

Senate Bill 460

By: Senators Cagle of the 49th, Gillis of the 20th, Hudgens of the 47th and Brush of the 24th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to best management practices for control of soil erosion and sedimentation and minimum requirements for rules, regulations, ordinances, or resolutions, so as to change certain provisions relating to 25 foot buffers along state waters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to best management practices for control of soil erosion and sedimentation and minimum requirements for rules, regulations, ordinances, or resolutions, is amended by striking paragraph (15) of subsection (b) and inserting in lieu thereof the following:

~~"(15)(A) Except as provided in paragraph (16) of this subsection, there~~ There is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except ~~where:~~

(i) As provided by paragraph (16) of this subsection;

(ii) Where the director determines to allow a variance that is at least as protective of natural resources and the environment, ~~where:~~

(iii) Where otherwise allowed by the director pursuant to Code Section 12-2-8, ~~or where; or~~

(iv) Where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented;

provided, however, that buffers of at least 25 feet established pursuant to Part 6 of Article 5 of Chapter 5 of this title shall remain in force unless a variance is granted by

the director as provided in this paragraph. ~~The following requirements shall apply to any such buffer:~~

~~(A)~~(B) No land-disturbing activities shall be conducted within a any such buffer; and a buffer shall remain in its natural, undisturbed; state of vegetation until all land-disturbing activities on the construction site are completed, except as otherwise provided by this paragraph. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed;

~~(B)~~(C) On or before December 31, ~~2000~~ 2004, the board shall adopt rules which contain specific criteria for the grant or denial by the director of requests for variances. After such date, no variance shall be granted by the director which is not consistent with the criteria contained in such rules; ~~provided, however, that, should the board fail to adopt rules which contain specific criteria for the grant or denial of requests for variances by the director on or before December 31, 2000, the authority of the director to issue such variances shall be suspended until the board adopts such rules; and, Such rules shall provide, at a minimum, that the director shall consider granting a variance in the following circumstances:~~

(i) Where a proposed land disturbing activity within the buffer would require the landowner to acquire a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such a permit;

(ii) Where the landowner provides a plan satisfactory to the director that shows that, even with the proposed land disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project;
or

(iii) Where a project with a proposed land disturbing activity within the buffer is located in or upstream and within ten linear miles of a stream segment listed as impaired under Section 303(d) of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1313(d) and the landowner provides a plan satisfactory to the director that shows that the completed project will result in

1 maintained or improved water quality in such listed stream segment and that the
2 project has no adverse impact relative to the pollutants of concern in such stream
3 segment; and

4 All projects covered under divisions (i), (ii), and (iii) of this subparagraph shall meet
5 all criteria set forth in rules for specific variance criteria adopted by the board by
6 December 31, 2004.

7 ~~(C)~~(D) The buffer shall not apply to the following land-disturbing activities, provided
8 that they occur at an angle, as measured from the point of crossing, within 25 degrees
9 of perpendicular to the stream; cause a width of disturbance of not more than 50 feet
10 within the buffer; and adequate erosion control measures are incorporated into the
11 project plans and specifications and are implemented:

- 12 (i) Stream crossings for water lines; or
13 (ii) Stream crossings for sewer lines; and"

14 **SECTION 2.**

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