

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 315
PROPOSED COMMITTEE SUBSTITUTE S315-CSTQ-5 [v.31]
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Short Title: North Carolina Farm Act of 2019.

(Public)

Sponsors:

Referred to:

March 21, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS OF THE
STATE.

The General Assembly of North Carolina enacts:

**IMPLEMENT A STATE HEMP PROGRAM IN ACCORDANCE WITH SECTION
10113 OF THE FEDERAL AGRICULTURE IMPROVEMENT ACT OF 2018, TO BE
ADMINISTERED BY THE NORTH CAROLINA HEMP COMMISSION UNTIL JULY
1, 2021**

SECTION 1.(a) Article 50E of Chapter 106 of the General Statutes reads as
rewritten:

"Article 50E.

"Industrial Hemp-North Carolina Hemp Commission.

"§ 106-568.50. (For expiration of Article, see note) Legislative findings and purpose.

~~The General Assembly finds and declares that it is in the best interest of the citizens of North
Carolina to promote and encourage the development of an industrial hemp industry in the State
in order to expand employment, promote economic activity, and provide opportunities to small
farmers for an environmentally sustainable and profitable use of crop lands that might otherwise
be lost to agricultural production. The purposes of this Article are to establish an agricultural
pilot program for the cultivation of industrial hemp in the State, to provide for reporting on the
program by growers and processors for agricultural or other research, and to pursue any federal
permits or waivers necessary to allow industrial hemp to be grown in the State.~~

The General Assembly finds and declares that hemp is a viable agriculture commodity in this
State and that it is in the best interest of the citizens of North Carolina to:

- (1) Promote the cultivation and processing of hemp, and open new commercial
markets for farmers and businesses through the sale of hemp products.
- (2) Promote the expansion of the State's hemp industry to the maximum extent
permitted by law, allowing farmers and businesses to cultivate, handle, and
process hemp and sell hemp products for commercial purposes.
- (3) Encourage and empower research into hemp growth and hemp products at
State institutions of higher education and in the private sector.
- (4) Move the State and its citizens to the forefront of the hemp industry.

"§ 106-568.51. Definitions.

The following definitions apply in this Article:

- (1) Repealed by Session Laws 2018-113, s. 4, effective June 27, 2018.



- (1a) Cannabidiol or CBD. – The nonpsychoactive cannabinoid compound derived from the hemp variety of the plant *Cannabis sativa* (L.) that is essentially free of plant material and does not exceed the federally defined THC level for hemp.
- (1b) Cannabinoid. – Means any of the terpenophenolic compounds found within the plant *Cannabis sativa* (L.) that are functionally or structurally similar, biologically active, and are classified in subgroups such as Cannabigerols (CBG), Cannabichromenes (CBC), Cannabidiols (CBD), tetrahydrocannabinols (THC), Cannabinol (CBN), Cannabicyclol (CBDL), and all other chemical cannabinoid constituents derived from hemp.
- (1c) Commercial sale. – The sale of products in the stream of commerce, at retail, wholesale, and online.
- ~~(2) Commercial use. – The use of industrial hemp as a raw ingredient in the production of hemp products.~~
- (3) Commission. – The North Carolina Industrial-Hemp Commission created by this Article.
- (3a) Cultivating. – Planting, watering, growing, and harvesting a plant or crop. "Cultivating" also includes possessing or storing hemp plants for any period of time on the premises where the hemp was cultivated and transporting hemp to the first point of sale by the cultivator.
- (4) Department. – The North Carolina Department of ~~Agriculture~~ Agriculture and Consumer Services.
- (4a) Federally defined THC level for hemp. – A delta-9 THC concentration of not more than three-tenths percent (0.3%) on a dry weight basis.
- ~~(5) Grower. – Any person licensed to grow industrial hemp by the Commission pursuant to this Article.~~
- (5a) Handling. – Possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to handle hemp. "Handling" also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of a person licensed to cultivate, handle, or process hemp to the premises of another licensed person. "Handling" does not include possessing or storing finished hemp products.
- (5b) Hemp. – The plant *Cannabis sativa* (L.) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, within the federally defined THC level for hemp.
- (5c) Hemp extract. – An extract from hemp, or a mixture or preparation containing hemp plant material or compounds, within the federally defined THC level for hemp.
- (6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and verified propagules for cultivation if the seeds originate from industrial hemp varieties product. – Any product within the federally defined THC level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including, but not limited to, cosmetics, personal care products, food intended for animal or human consumption as approved by the United States Food and Drug Administration or the United States Department of Agriculture, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived

- 1 cannabinoids, such as cannabidiol. "Hemp product" does not include
2 smokable hemp.
- 3 ~~(7) Industrial hemp. — All parts and varieties of the plant *Cannabis sativa* (L.),~~
4 ~~cultivated or possessed by a grower licensed by the Commission, whether~~
5 ~~growing or not, that contain a delta-9 tetrahydrocannabinol concentration of~~
6 ~~not more than three tenths of one percent (0.3%) on a dry weight basis.~~
- 7 ~~(7a) Industrial hemp research program. — The research program established~~
8 ~~pursuant to G.S. 106-568.53(1).~~
- 9 ~~(7b) State land grant university. — North Carolina State University and North~~
10 ~~Carolina A&T State University.~~
- 11 ~~(7c) Licensee. — An individual or business entity possessing a license issued by the~~
12 ~~Commission under the authority of this Article to cultivate or handle hemp.~~
- 13 ~~(7d) Processing. — Converting an agricultural commodity into a marketable form.~~
- 14 ~~(7e) Smokable hemp. — A product that does not exceed the federally defined THC~~
15 ~~level for hemp in a form that allows THC to be introduced into the human~~
16 ~~body by inhalation of smoke. "Smokable hemp" includes hemp buds, hemp~~
17 ~~flowers, whole or ground raw hemp plant material, hemp cigars, and hemp~~
18 ~~cigarettes.~~
- 19 ~~(8) Tetrahydrocannabinol or THC. — The natural or synthetic equivalents of the~~
20 ~~substances contained in the plant, or in the resinous extractives of, cannabis,~~
21 ~~or any synthetic substances, compounds, salts, or derivatives of the plant or~~
22 ~~chemicals and their isomers with similar chemical structure and~~
23 ~~pharmacological activity. Any of the chemical analogues belonging to the~~
24 ~~Cannabinoid subgroup Tetrahydrocannabinol. These compounds include the~~
25 ~~chemical equivalents contained in the plant *Cannabis sativa* (L.), or in the~~
26 ~~resinous extractive compounds, salts, or derivatives of the plant or chemicals~~
27 ~~and their isomers with similar chemical structure and pharmacological~~
28 ~~activity.~~
- 29 ~~(9) Verified propagule. — A seed or clone from an industrial hemp plant from~~
30 ~~which THC concentration samples have been tested by a qualified laboratory~~
31 ~~and confirmed as having a delta-9 tetrahydrocannabinol concentration less~~
32 ~~than that adopted by federal law in the Controlled Substances Act, 21 U.S.C.~~
33 ~~§ 801, et seq.~~

34 **"§ 106-568.52. North Carolina Industrial Hemp Commission.**

35 (a) Creation and Membership. — The North Carolina ~~Industrial~~ Hemp Commission is
36 established and shall consist of nine members as follows:

- 37 (1) The Commissioner of Agriculture or the Commissioner's designee, who shall
38 serve as vice-chair.
- 39 (2) One appointed by the General Assembly upon recommendation of the
40 President Pro Tempore of the Senate in accordance with G.S. 120-121, who
41 shall at the time of appointment be a municipal chief of police.
- 42 (3) One appointed by the General Assembly upon recommendation of the Speaker
43 of the House of Representatives in accordance with G.S. 120-121, who shall
44 at the time of appointment be an elected sheriff or the sheriff's designee.
- 45 (4) Two appointed by the Governor who shall at the time of appointment be a
46 full-time faculty member of a State land grant university who regularly works
47 in the field of agricultural science or research.
- 48 (5) Two appointed by the Commissioner of Agriculture, who shall be a full-time
49 farmer with at least 10 years of experience in agricultural production in the
50 State.

(6) One appointed by the Commissioner of Agriculture, who shall be a professional agricultural consultant.

(7) One appointed by the Commissioner of Agriculture, who shall be an agribusiness professional.

(b) Terms of Members. – Members of the Commission shall serve terms of four years, beginning effective July 1 of the year of appointment, and may be reappointed to a second four-year term. The terms of members designated by subdivisions (a)(1), (a)(2), (a)(4), and (a)(6) of this section shall expire on June 30 of any year evenly divisible by four. The terms of the remaining members shall expire on June 30 of any year that follows by two years a year evenly divisible by four. However, the terms of all members of the Commission shall expire July 1, 2021.

(c) Chair. – The members of the Commission shall elect a chair. The chair shall serve a two-year term and may be reelected.

(d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(e) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(f) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(g) Quorum. – Five members of the Commission shall constitute a quorum for the transaction of business.

(h) Staff. – The Commission is authorized and empowered to employ no more than two persons as staff to assist the Commission in the proper discharge of its duties and responsibilities. The chair of the Commission shall organize and direct the work of the Commission staff. The salaries and compensation of all such personnel shall be determined by the Commission; provided, however, that the aggregate cost for salaries and benefits of the staff may not exceed two hundred thousand dollars (\$200,000).

"§ 106-568.53. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

(1) ~~To establish an industrial hemp research program to grow or cultivate industrial hemp in the State, to be directly managed and coordinated by State land grant universities. The Commission shall pursue any permits or waivers from the United States Drug Enforcement Agency or any other federal agency that are necessary for the establishment of the industrial hemp research program established by this Article. This research program shall consist primarily of demonstration plots planted and cultivated in North Carolina by selected growers. The growers shall be licensed pursuant to subdivision (2) of this section prior to planting any industrial hemp.~~State.

(2) To issue licenses allowing a person, firm, or corporation to cultivate or handle industrial hemp for research purposes to the extent allowed by federal law, upon proper application as the Commission may specify, and in accordance with G.S. 106-568.53A. ~~Each licensee shall provide a complete and accurate legal description of the location of the industrial hemp farming operation, including GPS coordinates, and the license shall be issued for cultivation only in those locations identified in the application and shall include on its face the description of those areas. The Commission may delegate approval of license applications to Commission staff, but the Commission shall hear any appeals~~

- of denial of a license. The Department shall provide administrative support to the Commission for the processing of applications and issuance of licenses.
- (3) ~~To support the Commission's activities, and to reimburse the Department for expenses associated with the issuance of cultivation licenses under subdivision (2) of this section, the Commission may charge the following fees:~~
- a. ~~An initial, graduated license fee, to be paid by each cultivator, based upon the number of acres proposed for cultivation of industrial hemp, not to exceed ten thousand dollars (\$10,000), with incentive provisions to encourage the participation of small acreage farmers.~~
- b. ~~An annual fee that is the sum of two hundred fifty dollars (\$250.00) and two dollars (\$2.00) per acre of industrial hemp cultivated.~~
- ~~In setting fees under this subdivision, the Commission may create fair and reasonable licensing preferences for license applicants from North Carolina counties that have been recognized as economically depressed or disadvantaged. The Department shall collect and manage all fees charged by the Commission and shall remit all funds collected under this subdivision to the Commission at least monthly. The Department may retain its actual expenses associated with the issuance of cultivation licenses from the amount to be remitted to the Commission.~~
- (4) To receive gifts, grants, federal funds, and any other funds both public and private needed to support the Commission's duties and programs.
- (5) ~~To establish procedures for reporting to the Commission by the growers and processors for agricultural or academic research and to collaborate and coordinate research efforts with the appropriate departments or programs of North Carolina State University and North Carolina A & T State University.~~
- (6), (7) Repealed by Session Laws 2016-93, s. 3, effective July 11, 2016.
- (8) To adopt rules necessary to carry out the purposes of this Article, which shall include, but are not limited to, rules for all of the following:
- a. ~~Testing of the industrial hemp during growth to determine tetrahydrocannabinol levels. Testing methods and protocols shall comply in all respects with any and all applicable federal requirements. Prescribe sampling and testing procedures to ensure that hemp cultivated or handled under the authority of this Article does not exceed the federally defined THC level for hemp.~~
- b. ~~Supervision of the industrial hemp during its growth and harvest, including rules for verification of the type of seeds and plants used and grown by licensees.~~
- c. ~~The production and sale of industrial hemp, consistent with the rules of the United States Department of Justice and Drug Enforcement Administration for the production, distribution, and sale of industrial hemp.~~
- d. ~~Means and methods for assisting law enforcement agencies to efficiently ascertain information regarding the legitimate and lawful production of industrial hemp.~~
- e. ~~Strategies and programs for the promotion of industrial hemp products and markets, in conjunction with the North Carolina Department of Agriculture, the North Carolina Department of Commerce, the University of North Carolina system, and the community college system.~~

f. ~~The fees authorized by subdivision (3) of this section. Set and collect a schedule of nonrefundable fees for administering the North Carolina Hemp Program.~~

~~The Commission shall adopt by reference or otherwise the federal regulations in effect regarding industrial hemp and any subsequent amendments to those regulations. No North Carolina rule, regulation, or statute shall be construed to authorize any person to violate any federal law or regulation.~~

~~(9) To undertake any additional studies relating to the production, distribution, or use of industrial hemp as requested by the General Assembly, the Governor, or the Commissioner of Agriculture.~~

~~(10) To notify the State Bureau of Investigation and all local law enforcement agencies of the duration, size, and location of all industrial hemp demonstration plots authorized pursuant to the industrial hemp research program.~~

"§ 106-568.53A. Responsibilities-Qualification of licensees.

A person granted an industrial hemp license pursuant to this section shall:

~~(1) Maintain records that demonstrate compliance with this Article and with all other State laws regulating the planting and cultivation of industrial hemp.~~

~~(2) Retain all industrial hemp production records for a minimum of three years.~~

~~(3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the Commission, the State Bureau of Investigation, or the chief law enforcement officer of the unit or units of local government where the farm is located.~~

~~(4) Maintain a current written agreement with a State land grant university that states that the grower is a participant in the industrial hemp research program managed by that institution.~~

(a) No person shall cultivate or handle hemp in this State unless the person holds a hemp license issued by the North Carolina Hemp Commission.

(b) In order to obtain a license to cultivate hemp pursuant to this Article, a person must be a qualifying farmer pursuant to G.S. 105-164.13E(a) or a conditional qualifying farmer pursuant to G.S. 105-164.13E(b).

(c) An applicant for a license issued by the Commission shall submit to and pay for an annual criminal background check conducted by the State Bureau of Investigation or another State or federal law enforcement agency approved by the Commission.

(d) A person granted a license to cultivate hemp pursuant to this Article shall provide to the Commission prior to issuance of the license:

(1) The legal description and global positioning coordinates sufficient for locating the fields or greenhouses to be used to cultivate hemp.

(2) Written consent allowing representatives of the Department, the State Bureau of Investigation, and the chief law enforcement officer of the unit or units of local government where the farm is located to enter all premises where hemp is cultivated or stored for the purpose of conducting physical inspections or ensuring compliance with the requirements of this Article and rules adopted by the Commission.

(e) Any person convicted of a felony relating to a controlled substance under State or federal law shall be ineligible to obtain any hemp license for the ten-year period following the date of the conviction.

(f) Any person who materially falsifies any information contained in an application for a hemp license shall be ineligible to obtain a hemp license.

(g) A license issued by the North Carolina Industrial Hemp Commission shall be valid for the term of the license. A person who holds a license issued by the North Carolina Industrial

Hemp Commission who wishes to modify the conditions of the license shall be required to apply for a new license from the North Carolina Hemp Commission.

"§ 106-568.54. (For expiration of Article, see note) Limitations.

~~The Commission shall not meet or undertake any of its powers and duties under this Article until it has obtained funding from sources other than State funds of at least two hundred thousand dollars (\$200,000) to support operations of the Commission. Funding from non-State sources for the Commission's activities may be returned to the donor or funder if not spent or encumbered within 12 months, upon request of the donor or funder. Non-State funds donated and carried over at the end of the fiscal year in which they are donated shall be retained and remain eligible for expenditure in the following fiscal year.~~

"§ 106-568.55. Authorized research purposes.

~~As part of the industrial hemp research program directly managed by a State land grant university, a licensed grower may engage in any of the following research activities:~~

- ~~(1) Studying and investigating marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.~~
- ~~(2) Studying and investigating methods of industrial hemp cultivation that are best suited to soil conservation and restoration.~~
- ~~(3) Overseeing and analyzing the growth of industrial hemp by licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products.~~
- ~~(4) Conducting seed research on various types of industrial hemp that are best suited to be grown in North Carolina, including seed availability, creation of North Carolina hybrid types, and in-the-ground variety trials and seed production. The Commission may establish a program to recognize certain industrial hemp seeds as being North Carolina varieties of hemp seed.~~
- ~~(5) Studying the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the State, including by commercial marketing and sale of industrial hemp.~~
- ~~(6) Reporting on the estimated value-added benefits, including environmental benefits, to North Carolina businesses of an industrial hemp market of North Carolina grown industrial hemp varieties.~~
- ~~(7) Studying the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and use.~~
- ~~(8) Researching and promoting on the world market industrial hemp and hemp seed that can be grown in the State.~~
- ~~(9) Promoting research into the development of industrial hemp and commercial markets for North Carolina industrial hemp and hemp products.~~
- ~~(10) Studying the feasibility of attracting federal or private funding for the North Carolina industrial hemp research program.~~
- ~~(11) Studying the use of industrial hemp in new energy technologies, including electricity generation, biofuels, or other forms of energy resources; the growth of industrial hemp on reclaimed mine sites; the use of hemp seed oil in the production of fuels; and the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy.~~

"§ 106-568.55A. Bonding requirement for hemp handlers.

The Commission shall not issue a license to handle hemp to any person until the person has furnished the Commissioner of Agriculture a bond satisfactory to the Commissioner in an amount of not less than two hundred fifty thousand dollars (\$250,000). The Commissioner may require a new bond or may require the amount of any bond to be increased if the Commissioner finds it

necessary for the protection of the cultivator. The bond shall be payable to the State and shall be conditioned upon the fulfilling of all financial obligations incurred by the handler with all hemp cultivators with whom the handler contracts. Any cultivator alleging any injury by the fraud, deceit, willful injury, or failure to comply with the terms of any written contract by a handler may bring suit on the bond against the principal and the principal's surety in any court of competent jurisdiction and may recover the damages found to be caused by such acts complained of.

"§ 106-568.55B. Corrective action plans authorized.

(a) The Commission shall require any person who is required to obtain a hemp license issued by the Commission to comply with a corrective action plan if the Commission determines that the person has negligently violated any provision of this Article or any rule adopted by the Commission, including by negligently failing to obtain a proper license or other required authorization from the Commission, negligently failing to provide an accurate legal description of land on which the person produces hemp, or negligently producing *Cannabis sativa* (L.) with more than the federally defined THC level for hemp.

(b) A corrective action plan required by the Commission shall include at least the date by which the person shall correct the violation and a requirement that the person shall periodically report to the Commission on the person's compliance with this Article and all rules adopted by the Commission for a period of not less than the next two calendar years.

(c) Notwithstanding any other provision of law, the penalty for a negligent violation of any provision of this Article or any rule adopted by the Commission shall be compliance with a corrective action plan pursuant to subsection (b) of this section. However, a person who negligently violates this Article or any rule adopted by the Commission three times in a five-year period shall be ineligible to obtain a hemp license for a period of five years beginning on the date of the third violation and shall be subject to criminal and civil penalties for additional violations during that period.

(d) If the Commission determines that a person has violated this Article or any rule adopted by the Commission recklessly, willfully, knowingly, or intentionally, the Commission shall immediately report the person to the Commissioner, Attorney General, and the appropriate law enforcement authority.

"§ 106-568.56. Civil penalty.

(a) In addition to any other liability or penalty provided by law, the Commissioner may assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation against any person who:

- (1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.
- (2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for ~~industrial~~ hemp production, or in a manner intended to disguise the marijuana due to its proximity to ~~industrial~~ hemp. This penalty may be imposed in addition to any other penalties provided by law.
- (3) Provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.
- (4) Tamper with or adulterates ~~an industrial~~ a hemp crop lawfully planted pursuant to this Article.
- (5) Knowingly or intentionally manufactures, delivers, sells, or possesses smokable hemp, except for hemp plants or parts of a hemp plant grown or

1 handled by a licensee for processing or manufacturing into a legal hemp
2 product.

3 (b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant
4 to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

5 **"§ 106-568.57. Criminal penalties.**

6 (a) Any person that manufactures, distributes, dispenses, delivers, purchases, aids, abets,
7 attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with
8 the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used
9 for ~~industrial~~-hemp production, or in a manner intended to disguise the marijuana due to its
10 proximity to ~~industrial~~-hemp, shall be deemed guilty of a Class I felony. This penalty may be
11 imposed in addition to any other penalties provided by law.

12 (b) Any person that provides the Commission with false or misleading information in
13 relation to a license application or renewal, inspection, or investigation authorized by this Article
14 shall be deemed guilty of a Class 1 misdemeanor.

15 (c) Any person that tampers with or adulterates ~~an industrial~~ a hemp crop lawfully planted
16 pursuant to this Article shall be deemed guilty of a Class 1 misdemeanor.

17 (d) Any person that knowingly or intentionally manufactures, delivers, sells, or possesses
18 smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee
19 for processing or manufacturing into a legal hemp product, shall be deemed guilty of a Class 1
20 misdemeanor.

21 **"§ 106-658.58. Hemp products.**

22 (a) Except as provided in G.S. 106-139(g), no license shall be required to possess, handle,
23 transport, or sell hemp products or hemp extracts.

24 (b) Hemp products may be legally transported to other states and exported to foreign
25 nations, consistent with the laws of the receiving jurisdiction.

26 **"§ 106-568.59. North Carolina Hemp Program Fund.**

27 (a) The North Carolina Hemp Program Fund is established as a special fund in the
28 Department of Agriculture and Consumer Services. The fund shall consist of amounts received
29 from appropriations and any other proceeds from gifts, grants, federal funds, application fees,
30 license fees, and any other funds, both public and private, made available for purposes of this
31 Article. Any interest received and accruing from the fund shall be paid into the State's General
32 Fund.

33 (b) The Fund shall be used by the Commission and the Department for the costs of
34 personnel, program administration, testing, and any other costs incurred in administering this
35 Article, including promotion, marketing, and branding of North Carolina grown and processed
36 hemp."

37 **SECTION 2.(a)** G.S. 90-87 reads as rewritten:

38 **"§ 90-87. Definitions.**

39 As used in this Article:

40 ...

41 (16) "Marijuana" means all parts of the plant of the genus Cannabis, whether
42 growing or not; the seeds thereof; the resin extracted from any part of such
43 plant; and every compound, manufacture, salt, derivative, mixture, or
44 preparation of such plant, its seeds or resin, but shall not include the mature
45 stalks of such plant, fiber produced from such stalks, oil, or cake made from
46 the seeds of such plant, any other compound, manufacture, salt, derivative,
47 mixture, or preparation of such mature stalks (except the resin extracted
48 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is
49 incapable of germination. The term does not include ~~industrial-hemp-hemp,~~
50 hemp products, hemp extracts, or smokable hemp as defined in
51 G.S. 106-568.51, when the ~~industrial~~-hemp is produced and used in

compliance with this Article and rules issued-adopted by the North Carolina Industrial-Hemp Commission.

...."

SECTION 2.(b) G.S. 90-94 reads as rewritten:

"§ 90-94. Schedule VI controlled substances.

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this schedule, the Commission shall find: no currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects.

The following controlled substances are included in this schedule:

(1) Marijuana.

(2) ~~Tetrahydrocannabinols.~~ Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp, hemp products, hemp extracts, or smokable hemp, as defined in G.S. 106-568.51.

(3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and applicable to offenses committed on or after that date."

SECTION 2.(c) G.S. 90-95 reads as rewritten:

"§ 90-95. Violations; penalties.

(a) Except as authorized by this Article, it is unlawful for any person:

(1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;

(2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;

(3) To possess a controlled substance.

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be punished as a Class H felon, except as follows: (i) the sale of a controlled substance classified in Schedule I or II shall be punished as a Class G felony, and (ii) the manufacture of methamphetamine shall be punished as provided by subdivision (1a) of this subsection.

(1a) The manufacture of methamphetamine shall be punished as a Class C felony unless the offense was one of the following: packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container. The offense of packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container shall be punished as a Class H felony.

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class H felon. The transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(3) A controlled substance classified in Schedule VI shall only be punished by being required to comply with a corrective action plan issued by the North Carolina Hemp Commission for a first or second offense, provided that the person has a valid hemp license from the North Carolina Hemp Commission and the person did not willfully, knowingly, or intentionally cause the

controlled substance classified in Schedule VI to exceed the federally defined THC level for hemp, as defined by G.S. 106-568.51.

...
(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

- (1) A controlled substance classified in Schedule I shall be punished as a Class I felon. However, if the controlled substance is MDPV and the quantity of the MDPV is 1 gram or less, the violation shall be punishable as a Class 1 misdemeanor.
- (2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a Class 1 misdemeanor. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is methamphetamine, amphetamine, phencyclidine, or cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves which does not contain cocaine or ecgonine), the violation shall be punishable as a Class I felony.
- (3) A controlled substance classified in Schedule V shall be guilty of a Class 2 misdemeanor;
- (4) ~~A~~ Except as provided in subdivision (5) of this subsection, a controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of marijuana, or three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.
- (5) A controlled substance classified in Schedule VI shall only be required to comply with a corrective action plan issued by the North Carolina Hemp Commission for a first or second offense, provided that the person has a valid hemp license from the North Carolina Hemp Commission and the person did not willfully, knowingly, or intentionally cause the controlled substance classified in Schedule VI to exceed the federally defined THC level for hemp, as defined by G.S. 106-568.51.

...."

SECTION 3.(a) G.S. 105-113.106 is amended by adding a new subdivision to read:

"(3a) Hemp. – Any of the following:

- a. Hemp as defined in G.S. 106-568.51(5b).
- b. Hemp extracts as defined in G.S. 106-568.51(5c).

c. Hemp products as defined in G.S. 106-568.51(6)."

SECTION 3.(b) G.S. 105-113.107A reads as rewritten:

"§ 105-113.107A. Exemptions.

(a) Authorized Possession. – The tax levied in this Article does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption applies only during the time the dealer's possession of the substance is authorized by law.

(b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the following marijuana:

- (1) Harvested mature marijuana stalks when separated from and not mixed with any other parts of the marijuana plant.
- (2) Fiber or any other product of marijuana stalks described in subdivision (1) of this subsection, except resin extracted from the stalks.
- (3) Marijuana seeds that have been sterilized and are incapable of germination.
- (4) Roots of the marijuana plant.

(c) Hemp. – The tax levied in this Article shall not apply to hemp when lawfully possessed in accordance with Article 50E of Chapter 106 of the General Statutes."

SECTION 4.(a) The Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit to the Secretary of the United States Department of Agriculture a State plan for the regulation of hemp production, which shall include:

- (1) A procedure to maintain relevant information regarding land on which hemp is produced in the State, including a legal description of the land. The procedure shall ensure the information is maintained for a period of not less than three calendar years.
- (2) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 THC concentration levels of hemp produced in the State.
- (3) A procedure for the effective disposal of products that are produced in violation of Article 50E of Chapter 106 of the General Statutes or any rule adopted by the North Carolina Hemp Commission.
- (4) A procedure to comply with the enforcement process set forth in G.S. 106-568.64.
- (5) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this Article or rules adopted by the North Carolina Hemp Commission.
- (6) A procedure for submitting (i) contact information for each hemp producer in the State, (ii) a legal description of the land on which hemp is produced, and (iii) the licensing status of each hemp producer in the State to the Secretary of the United States Department of Agriculture not more than 30 days after the date on which the information is received.

SECTION 4.(b) If the Secretary of the United States Department of Agriculture disapproves the State plan submitted pursuant to subsection (a) of this section, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit to the Secretary an amended State plan.

SECTION 5. Section 4 of S.L. 2015-299 reads as rewritten:

"SECTION 4. Section 2 of this act becomes effective on the first day of the month following the adoption of permanent rules pursuant to Section 3 of this act and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date. The remainder of this act is effective when it becomes law. This act shall expire on ~~June 30 of the fiscal year in which the North Carolina Industrial Hemp Commission adopts and submits to the Governor and to the Revisor of Statutes a resolution that a State pilot program allowing farmers to lawfully grow industrial hemp is no longer necessary because (i) the United States Congress has enacted legislation that removes industrial hemp from the federal Controlled Substances Act and (ii) the~~

1 ~~legislation has taken effect the later of December 1, 2019 or 30 days after the effective date of~~
2 ~~regulations adopted by the United States Department of Agriculture pursuant to Section 297D of~~
3 ~~the Agriculture Marketing Act of 1946, as amended by the Agriculture Improvement Act of~~
4 ~~2018."~~

5 **SECTION 6.** The North Carolina Hemp Commission shall adopt temporary rules to
6 implement Section 1 of this act. The temporary rules shall remain in effect until permanent rules
7 that replace the temporary rules become effective.

8 **SECTION 7.** Sections 1 and 2 of this act become effective on the later of the
9 following dates, and G.S. 106-568.57 as amended by Section 1 of this act applies to offenses
10 committed on or after that date:

11 (1) December 1, 2019.

12 (2) 30 days after the effective date of regulations adopted by the United States
13 Department of Agriculture pursuant to Section 297D of the Agriculture
14 Marketing Act of 1946, as amended by the Agriculture Improvement Act of
15 2018.

16 Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July
17 1, 2019. Sections 4, 5, 6, and 7 of this act are effective when they become law. Sections 1, 2, and
18 3 of this act expire July 1, 2021.

19
20 **TRANSFER HEMP PROGRAM AUTHORITY TO THE DEPARTMENT OF**
21 **AGRICULTURE AND CONSUMER SERVICES ON JULY 1, 2021**

22 **SECTION 8.(a)** Chapter 106 of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 50F.

25 "North Carolina Hemp Program.

26 **"§ 106-568.60. Legislative findings and purpose.**

27 The General Assembly finds and declares that hemp is a viable agriculture commodity in this
28 State and that it is in the best interest of the citizens of North Carolina to:

29 (1) Promote the cultivation and processing of hemp, and open new commercial
30 markets for farmers and businesses through the sale of hemp products.

31 (2) Promote the expansion of the State's hemp industry to the maximum extent
32 permitted by law, allowing farmers and businesses to cultivate, handle, and
33 process hemp and sell hemp products for commercial purposes.

34 (3) Encourage and empower research into industrial hemp growth and hemp
35 products at State institutions of higher education and in the private sector.

36 (4) Move the State and its citizens to the forefront of the hemp industry.

37 **"§ 106-568.61. Definitions.**

38 The following definitions apply in this Article:

39 (1) "Cannabidiol" or "CBD" means the nonpsychoactive cannabinoid compound
40 derived from the hemp variety of the plant *Cannabis sativa* (L.) that is
41 essentially free of plant material and does not exceed the federally defined
42 THC level for hemp.

43 (2) "Cannabinoid" means any of the terpenophenolic compounds found within the
44 plant *Cannabis sativa* (L.) that are functionally or structurally similar,
45 biologically active, and are classified in subgroups such as Cannabigerols
46 (CBG), Cannabichromenes (CBC), Cannabidiols (CBD),
47 tetrahydrocannabinols (THC), Cannabinol (CBN), Cannabicyclol (CBDL),
48 and all other chemical cannabinoid constituents derived from hemp.

49 (3) "Commercial sale" means the sale of products in the stream of commerce, at
50 retail, wholesale, and online.

- (4) "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.
- (5) "Cultivating" means planting, watering, growing, and harvesting a plant or crop. "Cultivating" also includes possessing or storing hemp plants for any period of time on the premises where the hemp was cultivated and transporting hemp to the first point of sale by the cultivator.
- (6) "Department" means the Department of Agriculture and Consumer Services.
- (7) "Federally defined THC level for hemp" means a delta-9 THC concentration of not more than three-tenths percent (0.3%) on a dry weight basis.
- (8) "Handling" means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to handle hemp. "Handling" also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of a person licensed to cultivate, handle, or process industrial hemp to the premises of another licensed person. "Handling" does not include possessing or storing finished hemp products.
- (9) "Hemp" means the plant *Cannabis sativa* (L.) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, within the federally defined THC level for hemp.
- (10) "Hemp extract" means an extract from hemp, or a mixture or preparation containing hemp plant material or compounds, within the federally defined THC level for hemp.
- (11) "Hemp product" means any product within the federally defined THC level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including, but not limited to, cosmetics, personal care products, food intended for animal or human consumption as approved by the United States Food and Drug Administration or the United States Department of Agriculture, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol. "Hemp product" does not include smokable hemp.
- (12) "Licensee" means an individual or business entity possessing a license issued by the Department under the authority of this Article to cultivate or handle hemp.
- (13) "Processing" means converting an agricultural commodity into a marketable form.
- (14) Smokable hemp. – A product that does not exceed the federally defined THC level for hemp in a form that allows THC to be introduced into the human body by inhalation of smoke. "Smokable hemp" includes hemp buds, hemp flowers, whole or ground raw hemp plant material, hemp cigars, and hemp cigarettes.
- (15) "Tetrahydrocannabinol" or "THC" means any of the chemical analogues belonging to the Cannabinoid subgroup Tetrahydrocannabinol. These compounds include the chemical equivalents contained in the plant *Cannabis sativa* (L.), or in the resinous extractive compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

"§ 106-568.62. Powers and duties of the Department.

The Department shall have the following powers and duties:

- (1) To issue licenses allowing a person, firm, or corporation to cultivate or handle hemp, upon proper application as the Commissioner may specify, and in accordance with G.S. 106-568.63. The Commissioner may delegate approval of license applications to Department staff but the Commissioner shall hear all appeals of denial of a license.
- (2) To receive gifts, grants, federal funds, and any other funds both public and private needed to support the North Carolina Hemp Program.
- (3) To adopt rules necessary to carry out the purposes of this Article, which shall include, but are not limited to, rules to do all of the following:
- a. Prescribe sampling and testing procedures to ensure that hemp cultivated or handled under the authority of this Article does not exceed the federally defined THC level for hemp.
- b. Set and collect a schedule of nonrefundable fees for administering the North Carolina Hemp Program.

"§ 106-568.63. Qualification of licensees.

(a) No person shall cultivate or handle hemp in this State unless the person holds a hemp license issued by the Department.

(b) In order to obtain a license to cultivate hemp pursuant to this Article, a person must be a qualifying farmer pursuant to G.S. 105-164.13E(a) or a conditional qualifying farmer pursuant to G.S. 105-164.13E(b).

(c) A person granted a license to cultivate hemp pursuant to this Article shall provide to the Department prior to issuance of the license:

- (1) The legal description and global positioning coordinates sufficient for locating the fields or greenhouses to be used to cultivate hemp.
- (2) Written consent allowing representatives of the Department, the State Bureau of Investigation, and the chief law enforcement officer of the unit or units of local government where the farm is located to enter all premises where hemp is cultivated or stored for the purpose of conducting physical inspections or ensuring compliance with the requirements of this Article and rules adopted by the Department.

(d) Any person convicted of a felony relating to a controlled substance under State or federal law shall be ineligible to obtain any hemp license for the ten-year period following the date of the conviction.

(e) Any person who materially falsifies any information contained in an application for a hemp license shall be ineligible to obtain a hemp license.

(f) A license issued by the North Carolina Industrial Hemp Commission shall be valid for the term of the license. A person who holds a license issued by the North Carolina Industrial Hemp Commission who wishes to modify the conditions of the license shall be required to apply for a new license from the Department.

"§ 106-568.64. Bonding requirement for hemp handlers.

The Department shall not issue a license to handle hemp to any person until the person has furnished the Commissioner a bond satisfactory to the Commissioner in an amount of not less than two hundred fifty thousand dollars (\$250,000). The Commissioner may require a new bond or may require the amount of any bond to be increased if the Commissioner finds it necessary for the protection of the cultivator. The bond shall be payable to the State and shall be conditioned upon the fulfilling of all financial obligations incurred by the handler with all hemp cultivators with whom the handler contracts. Any cultivator alleging any injury by the fraud, deceit, willful injury, or failure to comply with the terms of any written contract by a handler may bring suit on the bond against the principal and the principal's surety in any court of competent jurisdiction and may recover the damages found to be caused by such acts complained of.

"§ 106-568.65. Corrective action plans authorized.

(a) The Department shall require any person who is required to obtain a hemp license issued by the Department to comply with a corrective action plan if the Commissioner determines that the person has negligently violated any provision of this Article or any rule adopted by the Department, including by negligently failing to obtain a proper license or other required authorization from the Department, negligently failing to provide an accurate legal description of land on which the person produces hemp, or negligently producing *Cannabis sativa* (L.) with more than the federally defined THC level for hemp.

(b) A corrective action plan required by the Department shall include at least the date by which the person shall correct the violation and a requirement that the person shall periodically report to the Department on the person's compliance with this Article and all rules adopted by the Department for a period of not less than the next two calendar years.

(c) Notwithstanding any other provision of law, the penalty for a negligent violation of any provision of this Article or any rule adopted by the Department shall be compliance with a corrective action plan pursuant to subsection (b) of this section. However, a person who negligently violates this Article or any rule adopted by the Department three times in a five-year period shall be ineligible to obtain a hemp license for a period of five years beginning on the date of the third violation and shall be subject to criminal and civil penalties for additional violations during that period.

(d) If the Commissioner determines that a person has violated this Article or any rule adopted by the Department recklessly, willfully, knowingly, or intentionally, the Department shall immediately report the person to the Attorney General and the appropriate law enforcement authority.

"§ 106-568.66. Civil penalties.

(a) The Commissioner may assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation against any person who:

- (1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.
- (2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for hemp production, or in a manner intended to disguise the marijuana due to its proximity to hemp. This penalty may be imposed in addition to any other penalties provided by law.
- (3) Provides the Department with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.
- (4) Tampers with or adulterates a hemp crop lawfully planted pursuant to this Article.
- (5) Knowingly or intentionally manufactures, delivers, sells, or possesses smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product.

(b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 106-568.67. Criminal penalties.

(a) Any person who willfully, knowingly, or intentionally manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for hemp production, or in a manner intended to disguise the marijuana due to its proximity to hemp, shall be guilty of a Class I felony. This penalty may be imposed in addition to any other penalties provided by law.

(b) Any person who willfully, knowingly, or intentionally provides the Department with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be guilty of a Class 1 misdemeanor.

(c) Any person who willfully, knowingly, or intentionally tampers with or adulterates a hemp crop lawfully planted pursuant to this Article shall be guilty of a Class 1 misdemeanor.

(d) Any person that knowingly or intentionally manufactures, delivers, sells, or possesses smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product, shall be deemed guilty of a Class 1 misdemeanor.

"§ 106-568.68. Hemp products.

(a) Except as provided in G.S. 106-139(g), no license shall be required to possess, handle, transport, or sell hemp products or hemp extracts.

(b) Hemp products may be legally transported to other states and exported to foreign nations, consistent with the laws of the receiving jurisdiction.

"§ 106-568.69. North Carolina Hemp Program Fund.

(a) The North Carolina Hemp Program Fund is established as a special fund in the Department of Agriculture and Consumer Services. The fund shall consist of amounts received from appropriations and any other proceeds from gifts, grants, federal funds, application fees, license fees, and any other funds, both public and private, made available for purposes of this Article. Any interest received and accruing from the fund shall be paid into the State's General Fund.

(b) The Fund shall be used by the Department for the costs of personnel, program administration, testing, and any other costs incurred in administering this Article, including promotion, marketing, and branding of North Carolina grown and processed hemp."

SECTION 8.(b) The Department of Agriculture and Consumer Services shall have the authority to enforce the rules adopted by the North Carolina Hemp Commission to implement Section 1 of this act until the Department amends or repeals the rules, pursuant to G.S. 150B-21.7.

SECTION 9.(a) G.S. 90-87 reads as rewritten:

"§ 90-87. Definitions.

As used in this Article:

...

(16) "Marijuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. The term does not include ~~industrial hemp, hemp, hemp products, hemp extracts, or smokable hemp as defined in G.S. 106-568.51, when the industrial hemp is produced and used in compliance with rules issued by the North Carolina Industrial Hemp Commission.~~G.S. 106-568.61.

...."

SECTION 9.(b) G.S. 90-94 reads as rewritten:

"§ 90-94. Schedule VI controlled substances.

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this schedule, the Commission shall find: no currently accepted

1 medical use in the United States, or a relatively low potential for abuse in terms of risk to public
2 health and potential to produce psychic or physiological dependence liability based upon present
3 medical knowledge, or a need for further and continuing study to develop scientific evidence of
4 its pharmacological effects.

5 The following controlled substances are included in this schedule:

6 (1) Marijuana.

7 (2) ~~Tetrahydrocannabinols.~~ Tetrahydrocannabinols, except for
8 tetrahydrocannabinols in hemp, hemp products, hemp extracts, or smokable
9 hemp, as defined in G.S. 106-568.61.

10 (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and
11 applicable to offenses committed on or after that date."

12 **SECTION 9.(c)** G.S. 90-95 reads as rewritten:

13 **"§ 90-95. Violations; penalties.**

14 (a) Except as authorized by this Article, it is unlawful for any person:

15 (1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or
16 deliver, a controlled substance;

17 (2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit
18 controlled substance;

19 (3) To possess a controlled substance.

20 (b) Except as provided in subsections (h) and (i) of this section, any person who violates
21 G.S. 90-95(a)(1) with respect to:

22 (1) A controlled substance classified in Schedule I or II shall be punished as a
23 Class H felon, except as follows: (i) the sale of a controlled substance
24 classified in Schedule I or II shall be punished as a Class G felony, and (ii) the
25 manufacture of methamphetamine shall be punished as provided by
26 subdivision (1a) of this subsection.

27 (1a) The manufacture of methamphetamine shall be punished as a Class C felony
28 unless the offense was one of the following: packaging or repackaging
29 methamphetamine, or labeling or relabeling the methamphetamine container.
30 The offense of packaging or repackaging methamphetamine, or labeling or
31 relabeling the methamphetamine container shall be punished as a Class H
32 felony.

33 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
34 punished as a Class I felon, except that the sale of a controlled substance
35 classified in Schedule III, IV, V, or VI shall be punished as a Class H felon.
36 The transfer of less than 5 grams of marijuana for no remuneration shall not
37 constitute a delivery in violation of G.S. 90-95(a)(1).

38 (3) A controlled substance classified in Schedule VI shall only be punished by
39 being required to comply with a corrective action plan issued by the
40 Department of Agriculture and Consumer Services for a first or second
41 offense, provided that the person has a valid hemp license from the
42 Department of Agriculture and Consumer Services and the person did not
43 willfully, knowingly, or intentionally cause the controlled substance classified
44 in Schedule VI to exceed the federally defined THC level for hemp, as defined
45 by G.S. 106-568.61.

46 ...

47 (d) Except as provided in subsections (h) and (i) of this section, any person who violates
48 G.S. 90-95(a)(3) with respect to:

49 (1) A controlled substance classified in Schedule I shall be punished as a Class I
50 felon. However, if the controlled substance is MDPV and the quantity of the

MDPV is 1 gram or less, the violation shall be punishable as a Class 1 misdemeanor.

- (2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a Class 1 misdemeanor. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is methamphetamine, amphetamine, phencyclidine, or cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocanized coca leaves or any extraction of coca leaves which does not contain cocaine or ecgonine), the violation shall be punishable as a Class I felony.
- (3) A controlled substance classified in Schedule V shall be guilty of a Class 2 misdemeanor;
- (4) ~~A~~ Except as provided in subdivision (5) of this subsection, a controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of marijuana, or three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.
- (5) A controlled substance classified in Schedule VI shall only be required to comply with a corrective action plan issued by the Department of Agriculture and Consumer Services for a first or second offense, provided that the person has a valid hemp license from the Department of Agriculture and Consumer Services and the person did not willfully, knowingly, or intentionally cause the controlled substance classified in Schedule VI to exceed the federally defined THC level for hemp, as defined by G.S. 106-568.61.

...."

SECTION 10.(a) G.S. 105-113.106(3a) reads as rewritten:

"(3a) Hemp. – Any of the following:

- a. Hemp as defined in G.S. 106-568.61(9).
- b. Hemp extracts as defined in G.S. 106-568.61(10).
- c. Hemp products as defined in G.S. 106-568.61(11)."

SECTION 10.(b) G.S. 105-113.107A reads as rewritten:

"§ 105-113.107A. Exemptions.

(a) Authorized Possession. – The tax levied in this Article does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption applies only during the time the dealer's possession of the substance is authorized by law.

(b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the following marijuana:

- (1) Harvested mature marijuana stalks when separated from and not mixed with any other parts of the marijuana plant.
- (2) Fiber or any other product of marijuana stalks described in subdivision (1) of this subsection, except resin extracted from the stalks.
- (3) Marijuana seeds that have been sterilized and are incapable of germination.
- (4) Roots of the marijuana plant.

(c) Hemp. – The tax levied in this Article shall not apply to hemp when lawfully possessed in accordance with Article 50F of Chapter 106 of the General Statutes."

SECTION 11. Sections 8 through 11 of this act become effective July 1, 2021.

DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO REGULATE CANNABINOID RELATED COMPOUNDS

SECTION 12.(a) G.S. 106-121 reads as rewritten:

"§ 106-121. Definitions and general consideration.

For the purpose of this Article:

- (1) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purposes of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

(1a) The term "cannabinoid related compounds" means chemical compounds and constituents found within the hemp plant that are biologically active and are classified in subgroups such as cannabinoids, terpenes, flavonoids and all other related compounds derived from hemp.

~~(1a)~~(1b) The term "color" includes black, white, and intermediate grays.

~~(1b)~~(1c) The term "color additive" means a material which:

..."

SECTION 12.(b) G.S. 106-139 is amended by adding two new subsections to read:

"(f) The Board may adopt rules to establish current good manufacturing practices in manufacturing, packaging, labeling, or holding operations for cannabinoid related compounds derived from hemp, as defined in G.S. 106-568.51(5b). The manufacture, sale, delivery, holding, or offering for sale of any cannabinoid related compounds that does not comply with rules adopted by the Board shall be prohibited under this Article and shall also be subject to G.S. 106-123 and G.S. 106-125.

(g) No person, including individuals, partnerships, firms, associations, or corporations, that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling, processing, holding, or sale of cannabinoid related compounds without a valid license issued by the Commissioner. Application for a license shall be made to the Commissioner on forms provided by the Department. The application shall set forth the name and address of the applicant, the applicant's principal place of business, and such other information as the Commissioner may require. The Board shall develop a schedule of license fees, including fees for out-of-State and online retailers. Fees collected pursuant to this subsection shall be used by the Department to cover all reasonable costs of administering the licensing program. Failure to comply with this Article or rules adopted thereunder shall be cause for suspension or revocation of a license."

SECTION 12.(c) G.S. 106-139 is amended by adding two new subsections to read:

"(f) The Board may adopt rules to establish current good manufacturing practices in manufacturing, packaging, labeling, or holding operations for cannabinoid related compounds derived from hemp, as defined in G.S. 106-568.61(9). The manufacture, sale, delivery, holding, or offering for sale of any cannabinoid related compounds that does not comply with rules

adopted by the Board shall be prohibited under this Article and shall also be subject to G.S. 106-123 and G.S. 106-125.

(g) No person, including individuals, partnerships, firms, associations, or corporations, that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling, processing, holding, or sale of cannabinoid related compounds without a valid license issued by the Commissioner. Application for a license shall be made to the Commissioner on forms provided by the Department. The application shall set forth the name and address of the applicant, the applicant's principal place of business, and such other information as the Commissioner may require. The Board shall develop a schedule of license fees, including fees for out-of-State and online retailers. Fees collected pursuant to this subsection shall be used by the Department to cover all reasonable costs of administering the licensing program. Failure to comply with this Article or rules adopted thereunder shall be cause for suspension or revocation of a license."

SECTION 12.(d) The Board of Agriculture shall adopt temporary rules to implement this section no later than November 1, 2019. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 12.(e) Subsection (b) of this section is effective January 1, 2020, and expires July 1, 2021. Subsection (c) of this section is effective July 1, 2021. The remainder of this section is effective when it becomes law.

ALLOW DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO MARKET HEMP

SECTION 13.(a) G.S. 106-550 reads as rewritten:

"§ 106-550. Policy as to promotion of use of, and markets for, farm products; official marketing campaign.

(a) It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, seafood, field crops and other agricultural products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, ~~hemp~~, potatoes, ~~sweet potatoes~~, ~~sweetpotatoes~~, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural products of tobacco, strawberries, strawberry plants, porcine animals, or equines, with respect to which separate provisions have been made.

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

SECTION 13.(b) Article 50 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-554.1. Application to North Carolina Hemp Commission for authorization of hemp referendum.

Notwithstanding G.S. 106-554, the North Carolina Hemp Commission shall be the entity that provides certification and approval for the purpose of conducting a referendum among the growers or producers of hemp. The North Carolina Hemp Commission shall perform the same function as the Board of Agriculture in all other respects for cultivators of hemp for the purposes of this Article."

SECTION 13.(c) This section is effective when it becomes law. Subsection (b) of this section expires July 1, 2021.

SMOKABLE HEMP STUDY

1 **SECTION 14.** The State Bureau of Investigation shall notify the Agriculture and
2 Forestry Awareness Study Commission in writing when the United States Drug Enforcement
3 Agency has adopted an approved immediate testing method to determine whether hemp is within
4 the federally defined THC level for hemp. Upon the receipt of notification from the State Bureau
5 of Investigation, the Agriculture and Forestry Awareness Study Commission shall study whether
6 the prohibition on the sale of smokable hemp should be repealed and make legislative
7 recommendations.

8
9 **REQUIRE UTILITY COMPANIES TO DISPOSE OF CERTAIN UNUSED**
10 **EASEMENTS UNDER CERTAIN CIRCUMSTANCES, AS RECOMMENDED BY THE**
11 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION**

12 **SECTION 15.(a)** Article 9 of Chapter 62 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 62-193. Disposition of certain unused easements.**

15 (a) The underlying fee owner of land encumbered by any easement acquired by a utility
16 company, whether acquired by purchase or by condemnation, on which construction has not been
17 commenced by the utility company for the purpose for which the easement was acquired within
18 20 years of the date of acquisition, may file a complaint with the Commission for an order
19 requiring the utility company to terminate the easement in exchange for payment by the
20 underlying fee owner of the current fair market value of the easement.

21 (b) Upon receipt of the complaint, the Commission shall serve a copy of the complaint
22 on each utility company named in the complaint, together with an order directing that the utility
23 company file an answer to the complaint within 90 days after service.

24 (c) If the utility company agrees to terminate the easement, the utility company shall
25 submit to the Commission, within the time allowed for answer, an original plus four copies of a
26 statement of the utility company's agreement to terminate the easement.

27 (d) If the utility company does not agree that the easement should be terminated, the
28 utility company may request a determination from the Commission as to whether the easement
29 is necessary or advisable for the utility company's long-range needs for the provision of utilities
30 to serve its service area, and whether termination of the easement would be contrary to the
31 interests of the using and consuming public. The Commission may conduct a hearing on the
32 matter, which shall be conducted in accordance with Article 4 of this Chapter. Either party may
33 appeal the Commission's decision in accordance with Article 5 of this Chapter. The burden of
34 proof shall be on the utility company to show that the easement is necessary or advisable for the
35 utility company's long-range needs for the provision of utilities to serve its service area and that
36 termination of the easement would be contrary to the interests of the using and consuming public.

37 (e) If the underlying fee owner and the utility company cannot reach a mutually agreed
38 upon fair market value of the easement, whether terminated voluntarily or by order of the
39 Commission, the Commission shall make a request to the clerk of superior court in the county
40 where the easement is located for the appointment of commissioners to determine the fair market
41 value of the easement in accordance with the process set forth in G.S. 40A-48.

42 (f) If the Commission decides that the easement should not be terminated, the underlying
43 fee owner may not file a complaint with the Commission under this section regarding the same
44 easement for a period of five years from the date of the decision.

45 (g) For purposes of this section, the term "utility company" means a public utility as
46 defined in G.S. 62-3(23), a municipality providing utility services, an authority organized under
47 the North Carolina Water and Sewer Authorities Act, a sanitary district, a metropolitan water
48 district, a metropolitan sewerage district, a metropolitan water and sewerage district, a county
49 water and sewer district, or an electric or telephone membership corporation."

50 **SECTION 15.(b)** This section becomes effective October 1, 2019, and applies to
51 easements acquired on or after that date.

RIGHT-OF-WAY FOR LEFT-TURNING FARM EQUIPMENT

SECTION 16.(a) G.S. 20-150 is amended by adding a new subsection to read:

"(e1) The driver of a vehicle shall not overtake and pass self-propelled farm equipment proceeding in the same direction when the farm equipment is (i) making a left turn or (ii) signaling that it intends to make a left turn."

SECTION 16.(b) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

EXPAND AGRICULTURAL OUTDOOR ADVERTISING

SECTION 17. G.S. 136-129 reads as rewritten:

"§ 136-129. Limitations of outdoor advertising devices.

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

...

(2a) Outdoor advertising ~~which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) to promote a bona fide farm that is exempt from zoning regulations pursuant to G.S. 153-340(b), provided the sign is no more than two three feet long on any side; (ii) side and the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.~~ any bona fide farm property owned or leased by the owner or lessee of the bona fide farm.

...."

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION COCHAIR HOLDOVER

SECTION 18. G.S. 120-150 reads as rewritten:

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

(a) There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

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

(b) Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochair. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochair shall be voting members of the Commission. A quorum of the Commission is nine members.

(c) Cochairs' terms on the Commission are for two years and begin on the convening of the General Assembly in each odd-numbered year. Except as otherwise provided in this subsection, a cochair of the Commission shall continue to serve for so long as the cochair remains a member of the General Assembly and no successor has been appointed. A cochair of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission.

EXEMPT FACILITIES THAT STORE PRODUCTS FROM AGRICULTURAL OPERATIONS THAT ARE RENEWABLE ENERGY RESOURCES FROM EMC RULE

SECTION 19.(a) Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission shall implement 15A NCAC 02D .1806 as provided in subsection (b) of this section.

SECTION 19.(b) Implementation. – Notwithstanding subsection (c) of 15A NCAC 02D .1806, the Commission shall classify facilities that store products that are (i) grown, produced, or generated on one or more agricultural operations and (ii) that are "renewable energy resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the requirements of the Rule.

SECTION 19.(c) Additional Rule-Making Authority. – The Commission shall adopt rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

SECTION 19.(d) Effective Date. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective. The remainder of this section is effective when it becomes law.

ADD HUNTING, FISHING, AND SHOOTING SPORTS TO THE DEFINITION OF AGRITOURISM

SECTION 20.(a) G.S. 99E-30 reads as rewritten:
"§ 99E-30. Definitions.

As used in this Article, the following terms mean:

- (1) Agritourism activity. – Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, shooting sports, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. "Agritourism activity" includes an activity involving any animal exhibition at an agricultural fair licensed by the Commissioner of Agriculture pursuant to G.S. 106-520.3.
- (2) Agritourism professional. – Any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- (3) Inherent risks of agritourism activity. – Those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including

surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

(4) Participant. – Any person, other than the agritourism professional, who engages in an agritourism activity.

(5) Person. – An individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit."

SECTION 20.(b) G.S. 153A-340(b)(2a) reads as rewritten:

"(2a) A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide purpose pursuant to this subdivision shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, shooting sports, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting."

ENACT THE NORTH CAROLINA SWEETPOTATO ACT FOR THE PROMOTION OF NORTH CAROLINA SWEETPOTATOES

SECTION 21. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 87.

"North Carolina Sweetpotato Act.

"§ 106-1065. Title.

This Article shall be known and may be cited as the "North Carolina Sweetpotato Act of 2019."

"§ 106-1066. Definitions.

As used in this Article:

(1) "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

(2) "Department" means the Department of Agriculture and Consumer Services.

(3) "Person" means an individual, partnership, corporation, association, or any other legal entity.

(4) "North Carolina Sweetpotato Advisory Council" means the advisory council established pursuant to G.S. 106-1070.

"§ 106-1067. North Carolina sweetpotato brand.

Only sweetpotatoes that are grown in the State of North Carolina may be identified, classified, packaged, labeled, or otherwise designated for sale inside or outside the State as North Carolina sweetpotatoes.

"§ 106-1068. Powers of Commissioner to regulate and promote North Carolina sweetpotatoes.

(a) The Commissioner of Agriculture may take all actions necessary and appropriate to create, register, license, promote, and protect a trademark for use on or in connection with the sale or promotion of North Carolina sweetpotatoes and products containing North Carolina sweetpotatoes. The Commissioner may impose and collect a reasonable royalty or license fee per hundredweight of sweetpotatoes for the use of such trademark on products containing North Carolina sweetpotatoes or the packaging containing such sweetpotato products. The Commissioner shall determine the fee in consultation with representatives of the sweetpotato industry and the Marketing Division of the Department of Agriculture and Consumer Services. Funds derived from the royalties and license fees shall be retained by the Commissioner and shall be used to promote North Carolina sweetpotatoes with the advice of the North Carolina Sweetpotato Advisory Council and to pay costs associated with monitoring the use of the trademark, prohibiting the unlawful or unauthorized use of the trademark, and enforcing rights in the trademark.

(b) The Board of Agriculture may adopt rules that may include, but are not limited to, quality standards, grades, packing, handling, labeling, and marketing practices for the marketing of sweetpotatoes in this State, and such other rules as are necessary to administer this Article. The Board of Agriculture may also adopt rules establishing a registration, inspection, and verification program for the production and marketing of North Carolina sweetpotatoes in this State. All North Carolina sweetpotatoes sold shall conform to the prescribed standards and grades and shall be labeled accordingly.

(c) The Commissioner and the Commissioner's agents and employees may enter any premises or other property where sweetpotatoes are produced, stored, sold, offered for sale, packaged for sale, transported, or delivered to inspect the sweetpotatoes for the purpose of enforcing the provisions of this Article and the rules adopted under this Article.

"§ 106-1069. Standards for grades.

The most recent standards for grades adopted by the United States Department of Agriculture, Agricultural Marketing Service, United States Standards for Grades of Sweetpotatoes are adopted by reference and shall be the standards for grades in this State, except that the Commissioner may establish tolerances or allowable percentages of United States standards each season upon the recommendation of the North Carolina Sweetpotato Advisory Council.

"§ 106-1070. North Carolina Sweetpotato Advisory Council.

The Commissioner shall appoint a North Carolina Sweetpotato Advisory Council, to consist of individuals involved in growing, packing, or growing and packing North Carolina sweetpotatoes; at least one sweetpotato processor; at least one sweetpotato retailer; at least one county cooperative extension agent familiar with the production of North Carolina sweetpotatoes; and any other person or persons selected by the Commissioner, for the purpose of rendering advice upon his or her request regarding the exercise the Commissioner's authority pursuant to G.S 106-1068. Members of the North Carolina Sweetpotato Advisory Council shall receive no compensation for their service."

SOIL AND WATER CONSERVATION JOB APPROVAL AUTHORITY

SECTION 22.(a) G.S. 89C-25 reads as rewritten:

"§ 89C-25. Limitations on application of Chapter.

This Chapter shall not prevent the following activities:

- ...
- (6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, ~~or~~ employees of the Soil and Water Conservation ~~Districts~~ Districts, or employees of the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services who have federal-engineering job approval authority issued by the Natural Resources Conservation Service or the Soil and Water Conservation Commission that involves the planning, designing, or implementation of best management practices on agricultural lands, or for the planning, designing, or implementation of best management practices approved for cost-share funding pursuant to programs identified in Chapter 139-4(d)(9).

...."

SECTION 22.(b) G.S. 139-3 is amended by adding a new subdivision to read:

"(19) "Job approval authority" means the authority granted by the Commission to Soil and Water Conservation District staff or employees of the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services who have demonstrated the appropriate knowledge, skill, and ability to plan, design, and certify the installation of best management practices approved for cost-share funding pursuant to programs identified in G.S. 139-4(d)(9)."

SECTION 22.(c) G.S. 139-4 reads as rewritten:

"§ 139-4. Powers and duties of Soil and Water Conservation Commission generally.

- (a) through (c) Repealed by Session Laws 1973, c. 1262, s. 38.
- (d) In addition to the duties and powers hereinafter conferred upon the Soil and Water Conservation Commission, it shall have the following duties and powers:

- ...
- (14) To develop and implement a program for granting job approval authority to Soil and Water Conservation District staff and employees of the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services to plan, design, and certify the installation of best management practices approved for cost-share funding pursuant to programs identified in Chapter 139-4(d)(9).

...."

PRESENT USE VALUE NOTICE AND APPEAL CHANGES

SECTION 23.(a) G.S. 105-277.4 reads as rewritten:

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

...

- (b1) Notice and Appeal. – If the assessor determines that the property loses its eligibility for present-use value classification, the assessor shall provide written notice of the decision and the date of the decision to the owner. The notice shall include the property's tax identification number, the specific reason for the disqualification, and the date of the decision. The notice shall be provided separately from a regular yearly tax notice or tax bill. Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county

commissioners. An appeal must be made within 60 days after date of the written notice of the
decision of the assessor. If an owner submits additional information to the assessor pursuant to
G.S. 105-296(j), the appeal must be made within 60 days after the assessor's decision based on
the additional information. Decisions of the county board may be appealed to the Property Tax
Commission. If, while an assessor's decision that a property has lost its eligibility for present-use
value classification is under appeal to the county board or to the Property Tax Commission, the
assessor determines that the property is no longer eligible for present-use value classification
because of an additional disqualifying event independent of the one that is the basis of the
disqualification under appeal, the assessor shall follow the notice and appeal procedure set forth
in this subsection with regard to the subsequent disqualification. If no such notice is given to the
owner regarding the subsequent decision to disqualify, a reinstatement of the property by the
county board or the Property Tax Commission shall be deemed effective for any assessments
occurring from the date of the assessor's decision under appeal to the date of the final decision of
the county board or the Property Tax Commission to reinstate the property.

...."

SECTION 23.(b) This section is effective for taxes imposed for taxable years
beginning on or after July 1, 2019.

CHANGE NAME OF FOOD PROCESSING INNOVATION CENTER COMMITTEE

SECTION 24. Section 10.24.(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 10.24.(a)** There is created the ~~Food Processing Innovation Center~~North
Carolina Food Innovation Lab Committee (Committee), which shall be located administratively
in the Department of Agriculture and Consumer Services. The Committee shall consist of 14
members, including:

...."

SOIL AND WATER CONSERVATION CONFIDENTIALITY CHANGE

SECTION 25.(a) Article 1 of Chapter 139 of the General Statutes is amended by
adding a new section to read:

"§ 139-8.2. Certain information confidential.

Documents and other records generated by or for soil and water conservation districts
pursuant to G.S. 139-8(a)(13) specific to an individual landowner or agricultural producer are
not public records as defined by G.S. 132-1 and shall not be subject to inspection and examination
pursuant to G.S. 132-6. This section shall not include applications for cost share assistance and
associated contract documents that require the approval of the soil and water conservation district
or the Soil and Water Conservation Commission.

SECTION 25.(b) This section becomes effective October 1, 2019.

RIGHT TO REPAIR FARM EQUIPMENT

SECTION 26.(a) Chapter 75 of the North Carolina Statutes is amended by adding a
new Article to read:

"Article 9.

"Right to Repair Act.

"§ 75-150. Definitions.

The following definitions apply in this Article:

- (1) "Authorized repair provider" means an individual or entity that has an
arrangement for a definite or indefinite period in which an original farm
equipment manufacturer grants to a separate individual or entity a license to
use a trade name, service mark, or related characteristic for purposes of
offering repair services under the name of the original farm equipment
manufacturer.

- (2) "Documentation" means manuals, diagrams, reporting output, or service code descriptions provided to the authorized repair provider for the purposes of repair.
- (3) "Embedded software" means any programmable instructions provided on firmware delivered with farm equipment, and all relevant patches and fixes made by the original farm equipment manufacturer, for purposes of farm equipment operation. "Embedded software" includes a basic internal operating system, an internal operating system, a machine code, an assembly code, a root code and a microcode, and other similar components.
- (4) "Fair and reasonable terms" means an equitable price in light of relevant factors, including all of the following:
- a. The net cost to the authorized repair provider for similar parts or information obtained from an original farm equipment manufacturer, less any discounts, rebates, or other incentive programs.
 - b. The cost to the original farm equipment manufacturer to prepare and distribute the parts or information, including amortized capital costs for the preparation and distribution of the parts or information, but excluding any research and development costs incurred in designing and implementing, upgrading, or altering the product.
 - c. The price charged by other original farm equipment manufacturers for similar parts or information.
- (5) "Farm equipment" means equipment that is used or intended for use in a farm operation, including any combine, tractor, implement, engine, motor, or attachment, but excluding a motor vehicle.
- (6) "Firmware" means a software program or set of instructions programmed on a hardware device to allow the device to communicate with other computer hardware.
- (7) "Independent repair provider" means a person or business operating in this State that is not affiliated with an original farm equipment manufacturer or its authorized repair provider and that is engaged in the diagnosis, service, maintenance, or repair of farm equipment. "Independent repair provider" includes an original farm equipment manufacturer when it engages in the diagnosis, service, maintenance, or repair of farm equipment that is not affiliated with the original farm equipment manufacturer.
- (8) "Motor vehicle" means the same as in G.S. 20-4.01(23).
- (9) "Original farm equipment manufacturer" means any person or business engaged in the business of selling or leasing new farm equipment to another person or business and engaged in the diagnosis, service, maintenance, or repair of farm equipment.
- (10) "Owner" means an individual or business who lawfully acquires farm equipment purchased or used in this State.
- (11) "Part" means any replacement part, either new or used, made available by the original farm equipment manufacturer to an authorized repair provider for purposes of effecting repair.
- (12) "Trade secret" means anything tangible or intangible or electronically stored or kept that constitutes, represents, evidences, or records intellectual property, including secret or confidentially held designs, processes, procedures, formulas, inventions, or improvements or secrets of confidentially held scientific, technical, merchandising, production, financial, business, or management information, or anything within the definition of 18 U.S.C. § 1839(3).

1 **"§ 75-151. Right to repair.**

2 (a) For farm equipment sold or used in this State, the original farm equipment
3 manufacturer shall make available all of the following:

4 (1) Diagnostic and repair documentation, including repair technical updates and
5 updates and corrections to embedded software, to any independent repair
6 provider or owner of farm equipment manufactured by the original farm
7 equipment manufacturer for no charge or in the same manner as the original
8 farm equipment manufacturer makes available the diagnostic and repair
9 documentation to its authorized repair provider.

10 (2) Farm equipment parts, including any updates to the farm equipment's
11 embedded software, for purchase by the owner, the owner's agent, or any
12 independent repair provider on fair and reasonable terms.

13 (b) An original farm equipment manufacturer that sells to any independent repair
14 provider or owner any diagnostic, service, or repair documentation in a format that is
15 standardized with other original farm equipment manufacturers and on terms and conditions
16 more favorable than those under which the authorized repair provider obtains the same
17 diagnostic, service, or repair documentation shall be prohibited from requiring an authorized
18 repair provider to continue purchasing diagnostic, service, or repair documentation in a
19 proprietary format, unless the proprietary format includes diagnostic, service, or repair
20 documentation or functionality that is not available in a format that is standardized with other
21 original farm equipment manufacturers.

22 (c) An original farm equipment manufacturer of farm equipment sold or used in this State
23 shall make available for purchase by owners and independent repair providers all diagnostic
24 repair tools incorporating the same diagnostic, repair and remote communication capabilities that
25 the original farm equipment manufacturer makes available to any authorized repair provider. An
26 original farm equipment manufacturer shall offer such tools for sale to any owner or independent
27 repair provider on fair and reasonable terms.

28 (d) An original farm equipment manufacturer that provides diagnostic repair
29 documentation to aftermarket diagnostic tool manufacturers, diagnostic providers or service
30 information publications and systems shall have fully satisfied its obligations under this section
31 and thereafter is not responsible for the content and functionality of the aftermarket diagnostic
32 tools, diagnostics, or service information systems.

33 (e) Farm equipment manufactured by an original farm equipment manufacturer that is
34 sold or used in this State for the purpose of providing security-related functions shall include
35 diagnostic, service, or repair documentation necessary to reset a security-related electronic
36 function from information provided to an owner or independent repair provider. If necessary for
37 security purposes, an original farm equipment manufacturer may provide information necessary
38 to reset an immobilizer system or security-related electronic module to an owner or independent
39 repair provider through the appropriate secure data release system.

40 **"§ 75-152. No requirement to divulge trade secret.**

41 This Article shall not be interpreted or construed to require an original farm equipment
42 manufacturer to divulge a trade secret.

43 **"§ 75-153. No abrogation of contract.**

44 (a) This Article shall not be interpreted or construed to abrogate, interfere with,
45 contradict, or alter the terms of an agreement executed between an authorized repair provider and
46 an original farm equipment manufacturer, including, but not limited to, performing warranty or
47 recall repair work by an authorized repair provider on behalf of an original farm equipment
48 manufacturer pursuant to the authorized repair agreement. Except in the case of a dispute arising
49 between an original farm equipment manufacturer and its authorized repair provider related to
50 either party's compliance with an existing repair agreement, an authorized repair provider has all
51 the rights and remedies provided in this section.

(b) Any provision in an authorized repair agreement purporting to waive, avoid, restrict, or limit an original farm equipment manufacturer's compliance with this section shall be void.

"§ 75-154. No access to certain information.

This Article does not require an original farm equipment manufacturer or authorized repair provider to provide an owner or independent repair provider access to nondiagnostic and nonrepair documentation provided to an authorized repair provider by an original farm equipment manufacturer pursuant to the terms of an agreement or contract between the original farm equipment manufacturer and the authorized repair provider.

"§ 75-155. Enforcement.

(a) The Attorney General may investigate any complaints received alleging violation of this Article. If the Attorney General finds that there has been a violation of this Article, the Attorney General may bring an action to impose civil penalties and to seek any other appropriate relief pursuant to this Article, including equitable relief to restrain the violation. The civil penalty shall be not more than five hundred dollars (\$500.00) for each violation.

(b) An owner or independent repair provider may bring an action in civil court against an original farm equipment manufacturer that violates any provision of this Article to recover not more than five hundred dollars (\$500.00) for each violation."

SECTION 26.(b) This section becomes effective October 1, 2019.

CLARIFY PERMITTING FOR CERTAIN SWINE FARM MODIFICATIONS

SECTION 27. G.S. 143-215.10I reads as rewritten:

"§ 143-215.10I. Performance standards for animal waste management systems that serve swine farms; lagoon and sprayfield systems prohibited.

(a) As used in this section:

- (1) "Anaerobic lagoon" means a lagoon that treats waste by converting it into carbon dioxide, methane, ammonia, and other gaseous compounds; organic acids; and cell tissue through an anaerobic process.
- (2) "Anaerobic process" means a biological treatment process that occurs in the absence of dissolved oxygen.
- (3) "Lagoon" has the same meaning as in G.S. 106-802.
- (4) "Swine farm" has the same meaning as in G.S. 106-802.

(b) ~~The Commission shall not issue or modify a permit to authorize the construction, operation, or expansion of an animal waste management system that serves a swine farm that employs an anaerobic lagoon as the primary method of treatment and land application of waste by means of a sprayfield as the primary method of waste disposal. The Commission may issue a permit for the construction, operation, or expansion of an animal waste management system that serves a swine farm under this Article only if the Commission determines that the animal waste management system will meet or exceed all of the following performance standards: disposal unless:~~

- (1) The permitting action does not result in an increase in the permitted capacity of the swine farm, as measured by the annual steady state live weight capacity of the swine farm; or
- (2) The Commission determines that the animal waste management system will meet or exceed all of the following performance standards:
 - ~~(1)~~a. Eliminate the discharge of animal waste to surface water and groundwater through direct discharge, seepage, or runoff.
 - ~~(2)~~b. Substantially eliminate atmospheric emission of ammonia.
 - ~~(3)~~c. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the swine farm is located.

- 1 (4)d. Substantially eliminate the release of disease-transmitting vectors and
2 airborne pathogens.
3 (5)e. Substantially eliminate nutrient and heavy metal contamination of soil
4 and groundwater."
5

6 PREVENT GRANT FUNDING DUPLICATION

7 **SECTION 28.(a)** G.S. 143-215.71 reads as rewritten:

8 "**§ 143-215.71. Purposes for which grants may be requested.**

9 (a) Applications for grants may be made for the nonfederal share of water resources
10 development projects for the following purposes in amounts not to exceed the percentage of the
11 nonfederal costs indicated:

12 ...

- 13 (8) Projects that are part of the Environmental Quality Incentives Program – one
14 hundred percent (100%).

15 (b) Notwithstanding subdivision (8) of subsection (a) of this Section, projects that are
16 part of the Environmental Quality Incentives Program are ineligible for funding under this Part
17 if they receive funding from the Clean Water Management Trust Fund established in
18 G.S. 143B-135.234. "

19 **SECTION 28.(b)** G.S. 143B-135-238(d) reads as rewritten:

20 "(d) Restriction. – No grant shall be awarded under this Part for any of the following
21 purposes:

- 22 (1) ~~to~~ To satisfy compensatory mitigation requirements under 33 USC § 1344 or
23 G.S. 143-214.11.
24 (2) To any project receiving State funds authorized by G.S. 143-215.71 for the
25 nonfederal share of a grant under the Environmental Quality Incentives
26 Program."

27 **SECTION 28.(c)** The Department of Environmental Quality and the Department of
28 Natural and Cultural Resources shall jointly report to the Joint Legislative Oversight Committee
29 on Agriculture and Natural and Economic Resources no later than September 30, 2019 regarding
30 funding overlaps between water resources development grant funding and Clean Water
31 Management Trust Fund grants for Environmental Quality Incentives Program funding for the
32 Western Stream Initiative and the efforts of both Departments to improve administration of State
33 grants for that program.
34

35 IMPROVE PERFORMANCE MANAGEMENT OF STATE GRANT FUNDS

36 **SECTION 29.(a)** The Department of Environmental Quality shall develop
37 performance management procedures for projects funded as part of the Western Stream Initiative.
38 These procedures shall include, at a minimum, the collection and reporting of the following
39 measures for all projects receiving grant funding:

- 40 (1) Time to issue and act upon grant applications.
41 (2) Time to process requests for payment.
42 (3) Cost per grant administered.
43 (4) Number of applicants reviewed, approved, and denied.
44 (5) Number of grants administered.
45 (6) Total grant dollars administered.
46 (7) Total project cost for each project, including all funding sources, broken out
47 into the following categories:
48 a. Permitting cost.
49 b. Site assessment, design, and engineering.
50 c. Management and engineering.
51 (8) Total linear feet of stream restored in each year.

(9) Cost per linear foot of restored stream.

(10) Reduction in sediment loading achieved.

SECTION 29.(b) The Department of Natural and Cultural Resources shall provide to the Department of Environmental Quality all of the measures set forth in subsection (a) of this section that are relevant to funding for the Western Stream Initiative provided by the Clean Water Management Trust Fund.

SECTION 29.(c) G.S. 143-215.72(d) is amended by adding a new subdivision to read:

"(3) The Department shall annually report no later than November 1 to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division regarding grants for projects funded through the Western Stream Initiative. The report shall include measures of grant administration and grant implementation efficiency and effectiveness. For purposes of this subdivision, the "Western Stream Initiative" refers to the portion of federal Environmental Quality Incentives Program funding provided to the Western North Carolina Stream Initiative for the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey.

DIRECT STATE AUDITOR TO CONDUCT AUDIT OF WESTERN STREAM INITIATIVE FUNDING FOR PROJECTS MANAGED BY RESOURCE INSTITUTE

SECTION 30. The Office of the State Auditor shall conduct an audit of all State funds paid to Resources Institute for the Western Stream Initiative through the Clean Water Management Trust Fund and through Water Resources Development Grants for the Environmental Quality Incentives Program. Based on the findings of the audit required by this section, the Director and Board of Trustees of the Clean Water Management Trust Fund and the Department of Environmental Quality are directed to seek recoupment of any identified overpayment of State funds.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 31.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

SECTION 31.(b) Except as otherwise provided, this act is effective when it becomes law.