

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS35178-MHf-29 (01/23)

Short Title: North Carolina Farm Act of 2015.

(Public)

Sponsors: Senators Brock and B. Jackson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO (1) REVISE THE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT; (2) EXEMPT COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER FROM STATE INCOME TAX WITHHOLDING TO THE EXTENT THE COMPENSATION IS EXEMPT FROM FEDERAL INCOME TAX WITHHOLDING; (3) ESTABLISH A POLICY OF SUPPORTING SUSTAINABLE AGRICULTURE IN THE STATE; (4) MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS; (5) ALLOW OVERSIZE TRANSPORTATION OF HAY BALES; (6) AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES; (7) INCREASE THE PERMISSIBLE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES THAT ARE EXEMPT FROM REGISTRATION AND CERTIFICATE OF TITLE; (8) ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR METEOROLOGICAL TOWERS; (9) ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING SUBMERGED AQUATIC VEGETATION; (10) MODIFY THE PRESENT USE VALUE PROGRAM; (11) ESTABLISH A PROCEDURE FOR THE TERMINATION OF CONSERVATION AGREEMENTS; (12) TRANSFER THE WILDLIFE RESOURCES COMMISSION CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; (13) PROHIBIT THE IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND ENFORCEMENT OF AIR EMISSIONS STANDARDS THAT WOULD LIMIT FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS; (14) MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS; (15) MODIFY THE PRESCRIBED BURNING ACT; (16) MODIFY THE PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN; (17) LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS; AND (18) MAKE VARIOUS TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

REVISE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT

SECTION 1. G.S. 106-823 reads as rewritten:

"§ 106-823. Referendum.



* D R S 3 5 1 7 8 - M H F - 2 9 *

- 1 (a) The Council may conduct a referendum among horse owners upon the question of
- 2 whether an assessment shall be levied consistent with this Article.
- 3 (b) The Council shall determine all of the following:
- 4 (1) The amount of the proposed assessment, not to exceed ~~two~~ four dollars
- 5 (~~\$2.00~~) four dollars (\$4.00) per ton of commercial horse feed.
- 6 (2) The period for which the assessment shall be levied, not to exceed ~~three~~ 10
- 7 years.
- 8 (3) The time and place of the referendum.
- 9 (4) Procedures for conducting the referendum and counting votes.
- 10 (5) Any other matters pertaining to the referendum.
- 11"

EXEMPT COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER FROM STATE INCOME TAX WITHHOLDING TO THE EXTENT THE COMPENSATION IS EXEMPT FROM FEDERAL INCOME TAX WITHHOLDING

SECTION 2.(a) G.S. 105-163.3(b) reads as rewritten:

- 17 "(b) Exemptions. – The withholding requirement does not apply to the following:
- 18 (1) Compensation that is subject to the withholding requirement of
- 19 G.S. 105-163.2.
- 20 (2) Compensation paid to an ordained or licensed member of the clergy.
- 21 (3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.
- 22 (4) Compensation paid to an alien, as described by 8 U.S.C.
- 23 1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding
- 24 under section 1441 of the Code."

SECTION 2.(b) This section is effective for taxable years beginning on or after July 1, 2015.

ESTABLISH POLICY OF SUPPORTING SUSTAINABLE AGRICULTURE

SECTION 3. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-26.3. Declaration of policy of supporting sustainable agriculture.

The General Assembly hereby finds and declares that it shall be the policy of this State to support and promote sustainable agriculture. For purposes of this section, "sustainable agriculture" means the use of science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, including such critical outcomes as increasing agricultural productivity and improving human health through access to safe, nutritious, affordable food and other agricultural products, while enhancing agricultural and surrounding environmental conditions through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat. Further, the General Assembly finds and declares that it is in the interest of the people of this State to use sustainable agriculture to meet the needs of the present and to improve the ability of future generations to meet their own needs, while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities."

MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS

SECTION 4.(a) 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations). – Until the effective date of the revised permanent rule that the Department of Transportation is required to adopt pursuant to Sections 4(b) and 4(c) of this act, the Department shall implement 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) as provided in Sections 4(b) and 4(c) of this act.

1 **SECTION 4.(b)** Implementation. – Notwithstanding subdivision (h)(1) of 19A
2 NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of
3 Transportation shall only prohibit movement of a permitted oversize vehicle as follows:

4 Movement shall be made between sunrise and sunset Monday through
5 Sunday. Exception: A 16 foot-wide mobile or modular home unit with a
6 maximum three-inch gutter edge is restricted to travel from 9:00 A.M. to
7 2:30 P.M. Monday through Sunday. A 16 foot-wide unit is authorized to
8 continue operation after 2:30 P.M., but not beyond sunset, when traveling on
9 an approved route as determined by an engineering study and the unit is
10 being exported out-of-state.

11 **SECTION 4.(c)** Implementation. – Notwithstanding subdivision (h)(2) of 19A
12 NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of
13 Transportation shall only prohibit movement of a permitted oversize vehicle as follows:

14 No movement is permitted for a vehicle and vehicle combination after noon
15 on the weekday preceding the three holidays of Independence Day,
16 Thanksgiving Day, and Christmas Day until noon on the weekday following
17 a holiday. If the observed holiday falls on the weekend, travel is restricted
18 from 12:00 noon on the preceding Friday until 12:00 noon on the following
19 Monday.

20 **SECTION 4.(d)** Additional Rule-Making Authority. – The Department of
21 Transportation shall adopt a rule to amend 19A NCAC 02D .0607 (Permits-Weight,
22 Dimensions and Limitations) consistent with Sections 4(b) and 4(c) of this act.
23 Notwithstanding G.S. 150B-19(4), the rule adopted by the Department pursuant to this section
24 shall be substantively identical to the provisions of Sections 4(b) and 4(c) of this act. Rules
25 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the
26 General Statutes. Rules adopted pursuant to this section shall become effective as provided in
27 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
28 G.S. 150B-21.3(b2).

29 **SECTION 4.(e)** Effective Date. – Sections 4(b) and 4(c) of this act expire on the
30 date that rules adopted pursuant to Section 4(d) of this act become effective.

31 32 **ALLOW OVERSIZE TRANSPORTATION OF HAY BALES**

33 **SECTION 5.** G.S. 20-119(g) reads as rewritten:

34 "(g) The Department of Transportation shall issue annual overwidth permits for the
35 following:

36 (1) A vehicle carrying agricultural equipment or machinery from the dealer to
37 the farm or from the farm to the dealer that does not exceed 14 feet in width.
38 A permit issued under this subdivision is valid for unlimited movement
39 without escorts on all State highways where the overwidth vehicle does not
40 exceed posted bridge and load limits.

41 (1a) A vehicle carrying baled hay from place to place on the same farm, from one
42 farm to another, from farm to market, or from market to farm, that does not
43 exceed 12 feet in width. A permit issued under this subdivision is valid for
44 unlimited movement without escorts on all State highways where the
45 overwidth vehicle does not exceed posted bridge and load limits. A permit
46 issued under this subdivision must restrict a vehicle carrying baled hay to
47 operation during daylight hours only.

48 (2) A boat or boat trailer whose outside width equals or exceeds 120 inches. A
49 permit issued under this subdivision must restrict a vehicle's towing of the
50 boat or boat trailer to daylight hours only."
51

AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES

SECTION 6. G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width on any highway, unless the operation violates a provision of this subsection. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

(1) The equipment may only be operated during daylight hours.

(2) The equipment must display a red flag on front and rear ends or a flashing warning light. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.

(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags or lights referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every piece of equipment so operated shall operate to the right of the center line ~~when meeting traffic coming from the opposite direction and at all other times when possible and practical.~~ unless the combined width of the traveling lane and the accessible shoulder is less than the width of the equipment.

...."

INCREASE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES THAT ARE EXEMPT FROM REGISTRATION AND CERTIFICATE OF TITLE

SECTION 7. G.S. 20-51 reads as rewritten:

"§ 20-51. Exempt from registration.

The following shall be exempt from the requirement of registration and certificate of title:

...

(16) A vehicle that meets all of the following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.

a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle" is a vehicle that is designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of ~~35~~45 miles per hour.

- 1 d. Does not drive outside a radius of 50 miles from the location of its
2 supply source for fertilizer and other products.
3 e. Is driven by a person who has a license appropriate for the class of
4 the vehicle.
5 f. Is insured under a motor vehicle liability policy in the amount
6 required under G.S. 20-309.
7 g. Displays a valid federal safety inspection decal if the vehicle has a
8 gross vehicle weight rating of at least 10,001 pounds.

9"

10
11 **ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR**
12 **METEOROLOGICAL TOWERS**

13 **SECTION 8.(a)** Chapter 63 of the General Statutes is amended by adding a new
14 Article to read:

15 "Article 11.

16 "Marking and Notice of Meteorological Towers.

17 **"§ 63-110. Marking of meteorological towers.**

18 (a) As used in this Article, the term:

- 19 (1) "Height" means the distance from the original grade at the base of a tower to
20 the highest point of the tower.
21 (2) "Meteorological tower" means a structure that is either self-standing or
22 supported by guy wires and ground anchors, and has guy wires and
23 accessory facilities on which equipment used to measure wind speed and
24 direction is mounted. "Meteorological tower" does not include a structure
25 that is affixed or located adjacent to a building, house, or barn.

26 (b) Except as required by federal law, rule, or regulation, any meteorological tower over
27 50 feet in height must be marked and painted or otherwise constructed to be visible in clear air
28 during daylight hours from a distance of not less than 2,000 feet. Meteorological towers must
29 also comply with the following additional requirements:

- 30 (1) A meteorological tower shall be painted in equal alternating bands of
31 aviation orange and white, beginning with orange at the top of the tower.
32 (2) One marker ball shall be attached to the top third of each outside guy wire.
33 (3) Guy wires shall have a seven-foot long safety sleeve at each anchor point
34 that extends from the anchor point along each guy wire attached to the
35 anchor point.

36 **"§ 63-111. Registration; notification; tower database; penalty.**

37 (a) The Department of Transportation shall adopt rules requiring any person proposing
38 to construct a meteorological tower to register with the Department. The person proposing to
39 construct the tower shall notify the Department of the proposal, the location and height of the
40 proposed tower, and any other information the Department may require to ensure aviation
41 safety, and shall pay a registration fee of three hundred fifty dollars (\$350.00). The rules shall
42 require the owner of a meteorological tower to notify the Department upon removal or
43 destruction of a tower.

44 (b) The Department of Transportation shall establish and maintain an electronic
45 database containing the location of all meteorological towers in the State by January 1, 2016.
46 The Department may contract with a governmental entity or private entity to create and
47 maintain the database.

48 **"§ 63-112. Penalties.**

49 The Secretary of Transportation may assess a civil penalty of not more than ten thousand
50 dollars (\$10,000) per violation against any person who violates any provision of this Article."

1 **SECTION 8.(b)** Any meteorological tower that was completely erected prior to the
2 effective date of this section is not required to comply with the provisions of this section. Any
3 meteorological tower that is erected on or after the effective date of this section shall be marked
4 in accordance with G.S. 63-110 as enacted by Section 8(a) of this act at the time it is erected.

5 **SECTION 8.(c)** This section becomes effective January 1, 2017, and applies to
6 meteorological towers erected on or after that date.

7
8 **ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING**
9 **SUBMERGED AQUATIC VEGETATION**

10 **SECTION 9.(a)** G.S. 113-202(b) reads as rewritten:

11 "(b) The Secretary may delete any part of an area proposed for lease or may condition a
12 lease to protect the public interest with respect to the factors enumerated in subsection (a) of
13 this section. The Secretary may not grant a new lease in an area heavily used for recreational
14 purposes. The Secretary shall not exclude any area from leasing solely on the basis that the area
15 contains submerged aquatic vegetation and shall make specific findings based on the standards
16 set forth in subsection (a) of this section prior to reaching a decision not to grant or renew a
17 lease for shellfish cultivation for any area containing submerged aquatic vegetation."

18 **SECTION 9.(b)** This section becomes effective July 1, 2015, and applies to any
19 new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or
20 after that date.

21
22 **PRESENT USE VALUE MODIFICATIONS**

23 **SECTION 10.(a)** G.S. 105-277.2 reads as rewritten:

24 **"§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

25 The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

26 (1) Agricultural land. – Land that is a part of a farm unit that is actively engaged
27 in the commercial production or growing of crops, plants, or animals under a
28 sound management program. For purposes of this definition, the commercial
29 production or growing of animals includes the rearing, feeding, training,
30 caring, and managing of horses. Agricultural land includes woodland and
31 wasteland that is a part of the farm unit, but the woodland and wasteland
32 included in the unit must be appraised under the use-value schedules as
33 woodland or wasteland. A farm unit may consist of more than one tract of
34 agricultural land, but at least one of the tracts must meet the requirements in
35 G.S. 105-277.3(a)(1), and each tract must be under a sound management
36 program. If the agricultural land includes less than 20 acres of woodland,
37 then the woodland portion is not required to be under a sound management
38 program. Also, woodland is not required to be under a sound management
39 program if it is determined that the highest and best use of the woodland is
40 to diminish wind erosion of adjacent agricultural land, protect water quality
41 of adjacent agricultural land, or serve as buffers for adjacent livestock or
42 poultry operations.

43 ...

44 (4) Individually owned. – Owned by one of the following:

45 a. An individual.

46 b. A business entity that meets all of the following conditions:

47 1. Its principal business is farming agricultural land,
48 horticultural land, or forestland. When determining whether
49 an applicant under G.S. 105-277.4 has as its principal
50 business farming agricultural land, horticultural land, or
51 forestland, the assessor shall presume the applicant's principal

- 1 business to be farming agricultural land, horticultural land, or
 2 forestland if the applicant has been approved by another
 3 county for present-use value taxation for a qualifying
 4 property located within the other county. The assessor may
 5 rebut this presumption by showing clear and convincing
 6 evidence that the applicant's principal business is not farming
 7 agricultural land, horticultural land, or forestland.
- 8 2. All of its members are, directly or indirectly, individuals who
 9 are actively engaged in farming agricultural land,
 10 horticultural land, or forestland or a relative of one of the
 11 individuals who is actively engaged. An individual is
 12 indirectly a member of a business entity that owns the land if
 13 the individual is a member of a business entity or a
 14 beneficiary of a trust that is part of the ownership structure of
 15 the business entity that owns the land.
- 16 3. It is not a corporation whose shares are publicly traded, and
 17 none of its members are corporations whose shares are
 18 publicly traded.
- 19 4. If it leases the land, all of its members are individuals and are
 20 relatives. Under this condition, "principal business" and
 21 "actively engaged" include leasing.
- 22 c. A trust that meets all of the following conditions:
- 23 1. It was created by an individual who owned the land and
 24 transferred the land to the trust.
- 25 2. All of its beneficiaries are, directly or indirectly, individuals
 26 who are the creator of the trust or a relative of the creator. An
 27 individual is indirectly a beneficiary of a trust that owns the
 28 land if the individual is a beneficiary of another trust or a
 29 member of a business entity that has a beneficial interest in
 30 the trust that owns the land.
- 31 d. A testamentary trust that meets all of the following conditions:
- 32 1. It was created by an individual who transferred to the trust
 33 land that qualified in that individual's hands for classification
 34 under G.S. 105-277.3.
- 35 2. At the date of the creator's death, the creator had no relatives.
- 36 3. The trust income, less reasonable administrative expenses, is
 37 used exclusively for educational, scientific, literary, cultural,
 38 charitable, or religious purposes as defined in
 39 G.S. 105-278.3(d).
- 40 e. Tenants in common, if each tenant would qualify as an owner if the
 41 tenant were the sole owner. Tenants in common may elect to treat
 42 their individual shares as owned by them individually in accordance
 43 with G.S. 105-302(c)(9). The ownership requirements of
 44 G.S. 105-277.3(b) apply to each tenant in common who is an
 45 individual, and the ownership requirements of G.S. 105-277.3(b1)
 46 apply to each tenant in common who is a business entity or a trust.

47"

48 **SECTION 10.(b)** G.S. 105-277.4 is amended by adding a new subsection to read:

49 **"§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use**
 50 **value; appeal; deferred taxes.**

51 ...

1 (f) The Department shall publish a present-use value program guide annually and make
2 the guide available electronically on its Web site. When making decisions regarding the
3 qualifications or appraisal of property under this section, the assessor shall adhere to the
4 Department's present-use value program guide."

5 **SECTION 10.(c)** Section 10(a) is effective July 1, 2015, and applies to taxes
6 imposed for taxable years beginning on or after that date.

8 **PROCEDURE FOR TERMINATION OF CONSERVATION AGREEMENTS**

9 **SECTION 11.(a)** Article 4 of Chapter 121 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 121-39A. Termination of agreements.**

12 (a) Any time after a conservation agreement is acquired, the parties to the agreement
13 may petition the Council of State to request termination of the agreement on the grounds that
14 the agreement is no longer capable of achieving the conservation purposes for which it was
15 executed. The request for termination shall: (i) be in writing, (ii) contain supporting
16 documentation including the agreement in question, and (iii) contain findings of fact sufficient
17 to demonstrate the impossibility of meeting the agreement's original conservation purposes.
18 The request for termination shall be signed by both parties.

19 (b) Not later than the 60th day after the date the Council receives the request, the
20 Council shall make a determination whether to grant or deny the request for termination and
21 notify the parties. The approval of such a transaction by the Council of State may be evidenced
22 by a duly certified copy of excerpt of minutes of the meeting of the Council of State, attested
23 by the private secretary to the Governor or the Governor, reciting such approval, affixed to the
24 instrument of acquisition or transfer, and said certificate may be recorded as a part thereof, and
25 the same shall be conclusive evidence of review and approval of the subject transaction by the
26 Council of State. The Governor, acting with the approval of the Council of State, may delegate
27 the review and approval of such transactions as the Governor deems advisable. Either party
28 may appeal the decision in district court not later than the 45th day after the date of the
29 notification.

30 (c) Upon termination of a conservation agreement pursuant to this section:

31 (1) The deferred taxes for the current year and preceding three fiscal years are
32 due and payable in accordance with G.S. 105-277.1F.

33 (2) The owner of the property shall pay a penalty to the Department of
34 Administration equal to twenty-five percent (25%) of the fair market value
35 of the property.

36 (3) Other real property of at least equal fair market value and of as nearly as
37 equivalent usefulness and location for conservation use shall be substituted
38 for the terminated property within a reasonable period not exceeding three
39 years. Property substituted is subject to the provisions of this Chapter.

40 (d) This section shall apply to:

41 (1) Conservation agreements that are intended to be effective perpetually or that
42 are terminated prior to the period of time stipulated in the agreement.

43 (2) Conservation agreements where at least one party to the agreement is a
44 public body of this State, including the State, any of its agencies, any city,
45 county, district or other political subdivision, or municipal or public
46 corporation, or any instrumentality of any of the foregoing."

47 **SECTION 11.(b)** This section is effective July 1, 2015, and applies to taxes
48 imposed for taxable years beginning on or after that date.

50 **TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF** 51 **AGRICULTURE AND CONSUMER SERVICES**

1 SECTION 12.(a) Article 49H of Chapter 106 reads as rewritten:

2 "Article 49H.

3 ~~"Production and Sale~~Production, Sale, and Transportation of Fallow Deer and Red
4 ~~Deer.~~Farmed Cervids.

5 **"§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of**
6 **~~certain~~farmed cervids produced and sold for commercial purposes; certain**
7 **~~authority of North Carolina Wildlife Resources Commission not affected;~~**
8 **definitions.**

9 (a) ~~The Department of Agriculture and Consumer Services shall regulate the production~~
10 ~~and sale of farmed cervids. The Board of Agriculture shall adopt rules for the production and~~
11 ~~sale of farmed cervids in such a manner as to provide for close supervision of any person, firm,~~
12 ~~or corporation producing and selling farmed cervids and shall notify any such person, firm, or~~
13 ~~corporation that the activity is subject to compliance with Wildlife Resources Commission~~
14 ~~rules pursuant to G.S. 113-272.6.~~

15 (a1) The following definitions apply in this Article:

16 (1) Commission. – The North Carolina Wildlife Resources Commission.

17 (2) Department. – The North Carolina Department of Agriculture and Consumer
18 Services.

19 (3) Farmed Cervid. – Any cervid, as defined by the USDA Standards, that is
20 susceptible to Chronic Wasting Disease, or any other member of the
21 Cervidae family that is not susceptible to Chronic Wasting Disease, that is
22 held in captivity and produced, bought, or sold for commercial purposes.
23 Farmed Cervid shall only include any cervid that was bred in captivity and
24 has been continuously maintained within a herd that is enrolled in and
25 complies with a USDA-approved Herd Certification Program. Any animal
26 registered or tagged in any captive cervid facility existing within the State as
27 of July 1, 2015, is deemed to be a farmed cervid.

28 (4) Non-Farmed Cervid. – All animals in the family Cervidae other than Farmed
29 Cervids.

30 (5) USDA. – The United States Department of Agriculture.

31 (6) USDA Standards. – The United States Department of Agriculture's Chronic
32 Wasting Disease Program Standards, May 2014 edition, and subsequent
33 updates.

34 (a2) The Department of Agriculture and Consumer Services shall regulate the
35 production, sale, possession, and transportation, including importation and exportation, of
36 farmed cervids. The Department shall have sole authority with regard to farmed cervids,
37 including administration of the North Carolina Captive Cervid Herd Certification Program. The
38 Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part,
39 including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive
40 populations of farmed cervids. The Department shall follow the USDA Standards and the
41 provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this
42 Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may
43 adopt rules to implement this Article, including, but not limited to, requirements for captivity
44 licenses, captivity permits, transportation permits, importation permits, and exportation permits.
45 Until such time as the USDA has adopted an approved method of testing for Chronic Wasting
46 Disease in living cervids, the Department may issue new captivity licenses or permits for cervid
47 facilities that will hold cervids susceptible to Chronic Wasting Disease only if the source
48 animals are located within the State and are from a certified herd in accordance with USDA
49 Standards from an existing licensed facility. Nothing in this section shall limit the Department's
50 ability to issue new captivity licenses and permits for farmed cervid facilities that will hold
51 cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an

1 importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or
2 suspect farmed cervid facility.

3 (a3) All free-ranging cervids shall be removed from any new captive cervid facility prior
4 to stocking the facility with farmed cervids.

5 (a4) Hunt facilities as defined by USDA Standards are prohibited. Any farmed cervid
6 killed on the premises of a licensed facility shall be killed only by the licensee, the owner of the
7 facility, an employee of the facility, or a qualified veterinarian administering euthanasia.

8 (b) The North Carolina Wildlife Resources Commission shall regulate the possession
9 and transportation, including importation and exportation, of non-farmed cervids pursuant to
10 G.S. 113-272.6. No action taken by the Department shall in any way limit the authority of the
11 Commission to regulate non-farmed cervids as wildlife resources of the State belonging to the
12 people of the State as a whole. Nothing in this Article shall authorize the Department to
13 regulate hunting or any activity related to hunting.

14 (e) The following definitions apply in this Article:

15 (1) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.

16 (2) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.

17 (3) Cervid or Cervidae. All animals in the Family Cervidae (elk and deer).

18 (4) Farmed Cervid. Any member of the Cervidae family, other than
19 white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold
20 for commercial purposes.

21 (5) White-tailed deer. A member of the species *Odocoileus virginianus*.

22 (d) No county, municipality, or any other unit of local government may adopt any
23 ordinance, regulation, or law that is inconsistent with or more restrictive than the provisions of
24 this Article. Any ordinance, regulation, or law that is currently enacted that is inconsistent with
25 or more restrictive than the provisions of this Article is hereby repealed.

26 (e) In order to carry out the authority granted by this Article, the Department may
27 enforce the rules adopted by the Wildlife Resources Commission under its prior authority
28 pursuant to G.S. 150B-21.7, including the rules governing issuance of captivity licenses,
29 captivity permits, transportation permits, importation permits, and exportation permits, until
30 such time as the Department adopts rules for the implementation of this Article.

31 (f) The provisions of G.S. 113-129 shall not apply to the production, sale,
32 transportation, importation, or exportation of farmed cervids under this Article, whether alive
33 or dead, whole or in part.

34 (g) No live farmed cervid shall be transported on a public road within the State unless
35 the cervid has an official form of identification approved by the State Veterinarian for this
36 purpose and the appropriate transportation, importation, or exportation permit issued by the
37 Department.

38 (h) Any live farmed cervid that is transported on a public road within the State shall be
39 subject to inspection by a wildlife law enforcement officer to ensure that each farmed cervid
40 has official identification required under this Article and that the appropriate permit has been
41 obtained from the Department.

42 (i) Any person transporting a live farmed cervid on a public road within the State
43 without the appropriate farmed cervid identification and permit may be subject to a civil
44 penalty by the Department under this Article. Each cervid that fails to meet the tagging and
45 transportation requirements of the Department shall constitute a separate violation.

46 (j) The Commissioner of Agriculture may assess a civil penalty of not more than five
47 thousand dollars (\$5,000) per animal against any person who violates a provision of this Article
48 or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner
49 shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil
50 penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
51 Fund in accordance with G.S. 115C-457.2.

1 ~~"§ 106-549.98. Inspection fees.~~

2 The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor,
3 or operator of each slaughtering, meat canning, salting, packing, rendering, or similar
4 establishment for the purpose of defraying the expenses incurred in the inspection of fallow
5 deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may
6 establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each
7 slaughtering, meat canning, salting, packing, rendering, or similar establishment for the
8 purpose of defraying the expenses incurred in the inspection of red deer as required by Article
9 49B of Chapter 106 of the General Statutes."

10 SECTION 12.(b) G.S. 113-272.6 reads as rewritten:

11 ~~"§ 113-272.6. Transportation Possession, Transportation, Importation, and Exportation~~
12 ~~of non-farmed cervids and licensing of captive cervid facilities.cervids.~~

13 (a) The Wildlife Resources Commission shall regulate the possession and
14 transportation, including importation and exportation, ~~and possession of non-farmed cervids,~~
15 including game carcasses and parts of game carcasses extracted by hunters.hunters and
16 carcasses and parts of carcasses imported from hunt facilities as defined by USDA Standards.
17 For purposes of this section, the term "non-farmed cervid" has the same meaning as in
18 G.S. 106-549.97. The Commission shall allow the sale of antlers, antler velvet, or hides from
19 eaptive populations of cervids.The Commission shall follow the USDA Standards as defined in
20 G.S. 106-549.97 and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the
21 implementation of this section, and shall not adopt any rule or standard that is in conflict with,
22 in lieu of, or more restrictive than the USDA Standards. The Commission shall adopt rules to
23 implement this section, including requirements for eaptivity licenses, captivity permits, and
24 transportation permits.transportation, importation, and exportation permits.The rules adopted
25 pursuant to this section shall establish standards of care for the transportation and possession of
26 cervids, including requirements for fencing, tagging, record keeping, and inspection of captive
27 cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee
28 of up to fifty dollars (\$50.00) for the processing of applications for eaptivity licenses, captivity
29 permits, and transportationtransportation, importation, and exportation permits, and the renewal
30 or modification of those licenses and permits. The fees collected shall be applied to the costs of
31 administering this section.

32 (b) The Wildlife Resources Commission shall notify every applicant for a ~~transportation~~
33 ~~permit~~ that any permit issued is subject to the applicant's compliance with the Department of
34 Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of
35 Chapter 106 of the General Statutes.

36 (c) The Department of Agriculture and Consumer Services shall regulate the ~~production~~
37 ~~and sale~~production, sale, and transportation, including importation and exportation, of farmed
38 cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to
39 G.S. 106-549.97. No action taken by the Commission shall in any way limit the authority of the
40 Department of Agriculture and Consumer Services to regulate farmed cervids.

41 (d) ~~Notwithstanding any other provision of law, the North Carolina Wildlife Resources~~
42 ~~Commission shall issue captivity licenses, captivity permits, or transportation permits to any~~
43 ~~person possessing cervids that were held in captivity by that person prior to May 17, 2002, if~~
44 ~~the Executive Director finds that the applicant has come into compliance with all applicable~~
45 ~~rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such~~
46 ~~license or permit does not pose unreasonable risk to the conservation of wildlife resources.~~

47 (e) ~~Any captivity license, captivity permit, or cervids held contrary to the provisions of~~
48 ~~this section may be subject to forfeiture and disposition in accordance with the provisions of~~
49 ~~G.S. 113-137 or G.S. 113-276.2."~~

50

1 **PROHIBIT THE IMPLEMENTATION AND ENFORCEMENT OF FEDERAL**
 2 **STANDARDS FOR WOOD HEATERS AND ENFORCEMENT OF AIR EMISSIONS**
 3 **STANDARDS THAT WOULD LIMIT FUEL SOURCES PROVIDING HEAT OR HOT**
 4 **WATER TO A RESIDENCE OR BUSINESS**

5 **SECTION 13.(a)** G.S. 143-215.107 reads as rewritten:

6 "**§ 143-215.107. Air quality standards and classifications.**

7 (a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and
 8 empowered, as rapidly as possible within the limits of funds and facilities available to it, and
 9 subject to the procedural requirements of this Article and Article 21:

10 ...

11 (10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop
 12 and adopt standards and plans necessary to implement requirements of the
 13 federal Clean Air Act and implementing regulations adopted by the United
 14 States Environmental Protection Agency.

15 ...

16 (h) With respect to any regulation adopted by the United States Environmental
 17 Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014,
 18 neither the Commission nor the Department shall do any of the following:

19 (1) Issue rules limiting emissions from wood heaters to implement the federal
 20 regulations described in this subsection.

21 (2) Enforce against a manufacturer, distributor, or consumer the federal
 22 regulations described in this subsection.

23 (i) Neither the Commission nor the Department shall enforce any federal air emissions
 24 standard adopted after May 1, 2014, that would jeopardize the health, safety, or economic
 25 well-being of a citizen of this State through the regulation of fuel combustion that is used
 26 directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort
 27 heating to a business."

28 **SECTION 13.(b)** G.S. 143-213 is amended by adding a new subdivision to read:

29 "(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic
 30 heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance
 31 designed for heating a residence or business or for heating water for use by a residence through
 32 the combustion of wood or products substantially composed of wood."

33
 34 **MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS**

35 **SECTION 14.(a)** G.S. 106-815 is repealed.

36 **SECTION 14.(b)** G.S. 19A-62(c) reads as rewritten:

37 "(c) Report. – In ~~February~~ March of each year, the Department must report to the Joint
 38 Legislative Commission on Governmental Operations and the Fiscal Research Division. The
 39 report must contain information regarding all revenues and expenditures of the Spay/Neuter
 40 Account."
 41

42 **PRESCRIBED BURNING ACT MODIFICATIONS**

43 **SECTION 15.(a)** G.S. 106-967 reads as rewritten:

44 "**§ 106-967. Immunity from liability.**

45 (a) Any prescribed burning conducted in compliance with G.S. 106-968 is in the public
 46 interest and does not constitute a public or private nuisance.

47 (b) A landowner or the landowner's agent who conducts a prescribed burning in
 48 compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury
 49 caused by or resulting from ~~smoke~~ smoke or fire.

50 (c) Notwithstanding subsections (a) and (b), this section does not apply when a
 51 ~~nuisance or damage~~ results from a negligently or ~~improperly~~ conducted prescribed burning."

1 **SECTION 15.(b)** G.S. 106-968 reads as rewritten:

2 "**§ 106-968. Prescribed burning.**

3 (a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription
4 for the prescribed burning prepared by a certified prescribed burner and filed with the North
5 Carolina Forest Service of the Department of Agriculture and Consumer Services. A copy of
6 the prescription shall be provided to the landowner. A copy of this prescription shall be in the
7 possession of the responsible burner on site throughout the duration of the prescribed burning.
8 The prescription shall include:

- 9 (1) The landowner's name and address.
- 10 (2) A description of the area to be burned.
- 11 (3) A map of the area to be burned.
- 12 (4) An estimate ~~in~~ of tons of the fuel located on the area.
- 13 (5) The objectives of the prescribed burning.
- 14 (6) A list of the acceptable weather conditions and parameters for the prescribed
15 burning sufficient to minimize the likelihood of smoke damage and fire
16 escaping onto adjacent areas.
- 17 (7) The name of the certified prescribed burner responsible for conducting the
18 prescribed burning.
- 19 (8) A summary of the methods that are adequate for the particular circumstances
20 involved to be used to start, control, and extinguish the prescribed burning.
- 21 (9) Provision for reasonable notice of the prescribed burning to be provided to
22 nearby homes and businesses to avoid effects on health and property.

23 (b) The prescribed burning shall be conducted by a certified prescribed burner in
24 accordance with a prescription that satisfies subsection (a) of this section. The certified
25 prescribed burner shall be present on the site and shall be in charge of the burning throughout
26 the period of the burning. A landowner may conduct a prescribed burning and have coverage
27 under this Article without being a certified prescribed burner if the landowner is burning a tract
28 of forestland of 50 acres or less owned by that landowner and is following all conditions
29 established in a prescription prepared by a certified prescribed burner.

30 (c) Prior to conducting a prescribed burning, the landowner or the landowner's agent
31 shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina
32 Forest Service of the Department of Agriculture and Consumer Services. This open-burning
33 permit must remain in effect throughout the period of the prescribed burning. The prescribed
34 burning shall be conducted in compliance with all the following:

- 35 (1) The terms and conditions of the open-burning permit under Article 78 of this
36 Chapter.
- 37 (2) The State's air pollution control statutes under Article 21 and Article 21B of
38 Chapter 143 of the General Statutes and any rules adopted pursuant to these
39 statutes.
- 40 (3) Any applicable local ordinances relating to open burning.
- 41 (4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina
42 Forest Service of the Department of Agriculture and Consumer Services.
- 43 (5) Any rules adopted by the North Carolina Forest Service of the Department
44 of Agriculture and Consumer Services, to implement this Article.

45 (d) The North Carolina Forest Service may accept prescribed burner certification from
46 another State or other entity for the purpose of prescribed burning under this Article."
47

48 **MODIFY PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN**

49 **SECTION 16.** G.S. 14-140.1 reads as rewritten:

50 "**§ 14-140.1. Certain fire to be guarded by watchman.**

1 Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other
2 material whereby any property may be endangered or destroyed, without keeping and
3 maintaining a careful watchman in charge of the burning, shall be guilty of a ~~Class 3~~
4 ~~misdemeanor~~ infraction which may include a fine of not ~~less than ten dollars (\$10.00)~~ or
5 more than fifty dollars (\$50.00). Fire escaping from the brush, grass, or other material while
6 burning shall be prima facie evidence of violation of this provision."
7

8 **LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE**
9 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE**
10 **ABOUT ITS ANIMAL HEALTH PROGRAMS**

11 SECTION 17. G.S. 106-24.1 reads as rewritten:

12 **"§ 106-24.1. Confidentiality of information collected and published.**

13 All information published by the Department of Agriculture and Consumer Services
14 pursuant to this Part shall be classified so as to prevent the identification of information
15 received from individual farm operators. All information received pursuant to this Part from
16 individual farm operators shall be held confidential by the Department and its employees. All
17 information collected by the Department from ~~individual farm operators~~ farm owners or animal
18 owners, for the purposes of its animal health programs, including, but not limited to, certificates
19 of veterinary inspection, animal medical records, laboratory ~~reports, reports received or~~
20 generated from samples submitted for analysis, or other records that may be used to identify a
21 person or private business entity subject to regulation by the Department shall not be disclosed
22 without the permission of the owner unless the State Veterinarian determines that disclosure is
23 necessary to prevent the spread of an animal disease or to protect the public health, or the
24 disclosure is necessary in the implementation of these animal health programs."
25

26 **TECHNICAL CORRECTIONS**

27 SECTION 18.(a) G.S. 14-137 reads as rewritten:

28 **"§ 14-137. Willfully or negligently setting fire to woods and fields.**

29 If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set
30 on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2
31 misdemeanor. This section shall apply only in those counties under the protection of the
32 Department of ~~Environment and Natural Resources~~ Agriculture and Consumer Services in its
33 work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be
34 fired, his own open, nonwooded lands, or fields in connection with farming or building
35 operations at the time and in the manner now provided by law: Provided, he shall have
36 confined the fire at his own expense to said open lands or fields."
37

38 SECTION 18.(b) G.S. 143-166.13 reads as rewritten:

39 **"§ 143-166.13. Persons entitled to benefits under Article.**

40 (a) The following persons who are subject to the Criminal Justice Training and
Standards Act are entitled to benefits under this Article:

- 41 (1) State Government Security Officers, Department of Administration;
- 42 (2) State Correctional Officers, Division of Adult Correction of the Department
43 of Public Safety;
- 44 (3) State Probation and Parole Officers, Division of Adult Correction of the
45 Department of Public Safety;
- 46 (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of
47 Adult Correction of the Department of Public Safety;
- 48 (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the
49 Department of Justice;
- 50 (6) State Highway Patrol Officers, Department of Public Safety;
- 51 (7) General Assembly Special Police, General Assembly;

- 1 (8) Sworn State Law-Enforcement Officers with the power of arrest,
2 Department of Health and Human Services;
- 3 (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of
4 Public Safety;
- 5 (10) Insurance Investigators, Department of Insurance;
- 6 (11) State Bureau of Investigation Officers and Alcohol Law Enforcement
7 Agents, Department of Public Safety;
- 8 (12) Director and Assistant Director, License and Theft Enforcement Section,
9 Division of Motor Vehicles, Department of Transportation;
- 10 (13) Members of License and Theft Enforcement Section, Division of Motor
11 Vehicles, Department of Transportation, designated by the Commissioner of
12 Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- 13 (14) Utilities Commission Transportation Inspectors and Special Investigators;
- 14 (15) North Carolina Ports Authority Police, Department of Transportation;
- 15 (16) Sworn State Law-Enforcement Officers with the power of arrest,
16 Department of Environment and Natural Resources;
- 17 (17) Sworn State Law-Enforcement Officers with the power of arrest,
18 Department of Public Safety.
- 19 (18) Sworn State Law-Enforcement Officers with the power of arrest,
20 Department of Revenue.
- 21 (19) Sworn State Law-Enforcement Officers with the power of arrest, University
22 System.
- 23 (20) Sworn State Law-Enforcement Officers with the power of arrest,
24 Department of Agriculture and Consumer Services.

25 (b) The following persons are entitled to benefits under this Article regardless of
26 whether they are subject to the Criminal Justice Training and Standards Act:

- 27 (1) Driver License Examiners injured by accident arising out of and in the
28 course of giving a road test, Division of Motor Vehicles, Department of
29 Transportation;
- 30 (2) Employees of the Division of Adult Correction of the Department of Public
31 Safety injured by a direct and deliberate act of an offender supervised by the
32 Division or while performing supervisory duties over offenders which place
33 the employees at risk of such injury.

34 (c) As used in this Article, the term "eligible person" or "person" shall mean any
35 individual listed under subsection (a) or (b) of this section."
36

37 **EFFECTIVE DATE AND SEVERABILITY CLAUSE**

38 **SECTION 19.(a)** If any provision of this act or its application is held invalid, the
39 invalidity does not affect other provisions or applications of this act that can be given effect
40 without the invalid provisions or application, and to this end the provisions of this act are
41 severable.

42 **SECTION 19.(b)** Except as otherwise provided, this act is effective when it
43 becomes law.