

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 387\*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/3/13  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S387-PCS15280-RI-23

Short Title: Forest Service Changes/Bedding Law ROE.

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) MAKE TECHNICAL AND CONFORMING CHANGES PERTAINING TO  
THE RENAMING OF THE NORTH CAROLINA FOREST SERVICE AND TO MAKE  
OTHER CHANGES IN THE FOREST SERVICE STATUTES AND (2) PROVIDE A  
RIGHT OF ENTRY FOR THE COMMISSIONER OF AGRICULTURE TO ENFORCE  
THE LAWS RELATED TO BEDDING.

The General Assembly of North Carolina enacts:

**PART I. FOREST SERVICE CHANGES**

**SECTION 1.** G.S. 1-339.17(c1) reads as rewritten:

"(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given in writing, not less than 21 days before the date on which bids are opened, to a reasonable number of prospective timber buyers, which in all cases shall include the timber buyers listed in the office of the ~~Division of Forest Resources~~ North Carolina Forest Service of the Department of Agriculture and Consumer Services for the county or counties in which the timber to be sold is located."

**SECTION 2.** G.S. 20-81.12(b35) reads as rewritten:

"(b35) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the ~~Division of Forest Resources~~ North Carolina Forest Service of the Department of Agriculture and Consumer Services for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs."

**SECTION 3.** G.S. 77-13 reads as rewritten:

**"§ 77-13. Obstructing streams a misdemeanor.**

If any person, firm, or corporation shall fell any tree, or put any obstruction, except for the purposes of utilizing water as a motive power, in any branch, creek, stream, or other natural passage for water, whereby the natural flow of water through such passage is lessened or retarded, or whereby the navigation of such stream may be impeded, delayed, or prevented, the person, firm, or corporation so offending shall be guilty of a Class 2 misdemeanor. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the



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1 property and accomplish the removal of the obstruction and the restoration of the waterway to  
2 an undisturbed condition, in which case the costs of the removal and restoration shall be paid to  
3 the enforcing agency by the offending party. Nothing in this section shall prevent the erection  
4 of fish dams or hedges across any stream which do not extend across more than two thirds of its  
5 width at the point of obstruction. If the fish dams or hedges extend more than two thirds of the  
6 width of any stream, the said penalties shall attach. This section may be enforced by marine  
7 fisheries inspectors and wildlife protectors. Within the bounds of any county or municipality,  
8 this section may also be enforced by any law enforcement officer having territorial jurisdiction,  
9 or by the county engineer. This section may also be enforced by specially commissioned forest  
10 law-enforcement officers of the Department of ~~Environment and Natural Resources~~Agriculture  
11 and Consumer Services for offenses occurring in woodlands. For purposes of this section, the  
12 term "woodlands" means all forested areas, including swamp and timber lands, cutover lands,  
13 and second-growth stands in previously cultivated sites."

14 **SECTION 4.** G.S. 77-14 reads as rewritten:

15 **"§ 77-14. Obstructions in streams and drainage ditches.**

16 If any person, firm or corporation shall fell any tree or put any slabs, stumpage, sawdust,  
17 shavings, lime, refuse or any other substances in any creek, stream, river or natural or artificial  
18 drainage ravine or ditch, or in any other outlet which serves to remove water from any land  
19 whatsoever whereby the drainage of said land is impeded, delayed or prevented, the person,  
20 firm or corporation so offending shall be guilty of a Class 2 misdemeanor: Provided, however,  
21 nothing herein shall prevent the construction of any dam or weir not otherwise prohibited by  
22 any valid local or State statute or regulation. In addition to any fine or imprisonment imposed,  
23 the court may, in its discretion, order the person, firm, or corporation so offending to remove  
24 the obstruction and restore the affected waterway to an undisturbed condition, or allow  
25 authorized employees of the enforcing agency to enter upon the property and accomplish the  
26 removal of the obstruction and the restoration of the waterway to an undisturbed condition, in  
27 which case the costs of the removal and restoration shall be paid to the enforcing agency by the  
28 offending party. This section may be enforced by marine fisheries inspectors and wildlife  
29 protectors. Within the boundaries of any county or municipality this section may also be  
30 enforced by any law enforcement officer having territorial jurisdiction, or by the county  
31 engineer. This section may also be enforced by specially commissioned forest law-enforcement  
32 officers of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer  
33 Services for offenses occurring in woodlands. For purposes of this section, the term  
34 "woodlands" means all forested areas, including swamp and timber lands, cutover lands and  
35 second-growth stands on previously cultivated sites."

36 **SECTION 5.** G.S. 97-2 reads as rewritten:

37 **"§ 97-2. Definitions.**

38 When used in this Article, unless the context otherwise requires:

39 ...

- 40 (2) Employee. – The term "employee" means every person engaged in an  
41 employment under any appointment or contract of hire or apprenticeship,  
42 express or implied, oral or written, including aliens, and also minors,  
43 whether lawfully or unlawfully employed, but excluding persons whose  
44 employment is both casual and not in the course of the trade, business,  
45 profession, or occupation of his employer, and as relating to those so  
46 employed by the State, the term "employee" shall include all officers and  
47 employees of the State, including such as are elected by the people, or by the  
48 General Assembly, or appointed by the Governor to serve on a per diem,  
49 part-time or fee basis, either with or without the confirmation of the Senate;  
50 as relating to municipal corporations and political subdivisions of the State,  
51 the term "employee" shall include all officers and employees thereof,

1 including such as are elected by the people. The term "employee" shall  
2 include members of the North Carolina National Guard while on State active  
3 duty under orders of the Governor and members of the North Carolina State  
4 Defense Militia while on State active duty under orders of the Governor. The  
5 term "employee" shall include deputy sheriffs and all persons acting in the  
6 capacity of deputy sheriffs, whether appointed by the sheriff or by the  
7 governing body of the county and whether serving on a fee basis or on a  
8 salary basis, or whether deputy sheriffs serving upon a full-time basis or a  
9 part-time basis, and including deputy sheriffs appointed to serve in an  
10 emergency, but as to those so appointed, only during the continuation of the  
11 emergency. The sheriff shall furnish to the board of county commissioners a  
12 complete list of all deputy sheriffs named or appointed by him immediately  
13 after their appointment and notify the board of commissioners of any  
14 changes made therein promptly after such changes are made. Any reference  
15 to an employee who has been injured shall, when the employee is dead,  
16 include also ~~his~~ the employee's legal representative, dependents, and other  
17 persons to whom compensation may be payable: Provided, further, that any  
18 employee, as herein defined, of a municipality, county, or of the State of  
19 North Carolina, while engaged in the discharge of the employee's ~~his~~ official  
20 duty outside the jurisdictional or territorial limits of the municipality, county,  
21 or the State of North Carolina and while acting pursuant to authorization or  
22 instruction from any superior officer, shall have the same rights under this  
23 Article as if such duty or activity were performed within the territorial  
24 boundary limits of ~~his~~ their employer.

25 Every executive officer elected or appointed and empowered in  
26 accordance with the charter and bylaws of a corporation shall be considered  
27 as an employee of such corporation under this Article.

28 Any such executive officer of a corporation may, notwithstanding any  
29 other provision of this Article, be exempt from the coverage of the  
30 corporation's insurance contract by such corporation's specifically excluding  
31 such executive officer in such contract of insurance, and the exclusion to  
32 remove such executive officer from the coverage shall continue for the  
33 period such contract of insurance is in effect, and during such period such  
34 executive officers thus exempted from the coverage of the insurance contract  
35 shall not be employees of such corporation under this Article.

36 All county agricultural extension service employees who do not receive  
37 official federal appointments as employees of the United States Department  
38 of Agriculture and who are field faculty members with professional rank as  
39 designated in the memorandum of understanding between the North  
40 Carolina Agricultural Extension Service, North Carolina State University, A  
41 & T State University, and the boards of county commissioners shall be  
42 deemed to be employees of the State of North Carolina. All other county  
43 agricultural extension service employees paid from State or county funds  
44 shall be deemed to be employees of the county board of commissioners in  
45 the county in which the employee is employed for purposes of workers'  
46 compensation.

47 The term "employee" shall also include members of the Civil Air Patrol  
48 currently certified pursuant to G.S. 143B-491(a) [G.S. 143B-1031(a)] when  
49 performing duties in the course and scope of a State-approved mission  
50 pursuant to Article 11 of Chapter 143B [Subpart C of Part 5 of Article 13 of  
51 Chapter 143B] of the General Statutes.

1 "Employee" shall not include any person performing voluntary service as  
2 a ski patrolman who receives no compensation for such services other than  
3 meals or lodging or the use of ski tow or ski lift facilities or any combination  
4 thereof.

5 Any sole proprietor or partner of a business or any member of a limited  
6 liability company may elect to be included as an employee under the  
7 workers' compensation coverage of such business if he is actively engaged in  
8 the operation of the business and if the insurer is notified of his election to  
9 be so included. Any such sole proprietor or partner or member of a limited  
10 liability company shall, upon such election, be entitled to employee benefits  
11 and be subject to employee responsibilities prescribed in this Article.

12 "Employee" shall include an authorized pickup firefighter of the ~~Division~~  
13 ~~of Forest Resources~~North Carolina Forest Service of the Department of  
14 Agriculture and Consumer Services when that individual is engaged in  
15 emergency fire suppression activities for the ~~Division of Forest~~  
16 ~~Resources~~North Carolina Forest Service. As used in this section,  
17 "authorized pickup firefighter" means an individual who has completed  
18 required fire suppression training as a wildland firefighter and who is  
19 available as needed by the ~~Division of Forest Resources~~North Carolina  
20 Forest Service for emergency fire suppression activities, including  
21 immediate dispatch to wildfires and standby for initial attack on fires during  
22 periods of high fire danger.

23 It shall be a rebuttable presumption that the term "employee" shall not  
24 include any person performing services in the sale of newspapers or  
25 magazines to ultimate consumers under an arrangement whereby the  
26 newspapers or magazines are to be sold by that person at a fixed price and  
27 the person's compensation is based on the retention of the excess of the fixed  
28 price over the amount at which the newspapers or magazines are charged to  
29 the person.

30 (3) Employer. – The term "employer" means the State and all political  
31 subdivisions thereof, all public and quasi-public corporations therein, every  
32 person carrying on any employment, and the legal representative of a  
33 deceased person or the receiver or trustee of any person. The board of  
34 commissioners of each county of the State, for the purposes of this law, shall  
35 be considered as "employer" of all deputy sheriffs serving within such  
36 county, or persons serving or performing the duties of a deputy sheriff,  
37 whether such persons are appointed by the sheriff or by the board of  
38 commissioners and whether serving on a fee basis or salary basis. Each  
39 county is authorized to insure its compensation liability for deputy sheriffs to  
40 the same extent it is authorized to insure other compensation liability for  
41 employees thereof. For purposes of this Chapter, when an authorized pickup  
42 firefighter of the ~~Division of Forest Resources~~North Carolina Forest Service  
43 of the Department of Agriculture and Consumer Services is engaged in  
44 emergency fire suppression activities for the ~~Division of Forest~~  
45 ~~Resources~~North Carolina Forest Service, that individual's employer is the  
46 ~~Division of Forest Resources~~North Carolina Forest Service.

47 ...  
48 (5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings  
49 of the injured employee in the employment in which ~~he~~the employee was  
50 working at the time of the injury during the period of 52 weeks immediately  
51 preceding the date of the injury, including the subsistence allowance paid to

1 veteran trainees by the United States government, provided the amount of  
2 said allowance shall be reported monthly by said trainee to ~~the trainee's~~  
3 employer, divided by 52; but if the injured employee lost more than seven  
4 consecutive calendar days at one or more times during such period, although  
5 not in the same week, then the earnings for the remainder of such 52 weeks  
6 shall be divided by the number of weeks remaining after the time so lost has  
7 been deducted. Where the employment prior to the injury extended over a  
8 period of fewer than 52 weeks, the method of dividing the earnings during  
9 that period by the number of weeks and parts thereof during which the  
10 employee earned wages shall be followed; provided, results fair and just to  
11 both parties will be thereby obtained. Where, by reason of a shortness of  
12 time during which the employee has been in the employment of his  
13 employer or the casual nature or terms of his employment, it is impractical to  
14 compute the average weekly wages as above defined, regard shall be had to  
15 the average weekly amount which during the 52 weeks previous to the injury  
16 was being earned by a person of the same grade and character employed in  
17 the same class of employment in the same locality or community.

18 But where for exceptional reasons the foregoing would be unfair, either  
19 to the employer or employee, such other method of computing average  
20 weekly wages may be resorted to as will most nearly approximate the  
21 amount which the injured employee would be earning were it not for the  
22 injury.

23 Wherever allowances of any character made to an employee in lieu of  
24 wages are specified part of the wage contract, they shall be deemed a part of  
25 his earnings.

26 Where a minor employee, under the age of 18 years, sustains a  
27 permanent disability or dies leaving dependents surviving, the compensation  
28 payable for permanent disability or death shall be calculated, first, upon the  
29 average weekly wage paid to adult employees employed by the same  
30 employer at the time of the accident in a similar or like class of work which  
31 the injured minor employee would probably have been promoted to if not  
32 injured, or, second, upon a wage sufficient to yield the maximum weekly  
33 compensation benefit. Compensation for temporary total disability or for the  
34 death of a minor without dependents shall be computed upon the average  
35 weekly wage at the time of the accident, unless the total disability extends  
36 more than 52 weeks, and then the compensation may be increased in  
37 proportion to ~~his~~ the employee's expected earnings.

38 In case of disabling injury or death to a volunteer fireman; member of an  
39 organized rescue squad; an authorized pickup firefighter, as defined in  
40 subdivision (2) of this section, when that individual is engaged in emergency  
41 fire suppression activities for the ~~Division of Forest Resources;~~ North  
42 Carolina Forest Service; a duly appointed and sworn member of an auxiliary  
43 police department organized pursuant to G.S. 160A-282; or senior members  
44 of the State Civil Air Patrol functioning under Article 11 of Chapter 143B  
45 [Subpart C of Part 5 of Article 13 of Chapter 143B] of the General Statutes,  
46 under compensable circumstances, compensation payable shall be calculated  
47 upon the average weekly wage the volunteer fireman, member of an  
48 organized rescue squad, authorized pickup firefighter of the ~~Division of~~  
49 ~~Forest Resources;~~ North Carolina Forest Service; when that individual is  
50 engaged in emergency fire suppression activities for the ~~Division of Forest~~  
51 ~~Resources;~~ North Carolina Forest Service, member of an auxiliary police

1 department, or senior member of the State Civil Air Patrol was earning in the  
2 employment wherein he principally earned his livelihood as of the date of  
3 injury. Provided, however, that the minimum compensation payable to a  
4 volunteer fireman, member of an organized rescue squad, an authorized  
5 pickup firefighter of the ~~Division of Forest Resources~~North Carolina Forest  
6 Service of the Department of Agriculture and Consumer Services, when that  
7 individual is engaged in emergency fire suppression activities for the  
8 ~~Division of Forest Resources~~North Carolina Forest Service, a sworn  
9 member of an auxiliary police department organized pursuant to  
10 G.S. 160A-282, or senior members of the State Civil Air Patrol shall be  
11 sixty-six and two-thirds percent (66 2/3%) of the maximum weekly benefit  
12 established in G.S. 97-29.

13 ...."

14 **SECTION 6.** G.S. 105-259(b)(41) reads as rewritten:

15 "(41) To furnish the ~~Division of Forest Resources~~North Carolina Forest Service of  
16 the Department of Agriculture and Consumer Services pertinent contact and  
17 financial information concerning companies that are involved in the primary  
18 processing of timber products so that the Commissioner of Agriculture is  
19 able to comply with G.S. 106-1029 under the Primary Forest Product  
20 Assessment Act."

21 **SECTION 7.** G.S. 105-277.7(a)(2) reads as rewritten:

22 "(2) A representative of the ~~Division of Forest Resources~~North Carolina Forest  
23 Service of the Department of Agriculture and Consumer Services,  
24 designated by the Director of that Division."

25 **SECTION 8.** G.S. 105-296(j) reads as rewritten:

26 "(j) The assessor must annually review at least one eighth of the parcels in the county  
27 classified for taxation at present-use value to verify that these parcels qualify for the  
28 classification. By this method, the assessor must review the eligibility of all parcels classified  
29 for taxation at present-use value in an eight-year period. The period of the review process is  
30 based on the average of the preceding three years' data. The assessor may request assistance  
31 from the Farm Service Agency, the Cooperative Extension Service, the ~~Division of Forest~~  
32 ResourcesNorth Carolina Forest Service of the Department of Agriculture and Consumer  
33 Services, or other similar organizations.

34 The assessor may require the owner of classified property to submit any information,  
35 including sound management plans for forestland, needed by the assessor to verify that the  
36 property continues to qualify for present-use value taxation. The owner has 60 days from the  
37 date a written request for the information is made to submit the information to the assessor. If  
38 the assessor determines the owner failed to make the information requested available in the  
39 time required without good cause, the property loses its present-use value classification and the  
40 property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the  
41 property loses its present-use value classification for failure to provide the requested  
42 information, the assessor must reinstate the property's present-use value classification when the  
43 owner submits the requested information within 60 days after the disqualification unless the  
44 information discloses that the property no longer qualifies for present-use value classification.  
45 When a property's present-use value classification is reinstated, it is reinstated retroactive to the  
46 date the classification was revoked and any deferred taxes that were paid as a result of the  
47 revocation must be refunded to the property owner. The owner may appeal the final decision of  
48 the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

49 In determining whether property is operating under a sound management program, the  
50 assessor must consider any weather conditions or other acts of nature that prevent the growing  
51 or harvesting of crops or the realization of income from cattle, swine, or poultry operations.

1 The assessor must also allow the property owner to submit additional information before  
2 making this determination."

3 **SECTION 9.** G.S. 106-202.14(b)(3) reads as rewritten:

4 "(3) The ~~Division of Forest Resources,~~North Carolina Forest Service of the  
5 Department of Agriculture and Consumer Services;"

6 **SECTION 10.** G.S. 106-860(d)(11) reads as rewritten:

7 "(11) The ~~Director—Assistant Commissioner~~ of the ~~Division of Forest~~  
8 ~~Resources~~North Carolina Forest Service of the Department of Agriculture  
9 and Consumer Services or the ~~Director's—Assistant Commissioner's~~  
10 designee."

11 **SECTION 11.** G.S. 106-878 reads as rewritten:

12 **"§ 106-878. Applications of proceeds from sale of products.**

13 ...

14 (c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program  
15 Fund is created within the Department of Agriculture and Consumer Services, ~~Division of~~  
16 ~~Forest Resources,~~North Carolina Forest Service, as a special revenue fund. Except as provided  
17 in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and  
18 seedlings as authorized in G.S. 106-877 and any gifts, bequests, or grants for the benefit of this  
19 Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in  
20 this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only  
21 to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling  
22 Nursery Program.

23 (d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created  
24 within the Department of Agriculture and Consumer Services, ~~Division of Forest~~  
25 ~~Resources,~~North Carolina Forest Service, as a special revenue fund. This Fund shall consist of  
26 receipts from the sale of forest products from Bladen Lakes State Forest as authorized in  
27 G.S. 106-877 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund  
28 appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of  
29 any fiscal year shall not revert. The Department may use this Fund only to develop, improve,  
30 repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest."

31 **SECTION 12.** G.S. 106-887(a) reads as rewritten:

32 "(a) DuPont State Forest is designated as a State Recreational Forest. The Department  
33 shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation,  
34 scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling,  
35 hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound,  
36 ecologically based natural resource management for the social and economic benefit of the  
37 forest's diverse community of users; and (iii) consistent with the grant agreement between the  
38 Natural Heritage Trust Fund and the ~~Division of Forest Resources,~~North Carolina Forest  
39 ~~Service,~~ which grant designates a portion of the forest as a North Carolina Nature Preserve. In  
40 addition, the Department may use the forest for the demonstration of different forest  
41 management and resource protection techniques for local landowners, natural resource  
42 professionals, students, and other forest visitors."

43 **SECTION 13.** G.S. 106-903 reads as rewritten:

44 **"§ 106-903. Overtime compensation for forest fire fighting.**

45 The Department shall, within funds appropriated to the Department, provide overtime  
46 compensation to the professional employees of the ~~Division of Forest Resources~~North Carolina  
47 ~~Forest Service~~ involved in fighting forest fires."

48 **SECTION 14.** Article 79 of Chapter 106 of the General Statutes reads as rewritten:

49 "Article 79.

50 "~~Fire Fighters on Standby Duty.~~Firefighters on On-Call Status.

51 **"§ 106-955. Definitions.**

1 As used in this Article:

- 2 (1) ~~"Fire fighter"~~"Firefighter" means an employee of the ~~Division of Forest~~  
3 ~~Resources~~North Carolina Forest Service of the Department of Agriculture  
4 and Consumer Services who engages in fire suppression ~~duties~~duties or  
5 engages in emergency response duties pursuant to G.S. 166A-19.77.
- 6 (2) "Fire suppression duties" means involvement in on-site fire suppression,  
7 participation in ~~Project Fire~~Incident Management Team while it is  
8 mobilized, Operations Room duty during on-going fires or when required by  
9 high readiness plans, mop-up activities to secure fire sites, scouting and  
10 detecting forest fires, performance of standby duty, and any other activity  
11 that directly contributes to the detection, response to, and control of fires."

12 **"§ 106-956. Standby duty.**On-call.

13 (a) ~~Standby duty~~On-call is time during which a ~~fire fighter~~firefighter is required to  
14 ~~remain within 25 miles of his duty station and be available to return to the duty station on~~  
15 ~~call or respond to an emergency within 30 minutes.~~ The Department of Agriculture and  
16 Consumer Services shall provide each ~~fire fighter~~firefighter ~~on standby duty~~in on-call status  
17 with an electronic ~~paging communication~~ device that makes the wearer accessible to ~~his the~~  
18 firefighter's duty station.

19 (b) Notwithstanding subsection (a) of this section, ~~for at least two out of after~~ 14  
20 consecutive days that a ~~fire fighter~~firefighter is on duty, the Department of Agriculture and  
21 Consumer Services shall permit the ~~fire fighter~~firefighter to be ~~more than 25 miles from his~~  
22 ~~duty station~~off duty for two days so long as the ~~fire fighter~~firefighter gives the Department of  
23 Agriculture and Consumer Services a ~~telephone number~~means of contact where ~~he the fire~~  
24 ~~fighter~~firefighter can be ~~reached~~reached. ~~each month, the days the fire fighter is permitted to~~  
25 ~~be more than 25 miles from his duty station shall include one full weekend.~~ On the days the ~~fire~~  
26 ~~fighter~~firefighter is permitted to be ~~more than 25 miles from his duty station~~off duty, the  
27 Department of Agriculture and Consumer Services may ~~call him~~contact the firefighter only  
28 when there is a bona fide emergency."

29 **SECTION 15.** G.S. 106-966(1) reads as rewritten:

- 30 "(1) "Certified prescribed burner" means an individual who has successfully  
31 completed a certification program approved by the ~~Division of Forest~~  
32 ~~Resources~~North Carolina Forest Service of the Department of Agriculture  
33 and Consumer Services."

34 **SECTION 16.** G.S. 106-968 reads as rewritten:

35 **"§ 106-968. Prescribed burning.**

36 (a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription  
37 for the prescribed burning prepared by a certified prescribed burner and filed with the ~~Division~~  
38 ~~of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and  
39 Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of  
40 this prescription shall be in the possession of the responsible burner on site throughout the  
41 duration of the prescribed burning. The prescription shall include:

- 42 (1) The landowner's name and address.  
43 (2) A description of the area to be burned.  
44 (3) A map of the area to be burned.  
45 (4) An estimate in tons of the fuel located on the area.  
46 (5) The objectives of the prescribed burning.  
47 (6) A list of the acceptable weather conditions and parameters for the prescribed  
48 burning sufficient to minimize the likelihood of smoke damage and fire  
49 escaping onto adjacent areas.  
50 (7) The name of the certified prescribed burner responsible for conducting the  
51 prescribed burning.



- 1 (8) A summary of the methods that are adequate for the particular circumstances  
2 involved to be used to start, control, and extinguish the prescribed burning.  
3 (9) Provision for reasonable notice of the prescribed burning to be provided to  
4 nearby homes and businesses to avoid effects on health and property.

5 ...  
6 (c) Prior to conducting a prescribed burning, the landowner or the landowner's agent  
7 shall obtain an open-burning permit under Article 78 of this Chapter from the ~~Division of~~  
8 ~~Forest Resources,~~ North Carolina Forest Service of the Department of Agriculture and  
9 Consumer Services. This open-burning permit must remain in effect throughout the period of  
10 the prescribed burning. The prescribed burning shall be conducted in compliance with all the  
11 following:

- 12 (1) The terms and conditions of the open-burning permit under Article 78 of this  
13 Chapter.  
14 (2) The State's air pollution control statutes under Article 21 and Article 21B of  
15 Chapter 143 of the General Statutes and any rules adopted pursuant to these  
16 statutes.  
17 (3) Any applicable local ordinances relating to open burning.  
18 (4) The voluntary smoke management guidelines adopted by the ~~Division of~~  
19 ~~Forest Resources,~~ North Carolina Forest Service of the Department of  
20 Agriculture and Consumer Services.  
21 (5) Any rules adopted by the ~~Division of Forest Resources,~~ North Carolina  
22 Forest Service of the Department of Agriculture and Consumer Services, to  
23 implement this Article."

24 **SECTION 17.** G.S. 106-969 reads as rewritten:

25 **"§ 106-969. Adoption of rules.**

26 The ~~Division of Forest Resources,~~ North Carolina Forest Service of the Department of  
27 Agriculture and Consumer ~~Services,~~ Services may adopt rules that govern prescribed burning  
28 under this Article."

29 **SECTION 18.** G.S. 113-291.10(a)(3) reads as rewritten:

- 30 "(3) The ~~Director—Assistant Commissioner~~ of the ~~Division of Forest~~  
31 ~~Resources~~ North Carolina Forest Service of the Department of Agriculture  
32 and Consumer Services, or a designee;"

33 **SECTION 19.** G.S. 143-116.8 reads as rewritten:

34 **"§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

35 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the  
36 General Statutes relating to the use of highways and public vehicular areas of the State and the  
37 operation of vehicles thereon are made applicable to the State parks and forests road system.  
38 For the purposes of this section, the term "State parks and forests road system" shall mean the  
39 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,  
40 State recreation areas, State lakes, and all other lands administered by the Department of  
41 Environment and Natural ~~Resources.~~ Resources or the Department of Agriculture and  
42 Consumer Services. This term shall not be construed, however, to include streets that are a part  
43 of the State highway system. Any person violating any of the provisions of Chapter 20 ~~of the~~  
44 General Statutes hereby made applicable in the State parks and forests road system shall, upon  
45 conviction, be punished in accordance with ~~Chapter 20.~~ Chapter 20 of the General Statutes.  
46 Nothing herein contained shall be construed as in any way interfering with the ownership and  
47 control of the State parks ~~and forests~~ road system by the Department of Environment and  
48 Natural ~~Resources.~~ Resources and the forests road system by the Department of Agriculture and  
49 Consumer Services.

- 50 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks ~~and~~  
51 ~~forests~~ road system at a speed in excess of twenty-five miles per hour (25

1 mph). When the Secretary of Environment and Natural Resources  
2 determines that this speed is greater than reasonable and safe under the  
3 conditions found to exist in the State parks ~~and forests~~ road system, the  
4 Secretary may establish a lower reasonable and safe speed limit. No speed  
5 limit established by the Secretary pursuant to this provision shall be effective  
6 until posted in the part of the system ~~sought to be affected~~ where the limit is  
7 intended to apply.

8 (1a) It shall be unlawful for a person to operate a vehicle in the State forests road  
9 system at a speed in excess of 25 miles per hour. When the Commissioner of  
10 Agriculture determines that this speed is greater than reasonable and safe  
11 under the conditions found to exist in the State forests road system, the  
12 Commissioner may establish a lower reasonable and safe speed limit. No  
13 speed limit established by the Commissioner pursuant to this provision shall  
14 be effective until posted in the part of the system where the limit is intended  
15 to apply.

16 ...  
17 (4) The Secretary may designate any part of the State parks road system and the  
18 Commissioner may designate any part of the State forests road system for  
19 one-way traffic and shall erect appropriate signs giving notice thereof. It  
20 shall be a violation of G.S. 20-165.1 for any person to willfully drive or  
21 operate any vehicle on any part of the State parks and forests road system so  
22 designated except in the direction indicated.

23 (5) The Secretary shall have power, equal to the power of local authorities under  
24 G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and signals  
25 and yield-right-of-way signs in the State parks ~~and forests~~ road system; the  
26 Secretary also shall have power to post such other signs and markers and  
27 mark the roads in accordance with Chapter 20 of the General Statutes as the  
28 Secretary may determine appropriate for highway safety and traffic control.  
29 The failure of any vehicle driver to obey any vehicle control sign or signal,  
30 or any yield-right-of-way sign placed under the authority of this section in  
31 the State parks ~~and forests~~ road system shall be an infraction and shall be  
32 punished as provided in G.S. 20-176.

33 (5a) The Commissioner shall have power, equal to the power of local authorities  
34 under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and  
35 signals and yield right-of-way signs in the State forests road system. The  
36 Commissioner also shall have power to post such other signs and markers  
37 and mark the roads in accordance with Chapter 20 of the General Statutes as  
38 the Commissioner may determine appropriate for highway safety and traffic  
39 control. The failure of any vehicle driver to obey any vehicle control sign or  
40 signal or any yield right-of-way sign placed under the authority of this  
41 section in the State forests road system shall be an infraction and shall be  
42 punished as provided in G.S. 20-176.

43 (c) The Secretary of Environment and Natural Resources may, by rule, regulate parking  
44 and establish parking areas, and provide for the removal of illegally parked motor vehicles on  
45 the State parks ~~and forests road system~~ road system, and the Commissioner of Agriculture  
46 may, by rule, regulate and establish parking areas and provide for the removal of illegally  
47 parked motor vehicles on the State forests road system. Any rule of the Secretary or the  
48 Commissioner shall be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162.  
49 Any removal of illegally parked motor vehicles shall be in compliance with Article 7A of  
50 ~~Chapter 20~~ Chapter 20 of the General Statutes.

1 (d) A violation of the rules issued by the Secretary of Environment and Natural  
2 Resources or the Commissioner of Agriculture under subsection (c) of this section is an  
3 infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules  
4 may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law  
5 enforcement officers, or other law enforcement officers of the State, counties, cities or other  
6 municipalities having authority under Chapter 20 of the General Statutes to enforce laws or  
7 rules on travel or use or operation of vehicles or the use or protection of the highways of the  
8 State.

9 (e) The provisions of Chapter 20 of the General Statutes are applicable at all times to  
10 the State parks and forests road system, including closing hours, regardless of the fact that  
11 during closing hours the State parks and forests road system is not open to the public as a  
12 matter of right."

13 **SECTION 20.** G.S. 143-166.2(d) reads as rewritten:

14 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and  
15 all law-enforcement officers employed full-time, permanent part-time, or temporarily by a  
16 sheriff, the State of North Carolina or any county or municipality thereof, whether paid or  
17 unpaid; and all full-time custodial employees and probation and parole officers of the Division  
18 of Adult Correction of the Department of Public Safety; and all full time institutional and  
19 full-time, permanent part-time, and temporary detention employees of the Division of Juvenile  
20 Justice of the Department of Public Safety and full-time, permanent part-time, and temporary  
21 detention officers employed by any sheriff, county or municipality, whether paid or unpaid.  
22 The term "firemen" shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all  
23 full-time, permanent part-time and temporary employees of the ~~Division of Forest~~  
24 ~~Resources~~, North Carolina Forest Service of the Department of Agriculture and Consumer  
25 ~~Services~~, Services during the time they are actively engaged in ~~fire-fighting~~ firefighting  
26 activities; or engaged in emergency response activities pursuant to  
27 G.S. 155A-19.77; G.S. 166A-19.77; and shall mean all full-time employees of the North  
28 Carolina Department of Insurance during the time they are actively engaged in  
29 ~~fire-fighting~~ firefighting activities, during the time they are training ~~fire-fighters~~ firefighters or  
30 rescue squad workers, and during the time they are engaged in activities as members of the  
31 State Emergency Response Team, when the Team has been activated; and shall mean all  
32 otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers,  
33 are acting in the capacity of a fire or rescue instructor outside their own department or squad.  
34 The term "rescue squad worker" shall mean a person who is dedicated to the purpose of  
35 alleviating human suffering and assisting anyone who is in difficulty or who is injured or  
36 becomes suddenly ill by providing the proper and efficient care or emergency medical services.  
37 In addition, this person must belong to an organized rescue squad which is eligible for  
38 membership in the North Carolina Association of Rescue Squads, Inc., and the person must  
39 have attended a minimum of 36 hours of training and meetings in the last calendar year. Each  
40 rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a  
41 roster of those members meeting the above requirements with the State Treasurer on or about  
42 January 1 of each year, and this roster must be certified to by the secretary of said association.  
43 In addition, the term "rescue squad worker" shall mean a member of an ambulance service  
44 certified by the Department of Health and Human Services pursuant to Article 7 of Chapter  
45 131E of the General Statutes. The Department of Health and Human Services shall furnish a  
46 list of ambulance service members to the State Treasurer on or about January 1 of each year.  
47 The term "Civil Air Patrol members" shall mean those senior members of the North Carolina  
48 Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to  
49 G.S. 143B-1031. The term "fireman" shall also mean county fire marshals when engaged in the  
50 performance of their county duties. The term "rescue squad worker" shall also mean county  
51 emergency services coordinators when engaged in the performance of their county duties."

1           **SECTION 21.** G.S. 143-166.7 reads as rewritten:

2    "**§ 143-166.7. Applicability of Article.**

3           The provisions of this Article shall apply and be in full force and effect with respect to any  
4 law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed  
5 in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with  
6 respect to full-time, permanent part-time and temporary employees of [the] ~~Division of Forest~~  
7 ~~Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer  
8 ~~Services, Services~~ killed in [the] line of duty on or after July 1, 1975. The provisions of this  
9 Article shall apply to county fire marshals and emergency services coordinators killed in the  
10 line of duty on and after July 1, 1988."

11           **SECTION 22.** G.S. 143-214.25A(a) reads as rewritten:

12           "(a) The Division of Water Quality of the Department shall develop a program to train  
13 and certify individuals to determine the presence of surface waters that would require the  
14 application of rules adopted by the Commission for the protection of riparian buffers. The  
15 Division may train and certify employees of the Division as determined by the Director of the  
16 Division of Water Quality; employees of units of local government to whom responsibility for  
17 the implementation and enforcement of the riparian buffer protection rules is delegated  
18 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General  
19 Statutes who are employees of the ~~Division of Forest Resources~~North Carolina Forest Service  
20 of the Department of Agriculture and Consumer Services as determined by the Assistant  
21 Commissioner ~~Director of the Division of Forest Resources,~~North Carolina Forest Service. The  
22 Director of the Division of Water Quality may review the determinations made by individuals  
23 who are certified pursuant to this section, may override a determination made by an individual  
24 certified under this section, and, if the Director of the Division of Water Quality determines  
25 that an individual is failing to make correct determinations, revoke the certification of that  
26 individual."

27           **SECTION 23.** G.S. 143A-65.1 reads as rewritten:

28    "**§ 143A-65.1. ~~Division of Forest Resources,~~North Carolina Forest Service.**

29           The Department of Agriculture and Consumer Services shall have charge of the work of  
30 forest maintenance, forest fire prevention, reforestation, and the protection of lands and water  
31 supplies by the preservation of forests; it shall also have the care of State forests and State  
32 recreational forests."

33           **SECTION 24.** G.S. 166A-19.77 reads as rewritten:

34    "**§ 166A-19.77. ~~Division of Forest Resources~~North Carolina Forest Service designated as**  
35           **emergency response agency.**

36           The ~~Division of Forest Resources~~North Carolina Forest Service of the Department of  
37 Agriculture and Consumer Services is designated an emergency response agency of the State of  
38 North Carolina for purposes of the following:

- 39           (1) Supporting the ~~Division~~North Carolina Forest Service in responding to  
40 all-risk incidents.  
41           (2) Receipt of any applicable State or federal funding.  
42           (3) Training of other State and local agencies in emergency management.  
43           (4) Any other emergency response roles for which the ~~Division~~North Carolina  
44 Forest Service has special training or qualifications."  
45

## 46 **PART II. CHANGES PERTAINING TO BEDDING LAW/RIGHT OF ENTRY**

47           **SECTION 25.** G.S. 106-65.105 is amended by adding a new subsection to read:

48    "**§ 106-65.105. Enforcement by the Department of Agriculture and Consumer Services.**

49           ...

50           (e) The Commissioner of Agriculture shall have the right of entry upon the premises of  
51 any place where entry is necessary to enforce the provisions of this Article or the rules adopted

1 by the Board of Agriculture. If consent for entry is not obtained, an administrative search and  
2 inspection warrant shall be obtained pursuant to G.S. 15-27.2."  
3

4 **PART III. EFFECTIVE DATE**

5 **SECTION 26.** This act becomes effective July 1, 2013.