

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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Short Title: NC Farm Act of 2014.

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO (1) MAINTAIN THE CONFIDENTIALITY OF ENVIRONMENTAL
3 INVESTIGATIONS FOR AGRICULTURAL OPERATIONS AND DIRECT THE
4 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ADOPT
5 RULES FOR A FORMAL COMPLAINT PROCEDURE; (2) CLARIFY THE
6 AUTHORITY OF LOCAL GOVERNMENTS TO ADOPT ORDINANCES RELATED
7 TO FERTILIZER; (3) REWRITE THE LANDSCAPE CONTRACTOR LICENSING
8 STATUTES; (4) STUDY THE STATE'S PARTICIPATION IN THE COMMERCIAL
9 VEHICLE SAFETY ALLIANCE NORTH AMERICAN STANDARD INSPECTION
10 PROGRAM; (5) CLARIFY THE MEANING OF THE TERMS "PLANTING AND
11 HARVESTING SEASON" AND "PLANTING AND HARVESTING PERIOD" FOR
12 PURPOSES OF APPLYING FEDERAL LAWS OR REGULATIONS RELATING TO
13 HOURS OF SERVICE RULES FOR CERTAIN DRIVERS TRANSPORTING
14 AGRICULTURAL PRODUCTS; (6) AMEND THE CHAIRMANSHIP OF THE
15 AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION; (7)
16 ALLOW THE COMMISSIONER OF AGRICULTURE TO APPOINT LAW
17 ENFORCEMENT OFFICERS TO CARRY OUT THE LAW ENFORCEMENT
18 RESPONSIBILITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER
19 SERVICES; (8) AMEND THE HORSE INDUSTRY PROMOTION ACT; (9) ALLOW
20 THE USE OF PESTICIDES TO CONTROL MOLES; (10) CLASSIFY TRESPASSING
21 ON AN AGRICULTURAL FACILITY AS A FIRST DEGREE TRESPASS; (11)
22 REQUIRE WRITTEN CONSENT TO OPERATE AN ALL-TERRAIN VEHICLE ON
23 PROPERTY OWNED BY ANOTHER; (12) ALLOW DRAINAGE DISTRICTS TO
24 MAINTAIN DITCHES IN BUFFER ZONES; (13) CLARIFY PERIODIC INSPECTIONS
25 AUTHORITY OF THE NORTH CAROLINA HOUSING FINANCE AGENCY; (14)
26 PERMIT SECURITY GRILLES AT ALL EXITS OF A BUILDING SUBJECT TO
27 CERTAIN CONDITIONS; (15) DESIGNATE THE "GOT TO BE NC" MARKETING
28 CAMPAIGN AS THE OFFICIAL AGRICULTURAL MARKETING CAMPAIGN FOR



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1 THE STATE; (16) ALLOW CERTIFICATION OF PRIVATE PESTICIDE
2 APPLICATORS; AND (17) EXEMPT STATE FAIR ADMISSION FEES FROM RULE
3 MAKING.

4 The General Assembly of North Carolina enacts:

5
6 **MAINTAIN THE CONFIDENTIALITY OF ENVIRONMENTAL INVESTIGATIONS**
7 **FOR AGRICULTURAL OPERATIONS AND DIRECT THE DEPARTMENT OF**
8 **ENVIRONMENT AND NATURAL RESOURCES TO ADOPT RULES FOR A**
9 **FORMAL COMPLAINT PROCEDURE**

10 **SECTION 1.(a)** Article 21 of Chapter 143 of the General Statutes is amended by
11 adding two new sections to read:

12 **"§ 143-215.9D. Agricultural operation investigations confidential.**

13 Complaints of violations of this Article relating to an agricultural operation and all other
14 records accumulated in conjunction with the investigation of these complaints shall be
15 considered confidential records and may be released only by order of a court of competent
16 jurisdiction. If the Department determines that a violation has occurred, the complaint of the
17 violation and all records accumulated in conjunction with the investigation of the complaint
18 shall be considered public records pursuant to G.S. 132-6. Any information obtained by the
19 Department from any law enforcement agency, administrative agency, or regulatory
20 organization on a confidential or otherwise restricted basis in the course of such an
21 investigation shall be confidential and exempt from the requirements of G.S. 132-6(a) to the
22 same extent that it is confidential in the possession of the providing agency or organization.

23 **"§ 143-215.9E. Initial consideration of complaint.**

24 (a) When a complaint alleging a violation of this Article is filed with the Department,
25 the Department may, at its sole discretion, request additional information to be provided by the
26 complainant within a specified period of time of no less than seven business days.

27 (b) The Department may decline to accept or further investigate a complaint about an
28 agricultural operation if, after an initial assessment of the complaint, the Department finds
29 reasonable grounds to believe that the complaint is frivolous or was filed in bad faith."

30 **SECTION 1.(b)** The Department of Environment and Natural Resources shall
31 adopt rules developing a system for receiving, investigating, and responding to environmental
32 complaints about agricultural operations in accordance with Article 2A of Chapter 150B of the
33 General Statutes, the Administrative Procedure Act.

34
35 **CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS TO ADOPT**
36 **ORDINANCES RELATED TO FERTILIZER**

37 **SECTION 2.(a)** If Senate Bill 38, 2013 Regular Session, becomes law, then
38 G.S. 106-678, as enacted by Senate Bill 38, reads as rewritten:

39 **"§ 106-678. Authority to regulate fertilizers.**

40 No county, city, or other political subdivision of the State shall adopt or continue in effect
41 any ordinance or resolution regulating the use, sale, distribution, storage, transportation,
42 disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in
43 this section shall prohibit a county, city, or other political subdivision of the State from
44 exercising its planning and zoning authority under Article 19 of Chapter 160A of the General
45 Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire
46 prevention or inspection authority. Nothing in this section shall limit the authority of the
47 Department of Environment and Natural Resources or the Environmental Management
48 Commission to enforce water quality standards. Nothing in this section shall prohibit a county,
49 city, or other political subdivision of the State from adopting ordinances regulating fertilizers to
50 protect water quality, provided that the ordinances have been approved by the Environmental
51 Management Commission or the Department of Environment and Natural Resources as part of

1 a local plan or National Pollutant Discharge Elimination System permit application and do not
2 exceed the State's minimum requirements to protect water quality as established by the
3 Environmental Management Commission under Part 1, Article 21 of Chapter 143 of the
4 General Statutes. Nothing in this section shall prohibit a county or city from exercising its
5 authority to regulate explosive, corrosive, inflammable, or radioactive substances pursuant to
6 G.S. 153A-128 or G.S. 160A-183."

7 **SECTION 2.(b)** If Senate Bill 38, 2013 Regular Session, does not become law,
8 then Article 56 of Chapter 106 of the General Statutes is amended by adding a new section to
9 read:

10 **"§ 106-678. Authority to regulate fertilizers.**

11 No county, city, or other political subdivision of the State shall adopt or continue in effect
12 any ordinance or resolution regulating the use, sale, distribution, storage, transportation,
13 disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in
14 this section shall prohibit a county, city, or other political subdivision of the State from
15 exercising its planning and zoning authority under Article 19 of Chapter 160A of the General
16 Statutes or Article 18 of Chapter 153A of the General Statutes or from exercising its fire
17 prevention or inspection authority. Nothing in this section shall limit the authority of the
18 Department of Environment and Natural Resources or the Environmental Management
19 Commission to enforce water quality standards. Nothing in this section shall prohibit a county,
20 city, or other political subdivision of the State from adopting ordinances regulating fertilizers to
21 protect water quality, provided that the ordinances have been approved by the Environmental
22 Management Commission or the Department of Environment and Natural Resources as part of
23 a local plan or National Pollutant Discharge Elimination System permit application and do not
24 exceed the State's minimum requirements to protect water quality as established by the
25 Environmental Management Commission under Part 1 of Article 21 of Chapter 143 of the
26 General Statutes. Nothing in this section shall prohibit a county or city from exercising its
27 authority to regulate explosive, corrosive, inflammable, or radioactive substances pursuant to
28 G.S. 153A-128 or G.S. 160A-183."

29
30 **REWRITE THE LANDSCAPE CONTRACTOR LICENSING STATUTES**

31 **SECTION 3.(a)** G.S. 89D-1 through G.S. 89D-10 are repealed.

32 **SECTION 3.(b)** Chapter 89D of the General Statutes is amended by adding the
33 following new sections to read:

34 **"§ 89D-11. Definitions.**

35 The following definitions apply in this Chapter:

- 36 (1) Board. – The North Carolina Landscape Contractors' Licensing Board.
37 (2) Landscape construction or contracting. – The act of providing services as a
38 landscape contractor, as defined in this section, for compensation or other
39 consideration.
40 (3) Landscape contractor. – Any person who, for compensation or other
41 consideration, does any of the following:
42 a. Engages in the business requiring the art, experience, ability,
43 knowledge, science, and skill to prepare contracts and bid for the
44 performance of landscape services, including installing, planting,
45 repairing, and managing gardens, lawns, shrubs, vines, trees, or other
46 decorative vegetation, including the finish grading and preparation of
47 plots and areas of land for decorative utilitarian treatment and
48 arrangement.
49 b. Practices the act of horticulture consultation or planting design for
50 employment purposes.

- 1 c. Constructs, installs, or maintains landscape drainage systems and
2 cisterns; provided the landscaping contractor makes no connection to
3 pipes, fixtures, apparatus, or appurtenances installed upon the
4 premises, or in a building, to supply water thereto or convey sewage
5 or other waste therefrom as defined in G.S. 87-21.
6 d. Designs, installs, or maintains low-voltage landscape lighting
7 systems, provided (i) the work does not exceed the scope of the
8 exception set forth in G.S. 87-43.1(7) and (ii) the low-voltage
9 lighting systems do not exceed 50 volts and constitute a Class II or
10 Class III cord and plug connected power system.
11 e. Engages in the construction of garden pools, retaining walls, walks,
12 patios, or other decorative landscape features.
13 (4) Person. – An individual, firm, partnership, association, corporation, or other
14 legal entity.

15 **"§ 89D-12. License required; use of seal; posting license.**

16 (a) Except as otherwise provided in this Chapter, no person shall engage in the practice
17 of landscape construction or contracting, use the designation "landscape contractor," or
18 advertise using any title or description that implies licensure as a landscape contractor unless
19 the person is licensed as a landscape contractor as provided by this Chapter. All landscape
20 construction or contracting performed by a partnership, association, corporation, firm, or other
21 group shall be performed under an individual who is readily available to exercise supervision
22 over the landscape construction and contracting work and who is licensed by the Board under
23 this Chapter.

24 (b) Nothing in this Chapter shall be construed to authorize a landscape contractor to
25 engage in any of the following:

- 26 (1) The practice of landscape architecture, as defined in G.S. 89A-1.
27 (2) The practice of engineering, as defined in G.S. 89C-3.
28 (3) Practice as a well contractor certified under Article 7A of Chapter 87 of the
29 General Statutes.
30 (4) The practice of irrigation contracting, as defined in G.S. 89G-1.
31 (5) The practice of architecture, as defined in G.S. 83A-1.
32 (6) The practice of plumbing, heating group number one, heating group number
33 two, heating group number three, fire sprinkler, or fuel piping contracting, as
34 defined in G.S. 87-21, provided the landscaping contractor may install
35 piping, fittings, valves, and associated components for the purpose of
36 landscape contracting that is downstream of a potable water source,
37 groundwater source, or grey water source, and downstream of a backflow
38 prevention assembly.
39 (7) The practice of electrical contracting, as defined in G.S. 87-43.

40 (c) A landscape contractor licensed under this Chapter is not required to be licensed as
41 a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed
42 landscape contractor is performing landscape construction or contracting work valued at an
43 amount greater than thirty thousand dollars (\$30,000).

44 (d) Upon licensure by the Board, each landscape contractor shall obtain a seal of the
45 design authorized by the Board and bearing the name of the licensee, the number of the license,
46 and the legend "N.C. Licensed Landscape Contractor." A landscape contractor may use the seal
47 only while the license is valid.

48 (e) Every landscape contractor issued a license under this Chapter shall display the
49 license conspicuously in the landscape contractor's place of business. Every landscape
50 contractor shall display the license number issued to the contractor by the Board on all business
51 cards, contracts, and vehicles used by the contractor in the landscape contracting business.

"§ 89D-13. Exemptions.

The provisions of this Chapter shall not apply to the following:

- (1) Any federal, State, or local governmental agency performing landscaping on public property.
- (2) The North Carolina Department of Transportation (NCDOT). However, for landscape installations or establishment periods for any project that exceeds the current contract amount requiring performance and payment bonds according to State law, NCDOT shall require a licensed landscape contractor to perform the work. NCDOT, at its discretion, may require a licensed landscape contractor for landscape projects of any cost.
- (3) Any property owner performing landscape work on his or her own property.
- (4) Any person or business owning or operating a golf course.
- (5) Any landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than thirty thousand dollars (\$30,000). A local governmental unit shall not enact a local ordinance or regulation requiring licensure for landscaping work performed pursuant to this subdivision.
- (6) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor.
- (7) Any person or business licensed as an electrical contractor under Article 4 of Chapter 87 of the General Statutes who is designing, installing, or maintaining any electric work, wiring, devices, appliances, or equipment.
- (8) Any person or business licensed as a plumbing contractor under Article 2 of Chapter 87 of the General Statutes who is installing pipes, fixtures, apparatus, or appurtenances to supply water thereto or convey sewage or other waste therefrom, including the installation, repair, or maintenance of water mains, water taps, services lines, water meters, or backflow prevention assemblies supplying water for irrigation systems or repairs to an irrigation system.
- (9) A professional engineer licensed pursuant to Chapter 89C of the General Statutes.
- (10) A professional landscape architect licensed under Chapter 89A of the General Statutes.
- (11) An individual or a business engaged in any of the following activities while performing that activity:
 - a. Clearing and grading plots and areas of land.
 - b. Erosion control.
 - c. Arboriculture, including consultations on pruning and removal of trees.
 - d. The installation of sod, seed, or plugs by sod producers certified by the Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services.
 - e. Landscape construction performed by utilities contractors for the purpose of grading and erosion control.
 - f. Lawn mowing, turf edging, and debris removal services.
 - g. Turf management or lawn care services only, including fertilization, aeration, weed control, or other turf management or lawn care practices other than mowing or edging.
 - h. Design, installation, and maintenance of on-site wastewater disposal or reuse systems within the on-site wastewater permit specifications.

1 (12) Any person performing landscaping work on a farm for use in agriculture
2 production, farming, or ranching.

3 **"§ 89D-14. The North Carolina Landscape Contractors' Licensing Board.**

4 (a) There is created the North Carolina Landscape Contractors' Licensing Board. The
5 Board shall consist of nine members appointed as follows:

6 (1) One member appointed by the Governor who is a member of the general
7 public.

8 (2) One member appointed by the Commissioner of Agriculture pursuant to
9 recommendations from The North Carolina Green Industry Council.

10 (3) One member appointed by the Board of Directors of the North Carolina
11 Nursery and Landscape Association, Inc., who is a practicing nurseryman
12 operating a nursery certified by the North Carolina Department of
13 Agriculture and Consumer Services Plant Industry Division.

14 (4) Four members who are licensed landscape contractors in the business of
15 landscape construction or contracting. One of the four members shall be
16 appointed by the General Assembly upon the recommendation of the
17 Speaker of the House of Representatives pursuant to recommendations from
18 The North Carolina Green Industry Council; one shall be appointed by the
19 General Assembly upon the recommendation of the President Pro Tempore
20 of the Senate pursuant to recommendations from the Carolinas Irrigation
21 Association, who is also a licensed irrigation contractor; and two shall be
22 appointed by the Board of Directors of the North Carolina Nursery and
23 Landscape Association, Inc.

24 (5) One member appointed by the Board of Directors of the North Carolina
25 Chapter of the American Society of Landscape Architects who is a
26 registered landscape architect.

27 (6) One member appointed by the President of The University of North Carolina
28 from within the land grant university community who is knowledgeable in
29 landscaping methods and practices.

30 (b) All appointments shall be for three-year terms. No member shall serve more than
31 two complete consecutive terms.

32 (c) A vacancy on the Board created by death, resignation, or otherwise shall be filled in
33 the same manner as the original appointment, except that all unexpired terms of Board
34 members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.
35 Appointees to fill vacancies shall serve the remainder of the unexpired term and until their
36 successors are appointed and qualified.

37 (d) The Board shall elect annually a chair and other officers as it deems necessary to
38 carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority
39 of the Board shall constitute a quorum.

40 (e) Each member of the Board may receive per diem and reimbursement for travel and
41 subsistence as set forth in G.S. 93B-5.

42 (f) The Board shall be entitled to the services of the Attorney General in connection
43 with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent
44 it in the enforcement of this Chapter.

45 **"§ 89D-15. Powers and duties.**

46 The Board shall have the following powers and duties:

47 (1) Administer and enforce the provisions of this Chapter.

48 (2) Adopt, amend, or repeal rules to carry out the provisions of this Chapter.

49 (3) Examine and determine the qualifications and fitness of applicants for
50 licensure and licensure renewal.

51 (4) Issue, renew, deny, restrict, suspend, or revoke licenses.

- 1 (5) Reprimand or otherwise discipline licensees under this Chapter.
- 2 (6) Receive and investigate complaints from members of the public.
- 3 (7) Conduct investigations to determine whether violations of this Chapter exist
4 or constitute grounds for disciplinary action against licensees under this
5 Chapter.
- 6 (8) Conduct administrative hearings in accordance with Article 3A of Chapter
7 150B of the General Statutes.
- 8 (9) Seek injunctive relief through any court of competent jurisdiction for
9 violations of this Chapter.
- 10 (10) Collect fees required by G.S. 89D-21 and any other moneys permitted by
11 law to be paid to the Board.
- 12 (11) Require licensees to file and maintain an adequate surety bond.
- 13 (12) Establish and approve continuing education requirements for persons
14 licensed under this Chapter.
- 15 (13) Employ a secretary-treasurer and any other clerical personnel the Board
16 deems necessary to carry out the provisions of this Chapter and to fix
17 compensation for employees.
- 18 (14) Maintain a record of all proceedings conducted by the Board and make
19 available to licensees and other concerned parties an annual report of all
20 Board action.
- 21 (15) Adopt and publish a code of professional conduct for all persons licensed
22 under this Chapter.
- 23 (16) Adopt and publish a code of minimum practice standards for landscape
24 construction and contracting.
- 25 (17) Adopt a seal containing the name of the Board for use on licenses and
26 official reports issued by the Board.

27 **§ 89D-16. Application for license; qualifications; examination; issuance.**

28 (a) Upon application to the Board and payment of the required fees, an applicant for
29 licensure as a landscape contractor may sit for the examination if the applicant submits
30 evidence demonstrating the applicant's qualifications for licensure under this Chapter as
31 prescribed in rules adopted by the Board and meets all of the following qualifications:

- 32 (1) Is at least 18 years of age.
- 33 (2) Is of good moral character as determined by the Board.
- 34 (3) Provides evidence of business identification as required by the Board.
- 35 (4) Files with the Board and maintains a corporate surety bond executed by a
36 company authorized to do business in this State or an irrevocable letter of
37 credit issued by an insured institution. The surety bond or the letter of credit
38 shall be in the amount of ten thousand dollars (\$10,000). The surety bond or
39 letter of credit shall be approved by the Board as to form and shall be
40 conditioned upon the obligor faithfully conforming to and abiding by the
41 provisions of this Chapter. Any person claiming to be injured by an act of a
42 licensed landscape contractor that constitutes a violation of this Chapter may
43 institute an action to recover against the licensee and the surety.

44 (b) If the applicant meets all the qualifications in subsection (a) of this section, the
45 applicant shall be required to pass an examination administered by the Board before the Board
46 may issue the license. The Board shall establish the scope and subject matter of the
47 examination to be administered. The Board shall administer examinations at least twice a year
48 at a time and place to be determined by the Board.

49 (c) When the Board determines that an applicant has met all the qualifications for
50 licensure, submitted the required fee, and passed the examination, the Board shall issue a
51 license to the applicant.

1 "§ 89D-17. Corporations; partnerships; persons doing business under trade name.

2 (a) The Board may issue a license in the name of a corporation if the corporation
3 complies with the following:

4 (1) One or more officers or full-time employees, or both, empowered to act for
5 the corporation are individuals licensed under this Chapter.

6 (2) Only the officers or employees described in subdivision (1) of this
7 subsection execute contracts for landscape construction or contracting in the
8 name of a corporation and are readily available to exercise supervision over
9 the work performed pursuant to the contract.

10 (b) The Board may issue a license in the name of a limited liability company if the
11 company complies with the following:

12 (1) One or more managers, as defined in G.S. 57D-1-03, executives, or full-time
13 employees, or a combination thereof, are individuals licensed under this
14 Chapter.

15 (2) Only the managers, executives, or employees described in subdivision (1) of
16 this subsection execute contracts for landscape construction or contracting in
17 the name of the limited liability company and are readily available to
18 exercise supervision over the work performed pursuant to the contract.

19 (c) The Board may issue a license in the name of a partnership if the partnership
20 complies with the following:

21 (1) One or more general partners or full-time employees empowered to act for
22 the partnership are individuals licensed under this Chapter.

23 (2) Only the partners or employees described in subdivision (1) of this
24 subsection execute contracts for landscape construction or contracting in the
25 name of the partnership and are readily available to exercise supervision
26 over the work performed pursuant to the contract.

27 (d) The Board may issue a license in an assumed or designated trade name if the owner
28 of the business complies with the following:

29 (1) The owner or one or more full-time employees empowered to act for the
30 owner is an individual licensed under this Chapter.

31 (2) Only the persons described in subdivision (1) of this subsection execute
32 contracts for landscape construction or contracting in the assumed or
33 designated trade name of the business and are readily available to exercise
34 supervision over the work performed pursuant to the contract.

35 (e) When the Board issues a license under this section, the Board shall indicate on the
36 license the name and license number of the individual licensee connected to the corporation,
37 partnership, or business conducted under an assumed or designated trade name.

38 (f) A person licensed pursuant to this section shall be readily available to exercise
39 supervision over a contract for landscape construction or contracting until the contract is
40 completed.

41 (g) When a licensee executes a contract for landscape construction or contracting in any
42 capacity other than as a sole proprietor contracting on the licensee's own behalf, the person on
43 whose behalf the licensee is executing the contract shall be licensed under this section.

44 (h) A corporation, partnership, or person doing business under an assumed or
45 designated trade name shall notify the Board in accordance with rules adopted by the Board if
46 an individual licensee who is indicated in the license issued under this section ceases to be an
47 officer, partner, owner, or employee of the corporation, partnership, or person doing business
48 under the assumed or designated trade name. If the corporation, partnership, or person no
49 longer has an officer, general partner, owner, or employee described in subdivision (1) of
50 subsection (a), subdivision (1) of subsection (b), or subdivision (1) of subsection (c) of this
51 section, the corporation, partnership, or person shall have 120 days from the date the officer,

1 general partner, owner, or employee ceases the relationship with the corporation, partnership,
2 or person to satisfy the requirements described in subdivision (1) of subsection (a), subdivision
3 (1) of subsection (b), or subdivision (1) of subsection (c) of this section. The Board may, in its
4 discretion, grant the corporation, partnership, or person a period greater than 120 days to satisfy
5 the requirements described in subdivision (1) of subsection (a), subdivision (1) of subsection
6 (b), or subdivision (1) of subsection (c) of this section as it deems appropriate. After 120 days,
7 or a time period greater than 120 days as approved by the Board, if the corporation, partnership,
8 or person does not have an officer, general partner, owner, or employee as described in
9 subdivision (1) of subsection (a), subdivision (1) of subsection (b), or subdivision (1) of
10 subsection (c) of this section, the license issued under this section is automatically suspended
11 and the corporation, partnership, or person shall cease practicing landscape construction or
12 contracting.

13 **"§ 89D-18. Licensing of nonresidents.**

14 (a) Definitions. – The following definitions apply in this section:

15 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
16 final notice of assessment issued to a taxpayer by the Secretary of Revenue
17 when the taxpayer no longer has the right to contest the amount.

18 (2) Foreign corporation. – A corporation as defined in G.S. 55-1-40.

19 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
20 or a foreign partnership.

21 (4) Foreign limited liability company. – A company as defined in
22 G.S. 57D-1-03.

23 (5) Foreign partnership. – One of the following that does not have a permanent
24 place of business in this State:

25 a. A foreign limited partnership as defined in G.S. 59-102.

26 b. A general partnership formed under the laws of a jurisdiction other
27 than this State.

28 (b) Licensing. – Except as provided in this section, the Board may issue a license to a
29 nonresident individual or a foreign entity that meets the requirements for licensure under this
30 Chapter.

31 (c) Certificate of Authority Required. – The Board shall not issue a license for a foreign
32 corporation unless the corporation has obtained a certificate of authority from the Secretary of
33 State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a
34 license for a foreign limited liability company unless the company has obtained a certificate of
35 authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General
36 Statutes.

37 (d) Information. – The Board, upon request, shall provide the Secretary of Revenue the
38 name, address, and tax identification number of every nonresident individual and foreign entity
39 licensed by the Board. The information to be provided under this section shall be in a form
40 required by the Secretary of Revenue.

41 (e) Delinquents. – If the Secretary of Revenue determines that any nonresident
42 individual or foreign entity licensed by the Board owes a delinquent income tax debt, the
43 Secretary of Revenue may notify the Board of the nonresident individual or foreign entity and
44 instruct the Board not to renew the nonresident individual or foreign entity's license. The Board
45 shall not renew the license of a nonresident individual or foreign entity identified by the
46 Secretary of Revenue unless the Board receives a written statement from the Secretary that (i)
47 the debt has been paid or (ii) the debt is being paid pursuant to an installment agreement.

48 **"§ 89D-19. Reciprocity.**

49 The Board may issue a license, without examination, to any person who is a landscape
50 contractor licensed, certified, or registered in another state or country if the requirements for

1 licensure, certification, or registration in the other state or country are substantially equivalent
2 to the requirements for licensure in this State.

3 **"§ 89D-20. License renewal and continuing education.**

4 (a) Every license issued under this Chapter shall be renewed on or before the first day
5 of August of each year. Any person who desires to continue to practice shall apply for a license
6 renewal and shall submit the required fee. Licenses that are not renewed shall be automatically
7 revoked. A license may be renewed at any time within one year after its expiration if (i) the
8 applicant pays the required renewal fee and late renewal fee, (ii) the Board finds that the
9 applicant has not used the license in a manner inconsistent with the provisions of this Chapter
10 or engaged in the practice of landscape construction or contracting after notice of revocation,
11 and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter.
12 When necessary, the Board may require licensees to demonstrate continued competence as a
13 condition of license renewal.

14 (b) As a condition of license renewal, a licensee shall meet the continuing education
15 requirements set by the Board. Each licensee shall complete seven continuing education units
16 per year. The Board may suspend a licensee's license for 30 days for failure to obtain
17 continuing education units required by this subsection. Upon payment of a reinstatement fee,
18 submission to the Board of proof of the continuing education units required by this subsection,
19 and payment of the license renewal fee and late renewal fee, the licensee's license shall be
20 reinstated. Failure to request a reinstatement of the license and failure to pay the reinstatement
21 fee, renewal fee, and late renewal fee shall result in the forfeiture of a license. Upon forfeiture,
22 a person shall be required to submit a new application and retake the examination as provided
23 in this Chapter.

24 **"§ 89D-21. Expenses and fees.**

25 (a) The Board may impose the following fees not to exceed the amounts listed below:

26 (1)	<u>Application fee</u>	<u>\$100.00</u>
27 (2)	<u>Examination fee</u>	<u>250.00</u>
28 (3)	<u>Individual license fee and individual license renewal</u>	<u>100.00</u>
29 (4)	<u>Initial corporate, limited liability company, partnership,</u>	
30	<u>or trade name license</u>	<u>100.00</u>
31 (5)	<u>Corporate, limited liability company, partnership,</u>	
32	<u>or trade name license renewal</u>	<u>100.00</u>
33 (6)	<u>Late renewal fee</u>	<u>50.00</u>
34 (7)	<u>Reinstatement fee</u>	<u>250.00</u>
35 (8)	<u>License by reciprocity</u>	<u>250.00</u>
36 (9)	<u>Duplicate license</u>	<u>25.00</u>

37 (b) When the Board uses a testing service for the preparation, administration, or grading
38 of examinations, the Board may charge the applicant the actual cost of the examination services
39 and a prorated portion of the examination fee.

40 **"§ 89D-22. Disciplinary action.**

41 (a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or
42 renew a license if a licensee or applicant does any of the following:

- 43 (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or
44 attempting to obtain a license or the renewal of a license.
- 45 (2) Practices or attempts to practice landscape construction or contracting by
46 fraudulent misrepresentation.
- 47 (3) Commits an act of gross malpractice or incompetence as determined by the
48 Board.
- 49 (4) Has been convicted of or pled guilty or no contest to a crime that indicates
50 that the person is unfit or incompetent to practice as a landscape contractor
51 or that indicates that the person has deceived or defrauded the public.

- 1 (5) Has been declared incompetent by a court of competent jurisdiction.
2 (6) Has willfully violated any provision in this Chapter or any rules adopted by
3 the Board.
4 (7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
5 (8) Fails to file the required surety bond or letter of credit or to keep the bond or
6 letter of credit in force.

7 (b) The Board may assess costs, including reasonable attorneys' fees and investigatory
8 costs, in a proceeding under this section against an applicant or licensee found to be in violation
9 of this Chapter.

10 **"§ 89D-23. Civil penalties.**

11 (a) In addition to taking any of the actions permitted under G.S. 89D-22, the Board may
12 assess a civil penalty not in excess of two thousand dollars (\$2,000) for each violation of any
13 section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of
14 any civil penalty assessed under this section shall be remitted to the Civil Penalty and
15 Forfeiture Fund in accordance with G.S. 115C-457.2.

16 (b) Before imposing and assessing a civil penalty and fixing the amount of the penalty,
17 the Board shall, as a part of its deliberations, take into consideration the following factors:

- 18 (1) The nature, gravity, and persistence of the particular violation.
19 (2) The appropriateness of the imposition of a civil penalty when considered
20 alone or in combination with other punishment.
21 (3) Whether the violation was willful and malicious.
22 (4) Any other factors that would tend to mitigate or aggravate the violations
23 found to exist.

24 **"§ 89D-24. Injunction to prevent violation; notification of complaints.**

25 (a) If the Board finds that a person who does not have a license issued under this
26 Chapter is engaging in the practice of landscape construction or contracting, the Board may
27 appear in its own name in superior court in actions for injunctive relief to prevent any person
28 from violating the provisions of this Chapter or the rules adopted by the Board.

29 (b) A licensed landscape contractor shall notify the Board of any written complaints
30 filed against the landscape contractor not resolved within 30 days from the date the complaint
31 was filed by registered mail to the Board."

32 **SECTION 3.(c)** Members serving on the North Carolina Landscape Contractors'
33 Registration Board on the effective date of this act shall continue to serve until members of the
34 North Carolina Landscape Contractors' Licensing Board, G.S. 89D-14(a), as enacted by Section
35 3(b) of this act, are appointed.

36 **SECTION 3.(d)** Once the term of one of the current public members appointed by
37 the Governor expires, the General Assembly, upon the recommendation of the Speaker of the
38 House of Representatives, shall appoint a licensed landscape contractor in the business of
39 landscape construction and contracting. Once the term of one of the current members appointed
40 by the Commissioner of Agriculture expires, the General Assembly, upon the recommendation
41 of the President Pro Tempore of the Senate, shall appoint a licensed landscape contractor in the
42 business of landscape construction and contracting. All records, staff, funds, and other items of
43 the North Carolina Landscape Contractors' Registration Board are transferred to and made the
44 property of the North Carolina Landscape Contractors' Licensing Board.

45 **SECTION 3.(e)** Any person who, on or before December 31, 2014, meets at least
46 one of the following criteria shall be issued a landscape contractor's license by the North
47 Carolina Landscape Contractors' Licensing Board, without the requirement of examination,
48 upon submission of a completed application and payment of the application fee on or before
49 August 1, 2015:

- 50 (1) Is registered as a landscape contractor.
51 (2) Is licensed as an irrigation contractor.

- 1 (3) Is certified as a turf grass professional.
- 2 (4) Has three years of documented experience in the person's own business as a
- 3 landscape contractor or three years of documented experience as an
- 4 employee in a landscape contracting business and meets all other
- 5 requirements and qualifications for licensure as a landscape contractor.
- 6 Educational experience can be applied toward the three-year experience
- 7 requirement as follows:
- 8 a. One year of credit for a two-year degree in related educational
- 9 training.
- 10 b. Two years of credit for a four-year degree in related educational
- 11 training.
- 12 c. Up to two years of credit for education or business experience in
- 13 general business management.

14 Landscape contractors currently registered under Chapter 89D of the General Statutes shall not

15 be required to renew the registration for the 2015 calendar year to qualify for the landscape

16 contractor's license, as enacted by Section 3(b) of this act.

17 **SECTION 3.(f)** This section becomes effective August 1, 2015.

18

19 **STUDY THE STATE'S PARTICIPATION IN THE COMMERCIAL VEHICLE**

20 **SAFETY ALLIANCE NORTH AMERICAN STANDARD INSPECTION PROGRAM**

21 **SECTION 4.** The Department of Public Safety shall study the State's participation

22 in the Commercial Vehicle Safety Alliance North American Standard Inspection Program for

23 roadside commercial vehicle safety inspections. The study shall include (i) a history of when

24 North Carolina joined the program; (ii) an explanation of how the program is currently being

25 implemented; (iii) data on how many safety inspection decals are issued annually; and (iv) a

26 geographic analysis of where safety inspection decals are issued within the State. The

27 Department shall report the results of its study to the Agriculture and Forestry Awareness Study

28 Commission on or before February 1, 2015.

29

30 **CLARIFY THE MEANING OF THE TERMS "PLANTING AND HARVESTING**

31 **SEASON" AND "PLANTING AND HARVESTING PERIOD" FOR PURPOSES OF**

32 **APPLYING FEDERAL LAWS OR REGULATIONS RELATING TO HOURS OF**

33 **SERVICE RULES FOR CERTAIN DRIVERS TRANSPORTING AGRICULTURAL**

34 **PRODUCTS**

35 **SECTION 5.** G.S. 20-381 is amended by adding a new subsection to read:

36 **"§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor**

37 **carriers; agricultural exemption.**

38 ...

39 (c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation

40 relating to hours-of-service rules for drivers engaged in the transportation of agricultural

41 commodities and farm supplies for agricultural purposes, the terms "planting and harvesting

42 season" and "planting and harvesting period" refer to the period from January 1 through

43 December 31 of each year."

44

45 **AMEND THE CHAIRMANSHIP OF THE AGRICULTURE AND FORESTRY**

46 **AWARENESS STUDY COMMISSION**

47 **SECTION 6.** G.S. 120-150 reads as rewritten:

48 **"§ 120-150. Creation; appointment of members.**

49 There is created an Agriculture and Forestry Awareness Study Commission. Members of

50 the Commission shall be citizens of North Carolina who are interested in the vitality of the

51 agriculture and forestry sectors of the State's economy. Members shall be as follows:

- 1 (1) Three appointed by the Governor.
- 2 (2) Three appointed by the President Pro Tempore of the Senate.
- 3 (3) Three appointed by the Speaker of the House.
- 4 (4) The chairs of the House Agriculture Committee.
- 5 (5) The chairs of the Senate Committee on Agriculture, Environment, and
- 6 Natural Resources.
- 7 (6) The Commissioner of Agriculture or the Commissioner's designee.
- 8 (7) A member of the Board of Agriculture designated by the chair of the Board
- 9 of Agriculture.
- 10 (8) The President of the North Carolina Farm Bureau Federation, Inc., or the
- 11 President's designee.
- 12 (9) The President of the North Carolina State Grange or the President's designee.
- 13 (10) The Secretary of Environment and Natural Resources or the Secretary's
- 14 designee.
- 15 (11) The President of the North Carolina Forestry Association, Inc., or the
- 16 President's designee.

17 Members shall be appointed for two-year terms beginning October 1 of each odd-numbered
 18 year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee
 19 on Agriculture, Environment, and Natural Resources shall serve as cochairs. The President Pro
 20 Tempore of the Senate and the Speaker of the House of Representatives may each appoint an
 21 additional member of the Senate and House, respectively, to serve as cochair. If appointed,
 22 these cochairs shall be voting members of the Commission."

23
 24 **ALLOW THE COMMISSIONER OF AGRICULTURE TO APPOINT LAW**
 25 **ENFORCEMENT OFFICERS TO CARRY OUT THE LAW ENFORCEMENT**
 26 **RESPONSIBILITIES OF THE DEPARTMENT OF AGRICULTURE**

27 **SECTION 7.** G.S. 106-900 reads as rewritten:
 28 **"§ 106-900. Powers of ~~forest~~ Department of Agriculture and Consumer Services**
 29 **law-enforcement officers.**

30 The Commissioner is authorized to appoint as many ~~forest law enforcement~~ Department of
 31 Agriculture and Consumer Services law enforcement officers as he or she deems necessary to
 32 carry out the forest law enforcement responsibilities of the Department investigate and enforce
 33 any violation of the laws within the authority of the Department or which occur on Department
 34 property. Such officers shall meet the requirements of Chapter 17C of the General Statutes and
 35 shall take the oath of office prescribed by Section 7 of Article VI of the North Carolina
 36 Constitution. ~~Forest law enforcement officers shall~~ Of these officers, the Commissioner may
 37 designate certain officers to also have all the powers and the duties of a forest ranger
 38 enumerated in G.S. 106-898 and ~~G.S. 106-899.~~ G.S. 106-899 and the power to enforce the
 39 forest laws. ~~Forest law enforcement officers shall, in addition to their other duties, have the~~
 40 powers of peace officers to enforce the forest laws. Any forest A Department
 41 law enforcement law enforcement officer may arrest, without warrant, any person or persons
 42 committing any crime in ~~his~~ the officer's presence or ~~whom~~ who such officer has probable
 43 cause for believing has committed a crime in ~~his~~ the officer's presence and bring such person or
 44 persons forthwith before a district court or other officer having jurisdiction. ~~Forest~~ Department
 45 law enforcement law enforcement officers shall also have authority to obtain and serve warrants
 46 including warrants for violation of any duly promulgated rule of the Department."
 47

48 **AMEND HORSE INDUSTRY PROMOTION ACT**

49 **SECTION 8.** G.S. 106-822 reads as rewritten:

50 **"§ 106-822. Definitions.**

51 As used in this Article:

- 1 (1) "Commercial horse feed" means any commercial feed, as defined in
2 G.S. 106-284.33, labeled or marketed for equine use.
3 (2) "Council" means the North Carolina Horse Council.
4 (3) "Department" means the Department of Agriculture and Consumer Services.
5 (4) "Equine" means a horse, pony, mule, donkey, or hinny.
6 (5) "Horse owner" means a person who (i) is a North Carolina resident and (ii)
7 owns or leases an equine."
8

9 PESTICIDE USE FOR MOLES

10 **SECTION 9.** G.S. 113-300.2 is amended by adding a new subsection to read:

11 "(g) Notwithstanding any other provision of law, it is lawful to use any pesticide
12 registered by the Pesticide Board to control any species of mole other than the Star-Nosed Mole
13 (Condylura cristata parva), provided that (i) all rules regulating the application of pesticides
14 adopted by the Pesticide Board are followed and (ii) pesticides used to control these species are
15 applied in a manner that minimizes hazards to nontarget species."
16

17 ADD AGRICULTURAL FACILITIES TO FIRST DEGREE TRESPASS

18 **SECTION 10.(a)** G.S. 14-159.12(c)(1) is amended by adding a new
19 sub-subdivision to read:

20 **"§ 14-159.12. First degree trespass.**

21 ...

22 (c) Except as otherwise provided in subsection (d) of this section, a violation of
23 subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances
24 exist:

- 25 (1) The offense is committed on the premises of any of the following:
- 26 a. A facility that is owned or operated by an electric power supplier as
27 defined in G.S. 62-133.8(a)(3) and that is either an electric
28 generation facility, a transmission substation, a transmission
29 switching station, a transmission switching structure, or a control
30 center used to manage transmission operations or electrical power
31 generating at multiple plant locations.
 - 32 b. Any facility used or available for use in the collection, treatment,
33 testing, storing, pumping, or distribution of water for a public water
34 system.
 - 35 c. Any facility, including any liquefied natural gas storage facility or
36 propane air facility, that is owned or operated by a natural gas local
37 distribution company, natural gas pipeline carrier operating under a
38 certificate of public convenience and necessity from the Utilities
39 Commission, municipal corporation operating a municipally owned
40 gas distribution system, or regional natural gas district organized and
41 operated pursuant to Article 28 of Chapter 160A of the General
42 Statutes used for transmission, distribution, measurement, testing,
43 regulating, compression, control, or storage of natural gas.
 - 44 d. Any facility used or operated for agricultural activities, as that term is
45 defined in G.S. 106-581.1."

46 **SECTION 10.(b)** This section becomes effective December 1, 2014, and applies to
47 offenses committed on or after that date.
48

49 REQUIRE WRITTEN CONSENT TO OPERATE ALL TERRAIN VEHICLES ON 50 PRIVATE PROPERTY

51 **SECTION 11.(a)** G.S. 14-159.3 reads as rewritten:

"§ 14-159.3. Trespass to land on motorized all terrain vehicle.

(a) No person shall operate any motorized all terrain vehicle:

(1) On any private property not owned by the operator, without the written consent of the owner; or

(2) Within the banks of any stream or waterway, but excluding a sound or the Atlantic Ocean, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner.

(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on his or her property owes the person the same duty of care that he or she owes a trespasser.

(b) A "motorized all terrain vehicle", as used in this section, is a two or more wheeled vehicle designed for recreational off-road use.

(c) A violation of this section shall be a Class 2 misdemeanor."

SECTION 11.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

ALLOW DRAINAGE DISTRICTS TO MAINTAIN DITCHES IN BUFFER ZONES

SECTION 12. G.S. 156-82.1 is amended by adding a new subsection to read:

"§ 156-82.1. Duties and powers of the board of drainage commissioners.

(a) The board of drainage commissioners shall proceed with the levying of assessments, issuance of bonds and construction of canals, water retardant structures and other improvements and acquisition of equipment as approved by the court in the adjudication upon the final report of the board of viewers, either in the creation of the district or in subsequent proceedings authorized by Article 7B.

(b) The commissioners shall maintain the canals, water retardant structures, and all other improvements and equipment of the district.

(b1) No State statute or rule or local government ordinance for the establishment, preservation, or maintenance of riparian buffers for the protection of water quality shall apply to the construction, operation, maintenance, or repair of canals, water retardant structures, or other improvements under the control and supervision of a board of drainage commissioners.

...."

CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE AGENCY

SECTION 13.(a) G.S. 153A-364 reads as rewritten:

"§ 153A-364. Periodic inspections for hazardous or unlawful conditions.

...

(b) A county may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the county commissioners. The county shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards. A residential building or structure that is subject to periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the Agency has issued a finding that the building or structure is in compliance with federal standards established by the United States Department of Housing and Urban Development to assess the physical condition of residential property. The owner or manager of a residential building or structure subject to periodic inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance Results Letter issued by

1 the Agency showing that the residential building or structure is in compliance with federal
2 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
3 Results Letter as provided in this subsection, the residential building or structure shall be
4 subject to periodic inspections as provided in this subsection until the Compliance Results
5 Letter is submitted to the inspection department.

6"

7 **SECTION 13.(b)** G.S. 160A-424 reads as rewritten:

8 "**§ 160A-424. Periodic inspections.**

9 ...

10 (b) A city may require periodic inspections as part of a targeted effort within a
11 geographic area that has been designated by the city council. The municipality shall not
12 discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice
13 to all owners and residents of properties in the affected area about the periodic inspections plan
14 and information regarding a public hearing regarding the plan; (ii) hold a public hearing
15 regarding the plan; and (iii) establish a plan to address the ability of low-income residential
16 property owners to comply with minimum housing code standards. A residential building or
17 structure that is subject to periodic inspections by the North Carolina Housing Finance Agency
18 (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the
19 Agency has issued a finding that the building or structure is in compliance with federal
20 standards established by the United States Department of Housing and Urban Development to
21 assess the physical condition of residential property. The owner or manager of a residential
22 building or structure subject to periodic inspections by the Agency shall, within 10 days of
23 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
24 the Agency showing that the residential building or structure is in compliance with federal
25 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
26 Results Letter as provided in this subsection, the residential building or structure shall be
27 subject to periodic inspections as provided in this subsection until the Compliance Results
28 Letter is submitted to the inspection department.

29"

30 31 **PERMIT SECURITY GRILLES AT ALL EXITS OF A BUILDING SUBJECT TO** 32 **CERTAIN CONDITIONS**

33 **SECTION 14.(a)** Notwithstanding Section 1008.1.4.5 of the 2012 NC State
34 Building Code (Fire Code), horizontal sliding or vertical security grilles shall be permitted at
35 all exits or exit access doorways, provided that the grilles are openable from the inside without
36 the use of a key or special knowledge or effort during periods that the space is occupied by
37 authorized persons and that the grilles remain secured in the full-open position during the
38 period of occupancy by the general public.

39 **SECTION 14.(b)** The Building Code Council shall adopt a rule to amend Section
40 1008.1.4.5 of the 2012 NC State Building Code (Fire Code) consistent with Section 14(a) of
41 this section.

42 **SECTION 14.(c)** Section 14(a) of this section expires on the date that the rule
43 adopted pursuant to Section 14(b) of this section becomes effective.

44 45 **DESIGNATE "GOT TO BE NC" MARKETING CAMPAIGN AS THE OFFICIAL** 46 **AGRICULTURAL MARKETING CAMPAIGN FOR THE STATE**

47 **SECTION 15.** G.S. 106-550 reads as rewritten:

48 "**§ 106-550. Policy as to promotion of use of, and markets for, farm products.**

49 (a) It is declared to be in the interest of the public welfare that the North Carolina
50 farmers who are producers of livestock, poultry, seafood, field crops and other agricultural
51 products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, potatoes,

1 sweet potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as
2 bulbs and flowers and other agricultural products having a domestic or foreign market, shall be
3 permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and
4 processors of such products in promoting and stimulating, by advertising and other methods,
5 the increased production, use and sale, domestic and foreign, of any and all of such agricultural
6 commodities. The provisions of this Article, however, shall not include the agricultural
7 products of tobacco, strawberries, strawberry plants, porcine animals, or equines, with respect
8 to which separate provisions have been made.

9 (b) The "Got to Be NC" marketing campaign of the Department of Agriculture and
10 Consumer Services shall be the official agricultural marketing campaign for the State."

11 12 **ALLOW CERTIFICATION OF PRIVATE PESTICIDE APPLICATORS**

13 **SECTION 16.** G.S. 143-440(b) reads as rewritten:

14 "(b) The Board may include in any such restricted use regulation the time and conditions
15 of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any
16 restricted use pesticide for designated purposes or at designated times; may require the
17 purchaser or user to certify that restricted use pesticides will be used only as labeled or as
18 further restricted by regulation; may require the certification and recertification of private
19 applicators, and charge a fee of up to ten dollars (\$10.00), with the fee set at a level to make the
20 certification/recertification program self-supporting, and, after opportunity for a hearing, may
21 suspend, revoke or modify the certification for violation of any provision of this Article, or any
22 rule or regulation adopted thereunder; may adopt rules to classify private applicators; and may,
23 if it deems it necessary to carry out the provisions of this Part, require that any or all restricted
24 use pesticides shall be purchased, possessed, or used only under permit of the Board and under
25 its direct supervision in certain areas and/or under certain conditions or in certain quantities or
26 concentrations except that any person licensed to sell such pesticides may purchase and possess
27 such pesticides without a permit. The Board may require all persons issued such permits to
28 maintain records as to the use of the restricted use pesticides. The Board may authorize the use
29 of restricted use pesticides by persons licensed under the North Carolina Structural Pest Control
30 Act without a permit. A nonrefundable fee of ten dollars (\$10.00) shall be charged for each
31 examination required by this section. This examination fee is in addition to the certification or
32 recertification fee, and any other fee authorized pursuant to any other provision of Article 4C of
33 Chapter 106 of the General Statutes."

34 35 **EXEMPT STATE FAIR ADMISSION FEES FROM RULE MAKING**

36 **SECTION 17.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

37 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
38 following:

39 ...

40 (26) The Board of Agriculture in the Department of Agriculture and Consumer
41 Services with respect to annual admission fees for the State Fair. The Board
42 shall annually post the admission fee schedule on its Web site and provide
43 notice of the fee schedule, along with a citation to this section, to all persons
44 named on the mailing list maintained pursuant to G.S. 150B-21.2(d)."

45 46 **SEVERABILITY AND EFFECTIVE DATE**

47 **SECTION 18.(a)** If any section or provision of this act is declared unconstitutional
48 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
49 than the part so declared to be unconstitutional or invalid.

50 **SECTION 18.(b)** Except as otherwise provided, this act is effective when it
51 becomes law.