

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**SENATE BILL 638
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/8/13
House Committee Substitute Favorable 6/24/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S638-PCS75358-TQ-56**

Short Title: NC Farm Act of 2013.

(Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

1 AN ACT TO ENACT THE NORTH CAROLINA FARM ACT OF 2013 TO (1) LIMIT THE
2 LIABILITY OF NORTH CAROLINA COMMODITY PRODUCERS ARISING FROM
3 FOOD SAFETY ISSUES RELATED TO THEIR PRODUCTS; (2) LIMIT THE
4 LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS, FARM ANIMAL
5 PROFESSIONALS, AND AGRITOURISM OPERATORS AND CLARIFY THAT
6 EQUINE RECREATION WHERE THE LANDOWNER RECEIVES NO
7 COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND NOT
8 THE EQUINE ACTIVITY LIABILITY STATUTE; (3) ALLOW THE COMMISSIONER
9 OF AGRICULTURE TO ASSESS NONMONETARY PENALTIES TO ADDRESS
10 VIOLATIONS WHEN APPROPRIATE; (4) DECREASE THE FREQUENCY OF THE
11 AGRICULTURAL WATER USE SURVEY; (5) LIMIT THE PERSONALLY
12 IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE
13 AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH
14 PROGRAMS; (6) MAKE CONFORMING CHANGES TO THE NAME OF THE
15 STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE
16 RESPONSIBILITIES OF THE DIVISION; (7) AMEND CERTAIN EGG LABELING
17 REQUIREMENTS; (8) REPEAL THE INTERSTATE PEST CONTROL COMPACT; (9)
18 REPEAL CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES AND DAIRY
19 FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC
20 ACT; (10) CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE
21 MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES; (11) REPEAL
22 THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE; (12) EXEMPT
23 FORESTRY AND SILVICULTURE OPERATIONS FROM TEMPORARY DRIVEWAY
24 PERMITTING; (13) ALLOW A FARM BUILDING THAT IS USED FOR PUBLIC OR
25 PRIVATE EVENTS TO MAINTAIN ITS FARM BUILDING STATUS FOR PURPOSES
26 OF THE STATE BUILDING CODE; (14) EXEMPT CERTAIN STRUCTURES FROM
27 THE SPRINKLER SYSTEM REQUIREMENTS OF THE NORTH CAROLINA
28 BUILDING CODE; (15) ALLOW RETAILERS TO DISPLAY MORE THAN FOUR
29 HUNDRED SQUARE FEET OF NURSERY STOCK FOR SALE IN THEIR PARKING
30 LOTS; (16) EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM
31 SAFETY ACT; (17) ALLOW A LANDOWNER TO WITHDRAW WATER FOR
32 AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER
33 CERTAIN CONDITIONS; (18) DIRECT THE DEPARTMENT OF ENVIRONMENT
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1 AND NATURAL RESOURCES AND THE DEPARTMENT OF TRANSPORTATION
2 TO JOINTLY PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES
3 ARMY CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND
4 OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION BEYOND
5 THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL OCCUR; AND (19)
6 ACCELERATE THE SUNSET DATE OF THE PETROLEUM DISPLACEMENT PLAN
7 AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS
8 TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM
9 PRODUCTS.

10 The General Assembly of North Carolina enacts:

11
12 **PART I. TITLE**

13 **SECTION 1.** This act shall be known and may be cited as the "North Carolina
14 Farm Act of 2013."

15
16 **PART II. LIMIT THE LIABILITY OF NORTH CAROLINA COMMODITY**
17 **PRODUCERS ARISING FROM FOOD SAFETY ISSUES RELATED TO THEIR**
18 **PRODUCTS**

19 **SECTION 2.** Chapter 99B of the General Statutes is amended by adding a new
20 section to read:

21 **"§ 99B-12. Burden of proof in certain cases.**

22 (a) A commodity producer shall be entitled to a rebuttable presumption that the
23 commodity producer was not negligent when death or injury is proximately caused by the
24 consumption of the producer's raw agricultural commodity if the producer (i) is certified by the
25 United States Department of Agriculture Agricultural Marketing Service Good Agricultural
26 Practices and Good Handling Practices Audit Verification Program or other third-party
27 certification program designated by the Commissioner for purposes of this section; (ii) has a
28 written food safety policy that complies with the certification program's standard and can
29 provide evidence that the producer trains employees on the policy on an annual basis; and (iii)
30 has had no administrative findings or sanctions, legal judgments, or settlements of complaints
31 against the producer during the previous three years based on a claim that the commodity
32 producer's negligence was the proximate cause of a plaintiff's death or illness. This
33 presumption may be overcome only by clear and convincing evidence that the commodity
34 producer's negligence was the proximate cause of the death or injury.

35 (b) As used in this section:

36 (1) Commodity producer means a producer of raw agricultural commodities.

37 (2) Raw agricultural commodity means any food in its raw or natural state,
38 including all fruits that are washed, colored, or otherwise treated in their
39 unpeeled natural form prior to marketing, and which is covered by the
40 United States Department of Agriculture Agricultural Marketing Service
41 Good Agricultural Practices and Good Handling Practices Audit Verification
42 Program."

43
44 **PART III. LIMIT THE LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS,**
45 **FARM ANIMAL PROFESSIONALS, AND AGRITOURISM OPERATORS AND**
46 **CLARIFY THAT EQUINE RECREATION WHERE THE LANDOWNER RECEIVES**
47 **NO COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND**
48 **NOT THE EQUINE ACTIVITY LIABILITY STATUTE**

49 **SECTION 3.1.** G.S. 38A-2(5) reads as rewritten:

50 **"§ 38A-2. Definitions.**

51 The following definitions shall apply throughout this Chapter, unless otherwise specified:

- 1 ...
2 (5) "Recreational purpose" means any activity undertaken for recreation,
3 exercise, education, relaxation, refreshment, diversion, or ~~pleasure-pleasure~~
4 or sport, including equestrian recreation as defined in G.S. 99E-1."

5 **SECTION 3.2.** Article 1 of Chapter 99E of the General Statutes reads as rewritten:

6 "Article 1.

7 "Equine and Farm Animal Activity Liability.

8 "Part 1. Equine Activity Liability.

9 **"§ 99E-1. Definitions.**

10 As used in this ~~Article, Part~~, the term:

- 11 (1) "Engage in an equine activity" means participate in an equine activity, assist
12 a participant in an equine activity, or assist an equine activity sponsor or
13 equine professional. The term "engage in an equine activity" does not
14 include being a spectator at an equine activity, except in cases in which the
15 spectator places himself in an unauthorized area and in immediate proximity
16 to the equine activity.
- 17 (2) "Equine" means a horse, pony, mule, donkey, or hinny.
- 18 (3) "Equine activity" means any activity involving an equine. Actions to
19 preserve, maintain, or regulate the use of land for equestrian recreation shall
20 not be considered an equine activity.
- 21 (4) "Equine activity sponsor" means an individual, group, club, partnership, or
22 corporation, whether the sponsor is operating for profit or nonprofit, which
23 sponsors, organizes, or provides the facilities for an equine activity. The
24 term includes operators and promoters of equine facilities. A landowner who
25 allows equine recreation on the landowner's property shall not be considered
26 an equine activity sponsor.
- 27 (5) "Equine professional" means a person engaged for compensation in any one
28 or more of the following:
29 a. Instructing a participant.
30 b. Renting an equine to a participant for the purpose of riding, driving,
31 or being a passenger upon the equine.
32 c. Renting equipment or tack to a participant.
33 d. Examining or administering medical treatment to an equine.
34 e. Hooftrimming or placing or replacing horseshoes on an equine.
- 35 (5a) "Equine recreation" means use of a landowner's property for an equine
36 activity (i) where the landowner is neither the equine activity sponsor nor the
37 equine professional and (ii) when the landowner permits use of the property
38 without charge. For purposes of this subdivision, "charge" has the meaning
39 set forth in G.S. 38A-2 and G.S. 38A-3.
- 40 (6) "Inherent risks of equine activities" means those dangers or conditions that
41 are an integral part of engaging in an equine activity, including any of the
42 following:
43 a. The possibility of an equine behaving in ways that may result in
44 injury, harm, or death to persons on or around them.
45 b. The unpredictability of an equine's reaction to such things as sounds,
46 sudden movement, unfamiliar objects, persons, or other animals.
47 Inherent risks of equine activities does not include a collision or accident
48 involving a motor vehicle.
- 49 (7) "Participant" means any person, whether amateur or professional, who
50 engages in an equine activity, whether or not a fee is paid to participate in
51 the equine activity.

"§ 99E-2. Liability.

(a) Except as provided in subsection (b) of this section, an equine activity sponsor, an equine professional, or any other person engaged in an equine activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from an equine activity sponsor, an equine professional, or any other person engaged in an equine activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of equine activities.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity if the equine activity sponsor, equine professional, or person engaged in an equine activity does any one or more of the following:

- (1) Provides the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.
- (2) Provides the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or to safely manage the particular equine.
- (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.
- ~~(4) Commits any other act of negligence or omission that proximately caused the injury, damage, or death.~~

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity under liability provisions as set forth in the products liability laws.

(d) Nothing in this section shall be construed to conflict with or render ineffectual a liability release, indemnification, assumption, or acknowledgment of risk agreement between a participant and an equine activity sponsor or an equine professional.

"§ 99E-3. Warning required.

(a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (b) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

1 (c) Failure to comply with the requirements concerning warning signs and notices
2 provided in this ~~Article~~Part shall prevent an equine activity sponsor or equine professional from
3 invoking the privileges of immunity provided by this ~~Article~~Part."

4 **SECTION 3.3.** Article 1 of Chapter 99E of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 99E-4. Exception.**

7 The liability of a landowner for injury or death associated with participation in equine
8 recreation shall be subject to the limitation set forth in G.S. 38A-4 and shall not be subject to
9 this Part.

10 "Part 2. Farm Animal Activity Liability.

11 **"§ 99E-5. Definitions.**

12 As used in this Part, the term:

- 13 (1) "Engage in a farm animal activity" means participate in a farm animal
14 activity, assist a participant in a farm animal activity, or assist a farm animal
15 activity sponsor or farm animal activity professional. The term "engage in a
16 farm animal activity" does not include being a spectator at a farm animal
17 activity, except in cases in which the spectator voluntarily places himself or
18 herself in an unauthorized area and in immediate proximity to the farm
19 animal activity.
- 20 (2) "Equine" means a horse, pony, mule, donkey, or hinny.
- 21 (3) "Equine activity" means a farm animal activity involving only equines.
- 22 (4) "Farm animal" means one or more of the following domesticated animals:
23 cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys,
24 hinnies, llamas, alpacas, lagomorphs, ratites, and poultry.
- 25 (5) "Farm animal activity" means an activity in which participants engage with
26 one or more farm animals, including, but not limited to, all of the following:
- 27 a. Shows, fairs, exhibits, competitions, performances, or parades that
28 involve farm animals.
- 29 b. Training or teaching activities, or both, involving farm animals.
- 30 c. Boarding farm animals, including normal daily care.
- 31 d. Rides, trips, shows, clinics, hunts, parades, games, exhibitions, or
32 other activities of any kind that are sponsored by a farm animal
33 activity sponsor.
- 34 e. Testing, riding, inspecting, or evaluating a farm animal belonging to
35 another, whether or not the owner has received some monetary
36 consideration or other thing of value for the use of the farm animal or
37 is permitting a prospective purchaser of the farm animal to ride,
38 inspect, or evaluate the farm animal.
- 39 f. Placing or repairing horseshoes, trimming the hooves on a farm
40 animal, or otherwise providing farrier services.
- 41 g. Examining or administering medical treatment to a farm animal by a
42 veterinarian.
- 43 (6) "Farm animal activity sponsor" means an individual, group, club,
44 partnership, corporation, educational organization, or other legally
45 constituted entity, whether the sponsor is operating for profit or nonprofit,
46 which sponsors, organizes, allows, or provides the facilities for a farm
47 animal activity, including, but not limited to, pony clubs; 4-H clubs; Future
48 Farmers of America organizations; hunt clubs; riding clubs; polo clubs;
49 school-and college-sponsored classes, programs, and activities; therapeutic
50 riding programs; and operators, instructors, and promoters of farm animal

1 facilities, including, but not limited to, stables, clubhouses, ponyride strings,
2 fairs, exhibitions, and arenas at which the activity is held.

3 (7) "Farm animal facility" means any area used for any farm animal activity,
4 including, but not limited to, farms, ranches, riding arenas, training stables or
5 barns, pastures, riding trails, show rings, polo fields, petting zoos, and other
6 areas or facilities used or provided by farm animal activity sponsors or
7 where participants engage in farm animal activities.

8 (8) "Farm animal professional" means a person engaged for compensation in
9 any of the following:

10 a. Instructing a participant.

11 b. Renting a farm animal to a participant for the purpose of riding,
12 driving, or being a passenger upon the farm animal.

13 c. Providing daily care of farm animals boarded at a farm animal
14 facility.

15 d. Renting equipment or tack to a participant.

16 e. Training a farm animal.

17 f. Examining or administering medical treatment to a farm animal.

18 g. Providing farrier services to a farm animal.

19 h. Hooftrimming or placing or replacing horseshoes on a farm animal.

20 (9) "Inherent risks of farm animal activities" means those dangers or conditions
21 that are an integral part of engaging in a farm animal activity, including any
22 of the following:

23 a. The possibility of a farm animal behaving in ways that may result in
24 injury, harm, or death to persons on or around them.

25 b. The unpredictability of a farm animal's reaction to such things as
26 sounds, sudden movement, unfamiliar objects, persons, or other
27 animals.

28 c. The risk of contracting an illness due to coming into contact with
29 animals, animal feed, animal waste, or surfaces that have been in
30 contact with animal waste.

31 Inherent risks of farm animal activities does not include a collision or
32 accident involving a motor vehicle.

33 (10) "Participant" means any person, whether amateur or professional, who
34 engages in a farm animal activity, whether or not a fee is paid to participate
35 in the farm animal activity.

36 **"§ 99E-6. Liability.**

37 (a) Except as provided in subsection (b) of this section, a farm animal activity sponsor,
38 a farm animal professional, or any other person engaged in a farm animal activity, including a
39 corporation or partnership, shall not be liable for an injury to or the death of a participant
40 resulting from the inherent risks of farm animal activities, and, except as provided in subsection
41 (b) of this section, no participant or participant's representative shall maintain an action against
42 or recover from a farm animal sponsor, a farm animal professional, or any other person
43 engaged in a farm animal activity for injury, loss, damage, or death of the participant resulting
44 exclusively from any of the inherent risks of farm animal activities.

45 (b) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm
46 animal activity sponsor, a farm animal professional, or any other person engaged in a farm
47 animal activity if the farm animal activity sponsor, professional, or person engaged in a farm
48 animal activity does any one or more of the following:

49 (1) Provides the equipment or tack and knew or should have known that the
50 equipment or tack was faulty, and such faulty equipment or tack proximately
51 caused the injury, damage, or death.

1 (2) Provides the farm animal and failed to make reasonable and prudent efforts
 2 to determine the ability of the participant to engage safely in the farm animal
 3 activity or to safely manage the particular farm animal.

4 (3) Commits an act or omission that constitutes willful or wanton disregard for
 5 the safety of the participant, and that act or omission proximately caused the
 6 injury, damage, or death.

7 (c) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm
 8 animal activity sponsor, a farm animal professional, or any other person engaged in a farm
 9 animal activity under liability provisions as set forth in the products liability laws.

10 **"§ 99E-7. Warning required.**

11 (a) Every farm animal activity sponsor and every farm animal professional shall post
 12 and maintain signs which contain the warning notices specified in subsection (b) or (c) of this
 13 section. The signs required by this section shall be placed in a clearly visible location on or near
 14 stables, corrals, arenas, or other farm animal facilities where the farm animal professional or
 15 the farm animal activity sponsor conducts animal activities. The warning notices specified in
 16 subsections (b) and (c) of this section shall be designed by the Department of Agriculture and
 17 Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum
 18 of one inch in height. Every written contract entered into by a farm animal professional or by a
 19 farm animal activity sponsor for the providing of professional services, instruction, or the rental
 20 of equipment or tack or a farm animal to a participant, whether or not the contract involves
 21 farm animal activities on or off the location or site of the farm animal professional's or farm
 22 animal activity sponsor's business, shall contain in clearly readable print the warning notice
 23 specified in subsection (b) or (c) of this section.

24 (b) The signs and contracts described in subsection (a) of this section shall contain the
 25 following warning notice:

26 **"WARNING**

27
 28 Under North Carolina law, a farm animal activity sponsor or farm animal professional is
 29 not liable for an injury to or the death of a participant in farm animal activities resulting
 30 exclusively from the inherent risks of farm animal activities. Chapter 99E of the North Carolina
 31 General Statutes."

32 (c) If a farm animal activity sponsor or farm animal professional sponsors or engages in
 33 farm animal activities only involving equines, the signs and contracts described in subsection
 34 (a) of this section may contain the following warning notice:

35 **"WARNING**

36
 37 Under North Carolina law, an equine activity sponsor or equine professional is not liable
 38 for an injury to or the death of a participant in equine activities resulting exclusively from the
 39 inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

40 (d) Failure to comply with the requirements concerning warning signs and notices
 41 provided in this Part shall prevent a farm animal activity sponsor or farm animal professional
 42 from invoking the privileges of immunity provided by this Part."

43 **SECTION 3.4.** G.S. 38A-3 reads as rewritten:

44 **"§ 38A-3. Exclusions.**

45 For purposes of this Chapter, the term "charge" does not include:

- 46 (1) Any contribution in kind, services or cash contributed by a person, legal
 47 entity, nonprofit organization, or governmental entity other than the owner,
 48 whether or not sanctioned or solicited by the owner, the purpose of which is
 49 to (i) remedy damage to land caused by educational or recreational use; or
 50 (ii) provide warning of hazards on, or remove hazards from, land used for

1 educational or recreational ~~purposes~~-purposes; or (iii) pay expenses related
2 to the use of land for a recreational or educational purpose.

3 (2) Unless otherwise agreed in writing or otherwise provided by the State or
4 federal tax codes, any property tax abatement or relief received by the owner
5 from the State or local taxing authority in exchange for the owner's
6 agreement to open the land for educational or recreational purposes.

7 (3) Dues or fees charged by an individual, group, club, partnership, corporation,
8 or governmental entity sponsoring the educational or recreational use when
9 (i) the sponsor is operating as a nonprofit or in a nonprofit capacity and (ii)
10 the dues or fees are used to pay expenses relating to the educational or
11 recreational use or to raise funds to support the sponsor's mission."

12 **SECTION 3.5.** G.S. 38A-4 reads as rewritten:

13 **"§ 38A-4. Limitation of liability.**

14 (a) Except as specifically recognized by or provided for in this Chapter, an owner of
15 land who either directly or indirectly invites or permits without charge any person to use such
16 land for educational or recreational purposes owes the person the same duty of care that he
17 owes a trespasser, except nothing in this Chapter shall be construed to limit or nullify the
18 doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual
19 hazards of which the owner has actual knowledge. This section does not apply to an owner who
20 invites or permits any person to use land for a purpose for which the land is regularly used and
21 for which a price or fee is usually charged even if it is not charged in that instance, or to an
22 owner whose purpose in extending an invitation or granting permission is to promote a
23 commercial enterprise.

24 (b) Nothing in this section shall be construed to conflict with or render ineffectual a
25 liability release, indemnification, assumption, or acknowledgment of risk agreement between
26 the landowner and a person who uses the land for educational or recreational purposes."

27 **SECTION 4.** G.S. 99E-31 reads as rewritten:

28 **"§ 99E-31. Liability.**

29 (a) Except as provided in subsection (b) of this section, an agritourism professional is
30 not liable for injury to or death of a participant resulting from the inherent risks of agritourism
31 activities, so long as the warning contained in G.S. 99E-32 is posted as required and, except as
32 provided in subsection (b) of this section, no participant or participant's representative can
33 maintain an action against or recover from an agritourism professional for injury, loss, damage,
34 or death of the participant resulting exclusively from any of the inherent risks of agritourism
35 activities. In any action for damages against an agritourism professional for agritourism
36 activity, the agritourism professional must plead the affirmative defense of assumption of the
37 risk of agritourism activity by the participant.

38 (b) Nothing in subsection (a) of this section prevents or limits the liability of an
39 agritourism professional if the agritourism professional does any one or more of the following:

40 (1) Commits an act or omission that constitutes ~~negligence~~ or willful or wanton
41 disregard for the safety of the participant, and that act or omission
42 proximately causes injury, damage, or death to the participant.

43 (2) Has actual knowledge or reasonably should have known of ~~an existing~~
44 dangerous condition on the land, facilities, or equipment used in the activity
45 or the dangerous propensity of a particular animal used in such activity and
46 does not make the danger known to the participant, and the danger
47 proximately causes injury, damage, or death to the participant.

48 (c) Nothing in subsection (a) of this section prevents or limits the liability of an
49 agritourism professional under liability provisions as set forth in Chapter 99B of the General
50 Statutes.

1 (d) Any limitation on legal liability afforded by this section to an agritourism
2 professional is in addition to any other limitations of legal liability otherwise provided by law."
3
4

5 **PART IV. ALLOW THE COMMISSIONER OF AGRICULTURE TO ASSESS**
6 **NONMONETARY PENALTIES TO ADDRESS VIOLATIONS WHEN APPROPRIATE**

7 **SECTION 5.** Chapter 106 of the General Statutes is amended by adding a new
8 section to read:

9 **"§ 106-22.6. Exercise of enforcement powers.**

10 When any board, commission, or official within the North Carolina Department of
11 Agriculture and Consumer Services has the authority to assess civil penalties, such authority
12 shall not be construed to require the issuance of a monetary penalty when the board,
13 commission, or official determines that nonmonetary sanctions, education, or training are
14 sufficient to address the underlying violation."
15

16 **PART V. DECREASE THE FREQUENCY OF THE AGRICULTURAL WATER USE**
17 **SURVEY**

18 **SECTION 6.** G.S. 106-24 reads as rewritten:

19 **"§ 106-24. Collection and publication of information relating to agriculture; cooperation.**

20 (a) The Department of Agriculture and Consumer Services shall collect, compile,
21 systematize, tabulate, and publish statistical information relating to agriculture. The
22 Department is authorized to use sample surveys to collect primary data relating to agriculture.
23 The Department is authorized to cooperate with the United States Department of Agriculture
24 and the several boards of county commissioners of the State, to accomplish the purpose of this
25 Part.

26 (b) The Department of Agriculture and Consumer Services shall ~~annually~~biennially
27 collect information on water use by persons who withdraw 10,000 gallons per day or more of
28 water from the surface or groundwater sources of the State for activities directly related or
29 incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy
30 products, livestock, poultry, and other agricultural products. The information shall be collected
31 by survey conducted pursuant to subsection (a) of this section and in accordance with Title 7
32 United States Code Section 2276 (Confidential Information Protection and Statistical
33 Efficiency Act). The Department shall develop the survey form in consultation with the
34 Department of Environment and Natural Resources. The Department shall report the results of
35 the water use survey to the Environmental Review Commission no later than July 1 of each
36 year in which the survey was collected and shall provide a copy of the report to the Department
37 of Environment and Natural Resources. The report shall include recommendations about
38 modifications to the survey, including changes in the gallons per day threshold for water use
39 data collection. The report shall provide agricultural water use data by county. If the county is
40 located in more than one river basin, the report shall separate the county data to show
41 agricultural water use by river basin within the county. If publication of county or watershed
42 data would result in disclosure of an individual operation's water use, the data will be combined
43 with data from another county or watershed."
44

45 **PART VI. LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE**
46 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE**
47 **ABOUT ITS ANIMAL HEALTH PROGRAMS**

48 **SECTION 7.** G.S. 106-24.1 reads as rewritten:

49 **"§ 106-24.1. Confidentiality of information collected and published.**

50 All information published by the Department of Agriculture and Consumer Services
51 pursuant to this Part shall be classified so as to prevent the identification of information

1 received from individual farm operators. All information received pursuant to this Part from
2 individual farm operators shall be held confidential by the Department and its employees.
3 ~~Information~~All information collected by the Department from individual farm operators for the
4 purposes of its animal health programs ~~may be disclosed by the State Veterinarian when, in his~~
5 ~~judgment, the disclosure will assist in the implementation of these programs. Animal disease~~
6 ~~diagnostic tests that identify the owner of the animal programs, including, but not limited to,~~
7 ~~certificates of veterinary inspection, animal medical records, laboratory reports, or other~~
8 ~~records that may be used to identify a person or private business entity subject to regulation by~~
9 ~~the Department shall not be disclosed without the permission of the owner unless the State~~
10 ~~Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease~~
11 ~~or to protect the public health-health, or the disclosure is necessary in the implementation of~~
12 ~~these animal health programs."~~

13
14 **PART VII. MAKE CONFORMING CHANGES TO THE NAME OF THE**
15 **STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE**
16 **RESPONSIBILITIES OF THE DIVISION**

17 **SECTION 8.** G.S. 106-65.23 reads as rewritten:

18 **"§ 106-65.23. Structural Pest Control and Pesticides Division of Department of**
19 **Agriculture and Consumer Services recreated; Director; powers and duties of**
20 **Commissioner; Structural Pest Control Committee created; appointment;**
21 **terms; powers and duties; quorum.**

22 (a) There is recreated, within the North Carolina Department of Agriculture and
23 Consumer Services, a Division to be known as the Structural Pest Control and Pesticides
24 Division. The Commissioner of Agriculture may appoint a Director of the Division, chosen
25 from a list of nominees submitted to him or her by the Structural Pest Control Committee
26 created in this section, whose duties and authority shall be determined by the Commissioner in
27 consultation with the Committee. The Director shall be responsible for and answerable to the
28 Commissioner of Agriculture and the Structural Pest Control Committee as to the operation and
29 conduct of the Structural Pest Control and Pesticides Division. The Director shall act as
30 secretary to the Structural Pest Control Committee.

31 (b) The Commissioner shall have the following powers and duties under this Article:

- 32 (1) To administer and enforce the provisions of this Article and the rules
33 adopted thereunder by the Structural Pest Control Committee. In order to
34 carry out these powers and duties, the Commissioner may delegate to the
35 Director of the Structural Pest Control and Pesticides Division the powers
36 and duties assigned to him or her under this Article.
- 37 (2) To assign the administrative and enforcement duties assigned to him or her
38 in this Article.
- 39 (3) To direct, in consultation with the Structural Pest Control Committee, the
40 work of the personnel employed by the Structural Pest Control Committee
41 and the work of the personnel of the Department assigned to perform the
42 administrative and enforcement functions of this Article.
- 43 (4) To develop, for the Structural Pest Control Committee's consideration for
44 adoption, proposed rules, policies, new programs, and revisions of existing
45 programs under this Article.
- 46 (5) To monitor existing enforcement programs and to provide evaluations of
47 these programs to the Structural Pest Control Committee.
- 48 (6) To attend all meetings of the Structural Pest Control Committee, but without
49 the power to vote unless the Commissioner attends as the designee on the
50 Committee from the Department of Agriculture and Consumer Services.

1 (7) To keep an accurate and complete record of all meetings of the Structural
2 Pest Control Committee and to have legal custody of all books, papers,
3 documents, and other records of the Committee.

4 (8) To perform such other duties as may be assigned to him or her by the
5 Structural Pest Control Committee.

6 ...
7 (d) The Structural Pest Control Committee shall have the following powers and duties:

8 (1) To adopt rules and make policies as provided in this Article.

9 (2) To issue, deny, suspend, revoke, modify, or restrict licenses, certified
10 applicator cards, and registered technician cards under the provisions of this
11 Article. In all matters affecting licensure, the decision of the Committee
12 shall constitute the final agency decision.

13 ~~(3) To report annually to the Board of Agriculture the action taken in the~~
14 ~~Committee's final decisions and the financial status of the Structural Pest~~
15 ~~Control Division.~~

16"

17 **SECTION 9.** G.S. 106-65.24 reads as rewritten:

18 **"§ 106-65.24. Definitions.**

19 As used in this Article:

20 ...

21 (8a) "Director" means the Director of the Structural Pest Control and Pesticides
22 Division of the Department of Agriculture and Consumer Services.

23 ...

24 (9a) "Enforcement agency" means the Structural Pest Control and Pesticides
25 Division of the Department of Agriculture and Consumer Services.

26 ...

27 (19a) "Registered technician" means any individual who is required to be
28 registered with the Structural Pest Control and Pesticides Division under
29 G.S. 106-65.31.

30"

31 **SECTION 10.** G.S. 106-65.30 reads as rewritten:

32 **"§ 106-65.30. Inspectors; inspections and reports of violations; designation of resident**
33 **agent.**

34 ...

35 (c) The Commissioner shall have authority to appoint personnel of the Structural Pest
36 Control and Pesticides Division as special inspectors and said special inspectors are hereby
37 vested with the authority to arrest with a warrant, or to arrest without a warrant when a
38 violation of this Article is being committed in their presence or they have reasonable grounds to
39 believe that a violation of this Article is being committed in their presence. Said special
40 inspectors shall take offenders before the several courts of this State for prosecution or other
41 proceedings. The provisions of this section do not apply to any person holding a valid structural
42 pest control license, or a certified applicator's identification card, or a registered technician's
43 identification card as issued under the provisions of this Article. Special inspectors shall not be
44 entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the
45 benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in
46 Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."
47

48 **PART VIII. AMEND CERTAIN EGG LABELING REQUIREMENTS**

49 **SECTION 11.** G.S. 106-245.20 reads as rewritten:

50 **"§ 106-245.20. Advertisements.**

1 No person shall advertise eggs for sale at a given price unless the unabbreviated grade or
2 quality and size-weight are conspicuously designated in block letters at least half as high as the
3 tallest letter in the word "eggs" or the tallest figure in the price, whichever is larger. The
4 provisions of this section shall not apply to retailers who (i) display egg prices in the same
5 manner as other products sold by the retailer at the retail establishment, excluding any items on
6 sale or subject to a promotion, and (ii) comply with G.S. 106-245.15."
7

8 **PART IX. REPEAL THE INTERSTATE PEST CONTROL COMPACT AND**
9 **CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES, AND DAIRY**
10 **FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC**
11 **ACT**

12 **SECTION 12.** Article 4E of Chapter 106 of the General Statutes is repealed.

13 **SECTION 13.** G.S. 106-246 is repealed.

14 **SECTION 14.** G.S. 106-248 is repealed.

15
16 **PART X. CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE**
17 **MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES**

18 **SECTION 15.** G.S. 106-942 reads as rewritten:

19 **"§ 106-942. High hazard counties; permits required; standards.**

20 ...

21 (c) It is unlawful for any person to willfully burn any debris, stumps, brush or other
22 flammable materials resulting from ground clearing activities and involving more than five
23 contiguous acres, regardless of the proximity of the burning to woodland and on which such
24 materials are placed in piles or windrows without first having obtained a special permit from
25 the Department. Areas less than five acres in size will require a regular permit in accordance
26 with G.S. 106-942(b).

27 ...

28 (2) The location of the burning must be at least ~~1,000~~500 feet from any dwelling
29 or structure located in a predominately residential area other than a dwelling
30 or structure located on the property on which the burning is conducted unless
31 permission is granted by the occupants.

32 ...

33 (6) Initial burning may be commenced only between the hours of ~~9:00~~8:00 A.M.
34 and ~~3:00~~4:00 P.M. and no combustible material may be added to the fire
35 between ~~3:00~~4:00 P.M. on one day and ~~9:00~~8:00 A.M. on the following day,
36 except that when favorable meteorological conditions exist, any forest ranger
37 authorized to issue the permit may authorize in writing a deviation from the
38 restrictions."

39
40 **PART XI. REPEAL THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE**

41 **SECTION 16.** G.S. 119-26.2 is repealed.

42
43 **PART XII. EXEMPT FORESTRY AND SILVICULTURE OPERATIONS FROM**
44 **TEMPORARY DRIVEWAY PERMITTING**

45 **SECTION 17.** Article 7 of Chapter 136 of the General Statutes is amended by
46 adding a new section to read:

47 **"§ 136-92.1. Exemption from temporary driveway permitting for forestry operations.**

48 Forestry operations and silviculture operations, including the harvesting of timber, and
49 other related management activities that require temporary ingress from a property to State
50 roads shall be exempt from the temporary driveway permit process of the Department for State
51 roads, except for controlled access facilities, if the operator of the temporary driveway has

1 attended an educational course on timbering access and obtained a safety certification.
2 Driveway access points covered by this section shall be temporary and shall be removed upon
3 the earlier of six months or the end of forestry or silviculture operations on the property."
4

5 **PART XIII. EXEMPT CERTAIN STRUCTURES FROM THE SPRINKLER SYSTEM**
6 **REQUIREMENTS OF THE NORTH CAROLINA BUILDING CODE AND ALLOW**
7 **FARM BUILDINGS THAT ARE USED FOR PUBLIC OR PRIVATE EVENTS TO**
8 **MAINTAIN THEIR FARM BUILDING STATUS FOR PURPOSES OF THE STATE**
9 **BUILDING CODE**

10 **SECTION 18.** G.S. 143-138, as amended by S.L. 2013-75, reads as rewritten:

11 **"§ 143-138. North Carolina State Building Code.**

12 ...

13 (b) Contents of the Code. – The North Carolina State Building Code, as adopted by the
14 Building Code Council, may include reasonable and suitable classifications of buildings and
15 structures, both as to use and occupancy; general building restrictions as to location, height, and
16 floor areas; rules for the lighting and ventilation of buildings and structures; requirements
17 concerning means of egress from buildings and structures; requirements concerning means of
18 ingress in buildings and structures; rules governing construction and precautions to be taken
19 during construction; rules as to permissible materials, loads, and stresses; rules governing
20 chimneys, heating appliances, elevators, and other facilities connected with the buildings and
21 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort
22 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules
23 pertaining to the construction of buildings and structures and the installation of particular
24 facilities therein as may be found reasonably necessary for the protection of the occupants of
25 the building or structure, its neighbors, and members of the public at large.

26 (b1) Fire Protection; Smoke Detectors. – The Code may regulate activities and
27 conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related
28 hazards. Such fire prevention code provisions shall be considered the minimum standards
29 necessary to preserve and protect public health and safety, subject to approval by the Council of
30 more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e).
31 These provisions may include regulations requiring the installation of either battery-operated or
32 electrical smoke detectors in every dwelling unit used as rental property, regardless of the date
33 of construction of the rental property. For dwelling units used as rental property constructed
34 prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other
35 equivalent national testing laboratory approval, and shall be installed in accordance with either
36 the standard of the National Fire Protection Association or the minimum protection designated
37 in the manufacturer's instructions, which the property owner shall retain or provide as proof of
38 compliance.

39 (b2) Carbon Monoxide Detectors. – The Code may contain provisions requiring the
40 installation of either battery-operated or electrical carbon monoxide detectors in every dwelling
41 unit having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having
42 an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized
43 testing laboratory that is OSHA-approved to test and certify to American National Standards
44 Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be
45 installed in accordance with either the standard of the National Fire Protection Association or
46 the minimum protection designated in the manufacturer's instructions, which the property
47 owner shall retain or provide as proof of compliance. A carbon monoxide detector may be
48 combined with smoke detectors if the combined detector does both of the following: (i)
49 complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217
50 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between
51 detecting the presence of carbon monoxide and the presence of smoke.

1 (b3) Applicability of the Code. – Except as provided by subsections (b4) and (c1) of this
2 section, the Code may contain provisions regulating every type of building or structure,
3 wherever it might be situated in the State.

4 (b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm
5 buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm
6 buildings that are located inside the building-rules jurisdiction of any municipality if the farm
7 buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the
8 purposes of this subsection:

9 (1) A "farm building" shall include any structure used or associated with equine
10 activities, including, but not limited to, the care, management, boarding, or
11 training of horses and the instruction and training of riders. Structures that
12 are associated with equine activities include, but are not limited to, free
13 standing or attached sheds, barns, or other structures that are utilized to store
14 any equipment, tools, commodities, or other items that are maintained or
15 used in conjunction with equine activities. The specific types of equine
16 activities, structures, and uses set forth in this subdivision are for illustrative
17 purposes, and should not be construed to limit, in any manner, the types of
18 activities, structures, or uses that may be considered under this subsection as
19 exempted from building rules. A farm building that might otherwise qualify
20 for exemption from building rules shall remain subject only to an annual
21 safety inspection by the applicable city or county building inspection
22 department of any grandstand, bleachers, or other spectator-seating
23 structures in the farm building. An annual safety inspection shall include an
24 evaluation of the overall safety of spectator-seating structures as well as
25 ensuring the spectator-seating structure's compliance with any building
26 codes related to the construction of spectator-seating structures in effect at
27 the time of the construction of the spectator-seating.

28 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more
29 glass or plastic walls, has an area over ninety-five percent (95%) of which is
30 used to grow or cultivate plants, is built in accordance with the National
31 Greenhouse Manufacturers Association Structural Design manual, and is not
32 used for retail sales. Additional provisions addressing distinct life safety
33 hazards shall be approved by the local building-rules jurisdiction.

34 (3) A "farm building" shall include any structure used for the display and sale of
35 produce, no more than 1,000 square feet in size, open to the public for no
36 more than 180 days per year, and certified by the Department of Agriculture
37 and Consumer Services as a Certified Roadside Farm Market.

38 (4) A "primitive camp" shall include any structure primarily used or associated
39 with outdoor camping activities, including structures used for educational,
40 instructional, or recreational purposes for campers and for management
41 training, that are (i) not greater than 4,000 square feet in size and (ii) are not
42 intended to be occupied for more than 24 hours consecutively. "Structures
43 primarily used or associated with outdoor camping activities" include, but
44 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,
45 campfire shelters, picnic shelters, tents, tepees or other indigenous huts,
46 support buildings used only for administrative functions and not for
47 activities involving campers or program participants, and any other
48 structures that are utilized to store any equipment, tools, commodities, or
49 other items that are maintained or used in conjunction with outdoor camping
50 activities such as hiking, fishing, hunting, or nature appreciation, regardless
51 of material used for construction. The specific types of primitive camping

1 activities, structures, and uses set forth in this subdivision are for illustrative
2 purposes and should not be construed to limit, in any manner, the types of
3 activities, structures, or uses that are exempted from building rules.

4 (5) A "primitive farm building" shall include any structure used for activities,
5 instruction, training, or reenactment of traditional or heritage farming
6 practices. "Primitive farm buildings" include, but are not limited to, sheds,
7 barns, outhouses, doghouses, or other structures that are utilized to store any
8 equipment, tools, commodities, livestock, or other items supporting farm
9 management. These specific types of farming activities, structures, and uses
10 set forth by this subdivision are for illustrative purposes and should not be
11 construed to limit in any manner the types of activities, structures, or uses
12 that are exempted from building rules.

13 (6) A "farm building" shall not lose its status as a farm building because it is
14 used for public or private events, including, but not limited to, weddings,
15 receptions, meetings, demonstrations of farm activities, meals, and other
16 events that are taking place on the farm because of its farm or rural setting.

17 (b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No
18 building permit shall be required under the Code or any local variance thereof approved under
19 subsection (e) for any construction, installation, repair, replacement, or alteration costing five
20 thousand dollars (\$5,000) or less in any single family residence or farm building unless the
21 work involves: the addition, repair, or replacement of load bearing structures; the addition
22 (excluding replacement of same capacity) or change in the design of plumbing; the addition,
23 replacement or change in the design of heating, air conditioning, or electrical wiring, devices,
24 fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same
25 type), appliances (excluding replacement of water heaters, provided that the energy use rate or
26 thermal input is not greater than that of the water heater which is being replaced, and there is no
27 change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or
28 equipment, the use of materials not permitted by the North Carolina Uniform Residential
29 Building Code; or the addition (excluding replacement of like grade of fire resistance) of
30 roofing. The exclusions from building permit requirements set forth in this paragraph for
31 electrical lighting devices and fixtures and water heaters shall apply only to work performed on
32 a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and
33 fixtures and electric water heaters shall apply only to work performed by a person licensed
34 under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person
35 licensed under G.S. 87-21.

36 (b6) No State Agency Permit. – No building permit shall be required under such Code
37 from any State agency for the construction of any building or structure, the total cost of which
38 is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

39 (b7) Appendices. – For the information of users thereof, the Code shall include as
40 appendices the following:

- 41 (1) Any rules governing boilers adopted by the Board of Boiler and Pressure
42 Vessels Rules,
- 43 (2) Any rules relating to the safe operation of elevators adopted by the
44 Commissioner of Labor, and
- 45 (3) Any rules relating to sanitation adopted by the Commission for Public
46 Health which the Building Code Council believes pertinent.

47 ~~(b7)~~ The Code may include references to such other rules of special types, such as those
48 of the Medical Care Commission and the Department of Public Instruction as may be useful to
49 persons using the Code. No rule issued by any agency other than the Building Code Council
50 shall be construed as a part of the Code, nor supersede that Code, it being intended that they be
51 presented with the Code for information only.

1 (b8) Exclusion for Certain Utilities. – Nothing in this Article shall extend to or be
2 construed as being applicable to the regulation of the design, construction, location, installation,
3 or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied
4 petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for
5 liquefied petroleum gas from the outlet of the first stage pressure regulator to and including
6 each liquefied petroleum gas utilization device within a building or structure covered by the
7 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in
8 G.S. 62-3, or an electric or telephone membership corporation, including without limitation
9 poles, towers, and other structures supporting electric or communication lines.

10 (b9) Exclusion for Industrial Machinery. – Nothing in this Article shall extend to or be
11 construed as being applicable to the regulation of the design, construction, location, installation,
12 or operation of industrial machinery. However, if during the building code inspection process,
13 an electrical inspector has any concerns about the electrical safety of a piece of industrial
14 machinery, the electrical inspector may refer that concern to the Occupational Safety and
15 Health Division in the North Carolina Department of Labor but shall not withhold the
16 certificate of occupancy nor mandate third-party testing of the industrial machinery based
17 solely on this concern. For the purposes of this paragraph, "industrial machinery" means
18 equipment and machinery used in a system of operations for the explicit purpose of producing a
19 product or acquired by a State-supported center providing testing, research, and development
20 services to manufacturing clients. The term does not include equipment that is permanently
21 attached to or a component part of a building and related to general building services such as
22 ventilation, heating and cooling, plumbing, fire suppression or prevention, and general
23 electrical transmission.

24 (b10) Replacement Water Heaters. – The Code may contain rules concerning minimum
25 efficiency requirements for replacement water heaters, which shall consider reasonable
26 availability from manufacturers to meet installation space requirements and may contain rules
27 concerning energy efficiency that require all hot water plumbing pipes that are larger than
28 one-fourth of an inch to be insulated.

29 (b11) School Seclusion Rooms. – No State, county, or local building code or regulation
30 shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools
31 approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be
32 constructed so that it will engage only when a key, knob, handle, button, or other similar device
33 is being held in position by a person, and provided further that, if the mechanism is electrically
34 or electronically controlled, it automatically disengages when the building's fire alarm is
35 activated. Upon release of the locking mechanism by a supervising adult, the door must be able
36 to be opened readily.

37 (b12) Cisterns. – The Code may include rules pertaining to the construction or renovation
38 of residential or commercial buildings and structures that permit the use of cisterns to provide
39 water for flushing toilets and for outdoor irrigation. No State, county, or local building code or
40 regulation shall prohibit the use of cisterns to provide water for flushing toilets and for outdoor
41 irrigation. As used in this subsection, "cistern" means a storage tank that is watertight; has
42 smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as
43 reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment
44 area; may be installed indoors or outdoors; and is located underground, at ground level, or on
45 elevated stands.

46 (b13) Migrant Housing. – The Council shall provide for an exemption from any
47 requirements in the fire prevention code for installation of an automatic sprinkler system
48 applicable to buildings meeting all of the following:

49 (1) Has one floor.

50 (2) Meets all requirements of 29 C.F.R. § 1910.142, as amended.

(3) Meets all requirements of Article 19 of Chapter 95 of the General Statutes and rules implementing that Article.

For purposes of this subsection, "migrant housing" and "migrant" shall be defined as in G.S. 95-223.

...."

PART XIV. ALLOW RETAILERS TO DISPLAY MORE THAN 400 SQUARE FEET OF NURSERY STOCK FOR SALE IN THEIR PARKING LOTS

SECTION 19. G.S. 143-214.7(d1) is repealed.

PART XV. EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM SAFETY ACT

SECTION 20. G.S. 143-215.25A reads as rewritten:

"§ 143-215.25A. Exempt dams.

(a) Except as otherwise provided in this Part, this Part does not apply to any dam:

- (1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.
- (2) Constructed with financial assistance from the United States ~~Soil~~Natural Resources Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.
- (3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.
- (4) For use in connection with electric generating facilities regulated by the Nuclear Regulatory Commission.
- (5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.
- (6) That is less than 25 feet in height or that has an impoundment capacity of less than 50 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam.
- (7) Constructed for and maintains the purpose of providing water for agricultural use, when a person who is licensed as a professional engineer or is employed by the Natural Resources Conservation Service, county, or local Soil and Water Conservation District, and has federal engineering job approval authority under Chapter 89C of the General Statutes designed or approved plans for the dam, supervised its construction, and registered the dam with the Division of Energy, Mineral, and Land Resources of the ~~Department.~~Department prior to construction of the dam. This exemption shall not apply to dams that are determined to be high-hazard by the Department.

...."

PART XVI. ALLOW A LANDOWNER TO WITHDRAW WATER FOR AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER CERTAIN CONDITIONS

SECTION 21. G.S. 143-355.3 reads as rewritten:

"§ 143-355.3. Water shortage emergency powers.

1 (a) Declaration of Water Shortage Emergency. – If, after consultation with the affected
2 water system and the unit of local government with jurisdiction over the area served by the
3 water system, the Secretary determines that the needs of human consumption, necessary
4 sanitation, and public safety require emergency action, the Secretary shall provide the Governor
5 with written findings setting out the basis for declaration of a water shortage emergency. The
6 Governor shall have the authority to declare a water shortage emergency in the area affected by
7 the water shortage emergency, which may include both the water system experiencing a water
8 shortage emergency and the area served by a water system required under subdivision (1) of
9 subsection (b) of this section to provide water in response to the water shortage emergency. No
10 emergency period shall exceed 30 days, but the Governor may declare successive emergencies
11 based upon the written findings of the Secretary.

12 ...
13 (f) Nothing in this section shall limit a landowner from withdrawing water for use in
14 agricultural activities, as described in G.S. 106-581.1, when the water is withdrawn from any of
15 the following:

- 16 (1) Surface water sources located wholly on the landowner's property, including,
17 but not limited to, impoundments constructed by or owned by the landowner
18 and captured stormwater.
19 (2) Groundwater sources, including, but not limited to, wells constructed on the
20 landowner's property, springs, and artesian wells. This subsection shall not
21 apply if the Governor determines that withdrawal of water from a
22 groundwater source is causing negative impacts to groundwater sources not
23 located on the landowner's property, including the diminution of water
24 available from neighboring groundwater sources or saltwater intrusion into
25 neighboring groundwater sources."

26
27 **PART XVII. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
28 **RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY**
29 **PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY**
30 **CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND**
31 **OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION**
32 **BEYOND THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL**
33 **OCCUR**

34 **SECTION 22.1.** No later than October 1, 2013, the Department of Environment
35 and Natural Resources and the Department of Transportation shall jointly petition the
36 Wilmington District of the United States Army Corps of Engineers (Wilmington District) to
37 allow for greater flexibility and opportunity to perform stream and wetlands mitigation outside
38 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The
39 Departments shall seek this greater flexibility and opportunity for mitigation for both public
40 and private development. The Departments shall request that the Wilmington District review
41 the flexibility and opportunities for mitigation allowed by other Districts of the United States
42 Army Corps of Engineers.

43 **SECTION 22.2.** The Departments shall jointly report on their progress in
44 petitioning the Wilmington District as required by Section 22.1 of this act to the Environmental
45 Review Commission no later than January 1, 2014.

46
47 **PART XVIII. ACCELERATE SUNSET DATE OF PETROLEUM DISPLACEMENT**
48 **PLAN AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS**
49 **TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM**
50 **PRODUCTS**

1 **SECTION 23.** Section 19.5(a) of S.L. 2005-276, as amended by Section 14.14(a)
2 of S.L. 2009-451 and Section 14.2B(a) of S.L. 2011-145, reads as rewritten:

3 "**SECTION 19.5.(a)** All State agencies, universities, and community colleges that have
4 State-owned vehicle fleets shall continue to develop and implement petroleum displacement
5 plans to improve the State's use of alternative fuels, synthetic lubricants, and efficient vehicles.
6 The plans shall achieve a twenty percent (20%) reduction or displacement of the current
7 petroleum products consumed by July 1, 2016. Before implementation of any plan, all affected
8 agencies shall report their plan to the State Energy Office within the Department of Commerce.
9 The State Energy Office shall compile a report on the plans submitted and report to the Joint
10 Legislative Commission on Governmental Operations. Agencies shall implement their plans by
11 January 1, 2006. Reductions may be met by petroleum or oils displaced through Such efforts
12 shall include the use of biodiesel, ethanol, synthetic oils or lubricants, and other alternative
13 fuels, fuels; the use of hybrid electric vehicles, vehicles or other fuel-efficient or low-emission
14 vehicles, or additional methods as may be approved by the State Energy Office, thereby
15 reducing the amount of harmful emissions. The plan shall not impede mission fulfillment of the
16 agency and shall specifically address a long term cost benefit analysis, allowances for changes
17 in vehicle usage, total miles driven, and exceptions due to technology, budgetary limitations,
18 and emergencies.vehicles; and the use of advanced technology to manage and reduce the
19 consumption of petroleum products. No State agency, university, or community college shall
20 alter its petroleum displacement plan in a way that increases the amount of petroleum products
21 consumed."

22
23 **PART XIX. EFFECTIVE DATE**

24 **SECTION 24.** Sections 2, 3, and 4 of this act become effective August 1, 2013,
25 and apply to claims arising on or after that date. The remainder of this act is effective when it
26 becomes law.