

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1827

By: Representative Milligan

For An Act To Be Entitled

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

Subtitle

TO AMEND THE ARKANSAS POULTRY FEEDING OPERATIONS REGISTRATION ACT; AND TO TRANSFER DUTIES FROM THE ARKANSAS NATURAL RESOURCES COMMISSION TO THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. DO NOT CODIFY. TEMPORARY LANGUAGE. Rules.

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

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or standards under subdivision (a)(1) of this section shall continue with full force and effect until amended or repealed under authority given by law.

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



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

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

15-20-902. Legislative intent.

It is found by the General Assembly that:

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

15-20-903. Definitions.

As used in this subchapter:

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

whether incorporated or not;

~~(8)~~(5) “Poultry” means chickens, turkeys, ducks, geese, and any other domesticated birds;

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

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

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

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

15-20-904. Registration.

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

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

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

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

(2) The location of the poultry feeding operation;

(3) The litter management system used;

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

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

operation and used for land application of litter;

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

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

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

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

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

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

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

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

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

15-20-905. Enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

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