) Counties, municipalities, and consolidated governments shall, together with the
83 Commissioner, have concurrent jurisdiction with regard to the enforcement of the
84 provisions of this article and any rules and regulations promulgated pursuant to this
85 article;

86 (2) Counties, municipalities, and consolidated governments shall have the authority,
87 acting separately or jointly with other such local governments, to employ persons to
88 investigate and enforce the provisions of this article and any rules and regulations
89 promulgated pursuant to this article; and

90 (3) Such persons employed for investigation and enforcement purposes pursuant to
91 paragraph (2) of this Code section shall also have the authority to request and receive
92 assistance from the department in the enforcement of the provisions of this article and any
93 rules and regulations promulgated pursuant to this article."

94

SECTION 5.

95 All laws and parts of laws in conflict with this Act are repealed.