

House Bill 477

By: Representatives Leverett of the 123rd, Petrea of the 166th, Prince of the 132nd, and Jackson of the 128th

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 require certain notices for the application of soil
3 amendments to land with certain requirements as to form, included information, and delivery
4 method; to provide for related rules and regulations; to provide for construction of a
5 state-wide notification website for persons or firms applying soil amendments; to provide for
6 penalties; to provide for limitations; to provide for construction; to provide for delegation of
7 enforcement, by request, to county or municipal officials with certain requirements for
8 adoption of a resolution or ordinance, compliance, and the designation and certification of
9 a responsible person; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

H. B. 477

16 "2-12-79.

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

18 (1) Distribute an unregistered soil amendment;

19 (2) Distribute an unlabeled soil amendment;

20 (3) Distribute a misbranded soil amendment;

21 (4) Distribute an adulterated soil amendment;

22 (5) Fail to comply with a stop sale, use, or removal order; ~~or~~

23 (6) Fail to submit semiannual reports; or

24 (7) Apply a soil amendment to land without complying with the notification
 25 requirements pursuant to Code Section 2-12-79.1."

26

SECTION 2.

27 Said article is further amended by adding new Code sections to read as follows:

28 "2-12-79.1.

29 (a) A county governing authority may, by ordinance or resolution, require all persons or
 30 firms applying one or more soil amendments to land in any unincorporated area of such
 31 county to provide notice, in the manner and beginning on the date required by this Code
 32 section, of:

33 (1) Soil amendment application operations, at least 48 hours prior to commencing
 34 application of soil amendments on the property; and

35 (2) Cessation of soil amendment application operations, at least 48 hours after the
 36 application is completed.

37 (b) No later than October 1, 2023, the Commissioner shall commence construction of a
 38 website or online portal to provide a state-wide notification platform for persons or firms
 39 applying soil amendments to land to utilize as a uniform notification system with respect
 40 to the application of soil amendments in counties whose governing authorities have
 41 adopted an ordinance or resolution pursuant to subsection (a) of this Code section. Such

42 website shall also allow the person or firm applying soil amendments to land to supplement
43 such filing or submission with a notice of cessation of such application. Such website shall
44 require persons applying soil amendments to land in such counties to provide notice for
45 each separate tract onto which such soil amendments are to be applied, and shall also
46 require the following:

47 (1) A map of the area identifying the location of the tract onto which one or more soil
48 amendments are to be applied;

49 (2) A map identifying the main point of ingress from a public road to such tract upon
50 which trucks will be traveling for purposes of delivering and applying one or more soil
51 amendments, and, if different, the main point of egress from such tract to a public road;

52 (3) The name, business address, business telephone number, and nighttime or emergency
53 telephone number of the person or firm applying one or more soil amendments to such
54 land;

55 (4) The date or dates on which one or more soil amendments will be applied to the tract
56 of land; and

57 (5) The product name and state identification from the Georgia Certificate of Soil
58 Registration issued by the department of the soil amendment or amendments that will be
59 applied on that particular day or days to such tract of land.

60 (c) No later than January 1, 2024, the department shall cause the website or portal to be
61 complete and ready to accept submissions.

62 (d) On and after the date on which the website or portal is complete and ready to accept
63 submissions, persons or firms applying soil amendments to land in counties whose local
64 governing authorities have adopted an ordinance or resolution pursuant to subsection (a)
65 of this Code section shall utilize such website or portal to provide notice of such soil
66 amendment application operations in compliance with paragraph (a) of this Code section.

67 (e) The Commissioner shall promulgate such rules and regulations as are reasonable and
68 necessary for purposes of designing, implementing, and enforcing utilization of such
69 website or portal.

70 (f) Notice shall be effective for such soil amendment application operation on such tract
71 within such unincorporated area of the county upon receipt of the same by the website or
72 portal established by the Commissioner pursuant to this Code section and until such time
73 as the person or firm giving such notice has ceased the soil amendment application
74 operation for such tract; provided, however, that any subsequent change in the facts
75 required to be provided for purposes of such notice shall be submitted to the website or
76 portal within 24 hours of such change.

77 (g) Notice requirements shall be applicable to the application of soil amendments which
78 occurs on or after the effective date of any ordinance adopted pursuant to this Code section.

79 (h) Violation of the notice requirements of this Code section shall be punishable by a fine
80 not exceeding \$1,500.00 per violation.

81 (i)(1) No county, municipality, or other political subdivision in this state shall require
82 any person or firm applying one or more soil amendments to land located within the
83 geographic boundaries of such county, municipality, or other political subdivision to
84 provide any notice of or plan or security for such application of one or more soil
85 amendments except as provided by this Code section.

86 (2) The provisions of this subsection shall not preclude counties, municipalities, and
87 other political subdivisions from enacting and enforcing zoning ordinances.

88 (3) Paragraphs (1) and (2) of this subsection shall apply only to the application of soil
89 amendments that have been licensed by the department, and shall not in any way
90 authorize the disposal of waste or materials that have not been properly licensed as soil
91 amendments by the department or limit the authority of counties, municipalities, or other
92 political subdivisions to enforce local ordinances prohibiting or regulating the disposal
93 of waste that has not been properly licensed as a soil amendment by the department.

94 (4) The department shall not require a fee of any kind for utilizing the website
95 constructed and established pursuant to paragraph (2) of subsection (b) of this Code
96 section for providing such notification of the application of one or more soil amendments.

97 2-12-79.2.

98 (a) The commissioner is authorized to share information with county governing authorities
99 and designated county officials upon request or otherwise for the purpose of supporting the
100 department's enforcement of the rules and regulations governing the application of soil
101 amendments in the state.

102 (b) A county governing authority may by ordinance or resolution request that the
103 department share information with regard to the application of soil amendments in such
104 governing authority's jurisdiction.

105 (c)(1) A county governing authority may by ordinance or resolution request that the
106 department confer on such county limited regulatory and enforcement authority with
107 regard to the application of soil amendments in such county. The ordinance or resolution
108 adopted by the county governing authority shall identify a county official who will be the
109 responsible person for the purpose of this Code section. Upon determining that a county
110 is in compliance with the provisions of subsection (d) of this Code section, the
111 Commissioner shall delegate to such county the authority to enter upon any public or
112 private property where a soil amendment is being applied for the purpose of:

113 (A) Requesting from the person or firm applying a soil amendment documentation
114 which identifies the product name and state identification from the Georgia Certificate
115 of Soil Registration issued by the department to determine if such amendment is in fact
116 a soil amendment registered with the Commissioner and is in fact the soil amendment
117 that is identified in the notice filed pursuant to this Code section;

- 118 (B) Determining whether any person or firm is applying or has applied a soil
119 amendment during a precipitation event or without subsurface injection of the soil
120 amendment into the soil where required by the department; and
- 121 (C) Issuing a cease and desist order, which shall be effective for no more than 48
122 hours, to any person or firm applying a soil amendment during a precipitation event or
123 without subsurface injection of the soil amendment into the soil where required by the
124 department. The county official who issues any such cease and desist order shall:
- 125 (i) Immediately send notice to the department of such action;
126 (ii) Within one business day of the issuance of such order, create a written order
127 specifying the reasons for the issuance of the order; and
128 (iii) Provide a copy of such written order to the department, the person or firm
129 applying the soil amendment, and the owner of the land, as disclosed on the notice
130 filed pursuant to Code Section 2-12-79.1.
- 131 (2) The responsible person for the county may formally transmit to the department any
132 findings, evidence, or other information gathered pursuant to subparagraph (1), (2), or (3)
133 of paragraph (2) of this subsection related to compliance with the department's rules
134 governing the application of soil amendments. The Commissioner shall establish a
135 manner in which such information is to be shared between the department and the
136 responsible person for the county by promulgating rules and regulations as are reasonable
137 and necessary for the purpose of establishing an effective and timely system of sharing
138 such information between the department and responsible person for the county.
- 139 (d)(1) The Commissioner shall not delegate to a county the authority to take any such
140 action unless:
- 141 (A) The governing authority of the county has duly adopted an ordinance or resolution
142 pursuant to subsection (c) of this Code section;
143 (B) The county has designated an existing employee or retained, either as a part-time
144 employee, full-time employee, or independent contractor, a person to be responsible for

145 exercising the limited regulatory and enforcement authority conferred upon the county
146 by the Commissioner pursuant to this Code section;
147 (C) Such person is the only official of the county or municipality authorized to take
148 such regulatory and enforcement action; and
149 (D) Such person has obtained from the department a certification of authority to take
150 such regulatory and enforcement action.
151 (2) The responsible person for the county may be retained by one or more counties or
152 municipalities pursuant to an intergovernmental agreement.
153 (c)(1) The Commissioner may:
154 (A) Establish reasonable requirements for the certification of responsible persons for
155 the county under this Code section and the period for which such certification shall be
156 effective;
157 (B) Charge a reasonable fee for issuing such certification;
158 (C) Promulgate rules and regulations applicable to the issuance of such certification
159 and the conditions under which such certification may be suspended or revoked.
160 (2) Revocation or suspension of such certification shall also revoke or suspend, as the
161 case may be, the authority of the responsible person for the county to take such regulatory
162 and enforcement action as provided under this Code section."

163

SECTION 3.

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