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SESSION 2015

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SENATE BILL 513

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PROPOSED HOUSE COMMITTEE SUBSTITUTE S513-PCS45416-TQxf-32

Short Title: North Carolina Farm Act of 2015.

(Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF TO THE AGRICULTURAL  
COMMUNITY OF NORTH CAROLINA BY PROVIDING FOR VARIOUS  
TRANSPORTATION AND ENVIRONMENTAL REFORMS AND BY MAKING  
VARIOUS OTHER STATUTORY CHANGES.

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.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

- (1) The amount of the proposed assessment, not to exceed ~~two dollars~~ ~~(\$2.00)~~ four dollars (\$4.00) per ton of commercial horse feed.
- (2) The period for which the assessment shall be levied, not to exceed ~~three~~ 10 years.
- (3) The time and place of the referendum.
- (4) Procedures for conducting the referendum and counting votes.
- (5) Any other matters pertaining to the referendum.

...."

**CONFORM COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER TO  
FEDERAL WAGE WITHHOLDING STANDARDS**

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

"(b) Exemptions. – The withholding requirement does not apply to the following:

- (1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.
- (2) Compensation paid to an ordained or licensed member of the clergy.
- (3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.



\* S 5 1 3 - P C S 4 5 4 1 6 - T Q X F - 3 2 \*

1           (4) Compensation paid to an alien, as described by 8 U.S.C. §  
2           1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding  
3           under section 1441 of the Code."

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

#### 7 **MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS**

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

13           **SECTION 4.(b)** Implementation. – Notwithstanding subdivision (h)(1) of 19A  
14 NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of  
15 Transportation shall allow movement of a permitted oversize vehicle between sunrise and  
16 sunset Monday through Sunday. However, a 16-foot-wide mobile or modular home unit with a  
17 maximum three-inch gutter edge is restricted to travel from 9:00 A.M. to 2:30 P.M. Monday  
18 through Sunday. A 16-foot-wide unit is authorized to continue operation after 2:30 P.M., but  
19 not beyond sunset, when traveling on an approved route as determined by an engineering study  
20 and the unit is being exported out-of-state.

21           **SECTION 4.(c)** Implementation. – Notwithstanding subdivision (h)(2) of 19A  
22 NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of  
23 Transportation shall only prohibit movement of a permitted oversize vehicle and vehicle  
24 combination after noon on the weekday preceding the three holidays of Independence Day,  
25 Thanksgiving Day, and Christmas Day until noon on the weekday following a holiday. If the  
26 observed holiday falls on the weekend, travel is restricted from noon on the preceding Friday  
27 until noon on the following Monday.

28           **SECTION 4.(d)** Additional Rule-Making Authority. – The Department of  
29 Transportation shall adopt rules to amend 19A NCAC 02D .0607 (Permits-Weight, Dimensions  
30 and Limitations) consistent with subsections (b) and (c) of this section. Notwithstanding  
31 G.S. 150B-19(4), the rule adopted by the Department pursuant to this section shall be  
32 substantively identical to the provisions of subsections (b) and (c) of this section. Rules adopted  
33 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General  
34 Statutes. Rules adopted pursuant to this section shall become effective as provided in  
35 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
36 G.S. 150B-21.3(b2).

37           **SECTION 4.(e)** Effective Date. – Subsections (b) and (c) of this section expire on  
38 the date that rules adopted pursuant to subsection (d) of this act become effective.

#### 40 **ALLOW OVERSIZE TRANSPORTATION OF HAY BALES**

41           **SECTION 5.** G.S. 20-116 is amended by adding a new subsection to read:  
42 "**§ 20-116. Size of vehicles and loads.**

43           ...

44           (o) Any vehicle carrying baled hay from place to place on the same farm, from one  
45 farm to another, from farm to market, or from market to farm that does not exceed 12 feet in  
46 width may be operated on the highways of this State. Vehicles carrying baled hay that exceed  
47 10 feet in width may only be operated under the following conditions:

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

49           (2) The vehicle shall display a red flag or a flashing warning light on both the  
50 rear and front ends. The flags or lights shall be attached to the equipment as

1 to be visible from both directions at all times while being operated on the  
2 public highway for not less than 300 feet."  
3

4 **AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL**  
5 **VEHICLES**

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

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

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

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

20 (3) Equipment covered by this section, which by necessity must travel more  
21 than 10 miles or where by nature of the terrain or obstacles the flags or lights  
22 referred to in subdivision (2) of this subsection are not visible from both  
23 directions for 300 feet at any point along the proposed route, must be  
24 preceded at a distance of 300 feet and followed at a distance of 300 feet by a  
25 flagman in a vehicle having mounted thereon an appropriate warning light or  
26 flag. No flagman in a vehicle shall be required pursuant to this subdivision if  
27 the equipment is being moved under its own power or on a trailer from any  
28 field to another field, or from the normal place of storage of the vehicle to  
29 any field, for no more than ten miles and if visible from both directions for  
30 300 feet at any point along the proposed route.

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

35 "...."

36 **SECTION 6.(b)** G.S. 20-146 is amended by adding a new subsection to read:

37 **"§ 20-146. Drive on right side of highway; exceptions.**

38 (a) Upon all highways of sufficient width a vehicle shall be driven upon the right half  
39 of the highway except as follows:

40 (1) When overtaking and passing another vehicle proceeding in the same  
41 direction under the rules governing such movement;

42 (2) When an obstruction exists making it necessary to drive to the left of the  
43 center of the highway; provided, any person so doing shall yield the  
44 right-of-way to all vehicles traveling in the proper direction upon the  
45 unobstructed portion of the highway within such distance as to constitute an  
46 immediate hazard;

47 (3) Upon a highway divided into three marked lanes for traffic under the rules  
48 applicable thereon; or

49 (4) Upon a highway designated and signposted for one-way traffic.

50 (a1) Self-propelled grain combines or other self-propelled farm equipment shall be  
51 operated to the right of the centerline except as provided in G.S. 20-116(j)(4).

1 (b) Upon all highways any vehicle proceeding at less than the legal maximum speed  
2 limit shall be driven in the right-hand lane then available for thru traffic, or as close as  
3 practicable to the right-hand curb or edge of the highway, except when overtaking and passing  
4 another vehicle proceeding in the same direction or when preparing for a left turn.

5 ...."

6  
7 **AMEND DEFINITION OF "AGRICULTURAL SPREADER VEHICLE," INCREASE**  
8 **SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES**

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

10 **"§ 20-51. Exempt from registration.**

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

12 ...

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

- 17 a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle"  
18 is a vehicle that is designed for off-highway use on a farm to spread  
19 feed, fertilizer, seed, lime, or other agricultural products on a  
20 field-products.
- 21 b. Is driven on the highway only for the purpose of going from the  
22 location of its supply source for fertilizer or other products to and  
23 from a farm.
- 24 c. Does not exceed a speed of 3545 miles per hour.
- 25 d. Does not drive outside a radius of 50 miles from the location of its  
26 supply source for fertilizer and other products.
- 27 e. Is driven by a person who has a license appropriate for the class of  
28 the vehicle.
- 29 f. Is insured under a motor vehicle liability policy in the amount  
30 required under G.S. 20-309.
- 31 g. Displays a valid federal safety inspection decal if the vehicle has a  
32 gross vehicle weight rating of at least 10,001 pounds.

33 ...."

34  
35 **ALLOW ALL-TERRAIN VEHICLES AND UTILITY VEHICLES USED FOR**  
36 **AGRICULTURAL PURPOSES TO OPERATE ON PUBLIC ROADS**

37 SECTION 8. G.S. 20-171.22 reads as rewritten:

38 **"§ 20-171.22. Exceptions.**

39 (a) The provisions of this Part do not apply to any owner, operator, lessor, or renter of a  
40 farm or ranch, or that person's employees or immediate family or household members, when  
41 operating an all-terrain vehicle while engaged in farming operations.

42 (a1) Any person may operate an all-terrain vehicle or utility vehicle on a public street or  
43 highway while engaged in farming operations.

44 (b) The provisions of this Part do not apply to any person using an all-terrain vehicle for  
45 hunting or trapping purposes if the person is otherwise lawfully engaged in those activities.

46 (c) The provisions of G.S. 20-171.19(a1) do not apply to any person 16 years of age or  
47 older if the person is otherwise lawfully using the all-terrain vehicle on any ocean beach area  
48 where such vehicles are allowed by law. As used in this subsection, "ocean beach area" means  
49 the area adjacent to the ocean and ocean inlets that is subject to public trust rights. Natural  
50 indicators of the landward extent of the ocean beaches include, but are not limited to, the first  
51 line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line."

1  
2 **CLARIFY THE ROAD WEIGHT LIMITATION EXCEPTIONS FOR**  
3 **TRANSPORTATION OF AGRICULTURAL PRODUCTS AND SUPPLIES**

4 **SECTION 9.(a)** G.S. 20-118(c)(12) reads as rewritten:

5 "(12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle  
6 combination that meets all of the conditions set out below:

- 7 a. Is transporting any of the following items within 150 miles of the  
8 point of origination:
- 9 1. ~~Agriculture~~ Agriculture, dairy, and crop products transported  
10 from a farm or holding facility to a processing plant ~~plant,~~  
11 feed mill, or market.
  - 12 2. Water, fertilizer, pesticides, seeds, fuel, or animal waste  
13 transported to or from a ~~farm by a farm vehicle as defined in~~  
14 G.S. 20-37.16(e)(3) farm.
  - 15 3. Meats, livestock, or live poultry transported from the farm  
16 where they were raised to a processing plant or market.
  - 17 3a. Feed or feed ingredients that is ~~is~~ are used in the feeding of  
18 poultry or livestock and transported from a storage facility,  
19 holding facility, or mill to a farm.
  - 20 4. Forest products originating and transported from a farm or  
21 woodlands to market with delay interruption or delay for  
22 further packaging or processing after initiating transport.
  - 23 5. Wood residuals, including wood chips, sawdust, mulch, or  
24 tree bark from any site.
  - 25 6. Raw logs to market.
  - 26 7. Trees grown as Christmas trees from field, farm, stand, or  
27 grove to a processing point.

28 ...."

29 **SECTION 9.(b)** This section becomes effective October 1, 2015.

30  
31 **ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR**  
32 **METEOROLOGICAL TOWERS**

33 **SECTION 10.(a)** Chapter 63 of the General Statutes is amended by adding a new  
34 Article to read:

35 "Article 11.

36 "Marking and Notice of Meteorological Towers.

37 **"§ 63-110. Marking of meteorological towers.**

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

- 39 (1) "Height" means the distance from the base of a tower to the highest point of  
40 the tower.
- 41 (2) "Meteorological tower" means a structure that is either self-standing or  
42 supported by guy wires and ground anchors and has guy wires and accessory  
43 facilities on which equipment used to measure wind speed and direction is  
44 mounted. "Meteorological tower" does not include a structure that is affixed  
45 or located adjacent to a building, house, or barn.

46 (b) Except as required by federal law, rule, or regulation, any meteorological tower over  
47 50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air  
48 during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall  
49 also comply with the following additional requirements:

- 50 (1) A meteorological tower shall be painted in equal alternating bands of  
51 aviation orange and white, beginning with orange at the top of the tower.

- 1           (2)    One marker ball shall be attached to the top third of each outside guy wire.  
2           (3)    Guy wires shall have a seven-foot-long safety sleeve at each anchor point  
3               that extends from the anchor point along each guy wire attached to the  
4               anchor point.

5    "**§ 63-111. Registration; notification; tower database; penalty.**

6           (a)    The Department of Transportation shall adopt rules requiring any person proposing  
7               to construct a meteorological tower to register with the Department. The person proposing to  
8               construct the tower shall notify the Department of the proposal, the location and height of the  
9               proposed tower, and any other information the Department may require to ensure aviation  
10              safety and shall pay a registration fee of three hundred fifty dollars (\$350.00). The rules shall  
11              require the owner of a meteorological tower to notify the Department upon removal or  
12              destruction of a tower.

13           (b)   The Department of Transportation shall establish and maintain an electronic  
14               database that contains the location of all meteorological towers in the State by January 1, 2017.  
15               The Department may contract with a governmental entity or private entity to create and  
16               maintain the database. The Department shall make the contents of the database available on its  
17               Web site.

18    "**§ 63-112. Penalties.**

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

21               **SECTION 10.(b)** This section becomes effective January 1, 2017, and applies to  
22               meteorological towers erected on or after that date.

23  
24    **ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING**  
25    **SUBMERGED AQUATIC VEGETATION**

26           **SECTION 11.(a)** G.S. 113-202(b) reads as rewritten:

27           (b)    The Secretary may delete any part of an area proposed for lease or may condition a  
28               lease to protect the public interest with respect to the factors enumerated in subsection (a) of  
29               this section. The Secretary may not grant a new lease in an area heavily used for recreational  
30               purposes. Except as prohibited by federal law, the Secretary shall not exclude any area from  
31               leasing solely on the basis that the area contains submerged aquatic vegetation and shall make  
32               specific findings based on the standards set forth in subsection (a) of this section prior to  
33               reaching a decision not to grant or renew a lease for shellfish cultivation for any area containing  
34               submerged aquatic vegetation."

35               **SECTION 11.(b)** This section becomes effective October 1, 2015, and applies to  
36               any new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on  
37               or after that date.

38  
39    **PRESENT-USE VALUE MODIFICATIONS**

40           **SECTION 12.(a)** G.S. 105-277.2 reads as rewritten:

41    "**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

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

- 43           (1)    Agricultural land. – Land that is a part of a farm unit that is actively engaged  
44               in the commercial production or growing of crops, plants, or animals under a  
45               sound management program. For purposes of this definition, the commercial  
46               production or growing of animals includes the rearing, feeding, training,  
47               caring, and managing of horses. Agricultural land includes woodland and  
48               wasteland that is a part of the farm unit, but the woodland and wasteland  
49               included in the unit must be appraised under the use-value schedules as  
50               woodland or wasteland. A farm unit may consist of more than one tract of  
51               agricultural land, but at least one of the tracts must meet the requirements in

1 G.S. 105-277.3(a)(1), and each tract must be under a sound management  
2 program. If the agricultural land includes less than 20 acres of woodland,  
3 then the woodland portion is not required to be under a sound management  
4 program. Also, woodland is not required to be under a sound management  
5 program if it is determined that the highest and best use of the woodland is  
6 to diminish wind erosion of adjacent agricultural land, protect water quality  
7 of adjacent agricultural land, or serve as buffers for adjacent livestock or  
8 poultry operations.

9 ...  
10 (4)

Individually owned. – Owned by one of the following:

11 a. An individual.

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

13 1. Its principal business is farming agricultural land,  
14 horticultural land, or forestland. When determining whether  
15 an applicant under G.S. 105-277.4 has as its principal  
16 business farming agricultural land, horticultural land, or  
17 forestland, the assessor shall presume the applicant's principal  
18 business to be farming agricultural land, horticultural land, or  
19 forestland if the applicant has been approved by another  
20 county for present-use value taxation for a qualifying  
21 property located within the other county; provided, however,  
22 the presumption afforded the applicant may be rebutted by  
23 the assessor and shall have no bearing on the determination of  
24 whether the individual parcel of land meets one or more of  
25 the classes defined in G.S. 105-277.3(a). If the assessor is  
26 able to rebut the presumption, this shall not invalidate the  
27 determination that the applicant's principal business is  
28 farming agricultural land, horticultural land, or forestland in  
29 the other county.

30 2. All of its members are, directly or indirectly, individuals who  
31 are actively engaged in farming agricultural land,  
32 horticultural land, or forestland or a relative of one of the  
33 individuals who is actively engaged. An individual is  
34 indirectly a member of a business entity that owns the land if  
35 the individual is a member of a business entity or a  
36 beneficiary of a trust that is part of the ownership structure of  
37 the business entity that owns the land.

38 3. It is not a corporation whose shares are publicly traded, and  
39 none of its members are corporations whose shares are  
40 publicly traded.

41 4. If it leases the land, all of its members are individuals and are  
42 relatives. Under this condition, "principal business" and  
43 "actively engaged" include leasing.

44 c. A trust that meets all of the following conditions:

45 1. It was created by an individual who owned the land and  
46 transferred the land to the trust.

47 2. All of its beneficiaries are, directly or indirectly, individuals  
48 who are the creator of the trust or a relative of the creator. An  
49 individual is indirectly a beneficiary of a trust that owns the  
50 land if the individual is a beneficiary of another trust or a

- 1 member of a business entity that has a beneficial interest in
- 2 the trust that owns the land.
- 3 d. A testamentary trust that meets all of the following conditions:
- 4 1. It was created by an individual who transferred to the trust
- 5 land that qualified in that individual's hands for classification
- 6 under G.S. 105-277.3.
- 7 2. At the date of the creator's death, the creator had no relatives.
- 8 3. The trust income, less reasonable administrative expenses, is
- 9 used exclusively for educational, scientific, literary, cultural,
- 10 charitable, or religious purposes as defined in
- 11 G.S. 105-278.3(d).
- 12 e. Tenants in common, if each tenant would qualify as an owner if the
- 13 tenant were the sole owner. Tenants in common may elect to treat
- 14 their individual shares as owned by them individually in accordance
- 15 with G.S. 105-302(c)(9). The ownership requirements of
- 16 G.S. 105-277.3(b) apply to each tenant in common who is an
- 17 individual, and the ownership requirements of G.S. 105-277.3(b1)
- 18 apply to each tenant in common who is a business entity or a trust.

19 ...."

20 **SECTION 12.(b)** G.S. 105-277.4 is amended by adding a new subsection to read:

21 "**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use**

22 **value; appeal; deferred taxes.**

23 ...

24 (f) The Department shall publish a present-use value program guide annually and make

25 the guide available electronically on its Web site. When making decisions regarding the

26 qualifications or appraisal of property under this section, the assessor shall adhere to the

27 Department's present-use value program guide."

28 **SECTION 12.(c)** Subsection (a) of this section becomes effective July 1, 2015, and

29 applies to taxes imposed for taxable years beginning on or after that date. The remainder of this

30 section is effective when this act becomes law.

31

32 **PROCEDURE FOR TERMINATION OR MODIFICATION OF CONSERVATION**

33 **AGREEMENTS**

34 **SECTION 13.(a)** Article 4 of Chapter 121 of the General Statutes is amended by

35 adding a new section to read:

36 "**§ 121-39A. Termination or modification of agreements.**

37 (a) Easements secured by the Agricultural Development and Farmland Preservation

38 Trust Fund, including perpetual agricultural conservation easements and forest land easements,

39 military base protection and flyway easements regardless of funding source, or any other

40 agricultural conservation easement that has been secured, in whole or in part, with federal funds

41 and where at least one party to the agreement is a public body of this State, shall not be

42 terminated or modified for the purpose of economic development.

43 (b) Prior to any modification or termination of a conservation agreement where at least

44 one party to the agreement is a public body of this State, the agency requesting the conservation

45 agreement modification or termination shall conduct a conservation benefit analysis. The

46 criteria for the conservation benefit analysis shall be established by the agency requesting the

47 conservation agreement modification or termination. Conservation agreements may only be

48 modified or terminated if the conservation benefit analysis concludes that the modification or

49 termination results in a greater benefit to conservation purposes consistent with this Article.



1       (c) The conservation benefit analysis conducted by the requesting agency shall be  
2 reported to the Council of State prior to the vote of the Council of State on the final decision to  
3 modify the agreement.

4       (d) Notwithstanding any authority given to a public body of this State, including the  
5 State, any of its agencies, any city, county, district or other political subdivision, municipal or  
6 public corporation, or any instrumentality of any of the foregoing, to release or terminate  
7 conservation easements under other law, this section shall apply to conservation agreements  
8 that are intended to be effective perpetually or that are terminated or modified prior to the  
9 period of time stipulated in the agreement, and where at least one party to the agreement is a  
10 public body of this State, including the State, any of its agencies, any city, county, district or  
11 other political subdivision, municipal or public corporation, or any instrumentality of any of the  
12 foregoing.

13       (e) Parties to a conservation agreement may include a provision at the time an  
14 agreement is executed requiring the consent of the grantor or the grantor's successors in interest  
15 to terminate or modify the agreement for any purpose.

16       (f) Any agency managing a conservation agreement program may adopt rules  
17 governing its procedure for termination or modification of a conservation agreement, provided  
18 that any such rules may be no less stringent than the requirements of this section.

19       (g) This section shall not apply to a condemnation action initiated by a condemnor  
20 governed by Article 6 of Chapter 40A of the General Statutes."

21       **SECTION 13.(b)** G.S. 106-744(c1) reads as rewritten:

22       "(c1) The Commissioner shall distribute Trust Fund monies for only the purposes under  
23 subsection (c) of this section, including transaction costs, as follows:

- 24       (1) To a private nonprofit conservation organization that matches thirty percent  
25 (30%) of the Trust Fund monies it receives with funds from sources other  
26 than the Trust Fund.
- 27       (2) To counties according to the match requirements under subsection (c2) of  
28 this section.
- 29       (3) To the Department of Agriculture and Consumer Services for the purchase  
30 of agricultural conservation easements or agreements to be held by the  
31 Department."

32       **SECTION 13.(c)** Subsection (a) of this section is effective when it becomes law  
33 and applies to conservation agreements executed on or after that date. The remainder of this  
34 section is effective when it becomes law and applies to easements or agreements in effect on  
35 that date and executed on or after that date.

## 36 37 **PROHIBIT IMPORTATION OF CERVIDS**

38       **SECTION 14.(a)** G.S. 113-272.6 reads as rewritten:

39       "**§ 113-272.6. Transportation of cervids and licensing of captive cervid facilities.**

40       (a) The Wildlife Resources Commission shall regulate the transportation, including  
41 ~~importation and exportation~~, exportation and possession of cervids, including game carcasses  
42 and parts of game carcasses extracted by hunters. The Commission ~~shall~~may allow the sale of  
43 antlers, antler velvet, or hides from captive populations of cervids. The Commission shall adopt  
44 rules to implement this section, including requirements for captivity licenses, captivity permits,  
45 and transportation permits. The rules adopted pursuant to this section shall establish standards  
46 of care for the transportation and possession of cervids, including requirements for fencing,  
47 tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other  
48 provision of law, the Commission may charge a fee of up to fifty dollars (\$50.00) for the  
49 processing of applications for captivity licenses, captivity permits, and transportation permits,  
50 and the renewal or modification of those licenses and permits. The fees collected shall be  
51 applied to the costs of administering this section.

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

5 (c) The Department of Agriculture and Consumer Services shall regulate the production  
6 and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.

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

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

16 (f) No animal of the family Cervidae shall be imported into North Carolina."

17 **SECTION 14.(b)** Section 14.26 of S.L. 2014-100 is repealed.

18  
19 **ALLOW ALTERNATE DISPOSAL OF BIODEGRADABLE AGRICULTURAL**  
20 **PLASTICS**

21 **SECTION 15.(a)** G.S. 106-950 reads as rewritten:

22 "**§ 106-950. Exempt fires; no permit fees.**

23 (a) This Article shall not apply to any fires started, or caused to be started, within 100  
24 feet of an occupied dwelling house if such fire shall be confined (i) within an enclosure from  
25 which burning material may not escape or (ii) within a protected area upon which a watch is  
26 being maintained and which is provided with adequate fire protection equipment.

27 (a1) Except in cases where the Commissioner has prohibited all open burning during  
28 periods of hazardous forest fire conditions or during air pollution episodes declared pursuant to  
29 Article 21B of Chapter 143 of the General Statutes, this Article shall not apply to, and no air  
30 quality permit shall be required for, the burning of polyethylene agricultural plastic used in  
31 connection with agricultural operations related to the growing, harvesting, or maintenance of  
32 crops, when all of the following conditions apply:

33 (1) The burning does not violate any State or federal ambient air quality  
34 standards.

35 (2) The burning is conducted between an hour after sunrise and an hour before  
36 sunset.

37 (3) The fire is set back at least 250 feet from any paved public roadway and at  
38 least 500 feet from any dwelling, group of dwellings, commercial or  
39 institutional establishment, or other occupied structure not located on the  
40 property on which the burning is conducted.

41 (4) The burning is conducted in a manner such that it does not constitute a  
42 public nuisance.

43 (5) The burning is conducted by any of the following means:

44 a. By professionally manufactured equipment solely for the purpose of  
45 plastic mulch burning or incineration and approved by the  
46 Commissioner.

47 b. By a fire that is enclosed in a noncombustible container.

48 c. By a fire that is restricted to a pile no greater than eight feet in  
49 diameter built upon ground cleared of all combustible material.

50 (b) No charge shall be made for the granting of any permit required by this Article."

1           **SECTION 15.(b)** The Department of Agriculture and Consumer Services may  
2 adopt rules to implement the provisions of this section.

3           **SECTION 15.(c)** This section becomes effective January 1, 2015.  
4

5           **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"  
6 AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM  
7 PERFORMANCE STANDARDS**

8           **SECTION 16.** Section 21 of S.L. 2013-413 reads as rewritten:

9           "**SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions)~~ (Definitions) and 15A NCAC 02T  
10 .1307 (Swine Waste Management System Performance Standards). – Until the effective date of  
11 the revised permanent ~~rule~~ rules that the Environmental Management Commission is required  
12 to adopt pursuant to Section 21(c) of this act, the Commission and the Department of  
13 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and  
14 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided  
15 in Section 21(b) of this act.

16           "**SECTION 21.(b)** Implementation. – Notwithstanding 15A NCAC 02T .1302  
17 (Definitions), "new animal waste management system" means animal waste management  
18 systems which are constructed and operated at a site where no feedlot existed ~~previously, where~~  
19 ~~a system serving a feedlot has been abandoned or unused for a period of four years or more and~~  
20 ~~is then put back into service, previously~~ or where a permit for a system has been rescinded, and  
21 is then reissued when the permittee confines animals in excess of the thresholds established in  
22 G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste  
23 Management System Performance Standards), the Swine Waste Management System  
24 Performance Standards shall:

25           (1) Apply to any farm facility that receives a permit for its animal waste  
26 management system that allows a level of production at the farm, as  
27 measured by steady state live weight, greater than the largest production for  
28 which the farm has received a permit in the past, and so that they also apply  
29 to any other animal waste management system otherwise subject to  
30 regulation under G.S. 143-215.10I.

31           (2) Not apply to any facility that meets all of the following conditions:

- 32           a. Has had no animals on site for five continuous years or more.  
33           b. Notifies the Division of Water Resources in writing at least 60 days  
34 prior to bringing any animals back on to the site.  
35           c. The system depopulated after January 1, 2005, and the system ceased  
36 operation no longer than 10 years prior to the current date.  
37           d. At the time the system ceased operation, the system was in  
38 compliance with an individual permit or a general permit issued  
39 pursuant to G.S. 143-215.10C.  
40           e. The Division of Water Resources issues an individual permit or  
41 certificate of coverage under a general permit issued pursuant to  
42 G.S. 143-215.10C for operation of the system before any animals are  
43 brought on the facility.  
44           f. The permit for the animal waste management system does not allow  
45 production, measured by steady state live weight, to exceed the  
46 greatest steady state live weight previously permitted for the system  
47 under G.S. 143-215.10C.  
48           g. No component of the animal waste management system and swine  
49 farm, other than an existing swine house or land application site,  
50 shall be constructed on land that is located within the 100-year  
51 floodplain.

1                   h.       The inactive animal waste management system was not closed using  
2                   the expenditure of public funds and was not closed pursuant to a  
3                   settlement agreement, court order, cost share agreement, or grant  
4                   condition.

5       **"SECTION 21.(c) Additional Rule-Making Authority.** – The Environmental Management  
6 Commission shall adopt ~~a rule~~rules as promptly as practicable to amend 15A NCAC 02T .1302  
7 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance  
8 Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the ~~rule~~  
9 rules adopted by the Commission pursuant to this section shall be substantively identical to the  
10 provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to  
11 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
12 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written  
13 objections had been received as provided by G.S. 150B-21.3(b2).

14       **"SECTION 21.(d) Sunset.** – Section 21(b) of this act expires on the date that rules adopted  
15 pursuant to Section 21(c) of this act become effective."  
16

## 17 **MODIFY IMPLEMENTATION OF THE ODOR CONTROL OF FEED INGREDIENT** 18 **MANUFACTURING PLANTS RULE**

19       **SECTION 18.(a) Definitions.** – "Odor Control of Feed Ingredient Manufacturing  
20 Plants Rule" means 15A NCAC 02D .0539 (Odor Control of Feed Ingredient Manufacturing  
21 Plants) for purposes of this section and its implementation.

22       **SECTION 18.(b) Odor Control of Feed Ingredient Manufacturing Plants Rule.** –  
23 Until the effective date of the revised permanent rule that the Environmental Management  
24 Commission is required to adopt pursuant to subsection (d) of this section, the Commission and  
25 the Department of Environment and Natural Resources shall implement the Odor Control of  
26 Feed Ingredient Manufacturing Plants Rule as provided in subsection (c) of this section.

27       **SECTION 18.(c) Implementation.** – Notwithstanding the Odor Control of Feed  
28 Ingredient Manufacturing Plants Rule, the Commission shall implement the rule as follows:

- 29       (1) Raw material shall be considered in "storage" after it has been unloaded at a  
30 facility or after it has been located at the facility for at least 36 hours.
- 31       (2) A vehicle or container holding raw material, which has not been unloaded  
32 inside or parked inside an odor controlled area within the facility, shall be  
33 unloaded for processing of the raw material prior to the expiration of the  
34 following time limits:
- 35           a. For feathers with only trace amounts of blood, such as those obtained  
36 from slaughtering houses that separate blood from offal and feathers,  
37 no later than 48 hours after being weighed upon arrival at the facility.
- 38           b. For used cooking oil in sealed tankers, no later than 96 hours after  
39 being weighed upon arrival at the facility.

40       **SECTION 18.(d) Additional Rule-Making Authority.** – The Commission shall  
41 adopt a rule to replace the Odor Control of Feed Ingredient Manufacturing Plants Rule.  
42 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section  
43 shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted  
44 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General  
45 Statutes. Rules adopted pursuant to this section shall become effective as provided in  
46 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by  
47 G.S. 150B-21.3(b2).

48       **SECTION 18.(e) Effective Date.** – Subsection (c) of this section expires when  
49 permanent rules to replace subsection (c) of this section have become effective, as provided by  
50 subsection (d) of this section.  
51

**EXEMPT CERTAIN WETLANDS MITIGATION ACTIVITIES FROM REQUIREMENTS UNDER THE SEDIMENTATION POLLUTION CONTROL ACT**

**SECTION 19.** G.S. 113A-52.01 reads as rewritten:

**"§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

- (1) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
  - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
  - b. Dairy animals and dairy products.
  - c. Poultry and poultry products.
  - d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
  - e. Bees and apiary products.
  - f. Fur producing animals.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.
- (3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
- (4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
- (5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
- (6) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition)."

**CLARIFY REIMBURSEMENT OF THIRD-PARTY CLAIMS FROM THE COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS**

**SECTION 20.(a)** G.S. 143-215.94V(e) reads as rewritten:

"(e) If the Commission concludes under subsection (d) of this section that no cleanup, no further cleanup, or no further action will be required, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial or Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment required by this section, unless:

- (1) Cleanup is ordered or damages are awarded in a finally adjudicated judgment in an action against the owner or landowner. To be eligible for reimbursement of damages arising from a third-party claim for bodily injury or property damage awarded in a finally adjudicated judgment, however, an owner or operator shall (i) notify the Department of any such claim; (ii) provide the Department with all pleadings and other related documents if a lawsuit has been filed; and (iii) provide the Department copies of any medical reports, statements, investigative reports, or certifications from licensed professionals necessary to determine that a claim for bodily injury or property damage is reasonable and necessary. Reimbursement of claims

1 for damages arising from a third-party claim for bodily injury or property  
2 damage awarded in a finally adjudicated judgment shall be subject to the  
3 limitations set forth in G.S. 143-215.94B(b)(5) and  
4 G.S. 143-215.94D(b1)(2), as applicable, and any other provision governing  
5 third-party claims set forth in this Article.

6 ...."

7 **SECTION 20.(b)** G.S. 143-215.94A is amended by adding three new subdivisions  
8 to read:

9 **"§ 143-215.94A. Definitions.**

10 Unless a different meaning is required by the context, the following definitions shall apply  
11 throughout this Part and Part 2B of this Article:

12 ...

13 (12) "Third party" means a person other than the owner or operator of an  
14 underground storage tank from which a release has occurred or employees or  
15 agents of an owner or operator. A property owner shall not be considered a  
16 third party if the property was transferred by the owner or operator of an  
17 underground storage tank in anticipation of damage due to a release.

18 (13) "Third-party bodily injury" or "bodily injury" when used in connection with  
19 "third-party" means specific physical bodily injury proximately resulting  
20 from exposure, explosion, or fire caused by the presence of a petroleum  
21 release and that is incurred by a person other than the owner or operator of  
22 an underground storage tank from which a release has occurred or  
23 employees or agents of an owner or operator.

24 (14) "Third-party property damage" or "property damage" when used in  
25 connection with "third-party" means actual physical damage or damage due  
26 to specific loss of normal use that proximately resulted from exposure,  
27 explosion, or fire caused by the presence of a petroleum release and that is  
28 incurred to property owned by a person other than the owner or operator of  
29 an underground storage tank from which a release has occurred or  
30 employees or agents of an owner or operator."

31 **SECTION 20.(c)** G.S. 143-215.94B, as amended by Section 14.16A(a) of S.L.  
32 2015-241, reads as rewritten:

33 **"§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup**  
34 **Fund.**

35 (a) There is established under the control and direction of the Department the  
36 Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Commercial  
37 Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such  
38 purpose by the General Assembly or available to it from grants, other monies paid to it or  
39 recovered on behalf of the Commercial Fund, and fees paid pursuant to this Part.

40 (b) The Commercial Fund shall be used for the payment of the following costs up to an  
41 aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a  
42 discharge or release of a petroleum product from a commercial underground storage tank:

43 ...

44 (5) Compensation to third parties for bodily injury and property damage in  
45 excess of one hundred thousand dollars (\$100,000) per occurrence. Claims  
46 for third-party property damage shall be based on the rental costs of  
47 comparable property during the period of loss of use up to a maximum  
48 amount equal to the fair market value. In the case of property that is actually  
49 destroyed as a result of a petroleum release, reimbursement shall be at an  
50 amount necessary to replace or repair the destroyed property.

51 ...

- 1 (12) Compensation to third parties for bodily injury and property damage in  
2 excess of one hundred thousand dollars (\$100,000) per occurrence caused by  
3 releases from noncommercial underground storage tanks reported to the  
4 Department prior to October 1, 2015, if the claim for compensation is made  
5 prior to July 1, 2016. Claims for third-party property damage shall be based  
6 on the rental costs of comparable property during the period of loss of use up  
7 to a maximum amount equal to the fair market value. In the case of property  
8 that is actually destroyed as a result of a petroleum release, reimbursement  
9 shall be at an amount necessary to replace or repair the destroyed property.

10 ...."

11 **SECTION 20.(d)** This section is effective when it becomes law and applies to  
12 claims for reimbursement pending or submitted on or after that date.

13  
14 **DIRECT DIVISION OF MARINE FISHERIES AND WILDLIFE RESOURCES**  
15 **COMMISSION TO DEVELOP A PILOT AMERICAN EEL AQUACULTURE PLAN**

16 **SECTION 22.(a)** The Division of Marine Fisheries of the Department of  
17 Environment and Natural Resources and the Wildlife Resources Commission shall jointly  
18 develop a pilot American Eel Aquaculture Plan for the harvest and aquaculture of American  
19 eels (*Anguilla rostrata*). The pilot American Eel Aquaculture Plan shall include all of the  
20 following conditions:

- 21 (1) The pilot project shall allow for a minimum harvest of 200 pounds of the  
22 glass eel stage of the American eel annually for use in domestic aquaculture  
23 facilities.  
24 (2) The harvest may only occur in watersheds that minimally contribute to the  
25 spawning stock of the American eel.  
26 (3) The Division shall submit the pilot American Eel Aquaculture Plan to the  
27 Atlantic States Marine Fisheries Commission for its approval. The requested  
28 pilot Plan shall include the pounds requested; the location, method, and dates  
29 of harvest; the duration of requested harvest; prior approval of any  
30 applicable permits; descriptions of each facility, including the capacity of  
31 each facility in which the glass eels will be held, and husbandry methods;  
32 descriptions of the markets the eels will be distributed to; a monitoring  
33 program to ensure harvest is not exceeded; and adequate enforcement  
34 capabilities.  
35 (4) American eels harvested under the pilot American Eel Aquaculture Plan may  
36 not be sold until they reach the legal size in the jurisdiction of operations,  
37 unless otherwise specified in the Plan.

38 **SECTION 22.(b)** The Division and the Wildlife Resources Commission shall  
39 make every effort to have the pilot American Eel Aquaculture Plan approved by the Atlantic  
40 States Marine Fisheries Commission to be implemented during 2016. Persons interested in  
41 participating in the pilot American Eel Aquaculture Plan shall submit all information required  
42 by the Division and the Wildlife Resources Commission, in a form acceptable to the Division  
43 and the Wildlife Resources Commission, no later than November 1, 2015. The Division and the  
44 Marine Fisheries Commission shall issue no permits for the harvest and aquaculture of the glass  
45 eel stage of American eels in the State until the pilot American Eel Aquaculture Plan has been  
46 approved by the Atlantic States Marine Fisheries Commission.

47  
48 **AMEND DEFINITION OF MINING RELATIVE TO AGRICULTURAL ACTIVITIES**

49 **SECTION 23.** G.S. 74-49(7) reads as rewritten:

50 **"§ 74-49. Definitions.**

1       Wherever used or referred to in this Article, unless a different meaning clearly appears from  
2 the context:

3       ...

4       (7)       "Mining" ~~means~~ means any of the following:

- 5       a.       ~~The~~ (i) the breaking of the surface soil in order to facilitate or  
6 accomplish the extraction or removal of minerals, ores, or other solid  
7 matter.  
8       b.       ~~Any matter~~; (ii) any activity or process constituting all or part of a  
9 process for the extraction or removal of minerals, ores, soils, and  
10 other solid matter from their original ~~location~~.  
11       e.       ~~The location~~; or (iii) the preparation, washing, cleaning, or other  
12 treatment of minerals, ores, or other solid matter so as to make them  
13 suitable for commercial, industrial, or construction use.

14       "Mining" does not include:

- 15       a.       Those aspects of deep mining not having significant effect on the  
16 surface, where the affected land does not exceed one acre in area.  
17       b.       Mining operations where the affected land does not exceed one acre  
18 in area.  
19       c.       Plants engaged in processing minerals produced elsewhere and  
20 whose refuse does not affect more than one acre of land.  
21       d.       Excavation or grading when conducted solely ~~in aid of on-site~~  
22 ~~farming or off~~ on-site construction for purposes other than mining.  
23       e.       Removal of overburden and mining of limited amounts of any ores or  
24 mineral solids when done only for the purpose and to the extent  
25 necessary to determine the location, quantity, or quality of any  
26 natural deposit, provided that no ores or mineral solids removed  
27 during exploratory excavation or mining are sold, processed for sale,  
28 or consumed in the regular operation of a business, and provided  
29 further that the affected land resulting from any exploratory  
30 excavation does not exceed one acre in area.  
31       f.       Excavation or grading where all of the following apply:  
32           1.       The excavation or grading is conducted to provide soil or  
33 other unconsolidated material to be used without further  
34 processing for a single off-site construction project for which  
35 an erosion and sedimentation control plan has been approved  
36 in accordance with Article 4 of Chapter 113A of the General  
37 Statutes.  
38           2.       The affected land, including nonpublic access roads, does not  
39 exceed five acres.  
40           3.       The excavation or grading is completed within one year.  
41           4.       The excavation or grading does not involve blasting, the  
42 removal of material from rivers or streams, the disposal of  
43 off-site waste on the affected land, or the surface disposal of  
44 groundwater beyond the affected land.  
45           5.       The excavation or grading is not in violation of any local  
46 ordinance.  
47           6.       An erosion and sedimentation control plan for the excavation  
48 or grading has been approved in accordance with Article 4 of  
49 Chapter 113A of the General Statutes.  
50       g.       Excavation or grading when conducted solely for activities  
51 undertaken on agricultural land that are exempt, pursuant to



G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes."

## **AMEND THE HOLDING AND ADVERTISING PERIOD FOR UNCLAIMED LIVESTOCK**

**SECTION 24.(a)** G.S. 68-20 reads as rewritten:

**"§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.**

If the owner fails to redeem his livestock within three days after the notice and demand as provided in G.S. 68-18 is received or within three days after the determination of the costs and damages as provided in G.S. 68-19, ~~then, upon written notice fully describing the livestock, stating the place, date, and hour of sale posted at the courthouse door and three or more public places in the township where the owner resides, and after the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department.~~ After 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, ~~30~~ three days after publication of the notice required by G.S. 68-18.1, the impounder shall ~~post at the courthouse door and three public places in the township where the livestock is impounded a written notice fully describing the livestock, and stating the place, date, and hour of sale.~~ notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After ~~20~~ 10 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded."

**SECTION 24.(b)** This section is effective when this act becomes law and applies to livestock impounded on or after that date.

## **MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS**

**SECTION 25.(a)** G.S. 106-815 is repealed.

**SECTION 25.(b)** G.S. 19A-62(c) reads as rewritten:

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

## **PRESCRIBED BURNING ACT MODIFICATIONS**

**SECTION 26.** G.S. 106-968 reads as rewritten:

**"§ 106-968. Prescribed burning.**

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

- (1) The landowner's name and address.
- (2) A description of the area to be burned.
- (3) A map of the area to be burned.

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

12 (b) The prescribed burning shall be conducted by a certified prescribed burner in  
13 accordance with a prescription that satisfies subsection (a) of this section. The certified  
14 prescribed burner shall be present on the site and shall be in charge of the burning throughout  
15 the period of the burning. A landowner may conduct a prescribed burning and be in compliance  
16 with this Article without being a certified prescribed burner if the landowner is burning a tract  
17 of forestland of 50 acres or less owned by that landowner and is following all conditions  
18 established in a prescription prepared by a certified prescribed burner.

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

- 24 (1) The terms and conditions of the open-burning permit under Article 78 of this
- 25 Chapter.
- 26 (2) The State's air pollution control statutes under Article 21 and Article 21B of
- 27 Chapter 143 of the General Statutes and any rules adopted pursuant to these
- 28 statutes.
- 29 (3) Any applicable local ordinances relating to open burning.
- 30 (4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina
- 31 Forest Service of the Department of Agriculture and Consumer Services.
- 32 (5) Any rules adopted by the North Carolina Forest Service of the Department
- 33 of Agriculture and Consumer Services, to implement this Article.

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

36

## 37 **MODIFY PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN**

38 **SECTION 27.** G.S. 14-140.1 reads as rewritten:

39 "**§ 14-140.1. Certain fire to be guarded by watchman.**

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

46

## 47 **ESTABLISH FARM WINERY PERMIT**

48 **SECTION 28.(a)** G.S. 18B-902(d), as amended by S.L. 2015-98, reads as  
49 rewritten:

50 "(d) Fees. – An application for an ABC permit shall be accompanied by payment of the  
51 following application fee:

- 1 (1) On-premises malt beverage permit – \$400.00.
- 2 (2) Off-premises malt beverage permit – \$400.00.
- 3 (3) On-premises unfortified wine permit – ~~\$400.00~~ \$400.00, unless the
- 4 application is for a farm winery, in which case the fee shall be \$100.00.
- 5 (4) Off-premises unfortified wine permit – \$400.00.
- 6 (5) On-premises fortified wine permit – \$400.00.
- 7 (6) Off-premises fortified wine permit – \$400.00.
- 8 (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant
- 9 seating less than 50, in which case the fee shall be \$200.00.
- 10 (8) Special occasion permit – \$400.00.
- 11 (9) Limited special occasion permit – \$50.00.
- 12 (10) Mixed beverages permit – \$1,000.
- 13 (11) Culinary permit – \$200.00.
- 14 (12) Unfortified winery permit – \$300.00.
- 15 (13) Fortified winery permit – \$300.00.
- 16 (14) Limited winery permit – \$300.00.
- 17 (15) Brewery permit – \$300.00.
- 18 (16) Distillery permit – \$300.00.
- 19 (17) Fuel alcohol permit – \$100.00.
- 20 (18) Wine importer permit – \$300.00.
- 21 (19) Wine wholesaler permit – \$300.00.
- 22 (20) Malt beverage importer permit – \$300.00.
- 23 (21) Malt beverage wholesaler permit – \$300.00.
- 24 (22) Bottler permit – \$300.00.
- 25 (23) Salesman permit – \$100.00.
- 26 (24) Vendor representative permit – \$50.00.
- 27 (25) Nonresident malt beverage vendor permit – \$100.00.
- 28 (26) Nonresident wine vendor permit – \$100.00.
- 29 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- 30 (28) Winery special event permit – \$200.00.
- 31 (29) Mixed beverages catering permit – \$200.00.
- 32 (30) Guest room cabinet permit – \$1,000.
- 33 (31) Liquor importer/bottler permit – \$500.00.
- 34 (32) Cider and vinegar manufacturer permit – \$200.00.
- 35 (33) Brew on premises permit – \$400.00.
- 36 (34) Wine producer permit – \$300.00.
- 37 (35) Wine tasting permit – \$100.00.
- 38 (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and
- 39 applicable to wine shipper permit applications submitted on or after that
- 40 date.
- 41 (37) Wine shop permit – \$100.00.
- 42 (38) Winemaking on premises permit – \$400.00.
- 43 (39) Wine shipper packager permit – \$100.00.
- 44 (40) Malt beverage special event permit – \$200.00.
- 45 (41) Malt beverage tasting permit – \$100.00.
- 46 (42) Spirituous liquor tasting permit – \$100.00.
- 47 (43) Antique spirituous liquor permit – \$100.00.
- 48 (44) Farm winery permit – \$150.00."

49 **SECTION 28.(b)** G.S. 18B-1001(3) reads as rewritten:

50 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

51 ...

1 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine  
2 permit authorizes (i) the retail sale of unfortified wine for consumption on  
3 the premises, either alone or mixed with other beverages, (ii) the retail sale  
4 of unfortified wine in the manufacturer's original container for consumption  
5 off the premises, and (iii) the retail sale of unfortified wine dispensed from a  
6 tap connected to a pressurized container utilizing carbon dioxide or similar  
7 gas into a cleaned, sanitized, resealable container that is filled or refilled and  
8 sealed for consumption off the premises and that identifies the permittee and  
9 the date the container was filled or refilled. The permit also authorizes the  
10 permittee to transfer unfortified wine, not more than four times per calendar  
11 year, to another on-premises unfortified wine permittee that is under  
12 common ownership or control as the transferor. Except as authorized by this  
13 subdivision, transfers of wine by on-premises unfortified wine permittees,  
14 purchases of wine by a retail permittee from another retail permittee for the  
15 purpose of resale, and sale of wine by a retail permittee to another retail  
16 permittee for the purpose of resale are unlawful. In addition, a particular  
17 brand of wine may be transferred only if both the transferor and transferee  
18 are located within the territory designated between the winery and the  
19 wholesaler on file with the Commission. Prior to or contemporaneous with  
20 any such transfer, the transferor shall notify each wholesaler who distributes  
21 the transferred product of the transfer. The notice shall be in writing or  
22 verifiable electronic format and shall identify the transferor and transferee,  
23 the date of the transfer, quantity, and items transferred. The holder of the  
24 permit is authorized to ship unfortified wine in closed containers to  
25 individual purchasers inside and outside the State. Orders received by a  
26 winery by telephone, Internet, mail, facsimile, or other off-premises means  
27 of communication shall be shipped pursuant to a wine shipper permit and not  
28 pursuant to this subdivision. The permit may be issued for any of the  
29 following:

- 30 a. Restaurants;
- 31 b. Hotels;
- 32 c. Eating establishments;
- 33 d. Private clubs;
- 34 e. Convention centers;
- 35 f. Cooking schools;
- 36 g. Community theatres;
- 37 h. Wineries;
- 38 i. Wine producers.
- 39 j. Farm wineries."

40 **SECTION 28.(c)** G.S. 18B-1100 is amended by adding a new subdivision to read:

41 "**§ 18B-1100. Commercial permits.**

42 ...

43 (21) Farm winery."

44 **SECTION 28.(d)** Article 11 of Chapter 18B of the General Statutes is amended by  
45 adding a new section to read:

46 "**§ 18B-1103A. Authorization of farm winery permit.**

47 (a) Special Qualifications. – Except as provided in subsection (c) of this section, any  
48 winery that produces at least seventy-five percent (75%) of its wine from honey, grapes, or  
49 other fruit or grain grown in this State may obtain a farm winery permit.

50 (b) Special Qualifications for Large Wineries. – Except as provided in subsection (c) of  
51 this section, any winery that produces at least 10,000 gallons of wine per year from honey,

1 grapes, or other fruit or grain grown in this State may obtain a farm winery permit. A winery  
2 obtaining a farm winery permit under these conditions may only affix the label in subdivision  
3 (10) of subsection (d) of this section to bottles of wine bearing a North Carolina State  
4 appellation of origin or a North Carolina American Viticultural Area appellation of origin.

5 (c) Exceptions to Special Qualifications. – In the event that the Commissioner of  
6 Agriculture determines that a natural disaster, act of God, or continued adverse weather  
7 condition has destroyed no less than forty percent (40%) of a certain grape varietal grown or  
8 produced in this State and used for winemaking, the Commissioner, in consultation with the  
9 Chairman of the Alcoholic Beverage Control Commission, may give authorization to a duly  
10 licensed farm winery to manufacture or sell wine produced from grapes grown outside the  
11 State. No such authorization shall be granted to a farm winery permittee unless such permittee  
12 certifies to the Commissioner the quantity of North Carolina grown grapes unavailable to the  
13 licensee due to the natural disaster, act of God, or continuing adverse weather condition and  
14 satisfies the Commissioner that reasonable efforts were made to obtain grapes from a North  
15 Carolina source for the purpose of making wine. A farm winery that has produced at least  
16 10,000 gallons of wine from honey, grapes, or other fruit or grain grown in this State for at  
17 least three of the previous five years shall not lose its qualification as a farm winery if it is  
18 unable to produce 10,000 gallons of wine from honey, grapes, or other fruit or grain grown in  
19 this State in a year due to a natural disaster, act of God, or continued adverse weather condition.  
20 No farm winery shall exceed the amount of out-of-state grown grapes or juice authorized by the  
21 Commissioner.

22 (d) Authorized Acts. – The holder of a farm winery permit may:

23 (1) Manufacture unfortified wine.

24 (2) Sell, deliver, and ship unfortified wine in closed containers to wholesalers  
25 licensed under this Chapter as authorized by the ABC laws, except that wine  
26 may be sold to exporters and nonresident wholesalers only when the  
27 purchase is not for resale in this State.

28 (3) Ship its wine in closed containers to individual purchasers inside and outside  
29 this State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1,  
30 and 18B-1001.2 and other applicable provisions of this Chapter.

31 (4) Furnish or sell "short-filled" packages, on which State taxes have been or  
32 will be paid, to its employees for the use of the employees or their families  
33 and guests in this State. A sale under this subdivision shall not be considered  
34 a retail or wholesale sale under the ABC laws.

35 (5) Regardless of the results of any local wine election, sell the wine owned by  
36 the winery at the winery for on- or off-premise consumption, upon obtaining  
37 the appropriate permit under G.S. 18B-1001.

38 (6) Sell the wine manufactured by the winery for on- or off-premise  
39 consumption at no more than three other locations in the State, upon  
40 obtaining the appropriate permit under G.S. 18B-1001. This subdivision  
41 shall not authorize a winery that holds both a farm winery permit and an  
42 unfortified winery permit to sell wine manufactured by the winery for on- or  
43 off-premise consumption at more than three other locations in total.

44 (7) Receive, in closed containers, and sell at the winery, unfortified wine  
45 produced inside North Carolina under contract with the winery. Such  
46 contract wine must have the winery's name clearly displayed on each bottle.  
47 The contract wine may be sold also at affiliated retail outlets of the winery  
48 physically located on or adjacent to the winery. Any wine received by a  
49 winery under this provision must be made available for sale by the winery to  
50 wholesalers for distribution to retailers, without discrimination, in the same  
51 manner as if the wine were being imported by the winery.

- 1           (8)    Allow winemaking on premises as allowed by a permit issued pursuant to  
2                G.S. 18B-1001(17).
- 3           (9)    Give visitors free tasting samples of the wine manufactured at the farm  
4                winery. The Commission may issue rules regulating these tastings.
- 5           (10) Affix to the bottle a label certifying that the wine originates from a permitted  
6                farm winery. The North Carolina Department of Agriculture and Consumer  
7                Services may issue rules regulating the certification label. Nothing in this  
8                subdivision shall be construed as altering or superseding any other State or  
9                federal wine labeling laws."

10           **SECTION 28.(e)** G.S. 18B-1112 reads as rewritten:

11   "**§ 18B-1112. Authorization of vendor representative permit.**

12       (a)    Authorized Acts. – The holder of a vendor representative permit may represent an  
13   unfortified winery, fortified winery, limited winery, farm winery, brewery, bottler, importer,  
14   nonresident malt beverage vendor, or nonresident wine vendor, either as an employee or an  
15   agent, to solicit orders for that commercial permittee's product. The vendor representative may  
16   sell, deliver, and ship alcoholic beverages in this State only to permittees to whom the  
17   commercial permittee he represents may sell, deliver, or ship.

18       (b)    Number of Permits. – A vendor representative shall secure a separate permit for  
19   each commercial permittee he represents. A permit may not be issued without the approval of  
20   the commercial permittee."

21           **SECTION 28.(f)** G.S. 18B-1114.1 reads as rewritten:

22   "**§ 18B-1114.1. Authorization of winery special event permit.**

23       (a)    Authorization. – The holder of an unfortified winery permit, a limited winery  
24   permit, a farm winery permit, a viticulture/enology course authorization, or a wine producer  
25   permit may obtain a winery special permit allowing the winery or wine producer to give free  
26   tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows,  
27   conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural  
28   festivals, balloon races, local fund-raisers, and other similar events approved by the  
29   Commission.

30       (b)    Limitation. – A winery special event permit is valid only in a jurisdiction that has  
31   approved the establishment of ABC stores or has approved the sale of unfortified wine."

32           **SECTION 28.(g)** G.S. 18B-1201 reads as rewritten:

33   "**§ 18B-1201. Definitions.**

34       As used in this Article, unless the context requires otherwise:

- 35       (1)    "Agreement" means a commercial relationship between a wine wholesaler  
36       and a winery. The agreement may be of a definite or indefinite duration and  
37       is not required to be in writing. Any of the following constitutes prima facie  
38       evidence of an "agreement" within the meaning of this definition:
- 39       a.    A relationship whereby the wine wholesaler is granted the right to  
40       offer and sell a brand offered by a winery;
  - 41       b.    A relationship whereby the wine wholesaler, as an independent  
42       business, constitutes a component of a winery's distribution system;
  - 43       c.    A relationship whereby the wine wholesaler's business is  
44       substantially associated with a brand offered by a winery;
  - 45       d.    A relationship whereby the wine wholesaler's business is  
46       substantially reliant on a winery for the continued supply of wine;
  - 47       e.    The shipment, preparation for shipment, or acceptance of any order  
48       by any winery or its agent for any wine or beverages to a wine  
49       wholesaler within this State;

f. The payment by a wine wholesaler and the acceptance of payment by any winery or its agent for the shipment of any order of wine or beverages intended for sale within this State.

(2) "Territory" or "sales territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between any wine wholesaler and winery for a brand offered by any winery.

(3) "Wine wholesaler" means any holder of a wine wholesaler permit, wine importer permit, or bottler permit issued under the authority of this Chapter.

(4) "Winery" means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, farm winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least 1,250 cases of wine in North Carolina per year."

**SECTION 28.(h)** The North Carolina Department of Agriculture and Consumer Services shall study ways to promote farm wineries within the State, including the development of a "passport" program where customers visiting a given number of farm wineries may receive a form of special recognition, such as a special sticker for their car. The Department shall report its findings and recommendations, including any legislative proposals, to the Agriculture and Forestry Awareness Study Commission no later than February 1, 2016.

**SECTION 28.(i)** Subsection (h) of this section is effective when this act becomes law. The remainder of this section becomes effective July 1, 2016, and applies to permits issued on or after that date.

**CLARIFY THE PESTICIDE BOARD'S AUTHORITY TO RELICENSE AND RECERTIFY LICENSEES FOR PESTICIDE DEALERS, APPLICATORS, AND PEST CONTROL CONSULTANTS**

**SECTION 29.(a)** G.S. 143-449 reads as rewritten:

**"§ 143-449. Qualifications for pesticide dealer license; examinations.**

(a) An applicant for a license must present evidence satisfactory to the Board concerning his qualifications for such license.

(b) Each applicant shall satisfy the Board as to his responsibility in carrying on the business of a pesticide dealer. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his knowledge of the laws and regulations governing the use and sale of pesticides. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by this section. This examination fee is in addition to any fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes.

(c) The Board shall by regulation:

(1) Designate what persons or class of persons shall be required to pass the examination in the case of a pesticide dealer operating more than one location, and in the case of an applicant that is a corporation, governmental unit or agency, or other organized group;

(2) Provide for license renewal license examinations by completion of continuing certification credit requirements as prescribed by the Board or reexaminations at intervals not more frequent than four years."

**SECTION 29.(b)** G.S. 143-453 reads as rewritten:

**"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

...  
(c) The Board shall by regulation:

- 1 (1) Designate what persons or class of persons shall be required to pass the  
2 examination in the case of an applicant that is a corporation or governmental  
3 unit or agency;
- 4 (2) Provide for license renewal ~~examinations~~ by completion of continuing  
5 certification credit requirements as prescribed by the Board or  
6 reexaminations at intervals not more frequent than four years, or more  
7 frequently if found by the Board to be required to be necessary in order to  
8 qualify North Carolina's State pesticide control plan for federal approval."

9 SECTION 29.(c) G.S. 143-455 reads as rewritten:

10 "§ 143-455. Pest control consultant license.

11 ...

12 (d) Pest control consultants shall be subject to the same provisions as pesticide  
13 applicators concerning penalties for late applications for license, changes of address,  
14 transferability of licenses, continuing certification credit requirements, periodic reexamination,  
15 and examinations for corporate applicants."

16  
17 **CLARIFY THAT PROJECTS FOR THE PURPOSE OF COMMERCIAL RESALE OF**  
18 **NATURAL GAS OR PROPANE GAS ARE NOT ELIGIBLE FOR THE EXPANDED**  
19 **GAS PRODUCTS SERVICE TO AGRICULTURE FUND**

20 SECTION 30. G.S. 143B-437.020(a)(3) reads as rewritten:

21 "§ 143B-437.020. Natural gas and propane gas for agricultural projects.

22 (a) Definitions. –

23 ...

- 24 (3) Eligible project. – A discrete and specific economic development project  
25 that would expand agricultural production or processing capabilities that  
26 requires new or expanded natural gas or propane gas service. A project  
27 intended for the purpose of commercial resale of natural gas or propane gas  
28 shall not be an eligible project."

29  
30 **LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE**  
31 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE**  
32 **ABOUT ITS ANIMAL HEALTH PROGRAMS**

33 SECTION 31. G.S. 106-24.1 reads as rewritten:

34 "§ 106-24.1. Confidentiality of information collected and published.

35 All information published by the Department of Agriculture and Consumer Services  
36 pursuant to this Part shall be classified so as to prevent the identification of information  
37 received from individual farm operators. All information generated by any federal agency  
38 received pursuant to this Part ~~from individual farm operators~~ that is confidential under federal  
39 law shall be held confidential by the Department and its employees. All information collected  
40 by the Department from ~~individual farm operators for the purposes of its animal health~~  
41 ~~programs, farm owners or animal owners,~~ including, but not limited to, certificates of  
42 veterinary inspection, animal medical records, laboratory ~~reports,~~ reports received or generated  
43 from samples submitted for analysis, or other records that may be used to identify a person or  
44 private business entity subject to regulation by the Department shall not be disclosed without  
45 the permission of the owner unless the State Veterinarian determines that disclosure is  
46 necessary to prevent the spread of an animal disease or to protect the public health, or the  
47 disclosure is necessary in the implementation of these animal health programs."

48  
49 **ALLOW DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO**  
50 **REGISTER OUTSOURCING FACILITIES ENGAGED IN THE COMPOUNDING OF**  
51 **STERILE DRUGS**



1           **SECTION 32.** G.S. 106-140.1, as amended by S.L. 2015-241, reads as rewritten:

2   "**§ 106-140.1. Registration of producers of prescription drugs and devices.**

3       (a) On or before December 31 of each year, every person doing business in North  
4 Carolina and operating as a wholesaler, manufacturer, outsourcing facility, or repackager, as  
5 those terms are defined in subsection (j) of this section, shall register with the Commissioner  
6 his name and business location(s) in North Carolina. If said person has no business locations in  
7 North Carolina, he shall register his name and location of his corporate offices.

8       (b) Every person, upon first operating as a wholesaler, ~~manufacturer~~ manufacturer,  
9 outsourcing facility, or repackager in North Carolina shall immediately register with the  
10 Commissioner his name, place of business, and such establishment. If said person has no  
11 business locations in North Carolina, he shall register his name and location of his corporate  
12 offices.

13       (c) Every person duly registered in accordance with subsections (a) and (b) of this  
14 section shall register with the Commissioner any additional establishment that he owns or  
15 operates in the State of North Carolina prior to doing business as a manufacturer,  
16 ~~wholesaler~~ wholesaler, outsourcing facility, or repackager.

17       (d) The Commissioner may assign a registration number to any person or any  
18 establishment registered in accordance with this section.

19       (e) The Commissioner shall make available for inspection to any person so requesting  
20 any registration filed pursuant to this section.

21       (f) The following classes of people are exempt from the registration requirements of  
22 this section:

23           (1) Pharmacists as defined in G.S. 90-85.3(q) holding a valid permit as defined  
24 in G.S. 90-85.3(m);

25           (2) Practitioners licensed or registered by law to prescribe or administer drugs  
26 and who manufacture, prepare, compound, or process drugs or devices  
27 solely for use in the course of their professional practice.

28           (3) Persons who manufacture, prepare, compound, or process drugs solely for  
29 use in research, teaching, or chemical analysis and not for sale.

30           (4) Other classes of persons the Commissioner may by rule exempt from the  
31 application of this section upon a finding that registration by these classes of  
32 persons in accordance with this section is not necessary for the protection of  
33 the public health.

34           (5) Wholesale distributors of prescription drugs licensed under G.S. 106-145.3.

35       (g) Every establishment in the State of North Carolina registered with the  
36 Commissioner pursuant to this section shall be subject to inspection pursuant to G.S. 106-140.

37       (h) The Commissioner shall adopt rules to implement the registration requirements of  
38 this section. These rules shall provide for an annual registration fee of one thousand dollars  
39 (\$1,000) for companies operating as ~~manufacturers~~ manufacturers, outsourcing facilities, or  
40 repackagers and seven hundred dollars (\$700.00) for companies operating as wholesalers. The  
41 Department of Agriculture and Consumer Services shall use these funds for the implementation  
42 of the North Carolina Food, Drug and Cosmetic Act.

43       (i) For the purposes of this act, name means the name of the partnership if a partnership  
44 and the name of the corporation if a corporation.

45       (j) As used in this section:

46           (1) The term "manufacturer" means a person who prepares, derives, or produces  
47 a prescription drug. Pharmacists are specifically excluded from this  
48 definition if they are acting in the course of their professional practice as  
49 defined in Chapter 90 and rules adopted pursuant to it.

50           (2) The term "prescription drug" means a drug that under federal law is required,  
51 prior to being dispensed or delivered, to be labeled with the following

1 statement: "Caution: Federal law prohibits dispensing without a  
2 prescription."

3 (3) The term "repackager" means a person who repacks, relabels, or manipulates  
4 a prescription drug which was in a unit packaged and sealed by a  
5 manufacturer. Pharmacists are specifically exempted from this definition if  
6 they are acting in the course of their professional practice as defined in  
7 Chapter 90 and rules adopted pursuant to it.

8 (4) The term "wholesaler" means a person acting as a jobber, wholesale  
9 merchant, salvager, or broker, or agent thereof, who sells or distributes for  
10 resale a prescription drug. Pharmacists are specifically exempted from this  
11 definition if they are acting in the course of their professional practice as  
12 defined in Chapter 90 and rules adopted pursuant to it.

13 (5) The term "outsourcing facility" means a manufacturer at a single geographic  
14 location or address that is engaged in the compounding of sterile drugs, has  
15 elected to register as an outsourcing facility with the Food and Drug  
16 Administration, and complies with the requirements as provided in 21  
17 U.S.C. § 353b. Exemptions provided by 21 U.S.C. § 353b(a) with respect to  
18 labeling, new drug registration, and distribution supply chain requirements  
19 shall also apply to compounded drugs distributed in North Carolina by an  
20 outsourcing facility."

21  
22 **EXEMPTIONS FROM CERTAIN DEPARTMENT OF ENVIRONMENTAL AND**  
23 **NATURAL RESOURCES PERMITS AND WASTE ANALYSIS DURING IMMINENT**  
24 **THREAT OF CONTAGIOUS ANIMAL DISEASE**

25 **SECTION 33.(a)** G.S. 106-399.4(a) reads as rewritten:

26 "(a) When determined by the State Veterinarian, in consultation with the Commissioner  
27 of Agriculture and with the approval of the Governor, that there is an imminent threat within  
28 the State of a contagious animal disease that has the potential for very serious and rapid spread,  
29 is of serious socioeconomic and public health consequence, or is of major importance in the  
30 international trade of animals and animal products, the State Veterinarian or an authorized  
31 representative may develop and implement any emergency measures and procedures that the  
32 State Veterinarian determines necessary to prevent and control the animal disease. Any  
33 emergency measure or procedure relating to composting of dead domesticated animals pursuant  
34 to this Part shall be deemed to be permitted pursuant to G.S. 143-215.1(b) and it shall not be  
35 necessary for the Department of Environment and Natural Resources to issue individual  
36 permits."

37 **SECTION 33.(b)** G.S. 143-215.10C is amended by adding a new subsection to  
38 read:

39 "(f2) Periodic testing of waste products as required in subdivision (6) of subsection (e) of  
40 this section, subsection (f) of this section and subsection (f1) of this section may be temporarily  
41 suspended in compliance with G.S. 106-399.4 when the State Veterinarian, in consultation with  
42 the Commissioner of Agriculture and with the approval of the Governor, determines that there  
43 is an imminent threat within the State of a contagious animal disease. The suspension of testing  
44 only applies to the animal operation types designated by the State Veterinarian, and shall be in  
45 effect for a period of time that the State Veterinarian deems necessary to prevent and control  
46 the animal disease. During the suspension of waste analysis, waste product nutrient content to  
47 be used for application of waste at no greater than agronomic rates shall be established by the  
48 1217 Interagency Committee as created by Session Law 1995-626."

49  
50 **CLARIFY CONSTRUCTION OF FARM BUILDINGS ON STATE PROPERTY**

51 **SECTION 34.** G.S. 143-138(b4) reads as rewritten:

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

6 (1) A "farm building" shall ~~include any~~ include:

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

28 b. Any structure used for the display and sale of produce, no more than  
29 1,000 square feet in size, open to the public for no more than 180  
30 days per year, and certified by the Department of Agriculture and  
31 Consumer Services as a Certified Roadside Farm Market.

32 c. Any unoccupied structure built upon land owned by the State of  
33 North Carolina and administratively allocated to the North Carolina  
34 Department of Agriculture and Consumer Services or North Carolina  
35 State University which is used primarily for forestry production and  
36 research or agriculture production and research. The term  
37 "agriculture" has the same meaning as in G.S. 106-581.1. The term  
38 "unoccupied" does not exclude the keeping of livestock.

39 (1a) A "farm building" shall not lose its status as a farm building because it is  
40 used for public or private events, including, but not limited to, weddings,  
41 receptions, meetings, demonstrations of farm activities, meals, and other  
42 events that are taking place on the farm because of its farm or rural setting.

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

49 (3) ~~A "farm building" shall include any structure used for the display and sale of~~  
50 ~~produce, no more than 1,000 square feet in size, open to the public for no~~

1 more than 180 days per year, and certified by the Department of Agriculture  
 2 and Consumer Services as a Certified Roadside Farm Market.

3 (4) A "primitive camp" shall include any structure primarily used or associated  
 4 with outdoor camping activities, including structures used for educational,  
 5 instructional, or recreational purposes for campers and for management  
 6 training, that are (i) not greater than 4,000 square feet in size and (ii) are not  
 7 intended to be occupied for more than 24 hours consecutively. "Structures  
 8 primarily used or associated with outdoor camping activities" include, but  
 9 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,  
 10 campfire shelters, picnic shelters, tents, tepees or other indigenous huts,  
 11 support buildings used only for administrative functions and not for  
 12 activities involving campers or program participants, and any other  
 13 structures that are utilized to store any equipment, tools, commodities, or  
 14 other items that are maintained or used in conjunction with outdoor camping  
 15 activities such as hiking, fishing, hunting, or nature appreciation, regardless  
 16 of material used for construction. The specific types of primitive camping  
 17 activities, structures, and uses set forth in this subdivision are for illustrative  
 18 purposes and should not be construed to limit, in any manner, the types of  
 19 activities, structures, or uses that are exempted from building rules.

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

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

## 33 WILDLIFE SEARCH AND SEIZURE MODIFICATIONS

34 **SECTION 35.(a)** G.S. 113-136(k) reads as rewritten:

35 "(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other  
 36 law enforcement officer any item required to be carried by any law or rule as to which  
 37 inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include  
 38 boating safety or other equipment or any license, permit, tax receipt, certificate, or  
 39 identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement  
 40 officers to inspect ~~weapons, equipment, fish, or wildlife that~~ weapons or equipment if the officer  
 41 reasonably believes them to be possessed incident to an activity regulated by any law or rule as  
 42 to which inspectors and protectors have enforcement jurisdiction. ~~jurisdiction and the officer has~~  
 43 a reasonable suspicion that a violation has been committed, except that an officer may inspect a  
 44 shotgun to confirm whether it is plugged or unplugged without a reasonable suspicion that a  
 45 violation has been committed. It is unlawful to refuse to allow inspectors, protectors, or other  
 46 law enforcement officers to inspect fish or wildlife for the purpose of ensuring compliance with  
 47 bag limits and size limits. Except as authorized by G.S. 113-137, nothing in this section gives  
 48 an inspector, protector, or other law enforcement officer the authority to inspect, in the absence  
 49 of a person in apparent control of the item to be inspected, any of the following:

50 (1) Weapons.  
 51

1           (2) Equipment, except for equipment left unattended in the normal operation of  
2           the equipment, including, but not limited to, traps, trot lines, crab pots, and  
3           fox pens.

4           (3) Fish.

5           (4) Wildlife."

6           **SECTION 35.(b)** The Wildlife Resources Commission shall report to the Joint  
7 Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2016, and  
8 annually thereafter, on the number of complaints received against Commission law  
9 enforcement officers, the subject matter of the complaints, and the geographic areas in which  
10 the complaints were filed.

11           **SECTION 35.(c)** Subsection (a) of this section becomes effective December 1,  
12 2015, and applies to offenses committed on or after that date. The remainder of this section is  
13 effective when it becomes law.

#### 14 **TECHNICAL CORRECTIONS**

15           **SECTION 36.(a)** G.S. 14-137, as amended by S.L. 2015-241, reads as rewritten:

16           "**§ 14-137. Willfully or negligently setting fire to woods and fields.**

17           If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set  
18 on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2  
19 misdemeanor. This section shall apply only in those counties under the protection of the  
20 Department of ~~Environmental Quality~~ Agriculture and Consumer Services in its work of forest  
21 fire control. It shall not apply in the case of a landowner firing, or causing to be fired, his own  
22 open, nonwooded lands, or fields in connection with farming or building operations at the time  
23 and in the manner now provided by law: Provided, he shall have confined the fire at his own  
24 expense to said open lands or fields."

25           **SECTION 36.(c)** G.S. 69-25.5 reads as rewritten:

26           "**§ 69-25.5. Methods of providing fire protection.**

27           Upon the levy of such tax, the board of county commissioners shall, to the extent of the  
28 taxes collected hereunder, provide fire protection for the district –

29           (1) By contracting with any incorporated city or town, with any incorporated  
30 nonprofit volunteer or community fire department, or with the Department  
31 of ~~Environment and Natural Resources~~ Agriculture and Consumer Services  
32 to furnish fire protection, or

33           (2) By furnishing fire protection itself if the county maintains an organized fire  
34 department, or

35           (3) By establishing a fire department within the district, or

36           (4) By utilizing any two or more of the above listed methods of furnishing fire  
37 protection."

38           **SECTION 36.(d)** 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  
41 Standards Act are entitled to benefits under this Article:

42           (1) State Government Security Officers, Department of Administration;

43           (2) State Correctional Officers, Division of Adult Correction of the Department  
44 of Public Safety;

45           (3) State Probation and Parole Officers, Division of Adult Correction of the  
46 Department of Public Safety;

47           (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of  
48 Adult Correction of the Department of Public Safety;

49           (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the  
50 Department of Justice;  
51

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

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

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

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

### 39 **ALLOW ALTERNATE FORMS OF DOCUMENTATION FOR PARTICIPATION IN** 40 **CERTAIN AGRICULTURAL COST-SHARE PROGRAMS**

41 **SECTION 37.(a)** G.S. 106-850(b)(10) reads as rewritten:

42 "(10) To be eligible for cost share funds under this program, each applicant must  
43 establish that ~~he or she is engaged in farming by providing any of the~~  
44 ~~following to the Soil and Water Conservation Commission with his or her~~  
45 ~~application:~~ the applicant meets the definition of a bona fide farm as  
46 described by G.S. 153A-340(b)(2).

- 47 a. ~~A copy of the farm owner's or operator's federal tax Schedule F~~  
48 ~~(Form 1040) or an equivalent form for the most recent tax year~~  
49 ~~showing the owner's or operator's profit or loss from farming.~~
- 50 b. ~~A copy of the farm's agricultural exemption certificate issued to the~~  
51 ~~farm owner or operator by the Department of Revenue.~~

e. ~~For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g)."~~

**SECTION 37.(b)** G.S. 139-60(c1) reads as rewritten:

"(c1) To be eligible for assistance under this program, each applicant must establish that ~~he or she is engaged in farming by providing to the Soil and Water Conservation Commission with his or her application;~~the applicant meets the definition of a bona fide farm as described by G.S. 153A-340(b)(2).

(1) ~~A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.~~

(2) ~~A copy of the farm's agricultural exemption certificate issued to the farm owner or operator by the Department of Revenue.~~

(3) ~~For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g)."~~

**SECTION 37.(c)** This section is effective when it becomes law and applies to applications submitted or pending on or after that date.

**EFFECTIVE DATE AND SEVERABILITY CLAUSE**

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

**SECTION 38.(b)** Except as otherwise provided, this act is effective when it becomes law.