## 2003-2004

## HOUSE AGRICULTURE

## COMMITTEE MINUTES

Rievised 6/1/04

## HOUSE COMMITTEE ON AGRICULTURE 2003-2004 SESSION

MEMBER	<u>ASSISTANT</u>	<u>PHONE</u>	ROOM
Hill, Dewey, Chair	Thurlow, Gennie	733-5830	1309 LB
Lewis, David R., Vice Chair	Strickland, Marie	715-3015	509 LOB
Williams, Arthur J., Vice Chair	Uzzle, Linda	733-5906	637 LOB
Baker, Rex	Stussie, Pat	733-5787	302C LOB
Bell, Larry M.	Edwards, Carolyn	733-5662	530 LOB
Bonner, Donald A.	Cameron, Phyllis	733-5803	1313 LB
Coates, Lorene T.	Lennon, Melissa	733-5784	633 LOB
Creech, Billy J.	Todd, Rhonda	715-0795	1421 LB
Culp, Arlie F.	Lord, Waneta	733-5865	1010 LB
Daughtridge, William G., Jr.	Saunders, Monica	733-5802	604 LOB
Daughtry, N. Leo	Bullard, Bernice	733-5605	1209 LB
Ellis, J. Sam	Falcone, Alice	715-6707	504 LOB
Fox, Stanley H.	Capps, Mary	733-5758	2123 LB
Holmes, George M.	Jacobs, Glenda	733-5654	1211 LB
Kiser, Joe L.	Holder, Marilyn	733-5782	1326 LB
Mitchell, Frank	West, Susan	733-5609	1409 LB
Nye, Edd	Bobbitt, Jo	733-5477	639 LOB
Pate, Louis M., Jr.	Pearce, Edna	733-5755	607 LOB
Tolson, Joe P.	Christian, Gayle	715-3024	402 LOB
Walker, R. Tracy	Powell, Barbara	733-5935	1111 LB

Warren, Edith D.	Willis, Nancy	715-3023	416A LOB	
Wilson, Gene	Jones-Cooper, Rebecca	733-7727	1109 LB	
Yongue, Douglas Y.	Enlow, Courtney	733-5821	1303 LB	
			,	
Ex officio Members				
Brubaker, Harold J.	Coley, Cindy	715-4946	1229 LB	
Culpepper, Bill	Crocker, Dot	715-3028	404 LOB	
Cunningham, Pete	Rustin, Valerie	733-5778	541 LOB	
Eddins, Rick L.	Monroe, Dorie	733-5828	1002 LB	
Committee Counsel				
Churchill, Erika		733-2578	545 LOB	
Riley, Barbara		733-2578	545 LOB	

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Riley, Barbara		733-2578	545 LOB

## NORTH CAROLINA GENERAL ASSEMBLY

## HOUSE AGRICULTURE COMMITTEE 2003 - 2004 SESSION



Rep. Hill Chair



Rep. Lewis Vice chair



Rep. Baker



Rep. Bell



Rep. Bonner



Rep. Coates





Rep. Culp



Rep. Daughtridge



Rep. Daughtry



Rep. Ellis



Rep. Fox



Rep. Holmes



Rep. Kiser



Rep. Mitchell



Rep. Nye



Rep. Pate

### NORTH CAROLINA GENERAL ASSEMBLY

## HOUSE AGRICULTURE COMMITTEE 2003 – 2004 SESSION



Rep. Tolson



Rep. Walker



Rep. Warren



Rep. A. Williams



Rep. G. Wilson



Rep. Yongue



Rep. Brubaker Ex officio



Rep. Culpepper Ex officio



Rep. Cunningham Ex officio



Rep. Eddins Ex officio

## ATTENDANCE – AGRICULTURE COMMITTEE

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_	Dates	3492	3/1/09	3/18/0	4/24	4/2/P	4214	71902	etulo.	sizop	130				 
).	Rep. Dewey L. Hill, Chairman	V	V	V	1/	<b>V</b>	V	V	<b>1</b> /	V	V				<u> </u>
	Rep. Walter G. Church, Vice Chair	/	V	V		ì	_	-	-		1	-			L
7	Rep. Charles E. Johnson, Vice Chair	V	V	V		-	_	_			_		-		
	Rep. David R. Lewis, Vice Chair	/	V	V	V	V	V	V	V	V	V	۲			L
_	Rep. Rex Baker	E	E	V	1	V	V	~	, <b>/</b>	1	V.				
	Rep. Larry M. Bell	~		V	1	,		1	<b>v</b>	1	V				
	Rep. Donald A. Bonner	V		/	<b>V</b>			\		1	<b>V</b>				
-	Rep. Lorene T. Coates	V	~	<b>/</b>	V	$\nu$	~	1	1	1	V				
•	Billy J. Creech		$\nu$		V	/	<b>\</b>				V				
_	Rep. Arlie F. Culp	V		V	V	V	V	1	<b>\</b>		·V				
	Rep. William G. Daughtridge, Jr.	1	V	1	<b>V</b>	V	/	\	\	1	/				
	Rep. N. Leo Daughtry	E	/	V	V	E				V	V				
	Rep. J. Sam Ellis	V	/	V	E	E	/	E	Ш	V	E				
	Rep. Stanley H. Fox	V	/	V	V	/	1	1/	<b>√</b> ·	V	$\checkmark$				
	Rep. George M. Holmes			/	/	A									
	Rep. Joe L. Kiser	V	1	/	/	V	/	V	/	V	/				
	Rep. Frank Mitchell	V	/		1	V	/	V_	1		V				
	Rep. Edd Nye	V	V	V	V			V	1	V					
/	Rep. Bill Owens	V			<u></u> .	-	_	<b>-</b>	1	_			-	سند	
ed	Rep. Louis M. Pate, Jr.	V	~	V.	V	V	<b>V</b>	1	V	/	V				
	Rep. Joe P. Tolson	V	V	1	1	V	/	V	1	V	V				
	Rep. R. Tracy Walker	/		V	V	1			1	V	V				
	Rep. Edith D. Warren	1	V	) 	<b>V</b>	E	E	<b>V</b>	·V	V	V				
	Rep. Arthur J. Williams	1	V	V	V	V	/	/	1	V	/				
	Rep. Gene Wilson	/	V	V	/	V	V	V		1/					
	Rep. Douglas Y. Yongue	/	V	V	V	V	V.	<b>V</b>		V	1				
	Ex-officio Members														
	Rep. Harold J. Brubaker														
<b>\</b>	Rep. Bill Culpepper														
	Rep. Pete Cunningham														
	Rep. Rick L. Eddins														
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ATTENDANCE – AGRICULTURE COMMITTEE

Ordendance RistRevised 6/1/04

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Dates	5/27	
Rep. Dewey L. Hill, Chairman	V	
Rep. David R. Lewis, Vice Chair	V	
Rep. Rex Baker		
Rep. Larry M. Bell	V	
Rep. Donald A. Bonner	V	
Rep. Lorene T. Coates	\\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\	
Billy J. Creech		
Rep. Arlie F. Culp	V	
Rep. William G. Daughtridge, Jr.		
Rep. N. Leo Daughtry		
Rep. J. Sam Ellis	V	
Rep. Stanley H. Fox	V	
Rep. George M. Holmes		
Rep. Joe L. Kiser		
Rep. Frank Mitchell	V	
Rep. Edd Nye		
Rep. Bill Owens		
Rep. Louis M. Pate, Jr.	V	
Rep. Joe P. Tolson	V	
Rep. R. Tracy Walker		
Rep. Edith D. Warren		
Rep. Arthur J. Williams	V	
Rep. Gene Wilson	V	
Rep. Douglas Y. Yongue	V	
Ex-officio Members		
Rep. Harold J. Brubaker		
Rep. Bill Culpepper		
Rep. Pete Cunningham		
Rep. Rick L. Eddins		

## MINUTES HOUSE COMMITTEE ON AGRICULTURE

### March 4, 2003

The House Committee on Agriculture met on Tuesday, March 4, 2003, at 12:05 p.m. in Room 1228 of the Legislative Building. The following members were present: Chair Dewey Hill; Vice Chairs Church, C. Johnson and Lewis; Representatives Bell, Bonner, Coates, Culp, Daughtridge, Ellis, Fox, Kiser, Mitchell, Nye, Owens, Pate, Tolson, Walker, Warren, A. Williams, G Wilson, and Yongue. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill presided and called the meeting to order at 12:05 p.m. He welcomed the members of the Agriculture Committee and the visitors and asked the committee members to introduce themselves.

Representative Owens asked that today's Agriculture Committee meeting be dedicated to the memory of The Honorable Vernon James, former member of the North Carolina House of Representatives and chair of the House Agriculture Committee.

Chair Hill made closing remarks.

The meeting was adjourned at 12:17 p.m.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

## NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2003-2004 SESSION

You are hereby notified that the Committee on Agriculture will meet as follows:

DAY & DATE:	Tuesday, March 4, 2003
TIME:	12:00 Noon
LOCATION:	1228 Legislative Building
Purpose:	Organizational Meeting
	Respectfully,
	Representative Dewey Hill Chairman
I hereby certify this 10:00 a.m. on Feb	s notice was filed by the committee assistant at the following offices at ruary 27, 2003.
	al Clerk g Clerk - House Chamber
Gennie Thurlow (C	Committee Assistant)

## **VISITOR REGISTRATION SHEET**

AGRICULTURE

Name of Committee

3/4/03

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MIKE BLANTON	DEDUTY COMMR. N.C. DEST. OF LE & CONSUM SKS.
an Durcan	Philip Menis
Jennifer Duke	Rep. Nye's centern
Clara Gay	NCDA 8 CS
DAVID SMITH	NCDAECS
David Marshall	WCD42CS
Cal V. Vait	NCDA+CS
Den iff farice	NIDANES - Policy
Khn	WRA
Erical Peterson	Agribusiness Council
David M Level	NCDA+CS

## **VISITOR REGISTRATION SHEET**

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			_			

Name of Committee

3/4/03

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cysus	nC. State Grange
Chris Wichols	Hunton + Williams
Roguelon	Bove and Associates
BETH ANNE MUNFORD	NCPC
201 Speum	NC Forestry association
PRESTON HOWARD	MCIC
Grahy B'lallin	N.C. Conservation Natural
Ster Will	Consent Comil
Elizabeth Ouzts	NCPIRG
Jeary Hardesty	NC. Pork Co.

## MINUTES HOUSE COMMITTEE ON AGRICULTURE

### March 11, 2003

The House Committee on Agriculture met on Tuesday, March 11, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Dewey Hill; Vice Chairs Church, C. Johnson and Lewis; Representatives Bell, Coates, Creech, Culp, Daughtridge, Daughtry, Ellis, Fox, Kiser, Mitchell, Nye, Pate, Tolson, Warren, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:06 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Commissioners Meg Scott Phipps was introduced by Chair Hill. Commissioner Phipps gave an overview of the North Carolina Department of Agriculture and the functions of the different programs. A copy of her presentation is attached.

Chair Hill introduced Jeff Jennings, Domestic Marketing Supervisor of the Goodness Grows in North Carolina program, and he gave an overview of the Goodness Grows in North Carolina program. Attached is a copy of his presentation.

Chair Hill made closing remarks.

The meeting was adjourned at 12:40 p.m.

Representative Dewey Hill. Chair

Gennie Thurlow, Committee Assistant

## **VISITOR REGISTRATION SHEET**

**AGRICULTURE** 

3/11/03

Name of Committee

Date

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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### FIRM OR AGENCY AND ADDRESS

Kristin Collins	N 8,0
Marthu Glass	NC DAGS
Claia Day	NCDA +CS
David Milust	NEDAJCS
Tom Slade	NCDA&CS
JEKF JENNINGS	201 Acock
KEUIN HOWARD	NCDA 6C5
MIKE BLANTON	NCOASCS
Joan Troy	ne wre
PANI Merson	NC Assoc Cty Cons
Carl Tart	NCDA+CS

## **VISITOR REGISTRATION SHEET**

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3/11/03

**Name of Committee** 

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
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Dand marslett	
Douglassitos	MCSTA Change
Evica Peterson	ne Agribusinos Council
Ronnie ackson	NC Agri Business Come
Laura Del. vo	DENR
Stu WU	Conscivation Co-neil

## Department of Agriculture and Consumer Services: The North Carolina

Working for YOU!

Presentation to the House Ag Committee March 11, 2003

## Mission Statement NCDA&CS

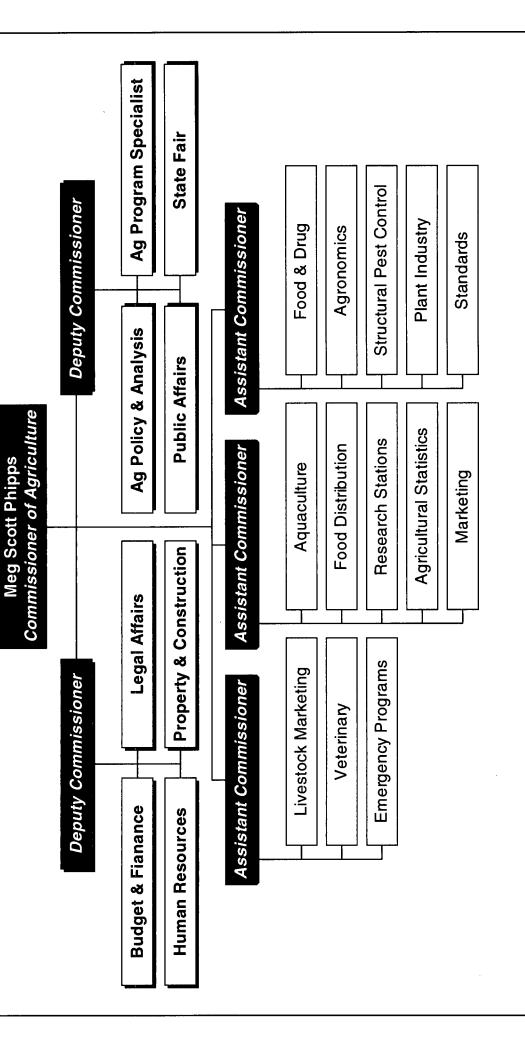
The Department of Agriculture operates regulatory contamination, and produced in a manner consistent with sustaining food and natural fiber, free of adulteration and and service programs that ensure the availability of life environmentally sound production practices.

agricultural producers, to protect the environment, health Programs are operated to benefit consumers and and economic well-being of all North Carolina citizens and business enterprises.

# Five Goals of NCDA&CS

- provide an adequate, wholesome supply of food and To maintain and enhance agriculture's ability to natural fiber
- To protect consumers from unwholesome food products
- To protect the social and economic wellbeing of N.C. citizens
- To preserve agricultural and natural resources, and to protect the environment for the benefit of future generations
- To carry out departmental programs in a professional and cost-effective manner

## Organizational Chart



# North Carolina's #1 industry

Contributes \$59.2 billion Carolina's economy annually to North

# North Carolina's #1 industry

1 - Hogs

2 - Broilers

\$1,681,000,000

\$1,710,000,000

3 - Greenhouse/Nursery \$1,021,000,000

4 - Tobacco

5 - Turkeys

6 - Cotton

\$686,000,000

\$452,000,000

\$412,000,000

\$232,000,000

\$228,000,000

8 - Cattle & Calves

7 - Chicken Eggs

9 - Dairy Products

\$196,000,000

10 - Soybeans

\$190,000,000

## **Agronomics Division**

Offers four services

- Soil Testing
- Nematode Assay
- Field Services
- Plant/Waste/Solution Analysis



## **Food & Drug Protection**



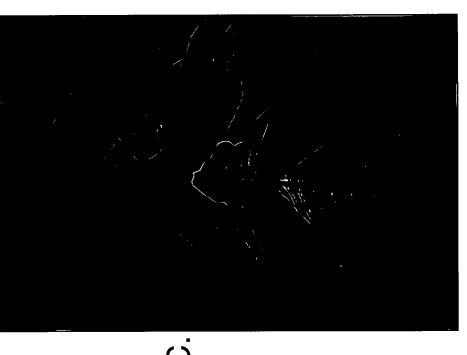
## Inspects

- Food
- Feeds
- Drugs & Cosmetics
- , Pesticides

to be sure they are safe, wholesome and properly labeled.

## Plant Industry Division

- Ensures that seeds offered for sale are truthfully labeled
- plaster and soil additives sold in N.C. Assures the quality and quantity of all fertilizer, liming material, land
- Protects plants, plant products and beneficial organisms from the adverse effects of pests
- Conserves endangered or threatened plants
- Enhances honey bees and other beneficial organisms



## Standards Division

## Responsible for:

- testing commercial weighing and measuring devices
- inspecting price scanning systems
- checking packages for stated net contents
- testing motor fuels
- inspecting LP-Gas and anhydrous ammonia installations for compliance



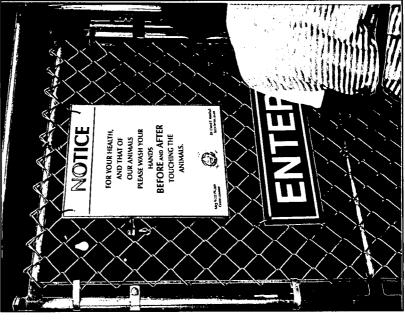
## Structural Pest Control

- structural pest industry and pesticide products used Protects public health and safety by regulating the
- Licenses and certifies both commercial and noncommercial operators
- Administers laws governing the industry
- Training for industry certification

## **Veterinary Division**

- Inspects processing and slaughtering facilities
- Monitors animal diseases
- Administers Animal Welfare Act





## **Livestock Marketing**

- Grade live animals
- Develop special livestock sales
- Coordinate buyers and sellers
- Provide assistance with genetic selection
  - Develop/Manage livestock shows, public auctions and demonstrations

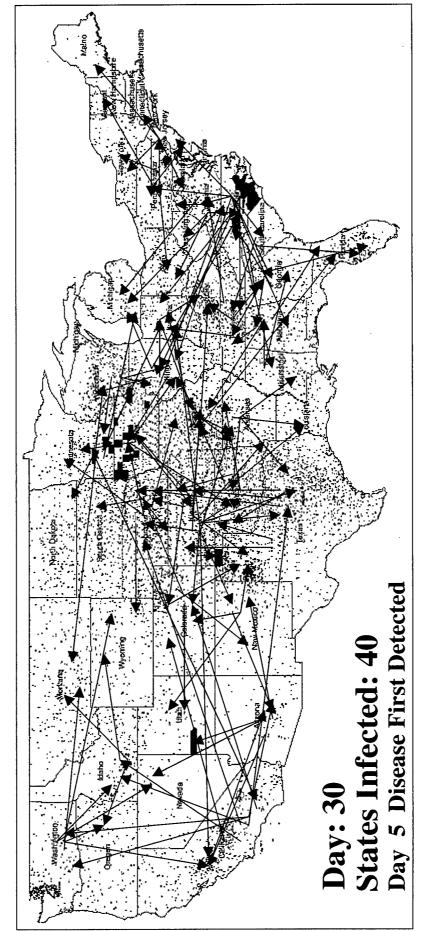


## **Emergency Programs**

- Animal Disease, multi-hazard disaster, terrorist act or Enact plans to protect and prepare for any Foreign dangerous chemical, physical agent, or biological intentional or unintentional introduction of a threat
- Coordinate efforts with SBI, Dept. of Crime & Public Safety, DHHS, and federal agencies
- Conducts national level training on Homeland Security

# Potential FMD Disease Spread

After a simulated terrorist attack at 5 Locations



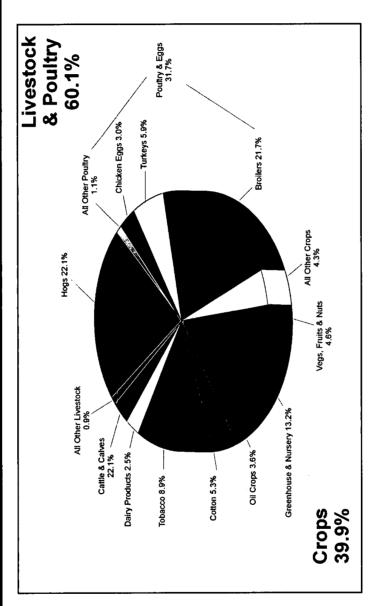
eradicated the nation could lose still 23.6 million animals! animals is ordered on Day 8, by the time the disease is Potential Impact: Even if a national "stop Movement" of all susceptible

## Aquaculture

- Provides information to individuals interested in the commercial production of fish and shellfish
- Licenses aquacultural operations
- Provides financial planning assistance to other aquaculturalists



## Agricultural Statistics



Collects, prepares and disseminates a regular series of other statistics relative to agriculture in North Carolina official crop, livestock and price estimates, along with and the nation.

# **Food Distribution Division**

- Requisition, stores and distributes USDA donated foods
- Distributes products to schools, food banks, disaster relief agencies, charitable institutions and needy households



## **Marketing Division**

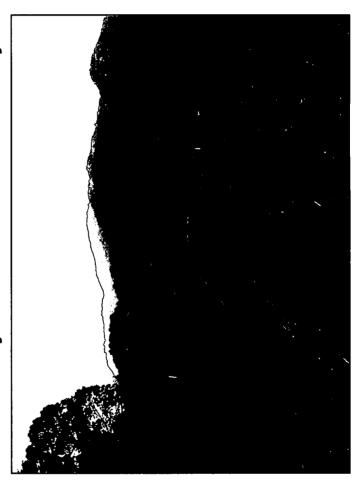
 Promotes the sale of North Carolina products



- Develops and expands markets
- Reports farm market prices on major commodities
- Determines and certifies official grades of farm products
- Charlotte, Greensboro, Lumberton and Raleigh Operates state farmers' markets in Asheville,
- Maintains the Goodness Grows Program

## **Research Stations**

platform for agricultural research to make farming more Manage 18 crop and livestock facilities that serve as a efficient, productive and profitable with support from NC State University, NC A&T University and USDA

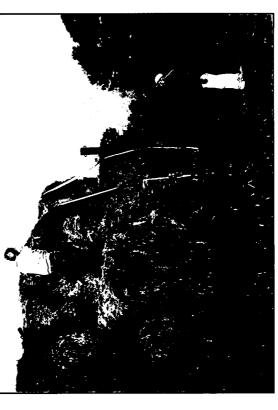


## **Ag Policy**

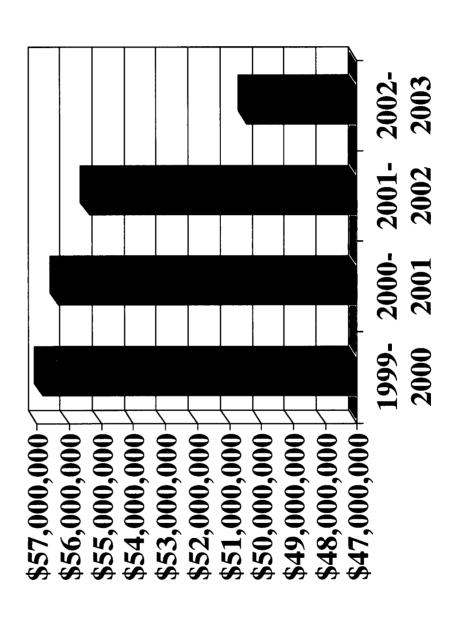
Focus on critical policy and legislative issues that affect the department and agricultural industry on state and national levels.

### Projects include

- Hay Relief Program
- Ag Incubator
- Tobacco buyout
- Farm Futures
- Commissioner's Ag Forum
- Develop GMO-tobacco protocol



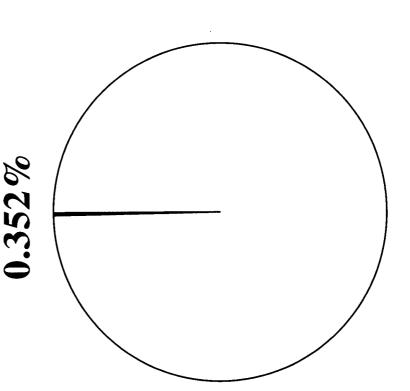
## NCDA&CS General Budget last four years

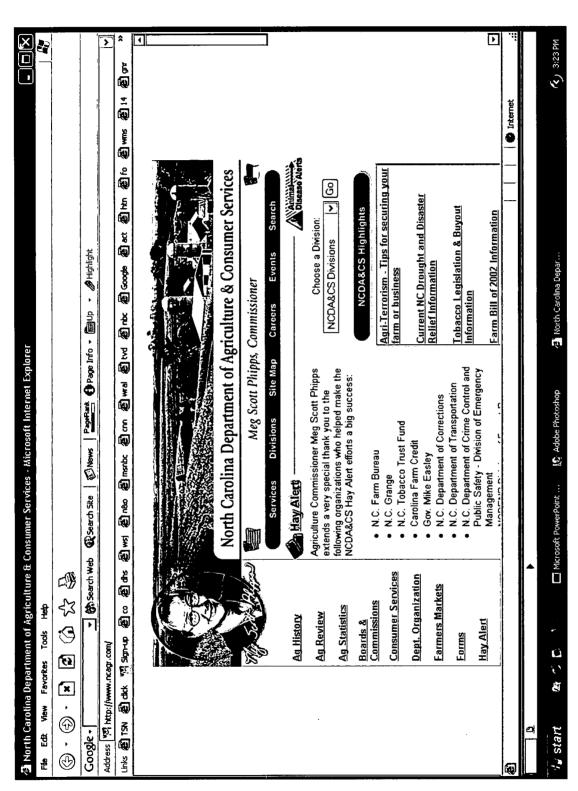


# Agriculture in the scheme of things

☐ Total State Budget

■ Agriculture Budget





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### Goodness Grows Member Companies

### **Prunswick**

Barbara's Bloomers Bolivia

Calabash Seafood Company, Inc. Calabash

Carolina Hydroponic Growers, Inc. Leland

Indigo Farms Calabash

Milliken Seafood Company South Brunswick

Randy's Meats, Inc. Sunset Beach

Sheriff Taylor Distributors Long Beach

Columbus

Enzor Farms Cerro Gordo

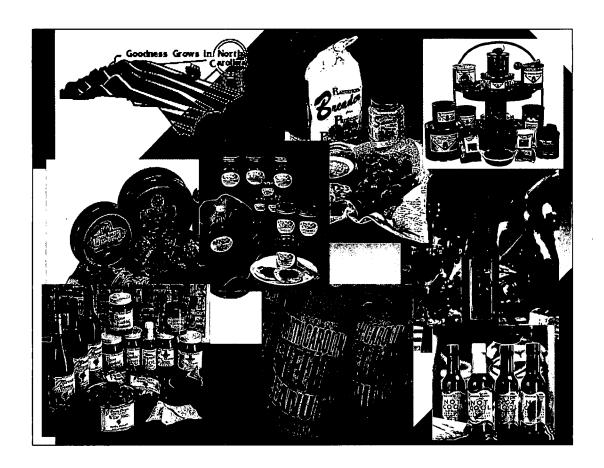
Evergreen Farm Services, Inc. Evergreen

Strickland's Produce, Inc.

Tabor City

Waccamaw Greenhouses & Nursery, Inc. Lake Waccamaw

Wayne E. Bailey Produce Company Chadbourn



Goodness Grows in North Carolina is the official marketing program of the NCDA&CS. Over 1300 member companies representing industries such as nurseries, livestock, grocery, specialty foods, beverages and more make up the list of members.

Members can pick and choose the marketing programs which they feel best suit their needs for increased growth. They may participate in trade shows, radio campaigns, grocery promotions and more designed to increase NC market share.

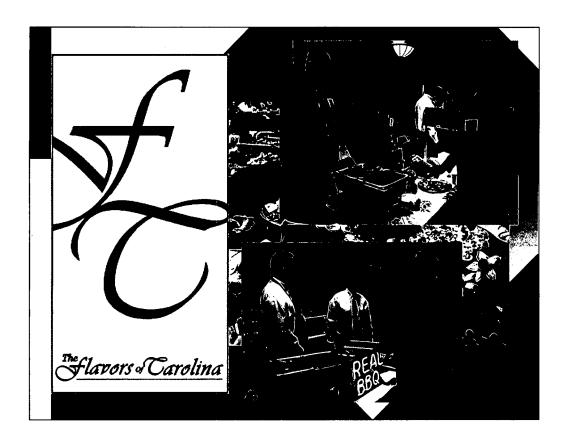
Members can also take advantage of the expertise of marketing specialists who can assist them with marketing their products.



The Marketing Division coordinates programs with grocers to promote their NC produce.

Custom promotions using in-store displays, banners, weekly ads and more tout fresh, homegrown produce.

The result: Shoppers buy more produce when it is identified as locally grown. Grocers develop a distinct advantage over their competitors who do not promote their local produce, and farmers sell more product. This program gives NC growers the edge to market their product over out of state companies.



Since 1984, the Flavors of Carolina show has brought NC food companies and producers together. The program is cooperatively funded by the exhibiting companies, who contribute approximately two-thirds of the total cost.

The elegant show provides a unique setting for grocery, foodservice, specialty store and institutional buyers to sample and purchase NC products.

The event has featured NC products in locations from Miami to Philadelphia. NC is the only state to bring this type of event to Wal-Mart, Sam's Club and Publix headquarters.

The result has been product sales of approximately \$30 million annually and expanded markets for NC products. This contributes greatly to the economy of the state. Many companies would never get the opportunity to sell their products to buyers that attend.



In 2002, the Marketing Division started a year long campaign targeting produce buyers who purchase for thousands of stores and restaurants along the East Coast.

Both grocery and foodservice buyers received monthly mailings, store materials, grower directories and web site updates about NC produce growers, crop availability, and crop conditions.

Result: More produce sold, more buyers aware of NC produce, and relations established with NC growers allowing them to compete with out of state companies.

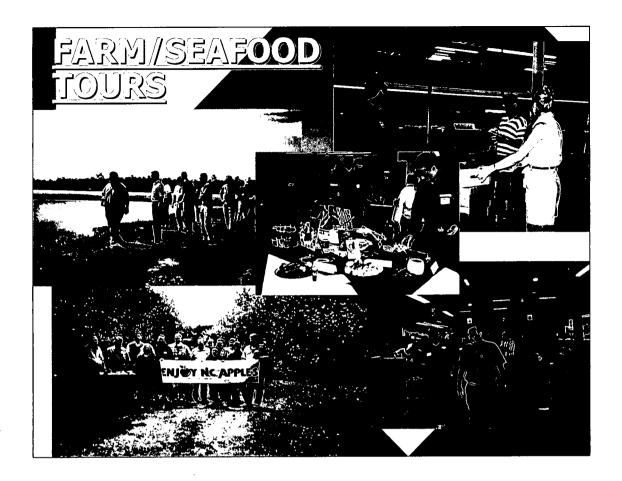
Campaign will continue in 2003.



Ad ran week of January 14, 2003.

NCDA worked with Lowes Foods to promote NC beef producers. Lowes wants to insure that their Hereford beef program includes NC producers.

This will be a quarterly promotion highlighting different NC producers locking in sales of NC products.



For the past several years, the Marketing Division has sponsored several buyer tours.

Produce and Seafood buyers form the east coast travel together with NCDA personnel to various farms and seafood processors.

Every trip has resulted in new sales for the producers or companies. A recent Winn Dixie buyer trip to see NC seafood processors resulted in two of the companies receiving orders and they continue to sell to several hundred Winn Dixie stores. Without the relations established by marketing specialists, the buyers would never visit the grower operations.

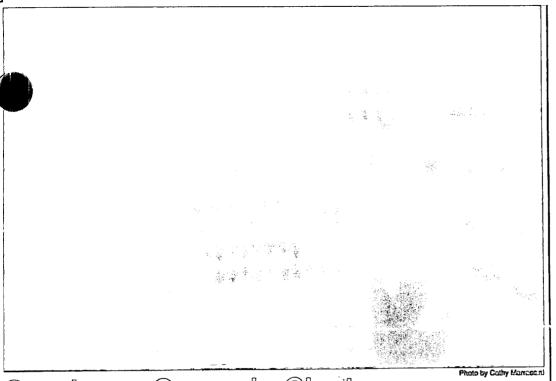


The Marketing Division worked with Food Lion to identify all of the NC items sold in Food Lion stores.

All NC products are identified with the special yellow NC tags. Over 50 items are featured in over 380 NC Food Lion stores. Results have been an increase in the number of products Food Lion purchases from the state resulting in millions of dollars in sales. In addition, a fresh direct delivery program for produce has given small farmers the opportunity to sell direct to the retailer resulting in business for 60 small farmers.

The project has been so successful, that Food Lion worked with other states to feature their products in their home state stores.

This is a continuing program that costs nothing.



Goodness Grows in Clayton

Allan Bundy (left) of Clayton is the local distributor for the new NorthCarolina products selection at the Clayton Winn-Dixie, managed by Steve Leonard (right). The new section is sponsored by the Goodness Grows in North Carolina program of the N.C. Department of Agriculture and Consumer Services. See story, page 10A

### to local pla low rounds

By CATHY MARRACCINI News Editor

For a \$2 roundtrip fare, Clayton citizens can ride to area grocery stores, medical offices and recreation centers in the Clayton and Cleveland areas and back home.

The Johnston County Area Transit System (JCATS) began regular transportation routes in Clayton on Feb. 17.

Ray Woodall, transportation manager, said JCATS is operating two continuous staggered loops – Loop A and Loop B – throughout the day. Service on Loop A begins at 6 a.m. and ends 4:20 p.m. Loop B begins at 6:45 a.m. and ends at 5:05 p.m.

The loops are designed so passengers should never have to wait more than 45 minutes for a bus, he said.

The JCATS buses stop at 19 locations, including Austin Acres at the basketball court at North Church

### O.C. foods section provides foods to savor?

By CATHY MARRACCINI News Editor

Goodness Grows in North Carolina is growing in Clayton, and a local resident in partnership with the local Winn-Dixie store is leading the way.

Alan Bundy, a pecan and peach grower and distributor for the Goodness Grows program, began supplying products for a new North Carolina foods section in the Winn-Dixie on U.S. 70 about a month ago.

He will begin delivering his products to the chain's 60 stores between Greensboro and the coast within the next month.

The local foods display showcases products that are locally grown, processed or manufactured.

Bundy classifies the product line as "unique."

He said many grocery stores within the state carry these products – which include Bundy's own B&B Pecans, Elizabeth's Pecan Candies and Al & Mo's Peach Salsa, and others such as Suckin' Barbeque Sauce, Yam

Sauce, Pelino's marinara sauce, Adam's Rib Rubb, Vick's Flaming Pig Sauce and a line of Garner's Preserves.

However, most stores typically don't showcase the products as a specialty section.

Winn-Dixie spokesman Mickey Clerc said the store has always stocked North Carolina products but is now grouping displays as an way to call attention to them.

The Winn-Dixie display between aisles 19 and 20 occupies six shelves on an endcap.

"An end is the most valuable space in the store," Clerc said.

The display is easily identified by a sign featuring the "Goodness Grows" logo and the slogan "Foods to Savor, Enjoy the Flavor."

Prior to the launch of the section in Winn-Dixie, Kroger, military commissaries and some independent grocers in eastern North Carolina were the only stores Bundy supplied that devoted space to a North Carolina foods section.

The idea of promoting a local foods section follows the basic goal of the Goodness Grows program - to heighten awareness about North Carolina agriculture and boost sales by helping consumers, retailers and wholesalers easily identify top-quality local products.

Joe Sanderson, assistant director of marketing for the Department of Agriculture and Consumer Services Division of Marketing, said the Good-

ness Grows program gives North Carolina companies the chance to sell their products to stores they might not work with otherwise.

"These are small companies that would not normally sell to big chains like Winn-Dixie," he said.

Goodness Grows was launched in 1985. Bundy became a member in 1989, while he was still employed full-time with Nortel. About two years ago, he said he approached the NCDACS about how he could market his products.

That discussion led to him leaving his full-time job to take over as a distributor for the Goodness Grows products in the eastern half of the state.

"The Department of Agriculture is a valuable resource," he said. "Through Goodness Grows, they help with advertising and how to market the products. Small businesses don't have the cash flow to go out and spend tens of thousands of dollars to advertise."

Bundy's family has grown pecans on 45 acres in Turkey, which is about halfway between Wilmington and Raleigh, since 1981. Four years ago, Bundy added eight acres of peaches.

He markets his pecan products under the label B&B Pecan Processors and the peach products as Al & Mo's Foods.

In addition to using his own peaches, Bundy also uses peaches from other local growers and processes them into jams, jellies and salsas.

Sanderson said his department hopes to expand the grocery program with fresh produce during the upcoming growing season.

"The Winn-Dixie Raleigh Division is committed to helping us sell more North Carolina products. If a chain like Winn-Dixie will go with North Carolina sweet potatoes, it can make an enormous difference. It can mean millions of dollars to the economy."

Clerc said the chain is always looking to expand programs that prove popular.

"Winn-Dixie has always tried to support local agriculture and local products," he said. "We try to put our money back into the communities where we do our business."

Products included in the Goodness Grows program range from fresh produce and processed products of every type to nursery plants and Christmas trees. There are more than 700 participating companies producing over 4,300 food and 7,000 nursery products.

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### **AGENDA**

### HOUSE COMMITTEE ON AGRICULTURE

March 11, 2003 1228 Legislative Building 12:00 Noon

### **OPENING REMARKS**

Representative Dewey Hill Chair

### **AGENDA ITEMS**

**Overview Presentations:** 

North Carolina Department of Agriculture Commissioner Meg Scott Phipps Deputy Commissioner Mike Blanton

Goodness Grows in North Carolina Program
Jeff Jennings
Domestic Marketing Supervisor

**CHAIR'S REMARKS** 

OTHER BUSINESS

**ADJOURNMENT** 

### NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2003-2004 SESSION

You are hereby notified that the Committee on Agriculture will meet as follows:

DAY & DATE:	Tuesday, March 11, 2003
TIME:	12:00 Noon
LOCATION:	1228 Legislative Building
Overview Presentations:	
	North Carolina Department of Agriculture
	Goodness Grows in North Carolina Program
	Respectfully,
	Representative Dewey Hill Chair
I hereby certify thi 3:30 p.m. on Mare	s notice was filed by the committee assistant at the following offices at ch 5, 2003.
Principa Reading	al Clerk g Clerk - House Chamber
Gennie Thurlow (C	Committee Assistant)

### MINUTES HOUSE COMMITTEE ON AGRICULTURE

### March 18, 2003

The House Committee on Agriculture met on Tuesday, March 18, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Dewey Hill; Vice Chairs Church, C. Johnson and Lewis; Representatives Baker, Bell, Bonner, Coates, Culp, Daughtridge, Daughtry, Ellis, Fox, Holmes, Kiser, Nye, Pate, Tolson, Walker, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill requested that Senate Bill 307 Contagious Animal Diseases/Extend Sunset be put on the agenda for today. After a discussion the Committee Substitute for Senate Bill 307 was given a favorable report.

Dr. Alton Thompson, Dean, School of Agriculture & Environmental Sciences, North Carolina A&T State University, was introduced by Chair Hill. Dean Thompson gave an overview of the agricultural issues in North Carolina. A copy of his presentation and the handouts are attached. There was a brief question-and-answer period.

Chair Hill made closing remarks.

The meeting was adjourned at 12:40 p.m.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

### Q

### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Hill (Chair) for the Committee on AGRICULTURE.

	Committee Substitute for  . 307 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND- MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.
X	With a favorable report.
	With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations  Finance .
	With a favorable report, as amended.
	With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations   Finance   .
	With a favorable report as to the committee substitute bill (# ), $\square$ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # ), (and recommendation that the committee substitute bill # ) be re-referred to the Committee on .)
	With a favorable report as to House committee substitute bill (# ), $\square$ which changes the title, unfavorable as to Senate committee substitute bill.
	With an unfavorable report. $\ddot{\zeta}^{*}_{i}$
	With recommendation that the House concur.
	With recommendation that the House do not concur.
	With recommendation that the House do not concur; request conferees.
. 🔲	With recommendation that the House concur; committee believes bill to be material.
	With an unfavorable report, with a Minority Report attached.
	Without prejudice.
	With an indefinite postponement report.
	With an indefinite postponement report, with a Minority Report attached.
	With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)  3/06/03

### Testimony of Alton Thompson, Ph.D.

Dean & Executive Director for Agricultural Programs
School of Agriculture and Environmental Sciences
North Carolina A&T State University

### Agricultural Issues in North Carolina House Committee on Agriculture

March 18, 2003

Mr. Chairman, vice-chairpersons, and members of the House Committee on Agriculture, on behalf of Dr. James C. Renick, Chancellor of North Carolina A&T State University, and the administration, faculty, staff and students of the School of Agriculture and Environmental Sciences, I would like to thank you for this opportunity to testify. I am Alton Thompson, Dean and Executive Director for Agricultural Programs at North Carolina A&T State University.

I would like to begin by associating myself with the testimony and remarks of my colleague, Dr. James L. Oblinger, who is the Dean and Executive Director of Agricultural Programs at North Carolina State University. Dr. Oblinger is a valued and trusted colleague and I concur with Dr. Oblinger's statements regarding agricultural issues in the State. I also recognize that this is a very difficult budget year; however, programs in academics, research, and extension are critically important at both North Carolina A&T State University and North Carolina State University. I urge continued support for these programs as they help to maintain the competitiveness of North Carolina agriculture, and American agriculture as well.

### Key Agricultural Issues for the State

There are seven key issues that I would like to address:

- 1. Farm Financial Crisis
- 2. Food, Agricultural and Biosecurity
- 3. Farm and Food Safety
- 4. Water Quality/Waste Management
- 5. Alternative Agricultural Enterprises for Displaced Tobacco Farmers
- 6. Declining Farm Numbers and Accompanying Decline of Small-scale Farmers
- 7. Increase State Matching Requirements for North Carolina A&T State University

### Farm Financial Crisis

North Carolina is heavily dependent upon agriculture. In fact, Agriculture is a \$62.6 billion industry and accounts for 19 percent of North Carolina's income. The 107<sup>th</sup> Congress adjourned without appropriating any disaster money to help our farmers; however, the 108<sup>th</sup> Congress approved an Omnibus spending bill that allocated \$3.1

billion in disaster payments for the nation's farmers. These federal funds will provide much needed help for our farmers (farmers who suffered crop damage of more than 35 percent), but these disaster payments will be too little too late for many of our farmers. The most recent crop statistics point out the declines in production from 2001 to 2002. The production of cotton, corn for grain, soybean and peanuts are estimated to drop by 53, 26, 30 and 41 percent, respectively.

The farmers we serve tell us they are suffering because of multiple causes, including, but not limited to, significant losses because of one of the harshest droughts this summer, which was followed by heavy autumn rains; low and declining commodity prices, increased foreign competition, federal policies, the business recession, terrorism, and too much debt. The farm crisis in North Carolina is primarily a debt crisis. During the late-1990's, both the marketplace and the government gave strong signals to farmers to increase production. Credit was easy to obtain and real interest rates were low. Bankers, including the federal farm credit system, encouraged farmers to expand farm size and make loans based on inflated equities, especially in land. The conventional wisdom was that land prices would continue to rise. Lenders and borrowers paid too little attention to farmers' cash flow needed to repay loans. Today, however, farmers' equity position is eroding and the most highly leveraged farmers are becoming insolvent. Farm income (cash flow) is not sufficient to service the massive debt accrued over the past two or three years.

Access to credit is also problematic and critically important to farmers as they agonize over how to secure credit to plant their 2003 crops. Many farmers, particularly small and minority farmers, that I have talked to are already at their borrowing limits.

### Food, Agricultural and Biosecurity

While agriculture adds significantly to our state's economy (22%), it is vulnerable to forces beyond the producer's control. Biosecurity issues facing the agricultural production and food-processing sector is a serious threat to North Carolina agriculture industry. This is a new subject that demands new research to enable our State, and the nation, to prevent and prepare for terrorist attack. A purposeful introduction of biological attacks on our plant and animal species will spread quickly and from many different locations. Immediate recognition that there is an unnatural outbreak of a disease in multiple locations is critical if the spread of the disease is to be contained. Modeling and communication tools need to be developed that will facilitate early detection and recognition of unnatural outbreaks. The food and fiber production process opens up many opportunities where purposeful contamination could occur. Most existing safeguards were not designed to protect against intentional attacks. The private sector, the federal government, North Carolina state government, North Carolina A&T, North Carolina State, and other universities will need to develop new standards and protocols to: (1) improve detection and monitoring practices through processing and distribution system; (2) develop a communication system that alerts appropriate agencies and points of entry that a problem exist, with guidance on appropriate actions; (3) improve the ability to trace contamination back to its source; and (4) enhance communication networks with public health agencies, law enforcement agencies and state and local officials. It would remiss not to point out that the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) did an excellent job during the threat of Food and Mouth Disease to North Carolina agriculture.

Equipment and materials used in farming and ranching can be used as agents for terrorist activities. Fertilizers can be used in bombs and crop dusting planes can be used to spread bioweapons. The Cooperative Extension Service need to develop a variety of agriculture and forest security programs for agricultural producers, natural resource managers, processors, suppliers and retailers to help them prevent, detect and respond to agroterrorism. Cooperative Extension needs to work in partnership with state and local agencies and private operations to help them understand and implement protocols to prevent the abuse of these tools and materials.

Producers, processors, suppliers, retailers, farmers, ranchers, and consumers may be the first responders to an agro-terrorist attack and thus play a pivotal role in quickly containing contamination. The Cooperative Extension Service can provide educational programs to the private sector on how to secure their operations. Specialized training in agrosecurity for Extension agents is needed so that as "first responders" they have the ability to recognize possible threats and that they are trained in the appropriate protocols for working with local and federal law enforcement and health agencies. Local communities, including farming communities, will need assistance in developing and implementing plans to improve their ability to anticipate and respond to acts of agroterrorism. Just as the Department of Health and Human Services needs to help strengthen the ability to state and local health agencies to plan and prepare, so does NCDA&CS need to work with local agricultural agencies, universities and rural community leaders to plan and prepare.

### Farm and Food Safety

Farming is second only to mining as the most dangerous occupation in the United States. Farming alone brings over \$9.0 billion a year to North Carolina's economy and employs 20 percent of North Carolina's work force. Each year in North Carolina, about 50 people die from farm injuries and 2,000 are disabled. Sixty-five percent of those who die are heads of households. Farmers, their family members, and their employees, including migrant and seasonal workers are at risk of work-related fatal injury, amputation, cumulative trauma, skin cancer, hearing loss, chronic respiratory diseases due to inhalation of particulates and chemical exposure and other illnesses, such as depression and anxiety. Farm families and workers are at high risk for illness and injury due to factors such as the longer growing season, hot climate, and older more poorly maintained equipment. The North Carolina health care cost from farm-related injuries, exceed \$195 million.

Currently, faculty at North Carolina A&T, in collaboration with faculty associated with the North Carolina Agromedicine Institute, are involved in two projects related to heat stress among agricultural workers statewide and another on farm injury prevention among youth in agricultural communities. In addition, the Cooperative Extension Program at North Carolina A&T is involved in outreach activities designed to improve farm safety and environmental protection.

An estimated 76 million people contract foodborne illnesses every year in the U.S. Altogether foodborne illnesses cause \$6.9 billion in medical costs and loss of productivity annually in the U.S. This cost will continue to rise as Americans demand and consume more convenient, ready-to-eat and minimally processed foods. As a consequence, the federal government has given high priority and allocated additional funding for research and outreach efforts to safeguard the nation's food supply.

In November 2002, as part of a national effort in the wake of the September 11<sup>th</sup> terrorist attacks, a special performance review by the state auditor's office revealed that North Carolina's food safety system is fragmented and understaffed, under-equipped and has limited enforcement powers for violations. In addition, this report found that (1) only 25 agriculture food specialists are available to inspect 8,163 facilities statewide; (2) there are inconsistencies in the frequency of inspections and sample collections; (3) some venues that serve food, such as private clubs, boarding housing and continental breakfasts served at hotels are not required to be inspected; (4) people who prepare food in their homes for sale to the public do not receive annual inspections; (5) laboratory equipment is outdated and inspectors have few laptop computers and cell phones to improve efficiency; and (6) there are no bilingual food specialists, despite the increase in ethnic food outlets with employees with limited abilities in English. State Auditor Ralph Campbell stated that these issues should be brought to the attention of the General Assembly and the public, including security issues in the trucking industry.

To address these health and safety challenges in North Carolina and find solutions specifically tailored to the needs of underserved communities, the School of Agriculture and Environmental Sciences initiated the "Agromedicine, Nutrition and Food Safety" as a major program area. The initiative builds on the strength of existing multi-institutional collaboration structures such as the North Carolina Agromedicine Institute, and the Southern Coastal Agromedicine Center (headquartered at East Carolina University).

Currently, there are eight ongoing research projects on food safety issues at North Carolina A&T such as early detection of foodborne pathogens, biopreservation of foods using beneficial bacteria, safety of vegetable processing, thermal inactivation of common foodborne pathogens, antibiotic resistance of poultry pathogens, control of antibiotic resistant *E. coli* O157:H7 in foods, microbiological quality and shelf-life extension of farm-raised fish, and use of probiotics to control foodborne pathogens in farm animals. There are also two food safety outreach projects dealing with food safety behavior of hard-to-reach consumers in the southeastern United States and an agricultural biotechnology program for minority farmers and underserved consumers in North Carolina.

### Water Quality/Waste Management

Water is essential for life. During the last 50 years, a wide array of federal and state laws and regulations has been enacted to protect and improve the nation's water resources. The Clean Water Act and Safe Drinking Water Act are aimed at providing a clean, safe, reliable source of water for multiple uses such as drinking water supplies, swimming, fishing, industrial and agricultural uses. Under the Clean Water Act, states are required to develop standards that describe the maximum "load" of a potential pollutant (e.g. sediment, nutrients, and pesticides) that a stream or water body can sustain without impairing the quality of the water resource. The 1998 amendments to the Safe Drinking Water Act require these assessments of potential pollutants from agriculture (as well as other land uses) that drain to public water supplies.

Federal, state and local governments have spent billions of dollars on water quality protection from agricultural activities. These activities include fertilizer and pesticides application on cropland, animal manure and sewage sludge applications on land, tillage practices, row cropping, adoption of non-buffer strips, and others, which have increased water pollution across the nation.

Concentrated animal feed operations have largely contributed to the ability of North Carolina producers to meet growing demand for the production of meat, milk, poultry and eggs, with nearly 60 percent of the gross farm income in North Carolina coming from animal agriculture. There is also a great deal of public pressure to prevent the pollution of air, soil and water resources from animal production facilities. Managing manure and other waste products produced by livestock in a sustainable, ecologically sensitive manner that is respectful of the community's right to a healthy, odor and pollution-free animal is a challenge for farmers. Traditional management practices for livestock waste have in some cases resulted in overloading soils with nutrients and trace materials, in the pollution of surface and groundwater. Alternatives to traditional practices for waste treatment are needed, particularly those appropriate to small-scale and resource-limited farmers. In most cases, farmers lack the capital to install highly technical and expensive treatment systems, as well as the expertise and training to operate and maintain them.

Thus, in light of the preceding, conserving groundwater sources and ensuring surface water quality is a major issue in North Carolina. There is a critical need for a comprehensive state program that addresses the host of issues associated with protecting and improving the state's water resources—particularly those in agriculture environments. This state program needs to be put in place to better assist farmers in adopting best agricultural management practices to reduce phosphorous runoff from their fields and pastures, better able to meet new federal environmental guidelines, and better able to take advantage of government incentives for implementing conservation practices. In addition, this state program should provide a sound science base for decision-making and should provide critical support for technology transfer and education.

Currently, the Constructed Wetlands Research and Educational Program at North Carolina A&T, with support from the USDA/Agricultural Research Service station in Florence, SC, provides training for graduate students and workshops for field technicians and Extension agents. The end result of this research is to develop a system to assist small to medium-sized farmers in dealing with swine waste.

### Alternative Agricultural Enterprises for Displaced Tobacco Farmers

The tobacco industry remains important to North Carolina's economy, with exports in 2001 totaling more than \$430 million. Together, tobacco manufacturing, processing and farming in North Carolina make up 39 percent of total U.S. production and 65 percent of flue-cured production. However, North Carolina's tobacco industry, along with the individuals and communities that depend on it, are facing a set of powerful, converging forces—forces that will forever change the role that tobacco plays in the state's economy (The Rural Center, 2002). Among these forces are a number of multibillion dollar lawsuits either decided or pending against the tobacco industry—in particular the \$206 billion settlement signed in November 1998 between the cigarette manufactures and the states' attorney generals. Along with these lawsuits come additional federal cutbacks in tobacco allotments, a decline in cigarette exports, increased competition from other countries (e.g. Brazil), an increased excise tax, and an increasing tough regulatory environment. In addition, the federal tobacco support program may soon be defunct and direct contracting between cigarette firms and farmers is rapidly increasing.

Tobacco production occurs in 82 counties within the state with concentrations in the east, north Piedmont and mountain west. For these communities, tobacco is not only a source of economic prosperity, but it is also a long established way of life. Among the top North Carolina flue-cured tobacco producers are Pitt, Johnson, Robeson, Columbus, Wilson, and Nash counties. Madison, Buncombe, Yancey and Haywood counties are the leading counties for burley production. In these counties where tobacco remains a significant part of the local economy, the economic impact will be difficult and long-term. Significant income declines can be expected in these tobacco-dependent communities.

Researchers and Extension specialists at North Carolina A&T are working to wean small farmers from tobacco to alternative, but profitable enterprises, including goat meat, edible and medicinal mushrooms (anti-cancer, anticholesterol effects and increased immune protection), medicinal herbs, upscale pork, aquaculture and galax. Central to this effort is a research-base, supported by a strong outreach and educational component. Selected enterprises are being used to demonstrate the development of a total portfolio of best management practices, which integrate the functions of marketing, financial management effort, resource allocation and cost management for a single enterprise. Funds from the Golden LEAF Foundation have been very important in this effort to develop specialty enterprises.

### Declining Farm Numbers and Accompanying Decline of Small-scale Farmers

Despite the growth in population and increased demand for agricultural products, supply sources and individuals engaged in agriculture have declined worldwide. The U.S. has experienced a relatively steady decline in farm numbers, but an increase in size of farms since the end of World War II. Acreage of land in farms has decreased by more than 55 million acres in the last 15 years, yet productivity per acre has increased. New production methods have changed how farm work is organized, how food and fiber are produced, as well as the structure of the demands for farm labor.

The state witnessed a five percent decline in the number of farms from 1997 to 2001 and 4.2 percent decline in the total acreage in farms and 3.9 percent increase in total acreage with sales over \$100,000. In "A Time to Act", The National Commission on Small Farms reported the following, "Small farms contribute more than farm production to our society. Small farms embody a diversity of ownership, cropping systems, landscapes, biological organization, culture, and traditions." Since the majority of farmland is managed by a large number of small farm operators, the responsible management of soil, water, and wildlife encompassed by these farms produces significant environmental benefits. Decentralized land ownership produces more equitable economic opportunity for people in rural communities, and offers self-employment and business management opportunities.

Small scale integrated crop and animal systems have contributed positively to net farm income for generations of small farms in North Carolina. Former Commissioner of Agriculture, Dr. James Graham, said it this way, "Every time we lose a small farmer, we stand the chance of not having enough to eat." In less than one generation (< 25 years>, North Carolina has lost over 20,000 small-scale hog farmers (< 100 hogs) and with it, their knowledge base. North Carolina A&T researchers are working diligently to revitalize the small-scale pork industry in our State. Small farmers may be able to promote different "upscale" pork by using breeds that will focus on flavor and taste, similar to the Certified Angus Beef Program (a breed noted for intra-muscular fat). Consumer demand for high quality pork and concerns about raising animals may invigorate small farmer production.

North Carolina A&T provides training in cash flow, farm management, environmental stewardship, and alternative market development. We train small farmers to access new and alternative markets for their crops and animal commodities. This program has had a dramatic impact on increasing the economic viability and sustainability of these small and limited resource farmers. This critical program should be sustained and strengthened and other small farm programs should be established as a safety net for all such farmers in this category. Comparatively, this group of farming clientele has been vertically ignored in terms of specially targeted programs.

### Increase State Matching Requirements for North Carolina A&T State University

In 1998, the Agricultural Research, Extension and Education Reform Act of 1998 (Section 1449) amended the National Agricultural & Research, Extension and Teaching Policy Act (Sections 1444 and 1445) to require that each state with an 1890 land grant institution provide monies to match the federal funds for programs in agricultural research and Cooperative Extension. In FY 2000, the required federal match was 30%, in FY 2001, the required federal match was 45%, and in FY 2002, the required federal match was 50%. The corresponding state dollars needed for North Carolina A&T State University to meet this matching requirement were, respectively, \$1,500,992, \$2,377,366 and \$2,808,870. Failure to meet this federal mandate results in discontinuation of federal appropriations for the Agricultural Research Program and Cooperative Extension Program at North Carolina A&T. In effect, these programs will cease to exist.

For FY 2000, the University only received \$750,000 in state matching funds; however, the United States Department of Agriculture granted the University a waiver. For FY 2001, the University received the state matching funds to meet the 45% federal matching requirement. For FY 2002, the University received \$2,502,208 from the N. C. General Assembly, resulting in a shortfall of \$306,662. Thus, at present, the University is not in compliance with the federal matching requirement. The U.S. Congress has recently approved the FY 2003 federal appropriations for agricultural research and Cooperative Extension; a 6% increase is forthcoming.

On May 13, 2002, President Bush signed the "Farm Security and Rural Investment Act of 2002" into law. This new Farm Bill includes several programs and provisions directly involving the land grant universities. Regarding nonfederal matching funds, the new Farm Bill requires that beginning in FY 2003, each state with a 1890 land grant institution must increase the matching percentage by 10% per year until a maximum of 100% is obtained in FY 2007.

We understand the seriousness of the budget crisis in North Carolina. But the current agricultural and environmental challenges we face in North Carolina dictate that this is exactly the right time to support these programs dedicated to tackling these difficult and important challenges. For FY 2004, North Carolina A&T State University needs an increase of approximately \$1.7 million to meet the federal matching requirements for programs in agricultural research and cooperative extension.

### Investing in the Future

Let me end where I began. I would like to thank the Committee for the opportunity to testify here today. I am aware of the challenges, but the faculty and staff at North Carolina A&T State University look forward to working with you and our colleagues at North Carolina State University as we endeavor to improve the lives of people and communities in North Carolina through learning partnerships that put knowledge to work. I urge you to embrace this moment, this opportunity, to invest in the state's land grant university system.

### State Matching Funds for Agricultural Research and Cooperative Extension North Carolina A&T State University

Dr. Alton Thompson, Dean
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N. C. A&T State University
111 Webb Hall, Greensboro, NC 27411
336-334-7979; altont@ncat.edu

### Introduction

With the passage of the Hatch Act (Section 3(d)) in 1889 and the Smith Lever Act (Section 3(e)) in 1914 that created the State Agricultural Experiment Stations and the Cooperative Extension Service, respectively, each state began to receive federal funds to conduct agricultural research and to provide for Cooperative Extension work in terms of diffusing useful and practical information on subjects related to agriculture, home economics and rural energy. However, these legislative acts further stipulated that "no payments from the allotment shall be made to a State in excess of the amount that the State makes available out of non-Federal funds." Simply stated, each State was required to provide a dollar for dollar match for the federal funds allocated to support agricultural research and Cooperative Extension. In addition, any State that failed to comply with the federal requirement to provide matching funds would lose the difference between the federal allocation and the amount of matching funds actually provided by the State.

Most 1862 land-grant universities, including North Carolina State University, receive more funding from their state governments than they do from federal funding. Accordingly, North Carolina State University and other 1862 universities do not have difficulties in matching federal funds with required state dollars. Unfortunately, the 1890 land-grant universities, including North Carolina A&T State University, have not enjoyed the same level of state support. For example, in FY 2001, the ratio of state matching funds to the federal allocation of funds for the agricultural research and Cooperative Extension programs at North Carolina State University was 6:1 while the corresponding ratio for North Carolina A&T State University was 0.48:1.

### The Need for State Matching Funds at North Carolina A&T State University

In 1998, the Agricultural Research, Extension and Education Reform Act of 1998 (Section 1449) amended the National Agricultural & Research, Extension and Teaching Policy Act (Sections 1444 and 1445) to require that each state with an 1890 land grant institution provide monies to match the federal funds for programs in agricultural research and Cooperative Extension. In FY 2000, the required federal match was 30%, in FY 2001, the required federal match was 45%, and in FY 2002, the required federal match was 50%. The corresponding state dollars needed for North Carolina A&T

State University to meet this matching requirement were, respectively, \$1,500,992, \$2,377,366 and \$2,808,870. Failure to meet this federal mandate results in discontinuation of federal appropriations for the Agricultural Research Program and Cooperative Extension Program at North Carolina A&T. In effect, these programs will cease to exist.

For FY 2000, the University only received \$750,000 in state matching funds; however, the United States Department of Agriculture granted the University a waiver. For FY 2001, the University received the state matching funds to meet the 45% federal matching requirement. For FY 2002, the University received \$2,502,208 from the N. C. General Assembly, resulting in a shortfall of \$306,662. Thus, at present, the University is not in compliance with the federal matching requirement. The U.S. Congress has not approved the FY 2003 federal appropriations for agricultural research and Cooperative Extension; however, a 6% increase has been recommended.

On May 13, 2002, President Bush signed the "Farm Security and Rural Investment Act of 2002" into law. This new Farm Bill includes several programs and provisions directly involving the land grant universities. Regarding nonfederal matching funds, the new Farm Bill requires that beginning in FY 2003, each state with a 1890 land grant institution must increase the matching percentage by 10% per year until a maximum of 100% is obtained in FY 2007.

We understand the seriousness of the budget crisis in North Carolina. But the current agricultural and environmental challenges we face in North Carolina dictate that this is exactly the right time to support these programs dedicated to tackling these difficult and important challenges.

### **Concluding Remarks**

The administrators, faculty, staff and students at North Carolina A&T State University would like to express our gratitude for the opportunity to articulate our need for state matching dollars to strengthen our programs in agricultural research and Cooperative Extension. Presently, the School of Agriculture and Environmental Sciences is focusing resources on six major interdisciplinary program initiatives: human and community development; biotechnology and biodiversity; agromedicine, nutrition and food safety; small-scale agriculture; soil and water quality; and international trade and development. These six initiatives emanated from reviews of the national goals of the United States Department of Agriculture, the needs of the State, faculty expertise and interest. These initiatives were also selected for their significant potential for establishing mutually beneficial partnerships with businesses, corporations, foundations, industry, governmental agencies, and with the College of Agriculture and Life Sciences at North Carolina State University. We look forward to a continued dialogue on this and other issues affecting agriculture and higher education in our state.



### N. C. AGRIBUSINESS CONTRIBUTES \$62.6 BILLION

North Carolina continues to face the effects of economic recession. While Agribusiness too has seen its share of challenges over the years, we are a strong, viable industry and will continue to sustain the foundation of North Carolina's economy. We have been here since the beginning and remain the economic engines of our local communities and the state as a whole. We are the #1 industry in North Carolina and we will drive the economic recovery of our state.

### **AG-FACTS**

- Agribusiness is the #1 industry in NC
- Agribusiness employs 20% of NC's workforce (771,000)
- Agribusiness represent 22% of the gross state product
- Agribusiness contributes \$62.6 Billion to the state's economy
- Agribusiness produces food, clothing and shelter for the world
- Agribusiness is located in all 100 counties of NC
- Agribusinesses are Fortune 500 companies located in NC
- Agribusinesses economic contribution to NC grew \$42.6 billion since 1990, \$3.6 billion in the last two years.
- Agribusinesses are from the Land to the Consumer including processing, distribution and transportation, production equipment and supplies, service organizations such as banks, utilities, insurance companies, as well as actual farms.
- NC is one of the most diverse agricultural states, making it ideal for agribusinesses to locate to NC
- Farming alone brings in \$9.0 billion to NC's economy
- A farmer's dollar turns over 8 times in the community.

### agriculture and agribusiness

North Carolina's



### Agriculture and agribusiness -

food, fiber, and forestry — account for more than one-fifth of the state's income and employees. Twenty-two percent, or \$62.6 billion, of \$282 billion gross state product is contributed by food, fiber, and forestry industries. These industries account for 771,000 of the state's 3.9 million employees. The following are the valuedded incomes derived from the state's agriculural sector for 2000.

### **Total Income** Agriculture/Food Industries Agriculture Lotalincome Sharejori Nevincome Natural Fiber Industries ishare of N.C. income Forestry Industries tofalincome sharexulvicuncome Agriculture: Food: Fiber; and Forestry Industries total income state of Nicericome Total N.C. Income for 2000 Gross State Product

### **Agricultural Employment**

i 2000, or 20 percent, of North Carolina's 3.9 million sotal employees work in agriculture

### Fiber Industries including natural fiber based manufacturing, wholesaling, and retailing (including textile mill and apparel products) Wholesaling ......\$0.7 billion

(including apparel; piece goods; and notions) (including apparel and accessory stores)

### Forestry Industries

ncluding larm production and the manufac olsumiture lumber wood and paper products

(including total income from farmand commercial forestry)

Manufacturing 58. (including) furniture and fixtures flomber and

wood products and paper and allied products a

### Agriculture/Food Industries

including rarming manufacturing wholes aling andretailing firms

Farming (including crops livestockiaquacultur Ornamentals)and tum)

Manufacturing (including food and tobacco products and agricultural chemicals)

Wholesaling (including food and tobacco, and farm supplies and products)

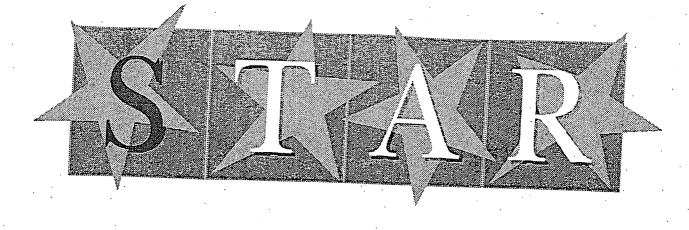
Retailing (includings lood stores and restaurants)

The figures reflect value-added income for 2000. At the farm level, value added is sales. At the manufacturing, wholesale, and retail levels, value added is sales minus the cost of non-labor inputs. Value added does not include the value of non-North Carolina produced inputs, and value added avoids the multiple-counting of a product used several times in the production chain.

Prepared by

Mike Walden, William Neal Reynolds Professor and Extension Economist College of Agriculture and Life Sciences, North Carolina State University

3,000 copies of this public document were printed at a cost of \$762, or \$.25 per copy.



### Safe & Economical Food Supply

We have never really known true food scarcity and rarely have to think about where our next meal will come from. After all, grocery stores are always open. But how often do we think about where the grain for that loaf of bread was grown or who developed the convenient safe packaging for our food? And what about the various state and federal government regulations that protect our food supply? Have you ever stopped to think about what regulations other nations have to meet to ensure that our imported food is safe.

In a world that is rapidly changing, threats to our food sources should make us realize the value of a safe and reliable food source. Leaner meat, better packaging and processing, reduced occurrence of food-borne diseases all provide the comfort and security of knowing that the necessities of life are safer and better for us. For example, cattlemen also are producing meat that is lower in fat and cholesterol—beef cuts have 27 percent less fat than in 1985.

Most importantly, all of this technology is derived from agricultural sources within the United States, rather than from potentially unfriendly sources. The agribusiness industry is working hard to make sure that threats of bio-terrorism are never realized and that our cattle and crops aren't devastated by deliberate introductions of disease.

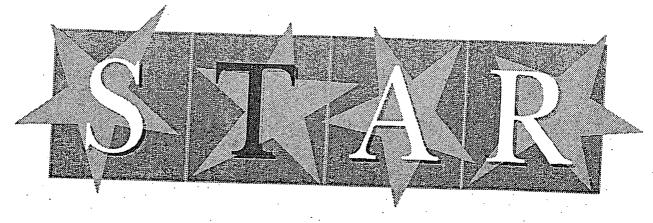
The agribusiness industry provides a great value in the food supply, with North Carolinians spending less than 11% of our income on food. That's because the agribusiness industry has combined land, labor, money and ingenuity to produce more while decreasing cost. Indeed, Americans cannot consume all the food produced in the United States, with 25% exported to feed the rest of the world.

In 1950, Americans spent 22% of their income on their food. Today, we spend less than 9% of our expendable income on food. Compare what your food costs would be if you lived in other nations: 11% in United Kingdom, 17% in Japan, 27% in Africa and 53% in India.

And while most people are concerned about the environment, those in agribusiness are especially so since in many instances they live on the land and derive their livelihood directly from its bounty. The success of the agribusiness industry depends on land that is productive and healthy well beyond the current season.

Farmers and ranchers provide food and habitat for 75 percent of the nation's wildlife. Advances in land use, pest control, and waste reduction minimize the impact on the environment while maximizing the economic value of agricultural products.

So if we want to continue to have the most economical, safest home grown food in the future, then North Carolina needs to do all it can do to support its #1 industry – agribusiness.



### Tax Base & Jobs for North Carolina

Of North Carolina's \$282 billion gross state product, \$52.6 billion comes from Agribusiness. North Carolina's prosperity is tied to the land that supports the Agribusiness industry every day and provides the fundamental necessities of life. Agribusiness is our largest industry, accounting for 22.2% of the state's income and employing 771,000 North Carolinians or 20% of North Carolina's workforce.

Agribusiness involves many areas beyond the farm – processing facilities, transportation, financiers, wholesalers, and retailers. It also involves service organizations such as banks, utilities, and insurance companies. In fact, North Carolina is a significant part of the business base of financial institutions, ranking third in the United States in total net farm income.

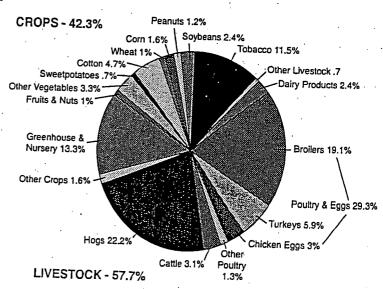
Agriculture and related businesses are part of the solution to the state's current economic dilemma and are essential to a prosperous future. Therefore, it is important for North Carolina to maintain a climate that is conducive to the continued growth of this vital industry. Yet, North Carolina's largest industry is struggling.

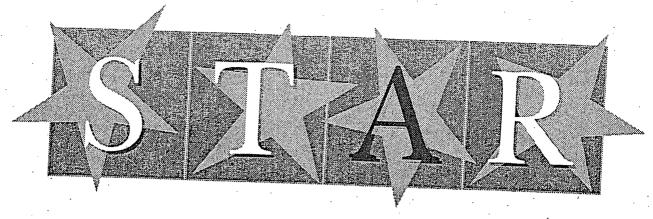
Regulatory pressures, urban sprawl, and all-time low commodity prices threaten the livelihood of the people who provide our food, fiber, and forestry products. Many producers have had to sell their farming operations and pursue other lines of work.

And while the future of the tobacco industry in North Carolina seems uncertain right now, North Carolina still produces more tobacco than any other state. Therefore, any attack on tobacco is an attack on North Carolina.

Fortunately, livestock has helped bolster the state's economy. And with farmers spending about 80% of every dollar earned on production inputs, this means that these dollars go back into the local economy.

### NC Cash Receipts from Farming by Commodity - 2000



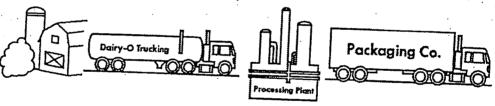


### Allied Industries Bring More Value to Consumers

For most of us, the supermarket is our "window to the world of agribusiness." But, long before many foods reach the grocers shelves, or fiber and forestry products line store displays, members of today's agribusiness community have worked wonders to make everyday products more beneficial to consumers.

North Carolina universities, industries, and government agencies are engaged in partnerships that strengthen the state's economy and bring many benefits to consumers.

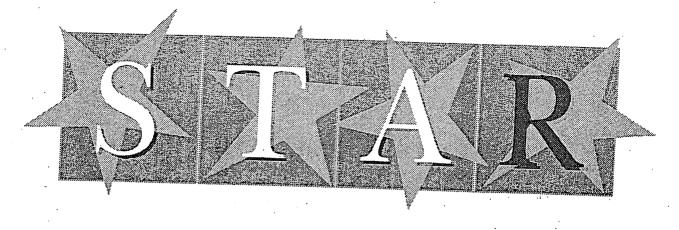
Did you know that over 500 facilities in North Carolina process meats, dairy products, grains, vegetables, fruits, bakery, sugar, confectionery and other food products? And that agribusinesses in the state are developing new methods of processing foods that reduce water consumption and generate fewer unusable residues.



Scientists, producers, processors, transport operators, and others have added value to the agribusiness commodities we buy. If your family looks for products with labels like "pasteurized," "calciumenriched," "ready-to-serve," "pre-washed" or "pre-treated," they are enjoying added value in the safety, healthfulness, taste, convenience, and durability of today's agricultural products.

North Carolina agribusiness will add more value to sustain economic growth and meet increasing market demand for a healthy, safe, environmentally-friendly supply of food, fiber and forest products.

NC agribusiness encompasses the farming, processing, wholesaling and retailing of food, natural fiber, and forestry products. Value-added agribusiness includes the packaging, convenience, safety and other qualities that are "built in" to ag commodities on their way to consumers. And while shoppers reaching for pre-cooked turkey or pork, soy burgers, or reduced-fat cheese, are not likely to think about the food scientists, process engineers, and others who have brought these products to fruition, consumers enjoy the results nonetheless.

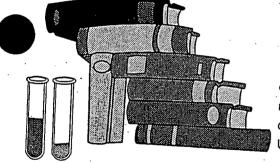


### Research & Education to Improve Agriculture

North Carolina's extension and research programs work with all segments of the Ag Industry to ensure safer and healthier products for our citizens. Over the past century, every \$1 the public has invested in agricultural research and education has returned \$8 in terms of a safer and more affordable food supply.

Agricultural science can do much more than make two blades grow where one grew before. It can discover new products and new markets and engineer more environmental-friendly farming practices, all things that private industry can't do alone. With increasingly demanding consumers, research is the foundation for a product's success in the marketplace. Researchers will discover and perfect modifications that make foods even healthier, safer, more diversified, and convenient.

When state-of-the art technology is in the hands of talented researchers, like those at many NC universities, government agencies, and private companies, the possibilities are endless.



Advances in biotechnology have resulted in better tasting fruits and vegetables that stay fresh longer and are naturally resistant to insects. Innovations in plant breeding have resulted in crops better able to handle the environmental effects of drought, disease, and insect infestations. Using satellite maps and computer models, precision farming enables farmers to use less production inputs to produce a higher quality, higher yielding crop, keeping the cost of food down for U.S. consumers.

If our economy is to remain stable and grow, North Carolina must continue to be the global leader in agribusiness. But, the only way to maintain our edge is to increase our investments in agricultural research and education. Agricultural research in North Carolina is more important than ever.

At 16 research stations across the state, NC State's Agricultural Research Service, in partnership with NCDA&CS, focuses on ways to solve production problems that cut into yield and profit, developing high-value alternative crops and enterprises. Work on the research farms continues to improve production practices for farmers that eventually feed and clothe more people at lower costs.

At the same time, Extension personnel in every county makes the knowledge developed at NC State and NC A&T State available to all North Carolinians, and future business and governmental leaders. Together, this winning team keeps North Carolina's economy moving forward!

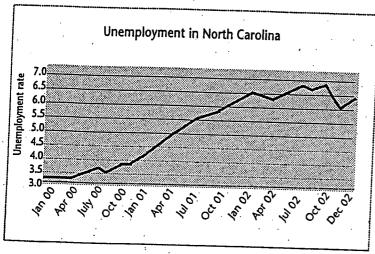


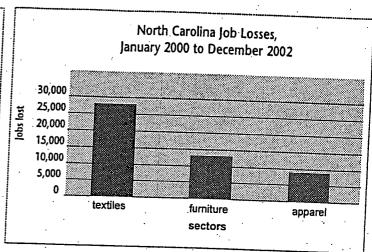
For more information on this topic, contact: North Carolina Agribusiness Council, Inc. 3701 National Drive, Suite 211 Raleigh, NC 27612-4864 Tele: 919-782-4063 Fax: 919-782-4064

Email: epeterson@ncagribusiness.com

### The North Carolina Economy: Winter 2003 Update





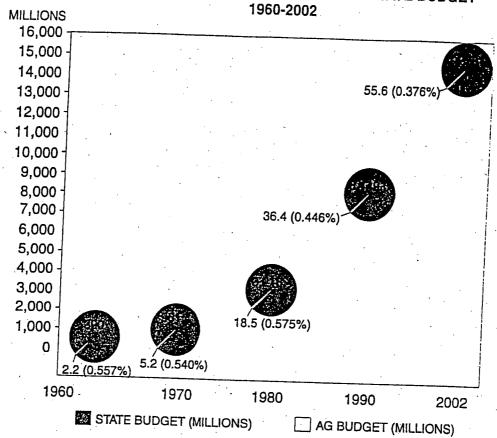


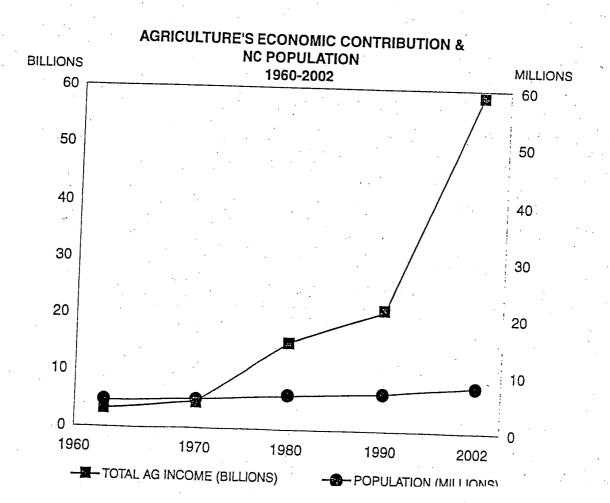
- Declines in urban high tech and rural traditional manufacturing have led to a rapid increase in the state's unemployment rate, dropping North Carolina's ranking to the 7th worst in the country.
- The state's unemployment rate has risen from a low of 3.1% in December of 1998 to nearly double that figure, 6.4%, in December 2002.
- Rural counties are facing an even greater challenge. In December 2002 rural North Carolina had an unemployment rate of 6.9% while urban counties at 5.3% have started to see slight decreases since September 2002.
- There were 129,000 rural North Carolinians unemployed at the end of 2002.
- Ten North Carolina counties have unemployment rates of 10% or greater. They are all rural.
- As of December 2002, Transylvania County had the highest unemployment rate in North Carolina at 13.3%.
- The Employment Security Commission paid over \$1.2 billion in umemployment benefits during 2002.
- Over 135,000 people in North Carolina exhausted their state unemployment benefits during 2002. This is almost twice the number who exhausted benefits in 2001.

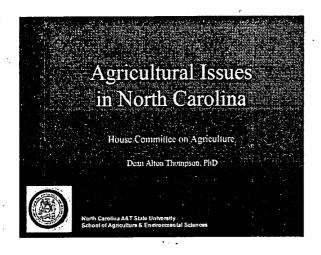
- Over 87,500 manufacturing jobs were lost between January 2000 and December 2002.
  - The biggest losses were in textiles, apparel, and furniture
- These manufacturing job losses have started to work their way through the North Carolina economy.
  - Retail stores are closing in response to reduced consumer spending. Almost 300 stores have closed leading to over 5,500 lay-offs in the retail trade sector during 2002.
- Personal and corporate bankruptcies in North Carolina were up 19% in 2002 from 2001.
  - A two-year look is even more dramatic. There was a 34.3% increase from 2000 – the U.S. saw only a 15.6% increase for the same time period.
- Almost 16,000 North Carolinians were in danger of losing their homes in 3rd Quarter 2002.
  - This level is the highest ever in North Carolina.
  - North Carolina had the highest default rate in the country for single family homes with fixed rate conventional mortgages.
- According to a 1997-98 Employment Security Commission study, laid off manufacturing workers earned less when reemployed, especially when switching to retail trade jobs.
  - Only 74% were reemployed in the state after two years. The median wage of these workers was 88% of the median pre-layoffs wage.
  - 20% earned less than half of their pre-layoff wages.

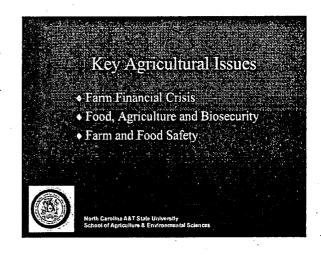
Sources: N.C. Employment Security Commission, N.C. Banker's Association, N.C. State University, U.S. Bankruptcy Courts, and the U.S. Bureau of Labor Statistics North Carolina Rural Economic Development Center, Inc. • 4021 Carya Drive, Raleigh, NC 27610 • 919.250.4314 • www.ncruralcenter.org

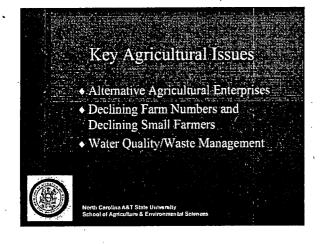
### AUTHORIZED GENERAL BUDGET AGRICULTURE BUDGET COMPARED TO STATE BUDGET

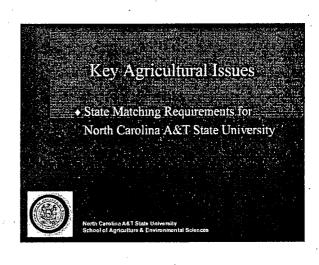


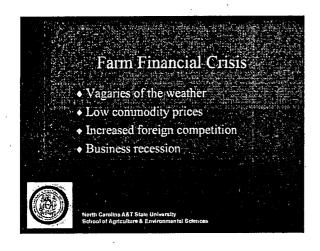


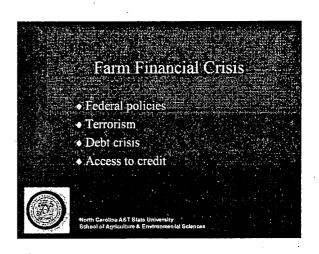












# Food, Agricultural and Biosecurity

- Purposeful introduction of biological attacks on our plant and animal species
- Agricultural production and food processing sector
- Need to develop new standards and protocols



North Carolina A&T State University
School of Appropriate & Environmental Sciences

# Food, Agricultural and Biosecurity

- Importance of training for first responders
- ◆ Importance of the N.C. Cooperative Extension Service



North Carolina A&T State University
School of Agriculture & Environmental Sciences

#### Farm and Food Safety

- Agriculture is the second most dangerous occupation.
- Cost of food borne illnesses
- State Auditor's Report
- North Carolina Agromedicine Institute



School of Agriculture & Environmental Sciences

## Water Quality/ Waste Management

- Clean Water Act
- Safe Drinking Water Act
- Protection from agricultural activities
- Concentrated Animal Feed Operations



North Carolina A&T State University

#### Water Quality/ Waste Management

- Need for comprehensive state program
- Need a sound science base for decision making
- Constructed Wetlands Research and Educational Program



North Carolina A&T State University

#### Alternative Agricultural Enterprises

- Converging forces affecting the tobacco industry
- ◆ Alternative Enterprises
  - Goats
  - Edible and medicinal inushrooms
  - Pastured pork
  - Pastured poultry
  - Aquaculture



North Carolina A&T State University

# Declining Farm Numbers and Small Farmers

- Importance of small farms
- ◆ Consumer driven agriculture
- ◆ Programs at N.C. A&T State University



North Carolina A&T State University
School of Anticulture & Environmental Science

## State Matching Requirements

- Agricultural Research, Extension, and Education Reform Act (1998)
- Farm Security and Rural Investment Act (2002)
- Thanks for previous support
- FY '04 need for N.C. A&T



- \$1.7 million

North Carolina A&T State University

#### Investing in the Future

- Thanks for previous support-
- Collaboration to improve lives
- Learning partnerships that put knowledge to work
- Invest in the State's land-grantuniversity system



North Carolina A&T State University
School of Agriculture & Environmental Science

# North Carolina A&T State University

SAES DEPARTMENTS/ MAJORS

# DEPARTMENT OF AGRIBUSINESS, APPLIED ECONOMICS AND AGRISCIENCE EDUCATION

Agricultural Economics, BS
Agricultural Economics, Agricultural Business, BS
Agricultural Education, Secondary Education, BS
Agricultural Education, Agricultural Professional

Services, BS
Agricultural Education, MS
Agricultural Economics, MS

#### **DEPARTMENT OF ANIMAL SCIENCES**

Animal Science, BS
Animal Science, Animal Industry, BS
Laboratory Animal Science, BS
Animal Health Science, MS

# DEPARTMENT OF HUMAN ENVIRONMENT AND FAMILY SCIENCES

Family and Consumer Science-Fashion Merchandising and Design, BS Family and Consumer Science Education, BS Child Development, BS Child Development: Early Education and Family Studies, BS Food and Nutritional Sciences (Dietetics, Food Science), BS/MS

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL DESIGN

Agricultural Science, Earth and Environmental Sciences
(Earth and Environmental Science, Landscape
Horticulture Design, Plant Science, Soil Science), BS
Agricultural Science - Natural Resources
(Plant Science), BS
Bioenvironmental Engineering, BS
Landscape Architecture, BS

To find out more about us, check our website

Plant and Soil Science, MS

www.ag.ncat.edu

# School of

# AGRICULTURE & ENVIRONMENTAL SCIENCES

Finding. Preparing. Implementing Solutions

he School of Agriculture and Environmental Sciences (SAES) at N.C. A&T State University provides professional education for a wide range of career opportunities in food, agricultural, environmental and family and consumer sciences. Students prepare for careers in business, government, public service agencies, retail and service industries, health-related fields, financial institutions, youth development agencies, conservation and environmental organizations, farming, research, extension and education.

SAES sets high expectations and provides students with the resources and personal support they need to take charge of their own education. Most SAES classes are taught by full-time faculty and are small enough for students to get to know their professors.

If you thought careers in the School of Agriculture & Environmental Sciences was just about farming, now is the time to find out what you've been missing. While farmers are the producers of food, they are only a small piece of the bigger machine. A machine that feeds, clothes, protects and preserves - a machine that runs the world.

#### Why consider SAES?

- It's challenging, highly rewarding and multi-faceted.
- The demand for technically qualified men and women in the field continues to grow.
- Our work is a large part of everyone's life because it affects food, water, shelter, clothing, air, earth, economics, society, aesthetics and recreation.
- A wide range of career choices can be pursued through a major in SAES.







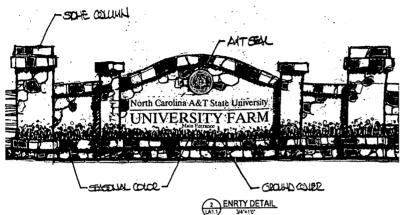
# on the move

Preparing. Finding. Implementing solutions.

North Carolina A&T State University School of Agriculture and Environmental Sciences Newsletter

Winter 2002/2003 • Vol. 2

#### **A&T's Biggest Classroom Getting Major Overhaul**



"Major renovations are now under way at Guilford punty's largest classroom," ad Dr. M. Ray McKinnie, administrator and associate dean for the Cooperative Extension Program at N.C. A&T.

That classroom, said McKinnie, is also known as the University's Farm — 567 acres of laboratory space for use by students and the teaching, research and Cooperative Extension faculty.

"Many people see the farm as a farm," said McKinnie, who is also a member of the farm task force. "But the farm is an extension of the classrooms and research labs for the SAES. The farm is to the SAES what the stage is to a theatre student."

In an effort to improve farm facilities, over \$3 mil-non has been earmarked — \$1.8 million from the Higher Education bonds, passed two years ago; the remainder from

The University Farm will be hard to miss once construction on this new entrance is complete.

a combination of other sources.

Bond monies are being used to build a new dairy and poultry unit, with work to begin soon.

The poultry unit will include two new buildings — one with classroom space and labs, and a second building that will have egg-grading and poultry processing equipment. Bond money will also be used to construct and renovate fences.

"Poultry is the king of agribusiness industries in North Carolina," says Dr. Willie Willis, an A&T researcher. "The new poultry unit will position A&T to make research contributions that should attract additional funding. The instructional side of the unit will help A&T meet the human resource needs of the state's poultry industry."

Funding from the USDA's 1890 Facilities Grant Program is being used for three new barns for beef cattle and waste management. USDA funds will also create a new farm entrance that clearly showcases the farm.

The Golden LEAF
Foundation has provided funding for a new "hoop structure" for the Farm's Swine Unit.
Dr. Charles Talbott is using the structure and others in his research into new swine production methods for small-scale producers.

The comprehensive facilities upgrade at the A&T farm is augmented by a new agreement between A&T and one of its corporate partners, John Deere. Deere is providing tractors and other equipment for the farm, and bringing in new, state-of-technology replacements for each piece of equipment after 250 hours of use.

#### Dr. T's Moment

It's hard to contain my enthusiasm for all the good things that are happening in the SAES. When this newsletter was introduced two months ago, I said then that we were "on the move." Listed below is a synopsis of some of the things that have happened since that proves the point.

Three of our researchers —
Dr. John Allen, Dr. Mohamed Ahmedna
and Dr. Salam Ibrahim — were recognized during the Faculty Innovators
Luncheon for their respective patents
pending. Ahmedna's patent is for a
fiber-optic biosensor for the rapid
detection of pathogens in poultry
products; Allen's is for recombinant
protein V and Ibrahim's for composition and method for inhibition of
harmful bacteria.

SAES received a total of \$580,000 from the Golden LEAF Foundation to fund two projects. Dr. Omon Isikhuemhen got \$355,000 to continue his work developing edible and medicinal uses for mushrooms. And Dr. Charles Talbott got \$225,000 for work he's doing on improving the quality and taste of pork. Both projects are designed to help small-scale farmers replace income loss from tobacco.

Cooperative Extension is getting ready to launch a new statewide program called N.C. Saves that will offer financial strategies to families and individuals looking for ways to save and get out of debt.

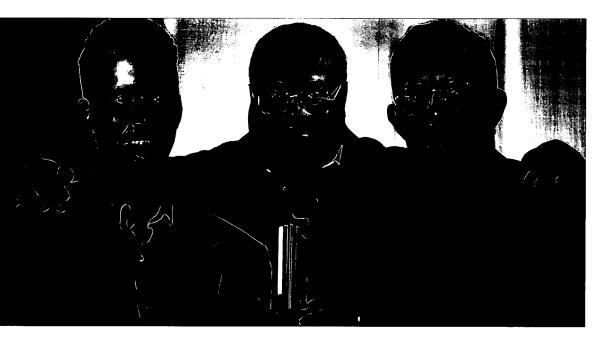
Our work continues.

- Dr. Alton Thompson

# inside

- A&T collaborates with Congresswoman Clayton in new leadership center
- SAES scientists recognized for patent applications
- Duckweed joins cattails at waste-water experiment

## SAES Researchers Convert Work Into Pending Patents



(left to right) received Faculty Innovators Recognition Awards at a ceremony at the Memorial Student Union on November 6.

Drs. Mohamed Ahmedna, John Allen, and Salam Ibrahim

Three School of Agriculture and Environmental Sciences researchers, Drs. Mohamed Ahmedna, John Allen and Salam-Ibrahim, have-patents——pending on inventions with applications in food safety and human and animal health. They were recognized for their inventions at North Carolina Agricultural and Technical State University's annual Faculty Innovators Recognition Luncheon in November.

Ahmedna is developing a portable fiber optic biosensor to give food inspectors a means for instantly detecting common food pathogens, thereby helping to safeguard public health and enhance food quality. Such a device would represent a significant improvement over present detection methods, which can require two to six days before the presence of pathogens can be confirmed in a sample. The new device could eliminate costly meat

recalls and reduce occurrences of food borne illnesses. It would be portable and include a probe sensitive to specific -pathogens, as-well as a-display indicating the concentrations of bacteria. Ahmedna is focusing on perfecting the sensor to detect salmonella and campylobacter bacteria for the benefit of North Carolina's poultry industry. Once that technology is developed, it will be possible to modify it for detecting E. coli and other pathogens.

Allen's invention is a product of genetic engineering and an outgrowth of his earlier patent on Protein V, a compound found in a rare form of bacteria which he discovered several years ago. His second patent will include the method and devices for isolating and purifying Protein V for its use as a biotechnological tool used in research and in the development of therapeutic agents.

Ibrahim has created an all-natural preservative that prevents the growth of *E. coli* bacteria or other pathogens capable of causing food borne illnesses. The anti-microbial product could have other beneficial effects, since it consists of spices and beneficial bacteria

known to promote health and aid digestion. When fully developed, the product could be an alternative to irradiation or chemical means of safeguarding processed foods or ground beef.

The bulk of Ibrahim's active research program concentrates on the growing field of probiotics — the science of creating live, microbial foods that can boost immunity and fight infection. Much of his work concentrates on beneficial bacteria, such as those found in yogurt, especially bifidobacteria and lactobacillus.



#### A&T Collaborates with Rep. Eva Clayton on New Leadership Center



**Eva Clayton** 

**A&T** Cooperative
Extension's landmark
leadership development
programs, Community
Voices and Voices
Reaching Visions, will
be major components at
the Buck Spring Regional
Leadership Excellence
Center, a new continuing

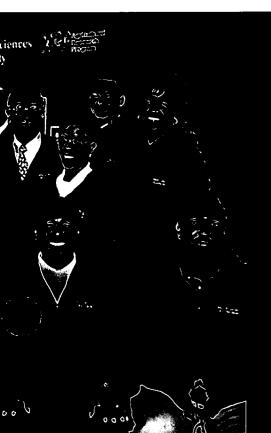
education facility in Warren County.
The new Center will also provide A&T
Extension with a satellite facility for
extending programming in agriculture,
youth development, family resource
management and other areas.

The drive to secure funding for the new Center has been led by retiring Congresswoman Eva Clayton, who has represented North Carolina's First Congressional District since 1992. The high-profile role for A&T in Center plans is a fitting finale r a long and successful partnership between Clayton and the School of Agriculture and Environmental Sciences.

"Although it's going to be first and

foremost a fantastic educational and economic resource for a part of our state that needs it desperately, this center is also going to be a lasting tribute to Congresswoman Eva Clayton's legacy of support for rural North Carolina and North Carolina A&T State University," says Dr. Alton Thompson, dean of the SAES. "She has been a champion for Congressional funding for the entire network of 1890 land-grant institutions. She has tirelessly worked to ensure that the needs and concerns of A&T and our sister institutions were communicated to federal decision-makers."

Plans for the Buck Spring Center include a classroom complete with Internet access that will be used for outreaches from North Carolina State University and Vance-Granville Community College in addition to A&T. The Buck Spring Center will provide much-needed business incubator space and job training programs. The Center will also be designed to accommodate after-school programs, to provide visitor information to tourists, and to host an array of recreational activities.



Pictured are lifetime members of the School of Agriculture and **Environmental Sciences Alumni** Society. SAES is the only school on campus with its own alumni society. Part of the SAES Alumni Society mission is to raise money for scholarships. This year the group awarded two scholarships totaling \$2,500, to two students -Lance D. Blackwell, a Landscape Architecture major from Florida, \$1,500; and Kristin C. King, an Animal Sciences major from Greensboro, \$1,000. Organized in November 2001, the group already has more than 90 members, including 25 lifetime members. James C. Kearney, '65, serves and the Alumni Society's

## faculty & staff notes

**Dr. John O'Sullivan**, A&T Extension's farm management and marketing specialist, has been elected to serve as president-elect of the North Carolina Association of Cooperative Extension Specialists for the coming year, and Extension's family resource management specialist, **Dr. Claudette Smith**, has been named to the organization's board of directors.

Dr. Alton Thompson, dean of the SAES, is the coauthor of two chapters in a book published in August. The Social Risks of Agriculture: Americans Speak Out on Food, Farming and the Environment provides an overview of how Americans perceive and value farmers, and examines public opinion with regard to a number of agricultural issues. Thompson contributed to the chapters on, "Public Perceptions of Government's Role in Agriculture and Farming," and "Agriculture's Social Risks and Directions."

Dr. G. B. Reddy and other researchers working at the swine unit at the A&T farm have added an interesting new variable to their research into the use of a series of ponds, marshes and water-loving plants to remove phosphorous, nitrogen and other "problem-nutrients" from water contaminated by swine waste. They've added another plant to the mix - duckweed - which holds promise as a source of fertilizer and livestock feed, in addition to working along with cattails and other riparian plants to remove phosphorous and nitrogen from water. Duckweeds are flowering plants that grow rapidly while floating in still or slow-moving fresh water.

Benjamin Forbes, program assistant for the SAES Agricultural Research Station, has been elected vice-president of the Users and Screeners Association of Federal Excess Personal Property, Inc., an organization established to promote the transfer of excess property among federal agencies. Forbes was first appointed to the association in 1992, and he has since been the pipeline for SAES acquisitions of more than \$2 million worth of vehicles, lab equipment, office furniture and other excess property that was no longer in use at other federal agencies.

Com Com Congression

North Carolina A&T State University School of Agriculture and Environmental Sciences Newsletter Produced by the Agricultural Communications Unit

Dr. James C. Renick, Chancellor

- Dr. Alton Thompson, Dean, School of Agriculture and Enivronmental Sciences
- Dr. M. Ray McKinnie, Associate Dean, Administrator Cooperative Extension Program
- Dr. Carolyn Turner, Associate Dean, Agricultural Research Center

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on the move Newsletter Editor Agricultural Research Program CH Moore Agricultural Research Station Greensboro, NC 27411

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PERMIT NO. G-268 Greensboro, NC

# calendar

#### SAES Alumni Society Graduation Luncheon -December 2002

December graduates will be honored by the SAES Alumni Society, call Azell Reeves, (336) 334-7979 for more information.

#### Saturday, Jan. 11, 2003 Science Project Workshops

Extension specialists Bob Williamson and Ellen Smoak will be conducting workshops on "Keeping the Science in Your Science Projects" (targeting grades 5-8) on Saturday, Jan. 11, at Coltrane Hall. There will be a workshop for youths from 10-11 a.m., and one for teachers and parents from 1:30-2:30 p.m. To register, call Smoak or Williamson at (336) 334-7956.

# www.az.mcat.edu

Jan. 29-31

#### New Gene Discovery Workshop

Open to students and faculty. Call Milli Worku at (336) 334-7536 for more information.

#### MARK YOUR CALENDARS:

SAIS Industry/Agency

Roundtable Breakfast - March 2008

SAES Career Expo - March 2008

Small Farms Week 2008 - The last week in March

SAES Student Recognition Awards

Banquet - April 2008

National Institutes of Health NGBI Eloinformatics Workshop - April 2008



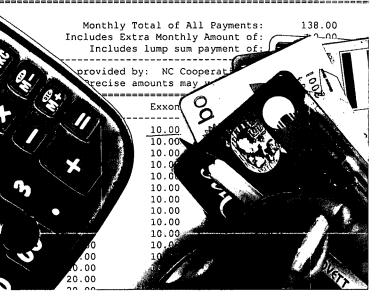
Preparing. Finding. Implementing solutions.

North Carolina A&T State University School of Agriculture and Environmental Sciences Newsletter

February 2003 • Vol. II, No.1

#### **Get More from Life: NCSaves Shows How**

POWERPAY DEBT REDUCTION CALENDAR
Debt with Highest Interest Rate Paid First



NCSaves, a proactive money management program from the Cooperative Extension Program, launches this month to educate families that money management is more than just a means to get out of debt. It's also a way to get more out of life. Managing finances can help families achieve their dreams, which often include such things as a new home, a new car, or a college education, says Claudette Smith, the program's author.

"What we want to say is, take a minute to look at your ancial situation. See how "re managing your money," she said.

The NCSaves "H Plan" suggests families begin by

answering these questions: How much are you spending? How well are you managing? How do you move ahead? The program will include the userfriendly H-Plan worksheet to help participants take stock of their monthly income and expenses, as well as "Power Pay" software to guide them in creating a debt payment plan. The program is designed to be delivered in three, 40-minute "Saver Sessions," and Cooperative Extension will train workshop facilitators.

Smith says 30 counties have already shown interest in being involved in NCSaves, and she expects many more to do so. The timing is right to deliver education about

personal finance, given the sluggish economy, company layoffs continuing, and the fact that bankruptcies in North Carolina are at an all-time high, she says. Most families can weather the occasional economic downturn, provided they aren't heavily laden in debt, she adds. Smith points out that experts recommend a healthy debt load is one that does not exceed 20 percent of the household's take-home income - or 40 percent if that debt also includes a mortgage.

NCSaves is associated with the national campaign, America Saves, and is similar to many of the municipal programs springing up around the country under that umbrella.

It will base much of its support on partnerships with churches, non-profit organizations, and businesses.

Smith hopes NCSaves will show more families that financial management can be a means to improve their everyday lives, and hopes the program will encourage them to make the practice a habit.

Anyone interested in hosting workshops and gaining access to the software should contact his or her county extension office, or Smith at (336) 334-7956.

#### **Dr. T's Moment**

Recently, SAES faculty, staff and students made a presentation at West Johnston County High School at the invitation of the principal. The group talked with students about one of the hottest topics in America — biotechnology.

I will not use this space to outline what they said, because what's important is that a group of SAES instructors and students and staff from the Cooperative Extension and Agricultural Research programs collaborated on a project to offer help to a community that needed it. Collaboration and cooperation.

This is what we are all about.
So often, people tend to think
of universities as being insulated.
They worry about what's happening
within their ivory-covered walls and
forget to deal with what's relevant
and issues that are affecting real
people. Not so at North Carolina A&T,
and definitely not the case for SAES.

One of our missions as a landgrant institution is to make sure that the instruction we provide and the research we do is relevant, and that the Cooperative Extension faculty and staff get that relevant knowledge to the people.

The presentation in Johnston County was just one of the many ways we cooperate with community partners every day. I mention it because I don't want people to forget that it's this kind of cooperation and collaboration that's the difference between a great institution and a good institution.

- Dr. Alton Thompson

# inside

- Computer technology converts classrooms to multimedia learning environments
- New program in Agricultural and Natural Resources Information Science unveiled

#### Smart Classrooms Make the Grade at SAES



Students aren't the only ones getting smarter in SAES. The classrooms are too.

SAES brought the first so-called "smart classroom" to A&T during the 2001 spring semester, and is adding three more, thanks to a recent.
\$197,000 grant from the U.S. Department of Agriculture.
Benbow, Carver and Webb halls will receive one of the new classrooms.

Combining multimedia, Web cams and computer network technologies, smart classrooms are the wave of the future for universities, enabling professors to weave seamless presentations out of an array of materials, including photos and video, Internet sites, diagrams, spreadsheets, audio files or written documents. In class, they can use an inkless stylus instead of chalk to scribble their own notes on top of the display screen to further drive home a point. Then, with a touch of a button, every screen gets saved for students to download, including any notes the instructor makes in class.

"Students spend more time actively listening, without worrying whether they've gotten all the information down before the professor erases the board and moves on," said John Paul Owens, who uses the classroom to teach computer applications. Naturally those who learn best by taking their own notes can still do so, he added.

Individual instruction improves as well. The instructor's console provides a birdseye view of each student's monitor, thus enabling him or her to gauge how each student is progressing during in-class activities.

Dr. Marcus Comer finds the technology invaluable for teaching his education courses. Movie clips from "The Matrix" and "20,000 Leagues Under the Sea" helped illustrate different personality types for his class in leadership, while segments from "South Park" helped spur classroom discussions of current social and political issues.

"This takes the familiar and makes it relevant to what we are learning in the classroom," he said.

The technology also advances another hot trend

in higher education: distance learning. Owens experienced this last summer, when he attended an important training conference in Toronto that coincided with a class he was teaching at A&T. Instead of rescheduling the class, Owens visited a cyber café, booted up his laptop, and spent 50 minutes delivering instruction. Although he wasn't able to

Giant computer screens are re blackboards, and workstations eliminating the need for note-taking.

transmit voice, he was able to see each student's monitor and to engage in instant messaging.

"I took roll and everything. Some students attended class that day from their homes. It was the ultimate in distance education," Owens said.

The technology also makes it feasible to conduct video conferences, transmit remote demonstrations using Web cams, or save the vocal part of the lecture onto disc or hard drive.

Smart classrooms are demanding a new set of skills from instructors, which is why the grant includes funding for training.

"The technology is here stay and everybody's going to have to use it at some point," Comer said.



#### **SAES Dietetics Expert Tapped for NC Minority Health Advisory Council**



Dr. Sanchez-Lugo

Dr. Lizette
Sanchez-Lugo,
assistant
professor in
the Department
of Human
Environment
and Family
Sciences has
been appointed
to serve on the
Minority Health
Advisory

Council for the state of North Carolina.

The Minority Health Advisory Council is made up of 15 legislators, community leaders, and health and human services professionals from across the state who are appointed by the governor, the speaker of the house and the president pro tempore of the senate. The council advocates for policies, programs and services that prove minority access to health care. It so advises the governor and the secretary of the Department of Health and Human Services on minority health issues.

Sanchez-Lugo is the director for the SAES dietetics program, and last fall received USDA funding for research into dietary and health care issues in North Carolina's Hispanic population.

"Hispanics are one of the fastest growing minority populations in the U.S., and the prevalence of diabetes among Hispanics is reaching epidemic proportions," says Sanchez-Lugo. "Data about the dietary habits and nutrient intake among North Carolina's Hispanic population are not available. Collecting baseline information will be vital for the development of intervention programs."

The demographic composition of North Carolina's Hispanic population differs from other states in two ways. Hispanic immigrants to North Carolina tend to be younger than Hispanic populations in other states, and Hispanic newcomers to North Carolina arrive to find there isn't an established social support network such as they would find in other parts of the U.S.





The 2002 presentation of the G. L. and Clara Y. Dudley Award was an emotional moment for the 2002 Small Farmer of the Year, James A. Davis III. Davis is a

Halifax County farmer and an A&T grad. The 2003 celebration of small-scale agriculture is scheduled for March 23-29 in addition to the annual Small Farmers Recognition Luncheon (March 26) and other activities on the A&T campus, many county Extension Centers also will be conducting celebrations of small-scale agriculture, and honoring the contributions of area farmers. For more information on Small-Farms Week 03, contact Dr. Daniel Lyons at (336) 334-7691

# faculty & staff notes

Drs. Antoine Alston and Marcus Come have designed and implemented arriew. Certificate in Agricultural and Natural Resources Information Science The certifis cate will be awarded to undergraduates who successfully complete 15 agricultural courses of their choosing from a wig menu of courses offered in SAES, as as the capstone course, Agricultural Education 400 - Instructional Technolog in Agriscience Education. Students receiving a certificate will have skills in network maintenance, Microsoft applications an the Internet, and will be prepared to design and deliver multimedia educational presentations utilizing these technology

Dr. Thessalenuere, "Thess" Hinnant-Bernard has joined the faculty of SAES, bringing her expertise in housing finance and policy to the Department of Human Environment and Family Sciences.

Originally from Kenly, Dr. Hinnant-Bernard received her bachelor's and master's degrees from North Carolina Central University, and recently earned her doctorate in human development and family studies with an emphasis in housing from lowa State University. The topic of her dissertation was discrimination in mortgage lending, and sub-prime and predatory lending.

Dr. Hinnant-Bernard's office is Room.

A-24 of C.H. Moore building. She is teaching Introduction to Family and Consumer.

Sciences, Contemporary Housing and Senior Seminar, and will also be writing research proposals.

Hinnant-Bernard recently moved to. Greensboro with her husband, Frank, Bernard, a recent graduate of Florida. Coastal School of Law, and their 13 years old son, Reginal.

Drs. Ellen Smoak and Bob Williamson, specialists with the SAES Cooperative, Extension Program, have received an LA. Potts Memorial Success Story Award from the 60th Annual Professional Agricultural Workers Conference at Tuskegee University.

The award recognizes the water quality educational program Smoak and Williamson designed and developed for use by county extension agents or other educators entitled "Water: Assessing the Everyday Risks."

Just Use Good Sense" (WATER JUGS)

It is the second time the two received the award. They were recognized with the same award two years ago for their "Down To Earth" youth curriculum which teaches self-esteem through gardening.

The award is designed to recognize exceptional programs and successes developed at land-grant universities and related community-based organizations in the Southeast.

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North Carolina A&T State University School of Agriculture and Environmental Sciences Newsletter Produced by the Agricultural Communications Unit

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on the move Newsletter Editor Agricultural Research Program CH Moore Agricultural Research Station Greensboro, NC 27411

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Greensboro, NC





From left, Felicia Hill, Quentin Yelverton, Tyler Godwin, and Tyese Clark, students at West Johnston High School in Benson, show off the placards they used in a biotechnology presentation by North Carolina A&T's SAES in their school auditorium. The presentation was designed to help the students expand their understanding of today's agriculture.

# MARK YOUR CALENDARS:

SAES Industry/Agency Roundtable Breakfast - March 2003

SAES Career Expo - March 6, 2003

Small Farms Week 2003 - March 23-29

SAES Student Recognition
Awards Banquet - April 2003

Association of Research Directors 13th Biennial Research Symposium- Atlanta, GA, March 29 - April 2, 2003

National Institutes of Health NCBI Bioinformatics Workshop -April 2003

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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#### **SENATE BILL 307**

# Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/11/03

Short Title: Contagious Animal Diseases/Extend Sunset.	(Public)
Sponsors:	
Referred to:	
March 5, 2003	
A BILL TO BE ENTITLED  AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT	' THAT
STRENGTHENED THE AUTHORITY OF THE STATE VETERINAR	IAN TO
PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.	MOUTH
The General Assembly of North Carolina enacts:  SECTION 1. Section 11 of S.L. 2001-12 reads as rewritten:	
	A
"SECTION 11. This act is effective when it becomes law and expires	April 1,
<del>2003.</del> 1 October 2005."	
<b>SECTION 2.</b> This act becomes effective 1 April 2003.	

# Senate Bill 779 - Provisions to Strengthen The Authority of the State Veterinarian

- Enacted April 4, 2001
- Scheduled to "sunset" on April 4<sup>th</sup> of this year
- Strengthens authority to deal with highly contagious diseases: Very serious and rapid spread Capable of serious socioeconomic consequence Major importance in international trade

Necessary to control and eradicate serious foreign animal diseases (FAD's) such as Foot and Mouth Disease

## **Authority includes:**

- --- Develop and implement emergency measures
- Quarantine, enter property upon suspicion of disease
- --- Stop and inspect vehicles, prohibit movement
- --- Obtain blood and tissue samples for testing
- --- Order the destruction, disposal of infected or exposed animals
- --- Prohibit comingling at fairs, shows, markets, and sales

## **Checks and Balances:**

- --- Will only be used when necessary
- --- Authority only WITH APPROVAL of the Governor





SESSION LAV	$\mathcal{N}$
DEDDION EA	/ <b>V</b>

#### A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

Introduced by Senator(s)	allectson		
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Principal Clerk's Use Only	PASSED 1st READING	7	
Committee Substitute Adopted	MAR 17 2003		
Pursuant to Rule 45.1	MID REFERENCE TO COMMENTEE		
MAR 11 2003	In Secretary	<b>7</b>	
IANGES TITLE			

PASSED 2nd & 3rd READINGS MAR 12 2003

garet Puitt

## **VISITOR REGISTRATION SHEET**

**AGRICULTURE** 

March 18, 2003

Name of Committee

#### VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
	Manay & Thompson	- uncic
	andDuren	altria Cop
	Grady Whi	N.C. Coscoratio Abrand.
	Steve Woodson	NK FERM Bureau
	John Cyrus	n.C. 5 Lato Groups
د	Bot Spicern	IC Fortsty assoc
	Herb Sendek	Loser
	PCP	NUFS
	Marthu Glass	agricultur
	JERA-I HARLES &	NC. Park Co.
	Dong Cassiter	NC SYA

## VISITOR REGISTRATION SHEET

AGR	ICULT	URE
<b>*</b> *		• 4 4

march 18,2003

Date

#### Name of Committee

#### VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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#### **AGENDA**

#### HOUSE COMMITTEE ON AGRICULTURE

March 18, 2003 1228/1327 Legislative Building 12:00 Noon

#### **OPENING REMARKS**

Representative Dewey Hill Chair

#### **AGENDA ITEMS**

**Guest Speaker** 

Alton Thompson, Dean North Carolina Agricultural and Technical State University

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

#### Gennie Thurlow (Rep. Hill)

From:

Gennie Thurlow (Rep. Hill)

Sent:

Thursday, March 13, 2003 12:28 PM

Subject: Agriculture Committee Meeting Notice, March 18

#### NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2003-2004 SESSION

You are hereby notified that the Committee on Agriculture will meet as follows:

DAY & DATE:

Tuesday, March 18, 2003

TIME:

12:00 Noon

**LOCATION:** 

1228/1327 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Guest Speaker

Alton Thompson, Dean North Carolina Agricultural and Technical State University

Respectfully,

Representative Dewey Hill Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:15 p.m. on March 13, 2003.

Principal Clerk	
Reading Clerk - House Chambe	r

Gennie Thurlow (Committee Assistant)

# MINUTES HOUSE COMMITTEE ON AGRICULTURE

#### **April 22, 2003**

The House Committee on Agriculture met on Tuesday, April 22, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Bell, Bonner, Coates, Creech, Culp, Daughtridge, Daughtry, Fox, Holmes, Kiser, Mitchell, Nye, Pate, Tolson, Walker, Warren, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:05 P.M. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill stated that House Bill 939 DACS to Regulate Farmed Cervids, sponsored by Representative Coates, and House Bill 948 Clarify Authority/Regulation of Cervids, sponsored by Representative A. Williams, would be discussed.

Representative Baker moved that House Bill 939 Proposed Committee Substitute be adopted for discussion. The motion passed. Representative Coates explained House Bill 939 Proposed Committee Substitute. Several individuals spoke on the Proposed Committee Substitute. There was a question and answer period.

Representative A. Williams explained House Bill 948 Clarify Authority/Regulation of Cervids. A Bill Analysis and a Proposed Committee Substitute for House Bill 948 were distributed to the committee members. A discussion followed.

Representative Lewis made a motion that Chair Hill appoint a subcommittee to study House Bill 939. The motion carried.

The meeting was adjourned at 12:59 P.M.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant



## North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer (919) 733-7044

Tony C. Goldman, Director Administrative Division Room 9, Legislative Building 16 W. Jones Street Raleigh, NC 27603-5925 (919) 733-7500 Gerry F. Cohen, Director Bill Drafting Division Suite 401, LOB 300 N. Salisbury St. Raleigh, NC 27603-5925 (919) 733-6660 James D. Johnson, Director Fiscal Research Division Suite 619, LOB 300 N. Salisbury St. Raleigh, NC 27603-5925 (919) 733-4910 Dennis W. McCarty, Director Information Systems Division Suite 400, LOB 300 N. Salisbury St. Raleigh, NC 27603-5925 (919) 733-6834 Terrence D. Sullivan, Director Research Division Suite 545, LOB 300 N. Salisbury St. Raleigh, NC 27603-5925 (919) 733-2578

April 21, 2003

#### **MEMORANDUM**

TO

House Wildlife Committee

FROM:

Barbara Riley, Staff Attorney

RE:

**Chronic Wasting Disease** 

#### **Overview of Chronic Wasting Disease**

Chronic Wasting Disease (CWD) is a fatal neurological disease of farmed and wild deer and elk ("Cervidae"). It is one of a number of transmissible spongiform encephalopathies or TSE's, which include Bovine Spongiform Encephalopathy (BSE or "Mad Cow") and Creutzfeldt-Jacob disease, a fatal brain disease in humans. Deer and elk infected with CWD exhibit changes in body condition, behavioral changes, drooling, increased drinking and urination, depression and death. The disease is always fatal. There is no treatment. CWD is diagnosed through microscopic examination of brain and related tissue. No live animal test is available at this time.

According to the USDA, the illness was first noted in 1967 in a captive herd at a Colorado research facility. Several years later it was again seen in cervids at a Wyoming research facility. Dr. Elizabeth Williams of the University of Wyoming first identified the disease as a TSE in 1978. CWD was diagnosed in wild deer populations in 1981 in Colorado and 1985 in Wyoming. These two states appear to have the greatest incidence of infection among the wild deer population. CWD, however, is spreading through the western states and infected animals have been found in the wild deer populations Nebraska, southern New Mexico, Southwestern South Dakota, south central Wisconsin, and Saskatchewan Canada. Most recently, CWD has been found in the wild deer population of Illinois and Minnesota. The disease has also been diagnosed in captive deer populations in Colorado, Kansas, Montana, Nebraska, Oklahoma, South Dakota, and the Alberta and Saskatchewan Provinces of Canada. See, Questions and Answers About Chronic Wasting Disease, APHIS, USDA, September 2002, attached.

#### **USDA** Response

On September 21, 2001, Ann Veneman, U.S. Secretary of Agriculture issued a declaration finding that CWD is an emergency that "threatens the livestock industry of this country...". \$2.6 million dollars in Commodity Credit Corporation emergency funds were transferred to the USDA to assist with eliminating CWD from farmed herds. The monies were used for surveillance and the costs of compensating farmers for the destruction of CWD positive and/or exposed herds. An additional \$12.2 million was transferred to APHIS in February 2002 to continue this effort. A joint working group was established by the USDA and the Department of Interior in May of 2002 to provide a coordinated federal approach for responding to the CWD issue. The working group issued its disease management plan in late June 2002.

#### North Carolina Response

In North Carolina, captive deer and elk are jointly regulated by the Wildlife Resources Commission (WRC) and the North Carolina Department of Agriculture and Consumer Services (NCDA). The WRC is charged with the stewardship of the wildlife resources of the State. G.S. 113-131. The "wildlife resources" of the State include all wild mammals, other than marine mammals found in coastal fishing waters". G.S. 113-129(17). "Wildlife" is defined to include "species normally wild, or indistinguishable from wild species, which are raised or kept in captivity." G.S. 113-129(16). As relates to the CWD issue, the Commission is authorized to issue captivity licenses which allow the licensee to hold a particular species of wildlife at a specified location. G.S. 113-272.5. The Commission also is authorized by statute to establish standards of caging and care for the animals, require reports, and otherwise supervise such operations. *Id*.

With the increase in popularity of farmed deer and elk as an alternative agricultural venture, in 1991 the General Assembly authorized NCDA to regulate the production of fallow deer and red deer. Article 49H of Chapter 106 of the General Statutes. The statutes charge NCDA with regulation of the production and sale of fallow deer and red deer for food purposes. The same statutes, however, expressly mandate that the WRC regulate the possession and transportation of live fallow and red deer, and adopt rules to prevent their release or escape upon a finding that it is necessary to protect the live fallow or red deer or to prevent damage to the native deer population or habitat. G.S. 106-549.97.

In response to the emergency declaration by the USDA, NCDA in January 2002 adopted a temporary rule prohibiting the import of any cervidae (deer & elk) from a herd located in a county in which CWD has been diagnosed or a county contiguous to a county in which CWD has been diagnosed. 10 NCAC 52B .0213. NCDA later also proposed an amendment to 10 NCAC 52B .0701, that would have allowed the State Veterinarian to issue a certification that a captive cervidae herd is apparently CWD free, based upon NCDA inspections and facility compliance with testing and record keeping requirements. The Rules Review Commission, however, objected to the proposed change to 10 NCAC 52B .0701 at its December 19, 2002 meeting citing both NCDA's lack of authority to issue the rule as well as ambiguity in the rule itself.

In May 2002, the Wildlife Resources Commission responded to the declaration of emergency by adopting temporary rules that prohibited the import of cervidae into the State and banned the transportation of cervidae within the State. These temporary rules were amended in October 2002 to allow some flexibility in the transportation of cervids and to provide tagging, management and inspections requirements for those facilities that held captivity licenses for cervids. In December 2002, the WRC approved a substantially similar version of the temporary rules adopted in October as permanent rules. These rules were brought before the NC Rules Review Commission in January for review. The Rules Review Commission approved these rules at its January 16, 2003 meeting after an extensive hearing in which the both the validity and necessity of the rules were challenged by the North Carolina Deer/Elk Farmers Association, Ltd. The permanent rules will become effective in 2004. In the meantime, the temporary rules adopted in October 2002 will control.

#### Wildlife Resource Commission Rules

Briefly, the WRC rules ban the importation of cervids into the State and provide that no new (after May 17, 2002) captivity licenses for cervidae shall be issued until the USDA develops a CWD program that includes a live animal test for the disease. 15 NCAC 10H .0101, 15 NCAC 10H .0301. For those persons currently holding a cervid captivity license, the rules require each imported cervid and newborn cervid to be tagged with a single bangle eartag provided by the Commission and a "Cervidae Tagging Report" to be filed. 15 NCAC 10H .0301. The rules also require a transportation permit to move a cervid within the State. No such permits shall issue, however, except to (1) export a cervid out of state, (2) transport a cervid to a slaughterhouse for slaughter, or (3) transport a cervid to a veterinary facility. 15 NCAC 10H .0301(f).

The WRC also enhanced requirements for monitoring fences, animal maintenance and recordkeeping. 15 NCAC 10H .0302. Fences must be monitored for structural soundness on a weekly basis and reports on fence condition maintained. The WRC must be notified immediately should any cervid in the facility display symptoms of CWD, and all animals displaying such symptoms must be tested for the disease. The carcasses of all cervids over 6 months of age also must be sent to the NCDA diagnostic lab for testing within 48 hours of the death for CWD testing. Finally, the WRC may require testing or forfeiture of animals at any facility that has (1) transferred a cervid that is received by a facility that develops CWD in its herd within 5 years of the transfer date or (2) has received a cervid that came from a facility where CWD was confirmed within 5 years of the transport date. *Id*.

The rules also provide a list of the violations of the rules for which a facility may have its captivity license revoked. Those grounds include failure to maintain an animal in good health, failure to keep or provide accurate records, failure to comply with tagging requirements or fence maintenance requirements, permitting an escape and refusal to allow inspection of records or facility. 15 NCAC 10H .0303(a). A facility's captivity license shall be revoked for failure to report clinical symptoms of CWD in its cervid herd, failure to submit a carcass to NCDA in a timely fashion for CWD evaluation, transportation of a cervid from a facility without a permit or confirmation of CWD in a cervid at the facility. 15 NCAC 10H .0303(b).

#### **CWD Economic/Human Impact**

According to NCDA and WRC, as of January 2003, there were 82 licensed cervid facilities in North Carolina. Of the 82 facilities, 17 contained 20 or more animals, the balance maintaining only small numbers of cervids. In an action before the Rules Review Commission challenging the WRC rules, the North Carolina Deer/Elk Farmers Association, Ltd. asserted that the WRC's proposed rules would have a negative impact upon the cervid farming industry of \$1.27 million in the second fiscal year and would exceed \$5 million in each of the third through sixth years following. See, "Comment on Wildlife Resources Commission Proposed CWD Rules" Tom West, representing the North Carolina Deer/Elk Farmers Association, Ltd.

Hunting, specifically deer hunting, brought \$311,419,807 in retail sales to North Carolina in 2001. With the multiplier effect, the total impact on North Carolina that year was \$607,062,577. See, "Economic Importance of Hunting in America", International Association of Fish and Wildlife Agencies, 2002. The WRC has expressed concern that if CWD should spread into the State's wild deer population, it would substantially impact the deer population and the hunting economy.

Finally, some concern has been raised about the transmissibility of CWD to humans. The USDA has noted that the Center for Disease Control considers it prudent to avoid consuming food derived from any animal with a TSE. While there is no evidence that CWD has been transmitted or can be transmitted to humans under natural conditions, there is not yet strong evidence that such transmissions could not occur.



# HB 948: Clarify Authority/Regulation of Cervids

BILL ANALYSIS

Committee: House Agriculture Committee

April 21, 2003

Version: **PCS**  **Introduced by:** Representative Williams

Summary by: Barbara Rilev

Committee Counsel

#### SUMMARY:

Date:

House Bill 948 amends a number of definitions governing the provisions of 'Subchapter IV of Chapter 113 of the General Statutes, Conservation of Marine and Estuarine and Wildlife Resources. The definition changes help to clarify the Wildlife Resources Commission's authority to regulate the possession and transportation ofcervids; members of the deer and elk family. The bill adds a new section to Chapter 113 providing specifically for the transportation of cervids and the licensing of captive cervid facilities. House Bill 948 also authorizes the WRC to adopt rules regulating the import and possession of game carcasses that are known or suspected of carrying an infectious or contagious disease posing an imminent threat to the health of the State's wildlife and makes the willful

l possession or importation of a black-tailed deer or a mule deer in North Carolina a Class I misdemeanor.

#### **BACKGROUND:**

House Bill 948 (and House Bill 939) have their roots in the controversy over the adoption of rules by the Wildlife Resources Commission and the North Carolina Department of Agriculture and Consumer Services to protect the State's white tailed deer population and farmed deer population from the disease known as Chronic Wasting Disease (CWD). CWD is a fatal neurological disease of farmed and wild deer and elk. (Please see the attached memo for more information on CWD's spread, the response of USDA and NCDA, and the potential economic impact of the disease on deer hunting and on deer and elk farming in North Carolina.)

In May of 2002 (and again in October 2002) the WRC proposed emergency rules that restricted the transportation of farmed cervids within the State and also increased the requirements for tagging cervids, and fencing, maintenance and recordkeeping at captive cervid facilities. The North Carolina Deer/ Elk Farmers Association, Ltd. filed objections to the rules on the basis that the WRC lacked jurisdiction to promulgate those rules. The basis of the objections rested in part on the definitions in the Wildlife laws that exempted red deer and fallow deer, from the definitions of "big game" and "game animal", and therefore from the definition of "wild animal" such that the WRC did not have jurisdiction to regulate the possession of these animals. The objections, however, were overruled as G.S. 106-549.97 gives the WRC specific authority to regulate the possession and transportation of red deer and fallow deer. House Bill 948 was introduced to clarify the WRC's jurisdiction to regulate the possession and transportation of cervids.

#### **BILL ANALYSIS:**

Section 1 of House Bill 948 amends G.S. 113-129(1b) to define b"big game" animals to include only white-tailed deer. The reference exempting red deer and fallow deer is removed.

Section 2 of the bill amends G.S. 113-129 by adding a new subdivision (1f) defining "cervids" to mean all animals in the Cervidae family (elk and deer).

#### **HB 948**

Page 2

Section 3 adds two new subdivisions (5a) and (5b) which define "deer" to mean white-tailed deer" and "farmed cervid" to mean any member of the cervidae family other than white-tailed deer, elk, mule deel or black-tailed deer, that is bought and sold for commercial purposes.

**Section 4** of the bill amends G.S. 113-129 to clarify that the term "game animals" includes only white-tailed deer. It removes the language exempting red deer and fallow deer.

Section 5 adds G.S. 113-272.6 requiring the WRC to regulate the transportation of cervids and licensing of captive cervid facilities. This includes the transportation, importation, exportation, and possession of cervids, including game carcasses and parts of game carcasses. The WRC's shall adopt rules for the licensing of captive cervid facilities including rules on fencing, tagging, record keeping and inspections of captive cervid facilities.

Subsections (b) and (c) of G.S. 113-272.6 provide that persons issued transportation permits by the WRC must be notified of the transportation requirements of the Department of Agriculture and Consumer Services and provide that the Department shall regulate the production and sale of farmed cervids.

G.S. 113-272.6 (d) provides that the WRC may issue captivity licenses to persons with cervids held prior to May 17, 2002 if the Executive Director finds that the person has complied with all rules applicable to the holding of cervids in captivity by October 1, 2003, and that the issuance of the captivity license does not present a unreasonable risk to the State's wildlife.

Subdivision (e) provides for the forfeiture and disposition of any cervids held contrary to the provisions of G.S. 113-272.6.

Section 6 of the bill amends G.S. 113-276.2 to make that section applicable to transportation permits and licensing of captive cervid facilities. G.S. 113-276.2 requires the Executive Director of the WRC to satisfy himself that the qualifications for licenses and permits are met by the applicant and provides for license revocations and refusals to reissue permits or licenses based upon failure to meet the qualifications requirements or the commission of a substantial violation of the wildlife statutes or rules governing the permit or license.

Sections 7 and 8 provide for the WRC to regulate the importation, possession or transportation of game carcasses that are suspected of carrying an infectious or contagious disease that presents an imminent threat to wildlife in the State.

**Section 9** expands the authority of the WRC to regulate the import, possession, transportation disposition or release of plant and animal species that may create a danger to or imbalance in the environment that would be harmful to the conservation of wildlife resources, to include those species that may threaten the introduction of an epizootic disease

Section 10 makes the importation or possession of black-tailed or mule deer a Class 1 misdemeanor.

Section 11 of the bill amends G.S. 106-549.97, the regulation of the production and sale of red deer and fallow deer by the Department of Agriculture and Consumer Services, to make it consistent with the definitions in G.S. 113-129 regarding farmed cervids. Section 11 also amends the statute to require the Department to notify persons subject to its rules on farmed cervids that their activity is also subject to compliance with the WRC rules under G.S. 113-272.6.

Section 10 of the act becomes effective October 1, 2003 and applies to acts committed on or after that date. The remainder of the act is effective when it becomes law.



## North Carolina General Assembly Legislative Services Office

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April 21, 2003

#### **MEMORANDUM**

TO:

House Wildlife Committee

FROM:

Barbara Riley, Staff Attorney

RE:

Chronic Wasting Disease

#### **Overview of Chronic Wasting Disease**

Chronic Wasting Disease (CWD) is a fatal neurological disease of farmed and wild deer and elk ("Cervidae"). It is one of a number of transmissible spongiform encephalopathies or TSE's, which include Bovine Spongiform Encephalopathy (BSE or "Mad Cow") and Creutzfeldt-Jacob disease, a fatal brain disease in humans. Deer and elk infected with CWD exhibit changes in body condition, behavioral changes, drooling, increased drinking and urination, depression and death. The disease is always fatal. There is no treatment. CWD is diagnosed through microscopic examination of brain and related tissue. No live animal test is available at this time.

According to the USDA, the illness was first noted in 1967 in a captive herd at a Colorado research facility. Several years later it was again seen in cervids at a Wyoming research facility. Dr. Elizabeth Williams of the University of Wyoming first identified the disease as a TSE in 1978. CWD was diagnosed in wild deer populations in 1981 in Colorado and 1985 in Wyoming. These two states appear to have the greatest incidence of infection among the wild deer population. CWD, however, is spreading through the western states and infected animals have been found in the wild deer populations Nebraska, southern New Mexico, Southwestern South Dakota, south central Wisconsin, and Saskatchewan Canada. Most recently, CWD has been found in the wild deer population of Illinois and Minnesota. The disease has also been diagnosed in captive deer populations in Colorado, Kansas, Montana, Nebraska, Oklahoma, South Dakota, and the Alberta and Saskatchewan Provinces of Canada. See, Questions and Answers About Chronic Wasting Disease, APHIS, USDA, September 2002, attached.

#### **USDA** Response

On September 21, 2001, Ann Veneman, U.S. Secretary of Agriculture issued a declaration finding that CWD is an emergency that "threatens the livestock industry of this country...". \$2.6 million dollars in Commodity Credit Corporation emergency funds were transferred to the USDA to assist with eliminating CWD from farmed herds. The monies were used for surveillance and the costs of compensating farmers for the destruction of CWD positive and/or exposed herds. An additional \$12.2 million was transferred to APHIS in February 2002 to continue this effort. A joint working group was established by the USDA and the Department of Interior in May of 2002 to provide a coordinated federal approach for responding to the CWD issue. The working group issued its disease management plan in late June 2002.

#### North Carolina Response

In North Carolina, captive deer and elk are jointly regulated by the Wildlife Resources Commission (WRC) and the North Carolina Department of Agriculture and Consumer Services (NCDA). The WRC is charged with the stewardship of the wildlife resources of the State. G.S. 113-131. The "wildlife resources" of the State include all wild mammals, other than marine mammals found in coastal fishing waters". G.S. 113-129(17). "Wildlife" is defined to include "species normally wild, or indistinguishable from wild species, which are raised or kept in captivity." G.S. 113-129(16). As relates to the CWD issue, the Commission is authorized to issue captivity licenses which allow the licensee to hold a particular species of wildlife at a specified location. G.S. 113-272.5. The Commission also is authorized by statute to establish standards of caging and care for the animals, require reports, and otherwise supervise such operations. *Id*.

With the increase in popularity of farmed deer and elk as an alternative agricultural venture, in 1991 the General Assembly authorized NCDA to regulate the production of fallow deer and red deer. Article 49H of Chapter 106 of the General Statutes. The statutes charge NCDA with regulation of the production and sale of fallow deer and red deer for food purposes. The same statutes, however, expressly mandate that the WRC regulate the possession and transportation of live fallow and red deer, and adopt rules to prevent their release or escape upon a finding that it is necessary to protect the live fallow or red deer or to prevent damage to the native deer population or habitat. G.S. 106-549.97.

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The rules also provide a list of the violations of the rules for which a facility may have its captivity license revoked. Those grounds include failure to maintain an animal in good health, failure to keep or provide accurate records, failure to comply with tagging requirements or fence maintenance requirements, permitting an escape and refusal to allow inspection of records or facility. 15 NCAC 10H .0303(a). A facility's captivity license shall be revoked for failure to report clinical symptoms of CWD in its cervid herd, failure to submit a carcass to NCDA in a timely fashion for CWD evaluation, transportation of a cervid from a facility without a permit or confirmation of CWD in a cervid at the facility. 15 NCAC 10H .0303(b).

#### CWD Economic/Human Impact

According to NCDA and WRC, as of January 2003, there were 82 licensed cervid facilities in North Carolina. Of the 82 facilities, 17 contained 20 or more animals, the balance maintaining only small numbers of cervids. In an action before the Rules Review Commission challenging the WRC rules, the North Carolina Deer/Elk Farmers Association, Ltd. asserted that the WRC's proposed rules would have a negative impact upon the cervid farming industry of \$1.27 million in the second fiscal year and would exceed \$5 million in each of the third through sixth years following. See, "Comment on Wildlife Resources Commission Proposed CWD Rules" Tom West, representing the North Carolina Deer/Elk Farmers Association, Ltd.

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# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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(Public)

## HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE H948-CSRF-13 [v.2]

4/22/2003 8:24:09 AM

Short Title: Clarify Authority/Regulation of Cervids.

	Sponsors:
	Referred to:
	April 8, 2003
1	A BILL TO BE ENTITLED
2 3	AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE
4	RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF
5	CERVIDS.
6	The General Assembly of North Carolina enacts:
7	SECTION 1. G.S. 113-129(1b) reads as rewritten:
8	"(1b) Big Game Bear, wild boar, wild turkey, and deer, not to include
9	fallow deer or red deer raised for production and sale under G.S.
10	106-549.97. white-tailed deer."
11	<b>SECTION 2.</b> G.S. 113-129 is amended by adding a new subdivision to read:
12	"(1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and
13	deer)."
14	<b>SECTION 3.</b> G.S. 113-129 is amended by adding two new subdivisions to
15	read:
16	"(5a) Deer. – White-tailed deer (Odocoileus virginianus), except when
17	otherwise specified in this Chapter."
18	"(5b) Farmed Cervid. – Any member of the Cervidae family, other than
19 20	white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes."
21	SECTION 4. G.S. 113-129(7c) reads as rewritten:
22	"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and
23	white-tailed deer, not to include fallow deer or red deer raised for
24	production and sale under G.S. 106-549.97; and, except when trapped
25	in accordance with provisions relating to fur-bearing animals, bobcat,
26	opossum, and raccoon. except when trapped in accordance
27	with provisions relating to fur bearing animals."

**SECTION 5.** Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission may issue captivity licenses, captivity permits or transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by October 1, 2003, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license, captivity permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

#### **SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."

## SECTION 7. G.S. 113-291.2(c) reads as rewritten:

"(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit,

Page 2 House Bill 948 H948-CSRF-13 [v.2]

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subject to tagging and reporting requirements that may apply to the fox and big game, as follows:

- In an area in which the season is open for the species, the game may be possessed and transported without restriction.
   The individual may possess and transport the game lawfully taken on a

 (2) The individual may possess and transport the game lawfully taken on a trip:

a. To his residence;

 b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;

c. From a place authorized in subparagraph b to his residence.

 (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:

a. The applicable possession limit for each species; or

b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

## SECTION 9. G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:

"(o) Any person who willfully imports or possesses black-tailed or mule deer

(Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a

Class 1 misdemeanor."

1	SECTION 11. G.S. 106-549.97 reads as rewritten:
2	"§ 106-549.97. Regulation of fallow deer and red deer by Department of
3	Agriculture and Consumer Services; Services of certain cervids
4	produced and sold for commercial purposes; certain authority of North
5	Carolina Wildlife Resources Commission not affected: definitions.
6	(a) The Department of Agriculture and Consumer Services shall regulate the
7	production and sale of fallow deer and red deer for food purposes, farmed cervids. The
8	Board of Agriculture shall adopt rules for the production and sale of fallow deer and red
9	deer for food purposes farmed cervids in such a manner as to provide for close
10	supervision of any person, firm, or corporation producing and selling fallow deer or red
11	deer, or both, for food purposes. farmed cervids, and shall notify any such person firm
12	or corporation that the activity is subject to compliance with Wildlife Resources
13	Commission rules pursuant to G.S. 113-272.6.
14	(b) The North Carolina Wildlife Resources Commission shall regulate the
15	possession and transportation of live fallow deer and live red deer and may adopt rules
16	to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is
17	necessary to protect live fallow deer or live red deer, or both, or to prevent damage to
18	the native deer population or its habitat. possession and transportation, including
19	importation and exportation, of cervids pursuant to G.S. 113-272.6.
20	(c) The following definitions apply in this Article:
21	(1) Fallow deer A member of the Dama dama species

- Fallow deer. A member of the Dama dama species.
- <del>(2)</del> Red deer. A member of the Cervus elephus species.
- Cervid or Cervidae. All animals in the Family Cervidae (elk and <u>(3)</u> deer).
- Farmed Cervid. Any member of the Cervidae family, other than <u>(4)</u> white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
- White-tailed deer. A member of the species Odocoileus virginianus." (5) SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

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## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2003**

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## **HOUSE BILL 939\*** PROPOSED COMMITTEE SUBSTITUTE H939-CSRF-12 [v.3]

4/22/2003 10:22:31 AM

	Short Title: DACS to Regulate Farmed Cervids. (Public)
	Sponsors:
	Referred to:
	April 8, 2003
1	A BILL TO BE ENTITLED
2	AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE AND CONSUMER
3	SERVICES TO REGULATE FARMED CERVIDS, TO CHANGE CERTAIN
4	REQUIREMENTS FOR QUALIFYING FOR CAPTIVITY LICENSES FOR
<b>5</b> .	CERTAIN DEER, AND TO AUTHORIZE THE INTRASTATE TRANSPORT OF
6	CERTAIN DEER.
7	The General Assembly of North Carolina enacts:
8	SECTION 1. Article 49H of Chapter 106 of the General Statutes reads as
9	rewritten:
0	"Article 49H.
1	"Production and Sale of Fallow Deer and Red Deer. Farmed Cervids.
2	§ 106-549.97. Regulation of fallow deer and red deer farmed cervids by
3	Department of Agriculture and Consumer Services; certain authority of
4	North Carolina Wildlife Resources Commission not affected; definitions.
5	affected.
6	(a) It is the intent of the General Assembly that farmed cervids are treated as
7	domesticated livestock in order to promote the development and improvement of the
.8	farmed cervid industry in the State. The Department of Agriculture and Consumer
9	Services shall regulate the production possession, production, transportation, and sale of
20	fallow deer and red deer farmed cervids. for food purposes. The Board of Agriculture
21	shall adopt rules for the production possession, production, transportation, and sale of
22	fallow deer and red deer for food purposes farmed cervids in such a manner as to
23	provide for close supervision of any person, firm, or corporation producing and
4	possessing, producing, transporting, or selling fallow deer or red deer, or both, for food
:5	purposes. farmed cervids.
6	(b) The North Carolina Wildlife Resources Commission shall regulate the
7	possession and transportation of live fallow deer and live red deer and may adopt rules
8	to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is

necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.

- (c) The following definitions apply in this Article:
  - (1) Fallow deer. A member of the Dama dama species.
  - (2) Red deer. A member of the Cervus elephus species.
- (b) The Board of Agriculture may adopt rules establishing permit requirements for the possession of farmed cervids.
  - (c) Notwithstanding any other provision of law:
- (1) Any person who, as of May 1, 2003, held a captivity permit or captivity license issued by the Wildlife Resources Commission, shall qualify to receive a possession permit from the Department.
- (2) Any person who, as of May 16, 2002, held farmed cervids but did not hold a captivity permit or license issued by the Wildlife Resources Commission, although, as of May 16,2002, they satisfied the requirements for receiving a captivity permit or captivity license from the Commission, shall qualify to receive a possession permit from the Department.

Persons qualifying for a possession permit under this subsection shall apply for the possession permit no later than July1, 2004. Any person who does not apply for a possession permit fro the Department on or before July 1, 2004, shall not be eligible to receive a possession permit from the Department, and the farmed cervids held by those persons shall not be subject to the jurisdiction of the Department.

- (d) If the Board adopts rules establishing enclosure and care standards for farmed cervids, the rules shall not require:
  - (1) Any fence to exceed a height of eight feet.
  - (2) Any building required to shelter farmed cervids to have a wood floor.
- (3) Any application for a tag for a newborn farmed cervid, to request the sex of the newborn.
- (e) The Department may, for good cause shown, call upon peace officers with general subject matter jurisdiction anywhere in this State to enforce the statutes and rules regulating farmed cervids that are under the jurisdiction of the Department.
- (f) For purposes of this Article, 'farmed cervid' means any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is born and raised in captivity.
- "§ 106-549.98. Inspection fees.

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

**SECTION 2.** G.S. 113-129(1b) reads as rewritten:

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"(1b) Big Game. - Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale-farmed cervids, as defined in G.S. 106-549.97. under G.S. 106-549.97."

#### **SECTION 3.** G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. - Bear, fox, rabbit, squirrel, wild boar, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; deer; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals. Game animals does not include farmed cervids, as defined in G.S. 106-549.97. "

#### **SECTION 4.** G.S. 106-549.15(14) reads as rewritten:

"(14) 'Meat food product' means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, bison, fallow deer, or red <del>deer,</del> or farmed cervids, excepting products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, goats, and bison."

#### **SECTION 5.** G.S. 106-549.17 reads as rewritten:

#### Inspection of animals before slaughter; humane methods of "§ 106-549.17. slaughtering.

For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this State in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.

- (b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.
  - (c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:
    - (1) In the case of cattle, calves, fallow deer, red deer, farmed cervids, bison, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
    - (2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

## **SECTION 6.** G.S. 106-549.18 reads as rewritten:

## "§ 106-549.18. Inspection; stamping carcass.

For the purposes hereinbefore set forth the Commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as 'Inspected and Passed'; and said inspectors shall label, mark, stamp, or tag as 'Inspected and ... Condemned,' all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same

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have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof."

**SECTION 7.** G.S. 106-549.19 reads as rewritten:

## "§ 106-549.19. Application of Article; place of inspection.

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle. sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food. which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Article is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Commissioner or his authorized representative may limit the entry of carcasses, part of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this Article is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this and the subsequent Article."

**SECTION 8.** G.S. 106-549.22 reads as rewritten:

#### "§ 106-549.22. Rules and regulations of Board.

The Commissioner or his authorized representative shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and the Board shall prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, the Commissioner or his authorized representative shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'North Carolina Department of Agriculture and Consumer Services Inspected and Passed.'"

**SECTION 9.** G.S. 106-549.23 reads as rewritten:

## "§ 106-549.23. Prohibited slaughter, sale and transportation.

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

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1	(1)	Slaughter any of these animals or prepare any of these articles which
2		are capable of use as human food, at any establishment preparing any
3		such articles for intrastate commerce except in compliance with the
4		requirements of this and the subsequent Article;
5	(2)	Claughter or handle in connection (1)
5	(2)	Slaughter, or handle in connection with slaughter, any such animals in
6		any manner not in accordance with G.S. 106-549.17(c) of this Article;
7	(3)	Sell, transport, offer for sale or transportation, or receive for
8		transportation, in intrastate commerce:
9		a. Any of these articles which (i) are capable of use as human food
10		and (ii) are adulterated or mightended at the time of all

- Any of these articles which (i) are capable of use as human food and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or
- b. Any articles required to be inspected under this Article unless they have been so inspected and passed; or
- (4) Do, with respect to any of these articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

SECTION 10. G.S. 106-549.25 reads as rewritten:

## "§ 106-549.25. Slaughter, sale and transportation of equine carcasses.

No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Commissioner or his authorized representative, with respect to establishments at which inspection is maintained under this Article, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats are slaughtered or their carcasses, parts thereof, meats or meat food products are prepared."

## SECTION 11. G.S. 106-549.26 reads as rewritten:

## "§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and

by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony which may include a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a Class I felony and shall, upon conviction thereof, be summarily discharged from office and may be punished by a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000)."

## **SECTION 12.** G.S. 106-549.27(a) reads as rewritten:

- "(a) The provisions of this Article requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not
  - (1) Apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor
  - (2) To the custom slaughter by any person, firm, or corporation of cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him, and members of his household and his nonpaying guests and employees: Provided, that all carcasses, parts thereof, meat and meat food products derived from custom slaughter shall be identified as required by the Commissioner, during all phases of slaughtering, chilling, cooling, freezing, packing, meat canning, rendering, preparation, storage and

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transportation; provided further, that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, meat or meat food products of any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, or equines, capable of use as human food, unless the carcasses, parts thereof, meat or meat food products have been inspected and passed and are identified as having been inspected and passed by the Commissioner or the United States Department of Agriculture."

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SECTION 13. G.S. 106-549.28 reads as rewritten:

## "§ 106-549.28. Regulation of storage of meat.

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a Class 2 misdemeanor."

# SECTION 14. G.S. 113-272.5(c) reads as rewritten: "§ 113-272.5. Captivity license.

- (a) In the interests of humane treatment of wild animals and wild birds that are crippled, tame, or otherwise unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold at a specified location one or more of any particular species of wild animal or wild bird alive in captivity. Before issuing this license, the Executive Director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the Executive Director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird.
- (b) Unless a shorter time is set for a license upon its issuance under the provisions of subsection (c), captivity licenses are annual licenses issued beginning January 1 each year and running until the following December 31. This license is issued upon payment of five dollars (\$5.00) to the Wildlife Resources Commission. An increase in pen size or an increase in the number of pens for the purpose of increasing the holding capacity of a licensed facility shall not be a basis for refusing to reissue a captivity license for deer that are game animals, as defined in G.S. 113-129.
- (c) The Wildlife Resources Commission may require standards of eaging enclosure and care and reports to and supervision by employees of the Wildlife Resources Commission as necessary to insure humane treatment and furtherance of the objectives of this Subchapter. The Executive Director in implementing the provisions of this section may administratively impose through responsible agents and employees restrictions upon the mode of captivity that he deems necessary, including prescribing

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methods of treatment and handling designed, if possible, to enable the wild animal or wild bird to become self-sufficient and requiring that the wild animal or wild bird be set free when self-sufficiency is attained. To this end, the Executive Director may issue the captivity license with an expiration date earlier than December 31 and may also act to terminate any captivity license earlier than the expiration date for good cause. The standards for enclosure and care of deer that are game animals, as defined in G.S. 113-129, adopted pursuant to this section shall satisfy all of the following:

- (1) When a fence is required for deer that are game animals, the fence shall not be required to exceed a height of eight feet.
- (2) When a building is required to shelter deer that are game animals, the floor of the building shall not be required to be made of wood.
- (3) When application for a tag is required for a newborn deer, the application shall not request the sex of the newborn.
- (d) Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders possession of the wild animal or wild bird unlawful.
  - (e) No captivity license may be issued for any cougar (Felis concolor), except to:
    - (1) A bona fide publicly supported zoo.
    - (2) An educational or scientific research institution.
    - (3) An individual who lawfully possessed the cougar on June 29, 1977. The license may not be granted, however, for possession of a cougar within a municipality which that prohibits such possession by ordinance.
    - (4) An individual who holds a cougar without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission.
- (f) The licensing provisions of this section apply to black bears held in captivity, but, to the extent that it differs from this section, Article 2 of Chapter 19A of the General Statutes governs the keeping of black bears in captivity."

**SECTION 15.** G.S. 113-274(c) reads as rewritten:

- "(c) The Wildlife Resources Commission may issue the following permits:
  - (2) Transportation Permit. The Wildlife Resources Commission may require the use of transportation permits by persons required to be licensed under this Article, or by persons and individuals exempt from license requirements, while transporting wildlife resources within the State as necessary to discourage unlawful taking or dealing in wildlife resources and to control and promote the orderly and systematic transportation of wildlife resources within, into, through, and out of the State. Transportation permits may be issued for wildlife transported either dead or alive, in accordance with restrictions that may be reasonably imposed. When convenient, rules or administrative directives may require the retention and use of an invoice or

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memorandum of sale, or the license or permit authorizing the taking or acquisition of the wildlife resources, as a transportation permit. When circumstances warrant, however, a separate additional transportation permit may be required. Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders the transportation of the wildlife resources unlawful. Upon proper application, the Wildlife Resources Commission shall issue permits authorizing any person or facility that has obtained a captivity license under G.S. 113-272.5 to transport within the State deer that are game animals, as defined in G.S. 113-129, to another person or another facility that has obtained a captivity license under G.S. 113-272.5."

SECTION 16. G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
  - (2) The individual may possess and transport the game lawfully taken on a trip:
    - a. To his residence;
    - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
    - c. From a place authorized in subparagraph b to his residence.
  - (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - a. The applicable possession limit for each species; or
    - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

SECTION 17. G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife

Ţ	Resources Commission may adopt rules to regulate the importation, transportation, or
2	possession of those carcasses or parts of carcasses that, according to wildlife disease
3	experts, may transmit such a disease."
4	SECTION 18. G.S. 113-294 is amended by adding a new subsection to read:
5	"(o) Any person who willfully imports or possesses black-tailed or mule deer
. 6	(Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a
7	Class 1 misdemeanor."
8	SECTION 19. Notwithstanding any other provision of law, any person who,
9	as of May 17, 2002 held deer that are game animals, as defined in G.S. 113-129, may
10	apply, no later than July 1, 2004, for a captivity license under G.S. 113-272.5.
11	SECTION 20. Except for any rule adopted by the Board of Agriculture, any
12	rule regulating farmed cervids, as defined in Section 1 of this act, is repealed.
13	SECTION 21. Section 19 of this act becomes effective October 1, 2003, and
14	applies to acts committed on or after this date. The remainder of this act is effective
15	when it becomes law

## **VISITOR REGISTRATION SHEET**

AGRICULTURE

Name of Committee

4/22/03

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Harris	NC Petroleum Marketers
Doug Howen	P1 P1
Mm Manelolet	Tayper & Sprill LLD
Tom West	Poyner & Spruill LLD
Corrie Connolly	NC DIEFA
Cynthin & Hampton	NCOEFA
20 Smill	NCDEFA
Henry Hample no	MCDEFA
Bundy Phyler	NC Cattlenens ASSOC. Fuguay - Voviva, MC 27526
C.F. Kirkland	NCDA+CS ANIMAL HEALTH REGRAM
David Marshall	NCDA+CS Veterinary

## **VISITOR REGISTRATION SHEET**

AGRICULTURE

Name of Committee

4/22/03 Date

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS	
Lloyd book	Ducks Unlimited	
Norme- Young	NCDUJ R- NCWRC	
DICK HAMILTON	WILDLIFE	
Charles Fullword	Wildlife	
Stive Windham	Newre	
JOHN PECHMANN	Wildlife	
Any Dobson	No Statewatch.	
Wineton Sutton	NCDAGCS	
David M' Level	NCDAVCS	,
Mortha Clan	Ne DAGCS	<b>, ٌ ک</b> م
MIKE BLANTON	NCSA É CS	
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## VISITOR REGISTRATION SHEET

Name of Committee	Date
VISITADS: DI FASE SIGN IN	N BELOW AND RETURN TO COMMITTEE CLERK
VISITORS: TEEASE SIGN II	N BELOW AND RETURN TO COMMITTEE CLERK
NAME	FIRM OR AGENCY AND ADDRESS
F. Carlyle Teague	Co-op Council of NC
Filarlyhe Teague Linda Bailey	Co-up County of NC Bowan County
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# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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## **HOUSE BILL 939\***

(Public)

Short Title: DACS to Regulate Farmed Cervids.

Representatives Coates, Barbee, Starnes, Warner (Primary Sponsors);

Howard, McCombs, Mitchell, Preston, and Sexton.

Referred to: Agriculture.

#### April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO REGULATE FARMED CERVIDS, TO CHANGE CERTAIN REQUIREMENTS FOR QUALIFYING FOR CAPTIVITY LICENSES FOR CERTAIN DEER, AND TO AUTHORIZE THE INTRASTATE TRANSPORT OF CERTAIN DEER.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 49H of Chapter 106 of the General Statutes reads as rewritten:

#### "Article 49H.

"Production and Sale of Fallow Deer and Red Deer. Farmed Cervids.

- § 106-549.97. Regulation of fallow deer and red deer farmed cervids by Department of Agriculture and Consumer Services; certain authority of North Carolina Wildlife Resources Commission not affected; definitions. affected.
- (a) It is the intent of the General Assembly that farmed cervids are treated as domesticated livestock in order to promote the development and improvement of the farmed cervid industry in the State. The Department of Agriculture and Consumer Services shall regulate the production possession, production, transportation, and sale of fallow deer and red deer farmed cervids for food purposes purposes or for other commercial or noncommercial purposes. The Board of Agriculture shall adopt rules for the production possession, production, transportation, and sale of fallow deer and red deer for food purposes farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and possessing, producing, transporting, or selling fallow deer or red deer, or both, for food purposes. farmed cervids.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules

Sponsors:

to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is 1 necessary to protect live fallow deer or live red deer, or both, or to prevent damage to 2 3 the native deer population or its habitat. The following definitions apply in this Article: 4 5

- Fallow deer. A member of the Dama dama species.
- $\left(2\right)$ Red deer. A member of the Cervus elephus species.

For purposes of this Article, 'farmed cervid' means any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is born and raised in captivity.

"§ 106-549.98. Inspection fees.

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

## SECTION 2. G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. – Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale farmed cervids, defined in G.S. 106-549.97, raised for food purposes or raised for other commercial or noncommercial purposes under G.S. 106-549.97."

## **SECTION 3.** G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; deer; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals. Game animals does not include farmed cervids, defined in G.S. 106-549.97, raised for food purposes or raised for other commercial or noncommercial purposes under G.S. 106-549.97."

## **SECTION 4.** G.S. 106-549.15(14) reads as rewritten:

"(14) 'Meat food product' means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, bison, fallow deer, or red deer, or farmed cervids, excepting products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food

products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, goats, and bison."

## **SECTION 5.** G.S. 106-549.17 reads as rewritten:

# "§ 106-549.17. Inspection of animals before slaughter; humane methods of slaughtering.

- (a) For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this State in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.
- (b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.
- (c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:
  - (1) In the case of cattle, calves, fallow deer, red deer, farmed cervids, bison, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
  - (2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia

of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

SECTION 6. G.S. 106-549.18 reads as rewritten:

## "§ 106-549.18. Inspection; stamping carcass.

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For the purposes hereinbefore set forth the Commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as 'Inspected and Passed'; and said inspectors shall label, mark, stamp, or tag as 'Inspected and Condemned,' all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof."

SECTION 7. G.S. 106-549.19 reads as rewritten:

## "§ 106-549.19. Application of Article; place of inspection.

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, fallow deer, red-deer, farmed cervids, bison, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Article is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Commissioner or his authorized representative may limit the entry of carcasses, part of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this Article is maintained, under such conditions as he may prescribe to assure

that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this and the subsequent Article."

**SECTION 8.** G.S. 106-549.22 reads as rewritten:

## "§ 106-549.22. Rules and regulations of Board.

The Commissioner or his authorized representative shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and the Board shall prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, the Commissioner or his authorized representative shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'North Carolina Department of Agriculture and Consumer Services Inspected and Passed.' "

## **SECTION 9.** G.S. 549.23 reads as rewritten:

## "§ 106-549.23. Prohibited slaughter, sale and transportation.

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, fallow-deer, red deer, farmed cervids, bison, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

- Slaughter any of these animals or prepare any of these articles which are capable of use as human food, at any establishment preparing any such articles for intrastate commerce except in compliance with the requirements of this and the subsequent Article;
- Slaughter, or handle in connection with slaughter, any such animals in **(2)** any manner not in accordance with G.S. 106-549.17(c) of this Article;
- Sell, transport, offer for sale or transportation, or receive for (3) transportation, in intrastate commerce:
  - Any of these articles which (i) are capable of use as human food a. and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or
  - Any articles required to be inspected under this Article unless b. they have been so inspected and passed; or
- Do, with respect to any of these articles which are capable of use as **(4)** human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

SECTION 10. G.S. 106-549.25 reads as rewritten:

"§ 106-549.25. Slaughter, sale and transportation of equine carcasses.

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No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Commissioner or his authorized representative, with respect to establishments at which inspection is maintained under this Article, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats are slaughtered or their carcasses, parts thereof, meats or meat food products are prepared."

SECTION 11. G.S. 106-549.26 reads as rewritten:

## "§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned. until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony which may include a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a Class I felony and shall, upon

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conviction thereof, be summarily discharged from office and may be punished by a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000)."

## **SECTION 12.** G.S. 106-549.27(a) reads as rewritten:

- "(a) The provisions of this Article requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not
  - (1) Apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor
  - To the custom slaughter by any person, firm, or corporation of cattle, (2) sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him, and members of his household and his nonpaying guests and employees: Provided, that all carcasses, parts thereof, meat and meat food products derived from custom slaughter shall be identified as required by the Commissioner, during all phases of slaughtering, chilling, cooling, freezing, packing, meat canning, rendering, preparation, storage and transportation; provided further, that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, meat or meat food products of any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, or equines, capable of use as human food, unless the carcasses, parts thereof, meat or meat food products have been inspected and passed and are identified as having been inspected and passed by the Commissioner or the United States Department of Agriculture."

SECTION 13. G.S. 106-549.28 reads as rewritten:

## "§ 106-549.28. Regulation of storage of meat.

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a Class 2 misdemeanor."

SECTION 14. G.S. 113-272.5(c) reads as rewritten:

"§ 113-272.5. Captivity license.

- (a) In the interests of humane treatment of wild animals and wild birds that are crippled, tame, or otherwise unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold at a specified location one or more of any particular species of wild animal or wild bird alive in captivity. Before issuing this license, the Executive Director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the Executive Director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird.
- (b) Unless a shorter time is set for a license upon its issuance under the provisions of subsection (c), captivity licenses are annual licenses issued beginning January 1 each year and running until the following December 31. This license is issued upon payment of five dollars (\$5.00) to the Wildlife Resources Commission. An increase in pen size or an increase in the number of pens for the purpose of increasing the holding capacity of a licensed facility shall not be a basis for refusing to reissue a captivity license for deer that are game animals, as defined in G.S. 113-129.
- (c) The Wildlife Resources Commission may require standards of caging and care and reports to and supervision by employees of the Wildlife Resources Commission as necessary to insure humane treatment and furtherance of the objectives of this Subchapter. The Executive Director in implementing the provisions of this section may administratively impose through responsible agents and employees restrictions upon the mode of captivity that he deems necessary, including prescribing methods of treatment and handling designed, if possible, to enable the wild animal or wild bird to become self-sufficient and requiring that the wild animal or wild bird be set free when self-sufficiency is attained. To this end, the Executive Director may issue the captivity license with an expiration date earlier than December 31 and may also act to terminate any captivity license earlier than the expiration date for good cause. The standards for caging and care adopted pursuant to this section shall satisfy all of the following:
  - (1) When a fence is required for deer that are game animals, as defined in G.S. 113-129, the fence shall not be required to exceed a height of eight feet.
  - When a building is required to shelter deer that are game animals, as defined in G.S. 113-129, the floor of the building shall not be required to be made of wood.
  - (3) When application for a tag is required for a newborn deer that is a game animal, as defined in G.S. 113-129, the application shall not request the sex of the newborn.
- (d) Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders possession of the wild animal or wild bird unlawful.
  - (e) No captivity license may be issued for any cougar (Felis concolor), except to:

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- (1) A bona fide publicly supported zoo.
- (2) An educational or scientific research institution.
- (3) An individual who lawfully possessed the cougar on June 29, 1977. The license may not be granted, however, for possession of a cougar within a municipality which that prohibits such possession by ordinance.
- (4) An individual who holds a cougar without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission.
- (f) The licensing provisions of this section apply to black bears held in captivity, but, to the extent that it differs from this section, Article 2 of Chapter 19A of the General Statutes governs the keeping of black bears in captivity."

**SECTION 15.** G.S. 113-274(c) reads as rewritten:

- "(c) The Wildlife Resources Commission may issue the following permits:
  - **(2)** Transportation Permit. – The Wildlife Resources Commission may require the use of transportation permits by persons required to be licensed under this Article, or by persons and individuals exempt from license requirements, while transporting wildlife resources within the State - as necessary to discourage unlawful taking or dealing in wildlife resources and to control and promote the orderly and systematic transportation of wildlife resources within, into, through, and out of the State. Transportation permits may be issued for wildlife transported either dead or alive, in accordance with restrictions that may be reasonably imposed. When convenient, rules or administrative directives may require the retention and use of an invoice or memorandum of sale, or the license or permit authorizing the taking or acquisition of the wildlife resources, as a transportation permit. When circumstances warrant, however, a separate additional transportation permit may be required. Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders the transportation of the wildlife resources unlawful. Upon proper application, the Wildlife Resources Commission shall issue permits authorizing any person or facility that has obtained a captivity license under G.S. 113-272.5 to transport within the State deer that are game animals, as defined in G.S. 113-129, to another person or another facility that has obtained a captivity license under G.S. 113-272.5.

SECTION 16. Notwithstanding any rule or law to the contrary, any person who, as of May 17, 2002, held deer that are game animals, as defined in G.S. 113-129, as amended by Section 3 of this act, may apply no later than July 1, 2004, for a captivity license under G.S. 113-272.5, as amended by Section 14 of this act.

## GENERAL ASSEMBLY OF NORTH CAROLINA

**SESSION 2003** 

1	SECTION 17. Except for any rule adopted by the Department of Agricul	lture
2	and Consumer Services, any rule regulating farmed cervids, as defined in (	G.S.
3	106-549.97, as amended by Section 1 of this act, is repealed.	
1	SECTION 19 This act is effective when it has a section to	

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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by adding a new section to read:

#### **HOUSE BILL 948**

Short Title: Clarify Authority/Regulation of Cervids.

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(Public)

Representatives A. Williams; B. Allen, G. Allen, L. Allen, Church, Cole, Sponsors: Culpepper, Cunningham, Decker, Dickson, England, Glazier, Goforth, Gulley, Hackney, Haire, Harrell, Hill, LaRoque, Lucas, Luebke, Miller, Nye, Owens, Pate, Rapp, Sauls, Tolson, Wainwright, Warren, West, K. Williams, and Yongue. Referred to: Agriculture. April 8, 2003 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF CERVIDS. The General Assembly of North Carolina enacts: SECTION 1. G.S. 113-129(1b) reads as rewritten: "(1b) Big Game. - Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97. white-tailed deer." SECTION 2. G.S. 113-129 is amended by adding a new subdivision to read: "(1d) Cervid or Cervidae. - All animals in the Family Cervidae (elk and deer)." **SECTION 3.** G.S. 113-129 is amended by adding a new subdivision to read: "(5a) Deer. - White-tailed deer (Odocoileus virginianus), except when otherwise specified in this Chapter." SECTION 4. G.S. 113-129(7c) reads as rewritten: "(7c) Game Animals. - Bear, fox, rabbit, squirrel, wild boar, and white-tailed deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals." SECTION 5. Article 21 of Chapter 113 of the General Statutes is amended

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses or parts of game carcasses extracted by hunters, and shall adopt rules to implement this section, including requirements for captivity licenses or permits, including transportation permits, fencing, tagging, record keeping, and inspection of captive cervid facilities.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that the activity is authorized subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of cervids other than white-tailed deer for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission may issue captivity licenses or permits, including transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, provided that the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by October 1, 2003, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license or permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

**SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."

SECTION 7. G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.

- (2) 1 2 trip: 3 a. To his residence: 4 b. 5 6 taxidermist; 7 8 (3) 9 10 11 12 13 14 15 16 17 question, in his residence." 18 19 20 read: 21 22 23 24 25 experts, may transmit such a disease." 26 27 28 29 30 31 32 33 34 35 36 37 38 "(o) 39 Class 1 misdemeanor." 40 41
  - The individual may possess and transport the game lawfully taken on a
    - To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed
    - From a place authorized in subparagraph b to his residence.
  - The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - The applicable possession limit for each species; or
    - One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in

SECTION 8. G.S. 113-291.2 is amended by adding a new subsection to

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission may adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease

## **SECTION 9.** G.S. 113-292(d) reads as rewritten:

- The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."
  - SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:
- Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a

SECTION 11. G.S. 106-549.97 reads as rewritten:

Regulation of fallow deer and red deer by Department of "§ 106-549.97. Agriculture and Consumer Services; Services of certain cervids

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produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.

- (a) The Department of Agriculture and Consumer Services shall regulate the production and sale of fallow deer and red deer for food purposes. cervids other than white-tailed deer for commercial purposes. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes cervids other than white-tailed deer for commercial purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes. cervids other than white-tailed deer for commercial purposes, and shall notify any such person, firm, or corporation that such activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat. possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.
  - (c) The following definitions apply in this Article:
    - (1) Fallow deer. A member of the Dama dama species.
    - (2) Red deer. A member of the Cervus elephus species.
    - (3) Cervid or Cervidae. All animals in the Family Cervidae elk and deer):
- White-tailed deer. A member of the species Odocoileus virginianus."

  SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

## **AGENDA**

## HOUSE COMMITTEE ON AGRICULTURE

April 22, 2003 1228 Legislative Building 12:00 Noon

#### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

## **AGENDA ITEMS**

HB 1089	Farm Machinery Law/Notice of Termination – Rep. Lewis
HB 939	DACS to Regulate Farmed Cervids – Rep. Coates, Barbee,
	Starnes, and Warner
HB 948	Clarify Authority/Regulation of Cervids – Rep. A. Williams
HB 1203	No Motor Fuel Sales Limits – Rep. Gibson and Brubaker

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE:	TUESDAY, APRIL 22, 2003
TIME:	12:00 NOON
LOCATION:	1228
The following bills	will be considered (Bill # & Short Title & Bill Sponsor):
HB 1089 - F HB 939 - E HB 948 -	Fertilizers with Minimum Plant Food Content – Rep. Hill Farm Machinery Law/Notice of Termination – Rep. Lewis DACS to Regulate Farmed Cervids – Rep. Coates, Barbee, Starnes, and Warner Clarify Authority/Regulation of Cervids – Rep. A. Williams No Motor Fuel Sales Limits – Rep. Gibson and Brubaker
	Respectfully, Representative Hill Chair
I hereby certify th April 17, 2003.	is notice was filed by the committee assistant at the following offices at 1:20 p.m. or
	al Clerk og Clerk - House Chamber
Gennie Thurlow (	Committee Assistant)

## Gennie Thurlow (Rep. Hill)

ιt:

Cc:

Gennie Thurlow (Rep. Hill)

Wednesday, April 23, 2003 4:28 PM

Marie Strickland (Rep. Lewis); Carolyn Edwards (Rep. Bell); Melissa Lennon (Rep. Coates); Edna Pearce (Rep. Pate); Linda Uzzle (Rep. Arthur Williams); Kathryn Bishop (Rep. Yongue);

Barbara Riley (Research); Erika Churchill (Research); Waneta Lord (Rep. Culp); Anne

Misenheimer (Rep. Baker)

@House/Agriculture; @HouseCommitteeNotice; Barbara Riley (Research); Erika Churchill

(Research); Fayetteville Newspaper (E-mail); Jackie Hamby (House Legislative Assistants

Office): Martha Glass: Mike Blanton

Subject: HB 939 Subcommittee - Update on Members

Importance: High

## Revised Membership for HB 939

Rep. Kiser removed from subcommittee, and Rep. Baker and Rep. Culp added.

----Original Message----

From: Gennie Thurlow (Rep. Hill)
ent: Tuesday, April 22, 2003 3:25 PM

Marie Strickland (Rep. Lewis); Carolyn Edwards (Rep. Bell); Melissa Lennon (Rep. Coates); Marilyn Holder (Rep. Kiser); Edna Pearce

(Rep. Pate); Linda Uzzle (Rep. Arthur Williams); Kathryn Bishop (Rep. Yongue); Barbara Riley (Research); Erika Churchill

(Research)

Subject: HB 939 Subcommittee

Importance: High

The following members are appointed to the subcommittee to study HB 939 DACS to Regulate Farmed Cervids.

Rep. Lewis, **Chair**; Rep. Baker; Rep. Bell; Rep. Coates; Rep. Culp; Rep. Pate; Rep. A. Williams; and Rep. Yongue.

The Agriculture Committee Counsel, Barbara Riley and Erika Churchill, should be invited to all meetings.

Please meet as soon as possible to discuss HB 939 and bring a recommendation to the full House Agriculture Committee. The May 1 crossover deadline is fast approaching.

Thank you.

Dewey

Representative Dewey L. Hill North Carolina House of Representatives 1309 Legislative Building Telephone: 919-733-5830

racking:

Recipient

Read

Marie Strickland (Rep. Lewis)
Carolyn Edwards (Rep. Bell)
Melissa Lennon (Rep. Coates)

## MINUTES HOUSE COMMITTEE ON AGRICULTURE

#### **April 23, 2003**

The House Committee on Agriculture met on Wednesday, April 23, 2003, in Room 1425 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Coates, Creech, Culp, Daughtridge, Fox, Kiser, Mitchell, Pate, Tolson, Walker, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 1:05 P.M. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill stated that <u>House Bill 1089 Farm Machinery Law/Notice of Termination</u>, sponsored by Representative Lewis, and <u>House Bill 1203 No Motor Fuel Sales Limits</u>, sponsored by Representatives Gibson and Brubaker, would be discussed.

Representative Lewis explained House Bill 1089 Farm Machinery Law/Notice of Termination. A handout regarding this bill was distributed, and a copy is attached. Representative Baker moved for a favorable report, and the motion carried.

Vice Chair Lewis announced that the subcommittee to study House Bill 939 DACS to Regulate Farmed Cervids will meet Monday, April 28, 2003, at 5:30 P.M. in 425 Legislative Office Building.

Representative Gibson was recognized to explain House Bill 1203 No Motor Fuel Sales Limits. Representative Walker offered a motion that House Bill 1203 Proposed Committee Substitute be adopted for discussion. The motion carried. Representative Gibson explained the bill, and there was discussion. Several individuals spoke on the bill. Representative Yongue moved to amend House Bill 1203 Proposed Committee Substitute on page 2, line 12, by deleting the phrase "section," and substituting the phrase "article." Representative Pate moved to amend the bill on page 2, line 20, by rewriting that line to read "which the motor fuel was delivered to the motor fuel merchant or the actual amount paid by the motor fuel merchant for the motor fuel by grade and quality, whichever is less." Chair Hill moved that the amendments be adopted. The motion carried, and these two amendments passed.

Representative Mitchell made a motion that House Bill 1203 be put in a subcommittee to be studied. The motion carried.

The meeting was adjourned at 12:59 P.M.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

## Summary of Agriculture Subcommittee Meeting

The Subcommittee on Agriculture met April 28, 2003 in room 302-C of the Legislative Office Building. Chairman Representative Louis Pate presided with three members and two staff members present.

House Bill 1203, Amend Motor Fuel Marketing Act, was the topic of discussion. The bill amends the Motor Fuels Marketing Act, Article 3 of Chapter 75 of the General Statutes. The Article generally prohibits unfair price competition between motor fuels merchants by selling below cost. The committee decided to amend GS 75-84 and lower the fine of \$10,000 to \$5,000. It also changed the punishment of the offense from a civil penalty to a class 2 misdemeanor. Rep. Daughtridge recommended changing OPIS (Oil Price Information Service) average to OPIS low, which is the lowest posted price of all suppliers of any terminal. This amendment would reflect using OPIS when Agriculture looks at the cost, it would go to the lowest price plus freight and taxes. He also suggested amending Section 7, 75-88 — Crime Control and Public Safety- to add fuels shall be dispensed in approved containers for shipping.

Chairman Pate put the amendments to House Bill 1203 before the members for a vote, which passed unanimously. Staff agreed to print and present revised PCS to the Agriculture Committee.

With no further business the meeting was adjourned.

Respected submitted,

Representative

Chairman (Presiding Chair)

Committee Assistant



## North Carolina General Assembly House of Representatives State Legislative Building Raleigh 27601–1096

REPRESENTATIVE DEWEY LEWIS HILL 20TH DISTRICT

April 24, 2003

## **MEMORANDUM**

TO:

**House Agriculture Committee Members** 

Erika Churchill Barbara Riley

FROM:

Dewey Hill Dewey

Attached is the letter that Andy Ellen, NC Retail Merchants Association, indicated he would distribute to Agriculture Committee Members per request made by Representative Billy Creech during our April 23 committee meeting discussion of HB 1203 No Motor Fuel Sales Limits.

I hope you will have an opportunity to review the letter before our April 29 committee meeting.

Thank you.

glt

Attachment



#### UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION WASHINGTON, D.C. 20580

August 8, 2002

Governor George E. Pataki The State of New York New York State Capitol Albany, NY 12224

Re:

Bill No.S04522 (New York Motor Fuel Marketing Practices Act); Bill No. A06942 (An Act to Amend the General Business Law, in Relation to the Operation of Retail Service Stations)

#### Dear Governor Pataki:

The staff of the Office of Policy Planning and of the Bureau of Competition of the Federal Trade Commission welcome the opportunity to submit this letter in response to your request for comments on the "New York Motor Fuel Marketing Practices Act" (the MFMPA"), Bill No. S04522, and the amendment to Section 199-a of the General Business Law (the "Amendment"), Bill No. A06942. (1) The MFMPA would prohibit, *inter alia*, refiners and nonrefiners of motor fuel from selling motor fuels below refiner or nonrefiner cost respectively, where the effect is to injure competition. The Amendment would prohibit a crude oil producer or refiner from directly competing with its own franchised dealers within certain geographic areas.

We believe if both pieces of legislation are signed into law, they have a significant potential to harm consumers. Gasoline is a significant consumer expenditure; given constant demand, even a one cent increase in the retail price of gasoline would cost New York consumers approximately \$57 million annually.(2)

At best, the MFMPA merely duplicates existing protections against "predatory pricing" found in federal antitrust law; at worst, it may discourage or even prevent competitive pricing. Similarly, considerable economic research shows that laws limiting intrabrand competition in gasoline harm, rather than promote, the competitive process, and can result in significantly higher prices to consumers. Our views can be summarized as follows:

#### With respect to the MFMPA,

- Low prices benefit consumers. Consumers are harmed only if, as a result of low prices, a dominant competitor is able later to raise the prices to supracompetitive levels.
- Scholarly studies and court decisions indicate that below-cost pricing that leads to monopoly rarely occurs.
- Past studies suggest that below-cost sales of motor fuels that lead to monopoly are especially unlikely.
- Where there is no danger that a monopoly might later be created, consumers are harmed by public policies that have the effect of increasing low prices that are the product of the competitive process.
- If the proposed legislation leads to higher prices in circumstances in which there is no

danger of the lower prices leading to monopoly, then consumers will be harmed.

The federal antitrust laws deal specifically with below-cost pricing that has a dangerous
probability of leading to monopoly. The FTC, the Department of Justice's Antitrust Division,
state attorneys general, and private parties can bring suit under the federal antitrust laws
against anticompetitive below-cost pricing.

#### With respect to the Amendment,

- Consumers benefit if a private company decides to increase the number of retail outlets selling gasoline. The benefits come from locational advantages for some consumers, potentially increased "variety" (there are a variety of types of gasoline retailers, such as convenience stores, service stations, high volume stations with car washes, etc.), and the potential for increased competition.
- These potential benefits accrue whether new outlets are opened by existing retailers, wholesalers, or refiners.
- Economic research has demonstrated that retail gasoline prices increase when states enact laws prohibiting or limiting refiners' ability to own retail outlets that compete with the retail outlets of their branded dealers.
- Federal antitrust law recognizes that actions by a producer or manufacturer regarding limitations on "intrabrand" retail competition can have substantial procompetitive effects by promoting "interbrand" competition.
- "Interbrand" competition is the principal focus of federal antitrust law because vigorous interbrand competition maximizes consumer welfare.

## I. Interest and Experience of the Federal Trade Commission

The Federal Trade Commission is charged by statute with preventing unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce. Under this statutory mandate, the Commission seeks to identify business practices that impede competition or increase costs without offering countervailing benefits to consumers. In particular, Commission staff have had considerable experience assessing the competitive impact of regulations and business practices in the petroleum industry. On numerous occasions, the Commission staff have offered comments on proposed state laws covering a variety of areas, including laws that would ban sales of motor fuels below cost or prevent "unfair" competition between refiner-owned and independent gas stations. Section II below presents our views on the MFMPA. Section III presents our views on the Amendment.

## II. Analysis of the MFMPA

## A. Anticompetitive below-cost pricing is already illegal under federal antitrust laws.

If signed into law, the MFMPA would make it unlawful for refiners and nonrefiners of motor fuel to sell motor fuels below refiner or nonrefiner cost respectively, where the effect is to injure competition. "Refiner Cost" is defined as the posted terminal price of motor fuel adjusted for several factors, including taxes, freight charges, direct labor costs, and imputed rents. "Nonrefiner Cost" is defined as the invoice cost of motor fuel, also adjusted for taxes, freight charges, direct labor, rental value of the retail outlet, discounts, and other factors. The Act would also prohibit retail affiliates of a refiner from selling motor fuel at a price below the price charged by that refiner to wholesalers or other retailers within a relevant geographic market. Exceptions are made for inadvertent transgressions and for meeting competition.

We believe that the MFMPA is unnecessary to protect New York consumers. Anticompetitive below-cost pricing is already illegal under federal antitrust laws. (6) At best, therefore, the is duplicative. It also, however, risks chilling procompetitive pricing strategies that would otherwise benefit New York consumers.

## i. Antitrust law protects consumers, not competitors

The federal antitrust laws are fundamental to national economic policy. The antitrust laws are instrumental to our free market system because they ensure that markets remain competitive, efficient, and dynamic.

Under these laws, both the Federal Trade Commission and the Antitrust Division of the United States Department of Justice may bring enforcement actions against anticompetitive below-cost pricing. The federal government has launched several predatory pricing investigations and predatory unilateral conduct cases during the past several years. (7) In addition, private plaintiffs and state attorneys general have the right to bring predatory pricing cases. Under Section 4 of the Clayton Act, any person who has been injured in his business or property as a result of conduct forbidden by the antitrust laws can seek treble damages for that injury. (8) State attorneys general, acting as parens patriae, may also bring such actions.

Although anticompetitive below-cost pricing is illegal, the United States Supreme Court has taken great pains to ensure that antitrust law is not used to prevent procompetitive price-cutting. It is axiomatic that the antitrust laws are intended for "the protection of competition, not competitors." That is, the federal antitrust laws are intended to promote and maintain legitimate, vigorous price competition, irrespective of how individual competitors may fare in the face of such competition. Vigorous price competition forces producers to minimize costs and prices and to increase quality. Through this dynamic, consumer welfare is maximized because consumers reap the benefits of lower prices, greater variety, and higher quality goods and services. Indeed, the Court, in several important antitrust decisions, has been absolutely clear that consumer welfare is the linchpin of the antitrust laws, and that low prices, as a general matter, are "a boon to consumers." (10)

#### ii. Only below-cost prices can be predatory

Indeed, the Supreme Court has spoken directly and definitively to the lawfulness of low pricing strategies. In *Brooke Group*, the seminal case in this area, the Court left no doubt that a decrease in a plaintiff's profits from a reduction in the defendant's prices, by itself, is not unlawful under the antitrust laws. "Low prices benefit consumers regardless of how those prices are set."(11) Rather, to be unlawful, the low prices, at a minimum, must be predatory. "[S]o long as they are above predatory levels, [low prices] do not threaten competition. . . . We have adhered to this principle regardless of the type of antitrust claim involved."(12) "[W]e have rejected elsewhere the notion above-cost prices that are below general market levels or the costs of a firm's competitors inflict injury to competition cognizable under the antitrust laws."(13)

The Court has defined predatory pricing, in turn, as "pricing below an appropriate measure of [the defendant's] cost for the purpose of eliminating competitors in the short run and reducing competition in the long run."(14) Although the Court has not stated what the appropriate measure of cost should be, prominent antitrust scholars and several federal circuit courts have concluded that the price-cutter's marginal costs, or a close proxy such as average variable costs, should be the yardstick.(15)

It is important to note that, whatever cost measure is chosen, the pertinent comparison is to the *price-cutter's* cost, not the costs of its rivals. If the price-cutter has lower costs, and thus is more efficient, than its rivals, no predatory pricing occurs when it prices above its own costs, of whether those prices are below its rivals' costs. "To hold that the antitrust laws protect competitors from the loss of profits due to such price competition would, in effect, render illegal any decision by a firm to cut prices in order to increase market share." (16)

#### iii. Not all below-cost pricing harms consumers

Below-cost pricing by itself, however, is insufficient under the antitrust laws to constitute a violation. Under federal law, consumers must also be injured, and consumers are not harmed by below-cost pricing *unless* sustained above-cost prices occur later on:

[T]he short-run loss is definite, but the long-run gain depends on successfully neutralizing the competition. Moreover, it is not enough simply to achieve monopoly power, as monopoly pricing may breed quick entry by new competitors eager to share in the excess profits. The success of any predatory scheme depends on maintaining monopoly power for long enough both to recoup the predator's losses and to harvest some additional gain. (17)

Thus, even if a below-cost pricing strategy succeeds in temporarily reducing the number of competitors, the price-cutter must be able to find a way to keep competitors from returning after it tries to raise prices again. Otherwise, the below-cost pricing strategy, which requires that the firm incur losses on every sale, will not succeed. When a firm is unable to recoup short-run losses (from sales at below-cost prices) in the long-run, consumers enjoy a windfall. And, without harm to consumers, an antitrust violation does not occur. "The second prerequisite to holding a competitor liable under the [federal] antitrust laws for charging low prices is a demonstration that the competitor had a reasonable prospect, or, under § 2 of the Sherman Act, a dangerous probability, of recouping its investment in below-cost prices. . . . Evidence of below-cost pricing is not alone sufficient to permit an inference of probable recoupment and injury to competition. . . . Although unsuccessful predatory pricing may encourage some inefficient substitution toward the product being sold at less than its cost, unsuccessful predation is in general a boon to consumers. . . . . That below-cost pricing may impose painful losses on its target is of no moment to the antitrust laws if competition is not injured. . . . "(18)

Given the strong stance of the Supreme Court in favor of the benefits of low prices and the care it has devoted to explaining what types of price cutting are illegal under the antitrust laws, it is doubtful that the MFMPA is necessary to prevent the same harms to consumers. (19)

# B. Scholarly studies and court decisions suggest that anticompetitive below-cost pricing rarely happens.

To assess further whether this legislation is necessary, it may be helpful to consider the extensive scholarship and court decisions on anticompetitive below-cost pricing. In an exhaustive discussion of the topic, Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit noted that "[s]tudies of many industries find little evidence of profitable predatory practices in the United States or abroad. These studies are consistent with the result of actual litigation; courts routinely find that there has been no predation."(20)

More recent analyses largely confirm Easterbrook's conclusion. A leading textbook on industrial organization economics notes; "[g]iven all the problems in identifying predatory pricing, it is not surprising that economists and lawyers have found few instances of successful price predation in which rivals are driven out of business and prices then rise. Although predation is frequently alleged in lawsuits, careful examination of these cases indicates that predation in the sense of pricing below cost usually did not occur." (21) Predation sometimes occurs, (22) but not nearly as frequently as claimed.

Because it is difficult to profit from anticompetitive below-cost pricing, the Supreme Court, in keeping with scholarship on this point, has found that "there is a consensus among commentators that predatory pricing schemes are rarely tried, and even more rarely successful." Therefore, the Court has emphasized the need to take great care to distinguish between procompetitive price cutting and anticompetitive predation because "cutting prices in order to increase business often is the very essence of competition. . . ."(24) "To hold that the antitrust laws protect competitors from the loss of profits due to . . . price competition would, in effect, render illegal any decision by a firm

to cut prices in order to increase market share. The antitrust laws require no such perverse result."(25)

In short, the legislation appears to address a problem that not only is already covered under federal antitrust law, but also is unlikely to occur in any event.

## C. Past studies show that anticompetitive below-cost sales of motor fuels are especially unlikely.

A series of studies suggests that anticompetitive below-cost pricing is especially unlikely in gasoline retailing. Laws to prevent anticompetitive below-cost pricing of motor fuels have been debated extensively during the past two decades. The issue originally arose in the 1980s, when various parties expressed concern that major oil companies were selling gasoline below cost in order to drive independent stations out of business. Numerous states considered enacting legislation similar to the MFMPA. The U.S. Department of Energy (USDOE) conducted a comprehensive investigation of predatory pricing allegations in gasoline markets.

In 1984, USDOE released a final report to Congress examining whether vertically integrated refiners were "subsidizing" their retail gasoline operations in a way that might be predatory or anticompetitive. The study was based on an extensive study of pricing data and internal oil company documents subpoenaed by the USDOE. USDOE found that there was no evidence of predation or anticompetitive subsidization. The agency concluded that increased pressures on gasoline retailers were not caused by anticompetitive behavior on the part of the major oil companies. Rather, the decline in the overall number of retail outlets and the intensification of competition among gasoline marketers were attributable to decreased consumer demand for gasoline in some areas and a continuing trend toward the use of more efficient, higher-volume retail outlets. (26)

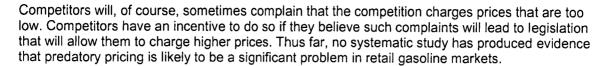
Since 1996, the Commission has investigated the pricing practices of virtually every major oil company, and Commission staff have found no convincing evidence of predatory pricing in the retail gasoline market. In several recent investigations, the FTC has expressed concern about unduly high concentration levels in certain gasoline markets. In these cases, however, the Commission was concerned that concentration, among other things, could lead to *higher*, not predatory (lower), gasoline prices.

Several states have also conducted their own studies. In 1987, a Joint Legislative Study Committee created by the Arizona legislature recommended that no new legislation be enacted to restrict the pricing of motor fuels in Arizona. "The marketplace for petroleum products is very competitive in Arizona," the committee concluded. (27)

In 1986, the Washington State Attorney General initiated a study of motor fuel pricing to determine whether refiners were engaged in anticompetitive subsidization of company-owned service stations. Information was gathered on the practices of all eight of the major companies in Washington for a three-year sample period. The Washington study found that lessee-dealers paid essentially the same prices as company-owned stations more than 99 percent of the time. (28)

More recently, the Commonwealth of Pennsylvania conducted a study examining a variety of proposals for legislation affecting retail gasoline sales in the state. The report extensively analyzed "sales below cost" laws and declined to recommend that Pennsylvania enact one. In fact, the Pennsylvania study raised significant doubts about the theory that gasoline retailers were engaging in anticompetitive below-cost pricing, and it warned that a "sales below cost" law might harm consumers more than it would help them:

Unfortunately, such laws may serve to deter, rather than enhance, competition. The reason for such deterrence is that it may open up firms who engage in low, but non-predatory, pricing to litigation. Seeing the threat of litigation, such firms may change strategy and charge consumers higher prices. (29)



## D. If enforced vigorously, the legislation could harm consumers by increasing the price of motor fuels.

As noted above, anticompetitive price-cutting is already illegal under federal antitrust laws. We believe that this legislation could outlaw more types of pricing behavior than federal antitrust laws do, and therefore it runs the risk of penalizing procompetitive price-cutting that benefits consumers.

During the past two decades, a growing body of empirical economic research has assessed the impact of state "sales below cost" laws on retail gasoline prices. Most studies find these laws raise gasoline prices or leave them unchanged. Some suggest that the laws raise retail gasoline prices by one or two cents per gallon. (30) One study currently in draft form finds that these laws increase gasoline prices initially and lower them in subsequent years, but it is not clear whether these findings meet economists' customary standards for statistical significance. (31) Many of the studies suffer from methodological problems that make it unclear whether they are measuring the impact of sales below cost laws or something else. The most carefully-controlled study, conducted by a senior economist in the FTC's Bureau of Economics, found that the laws had no effect on retail prices. (32)

The most likely explanation for these varied findings is that such laws are often difficult to enforce or are enforced unevenly. Therefore, it is possible that the mere existence of such a law has a limited effect on retail gasoline prices. Vigorous and sustained enforcement, however, could lead to a significant chilling effect on competition that might increase retail gasoline prices.

#### III. Analysis of the Amendment to Section 119-a of the General Business Law.

The Amendment to Section 199-a of the General Business Law would make it unlawful for a crude oil producer or refiner to compete directly with its own franchised dealers. A producer or refiner-owned or managed dealer will be considered directly competing with a franchised dealer when the former is located within one and one-half miles of the latter in counties with population in excess of 900,000; and two miles in all other counties. The provision will automatically expire three years after its effective date.

In its seminal case examining the potential competitive effects arising from relationships between a supplier and its dealers, the Supreme Court observed that "[i]nterbrand competition [as opposed to intrabrand competition] . . . is the primary concern of antitrust law."(33) In *Sylvania*, the Court recognized that assessing the overall competitive impact of actions that adversely affect intrabrand competition are complex, because such actions can simultaneously stimulate interbrand competition. (34) For this reason, the Court held that in deciding the lawfulness of supplier policies affecting intrabrand competition, courts should apply a "rule of reason" which weighs the procompetitive effects of an act against the competitive harm, if any. (35)

In so holding, the Court noted that "[t]he degree of intrabrand competition is wholly independent of the level of interbrand competition confronting the manufacturer. . . . But when interbrand competition exists, . . . it provides a significant check on the exploitation of intrabrand market power. . . . "(36) The Court further took note of and relied on the fact that "[e]conomists also have argued that manufacturers have an economic interest in maintaining as much intrabrand competition as is consistent with the efficient distribution of their products."(37) In addition, "[m] arketing efficiency is not the only legitimate reason for a manufacturer's desire to exert control over the manner in which his products are sold and serviced. As a result of statutory and common-law developments, society increasingly demands that manufacturers assume direct responsibility for the safety and quality of their products."(38)

In light of *Sylvania*, the federal courts and the enforcement agencies show considerable deference to business strategies that affect the degree and nature of intrabrand competition. Such strategies are typically efficiency-enhancing. Only when such strategies are a mere guise for horizontal collusion among manufacturers or dealers - thus adversely affecting interbrand competition - are the anticompetitive effects generally likely to outweigh procompetitive effects.

We believe therefore that state statutes that attempt to regulate intrabrand competition risk producing consequences detrimental to consumers. These laws raise costs by forcing continued use of potentially inefficient or outmoded distribution arrangements and limit the ability of manufacturers to find the most effective means to compete across brands. Economic studies, moreover, strongly support this conclusion.

In particular, economic studies of laws limiting refiners' ability to open new or maintain ownership of existing retail gasoline stations have found that these distribution restrictions have the tendency to raise prices and reduce investment in retailing assets. Some such laws completely prohibit refiners from owning any retail outlets; others, like the Amendment to Section 119-a, are "partial" in the sense that they prohibit refiners from establishing new retail outlets within a certain distance of existing branded dealers. Economic research consistently shows that both types of laws harm consumers:

- A National Bureau of Economic Research study found that company-operated stations can be the most efficient form of management for high volume, low service gasoline stations. This suggests that incentives for investment in retailing assets will be reduced in states with restrictive legislation. (39)
- A time series study showed that forced divestiture of refiner-owned stations in Maryland raised self-service prices by 1.4 to 1.7 cents and full service prices by 5 to 7 cents per gallon at stations that were formerly company-operated. Furthermore, these stations reduced their operations by nine hours per week. Other stations in the locale of the divested stations also raised prices. (40)
- A cross-sectional study by an FTC senior economist estimated that statutes prohibiting or limiting refiners from owning retail gasoline stations raised retail gasoline prices by 2.6 cents per gallon compared to states without this legislation. That figure is best interpreted as an average effect for several types of statutes. Some statutes forced refiners to divest stations, while others "grandfathered" existing stations. Different statutes had in effect for different lengths of time, and it is likely that the older statutes have more significant effects, since they prevent refiners from opening new stations in response to demographic shifts. This study suggests that states sacrifice efficiencies and increase retail gasoline prices when they curtail refiners' ability to open or operate retail outlets. (42)

Based on these studies, we conclude that ultimately the Amendment to Section 119-a likely would increase costs and raise retail gasoline prices in New York.

#### IV. Summary and Conclusions

For the reasons stated above, we believe that the MFMPA would be more likely to harm than to promote competition. The legislation addresses a problem that is unlikely to occur. To the extent that anticompetitive below-cost pricing is a danger in the retail gasoline market, federal antitrust laws are sufficient to deal with the problem. Moreover, the additional layer of state law could significantly deter procompetitive price-cutting at the gas pump.

We similarly believe that the Amendment to Section 199-a of the General Business Law would restrain, rather than enhance, retail competition in motor fuels, because it places limits on the ability of individual crude oil producers and motor fuel refiners to develop the most efficient level of intrabrand competition for their products. In so limiting, the Amendment would likely raise costs, restrain interbrand competition, and ultimately raise retail gasoline prices in New York.

In short, in the judgment of the Office of Policy Planning and Bureau of Competition of the Federal

Trade Commission, Bill No. S04522 and Bill No. A06942, if signed into law, are likely to raise prices significantly at the gas pump, to the detriment of New York consumers.

Respectfully submitted,

Joseph J. Simons, Director Theodore A. Gebhard, Attorney Bureau of Competition

R. Ted Cruz, Director Jerry Ellig, Deputy Director Office of Policy Planning

#### **Endnotes:**

- 1. This letter expresses the views of the Bureau of Competition and of the Office of Policy Planning of the Federal Trade Commission. The letter does not necessarily represent the views of the Commission or of any individual Commissioner. The Commission has, however, voted to authorize us to submit these comments.
- 2. See U.S. Energy Information Administration data available at <a href="http://www.eia.doe.gov/emeu/states/oilsales\_trans/oilsales\_trans\_ny.html">http://www.eia.doe.gov/emeu/states/oilsales\_trans/oilsales\_trans\_ny.html</a> (showing New York daily average gasoline sales of 15,615,710 gallons between May 2001 and April 2002).
- 3. Federal Trade Commission Act, 15 U.S.C. § 45.
- 4. In recent years, the Commission has investigated, among others, the mergers of Chevron and Texaco, Exxon and Mobil, and BP and Amoco the three largest oil mergers in history and the combination of the refining and marketing businesses of Shell, Texaco and Star Enterprises to create what was, at the time, the largest refining and marketing company in the United States. Last fall, the Commission investigated the proposed merger of petroleum refiners Valero Energy and Ultramar Diamond Shamrock. See Valero Energy Corp., C-4031 (Dec. 18, 2001) (proposed consent order), Chevron Corp., C-4023 (Dec. 18, 2001) (consent order); Exxon Corp., C-3907 (Jan. 30, 2001) (consent order); British Petroleum Company p.l.c., C-3868 (Apr. 19, 1999) (consent order); Shell Oil Co., C-3803 (Apr. 21, 1998) (consent order).

The Commission has also conducted nonmerger investigations and workshops involving gasoline markets, and participates in relevant public comment opportunities. In March 2001, the Commission, using the competition analysis principles in the Merger Guidelines, completed an investigation of a spike in reformulated gasoline (RFG) prices in several Midwest states in the spring and summer of 2000. Midwest Gasoline Price Investigation, Final Report of the Federal Trade Commission (Mar. 29, 2001). Also in 2001, the Commission concluded its investigation of gasoline price increases in West Coast markets. *FTC Closes Western States Gasoline Investigation*, FTC Press Release (May 7, 2001). In addition, in August 2001, the Commission held an initial public conference to examine factors that affect prices of refined petroleum products in the United States. *FTC to Hold Public Conference/Opportunity for Comment on U.S. Gasoline Industry*, FTC Press Release (July 12, 2001). A second public conference was held in May 2002. *FTC to Hold Second Public Conference on the U.S. Oil and Gasoline Industry in May 2002*, FTC Press Release (Dec. 21, 2001). Commission staff also recently filed public comments with the Environmental Protection Agency concerning "boutique fuel" regulations. Comments of the Staff of the General Counsel, Bureaus of Competition and Economics, and the Midwest Region of the Federal Trade Commission, *Study of Unique Gasoline Fuel Blends ("Boutique Fuels")*, *Effects on Fuel Supply and Distribution and Potential Improvements*, EPA 420-P-01-004, Public Docket No. A-2001-20 (Jan. 30, 2002).

- 5. See, e.g., Letter from Joseph J. Simons, Director, FTC Bureau of Competition, and R. Ted Cruz, Director, FTC Office of Policy Planning to Hon. Robert F. McDonnell, Commonwealth of Virginia House of Delegates (Feb. 15, 2002) at <a href="http://www.ftc.gov/be/V020011.htm">http://www.ftc.gov/be/V020011.htm</a>; Letter from Ronald B. Rowe, Director for Litigation, FTC Bureau of Competition, to Hon. David Knowles, California State Assembly (May 5, 1992); Prepared Statement of Claude C. Wild III, Director, FTC Denver Regional Office, before the State, Veterans, and Military Affairs Committee of the Colorado State Senate (Apr. 22, 1992); Letter from Claude C. Wild III, Director, FTC Denver Regional Office, to Hon. Bill Morris, Kansas State Senate (Feb. 26, 1992); Letter from Claude C. Wild III, Director, FTC Denver Regional Office, to David Buhler, Executive Director, Utah Department of Commerce (Jan. 29, 1992); Letter from Thomas B. Carter, Director, FTC Dallas Regional Office, to Hon. W.D. Moore, Jr., Arkansas State Senate (Mar. 22, 1991); Letter from Jeffrey I. Zuckerman, Director, FTC Bureau of Competition, to Hon. Jennings G. McAbee, Chairman, Ways and Means Committee, Other Taxes and Revenues Subcommittee, South Carolina House of Representatives (May 12, 1989).
- 6. Predatory pricing claims are brought under Section 2 of the Sherman Act, 15 U.S.C. § 2. Plaintiffs can also claim anticompetitive predation under the Robinson-Patman Act, 15 U.S.C. § 13(a) (as amended).
- 7. Notable examples include American Airlines and Microsoft. See, e.g., United States v. AMR Corp., 2001-1 Trade Cas. (CCH) ¶ 73,251 (D. Kan. 2001); United States v. Microsoft Corp., 253 F.3d 34 (D.C. Cir. 2001).
- 8. 15 U.S.C. § 15.
- 9. Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 429 U.S. 477, 488 (1977) (quoting Brown Shoe Co. v. United States, 370 U.S.

- 294, 320 (1962)).
- 10. Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209, 224 (1993); Atlantic Richfield Co. v. USA Petroleum Co., 495 U.S. 328 (1990); Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574 (1986).
- 11. Brooke Group, 509 U.S. at 224.
- 12. Id. (quoting Atlantic Richfield Co., 495 U.S. at 340).
- 13. Id. (citing Atlantic Richfield Co., 495 U.S. at 340).
- 14. Cargill, Inc. v. Monfort of Colorado, Inc., 479 U.S. 104, 117 (1986).
- 15. See Kelco Disposal, Inc. v. Browning-Ferris Indus., 845 F.2d 404, 407 (2d Cir. 1988), aff'd on other grounds, 492 U.S. 257 (1989) (finding that "[p]rices that are below reasonably anticipated marginal cost, and its surrogate, reasonably anticipated average variable cost, are presumed predatory"); MCI Communications Corp. v. AT&T, 708 F.2d 1081, 1122-23 (7<sup>th</sup> Cir.), cert. denied, 464 U.S. 891 (1983) (holding that no predatory intent can be presumed from prices at or above long run incremental cost); International Air Indus. v. American Excelsior Co., 517 F.2d 714, 724 (5<sup>th</sup> Cir. 1975), cert. denied, 424 U.S. 943 (1976) (holding that plaintiff must show that "either (1) a competitor is charging a price below its average variable cost . . . or (2) the competitor is charging a price below its short-run, profit maximizing price and barriers to entry are great enough to enable the discriminator to reap the benefits of predation before new entry is possible"); P. Areeda and H. Hovenkamp, Antitrust Law, ¶ 724; P. Areeda and D. Turner, "Predatory Pricing and Related Practices under Section 2 of the Sherman Act," 88 Harv. L. Rev. 697 (1975). In Brooke Group, the parties both agreed that average variable cost should be the appropriate measure.
- 16. Brooke Group, 509 U.S. at 223 (quoting Cargill, 479 U.S. at 116).
- 17. Matsushita Elec., 475 U.S. at 589.
- 18. Brooke Group, 509 U.S. at 224, 226.
- 19. The fact that the MFMPA would prohibit conduct only insofar as that conduct is found to "injure competition" would, at best, align the Act with federal law in this respect, and thus make the Act merely duplicative of federal law. Significantly, however, as noted in the discussion above, under federal law, competition is not considered harmed unless consumers are harmed. Mere injury to competitors is insufficient. See, e.g., Rebel Oil Co., Inc. v. Atlantic Richfield Co., 51 F.3d 1421, 1433 (9<sup>th</sup> Cir. 1995) ("Of course, conduct that eliminates rivals reduces competition. But reduction of competition does not invoke the Sherman Act until it harms consumer welfare."). Whether or not New York state courts would interpret injury to competition similarly is not clear. Courts construing below-cost pricing statutes in other states have not always done so. See, e.g., Home Oil Co. v. Sam's East, Inc., 2002 WL 857391 (M.D. Ala. Apr. 26, 2002). In addition, empirical evidence of the effect of state statutes similar to the MFMPA suggests that their enforcement has been focused more on competitior protection than on protection of competition. See Section II.D. below.
- 20. Frank H. Easterbrook, "Predatory Strategies and Counter-Strategies," 48 U. of Chicago L. Rev. 313 (1981).
- 21. Dennis W. Carlton and Jeffrey M. Perloff. Modern Industrial Organization 342 (Addison-Wesley, 2000).
- 22. See Jeffrey Church and Roger Ware, Industrial Organization: A Strategic Approach 659 (Inwin McGraw-Hill, 2000).
- 23. Matsushita Elec., 475 U.S. at 589.
- 24. ld. at 594
- 25. Cargill, 479 U.S. at 116.
- 26. USDOE, Deregulated Gasoline Marketing: Consequences for Competition, Competitors, and Consumers (March 1984); USDOE, Final Report: The State of Competition in Gasoline Marketing (1981).
- 27. Final Report to the Arizona Joint Legislative Study Committee on Petroleum Pricing and Marketing Practices and Producer Retail Divorcement 35 (Dec. 1988).
- 28. Final Report to the Washington State Legislature on the Attorney General's Investigation of Retail Gasoline Marketing 14 (Aug. 12, 1987).
- 29. Commonwealth of Pennsylvania, Legislative Budget and Finance Committee, Factors Affecting Motor Fuel Prices and the Competitiveness of PA's Motor Fuels Market 35 (Oct. 2000).

- 30. See, e.g., R. Anderson and R. Johnson, "Antitrust and Sales-Below-Cost Laws: The Case of Retail Gasoline," 14 Rev. of Ind. Org. 189 (1999); R. Fenili and W. Lane, "Thou Shalt Not Cut Prices! Sales-Below-Cost Laws for Gas Stations," 9 Regulation 31; J. Brannon and F. Kelly, "Pumping Up Prices in Wisconsin: The Effects of the Unfair Sales Act on Retail Gasoline Prices in Wisconsin," 12:7 Wisconsin Policy Research Institute Report (Oct. 1999).
- 31. M. Skidmore and J. Peltier, "Do Motor Fuel Sales-Below-Cost Laws Enhance Competition and Lower Prices?," unpublished manuscript, University of Wisconsin-Whitewater.
- 32. See Michael G. Vita, "Regulatory Restrictions on Vertical Integration and Control: The Competitive Impact of Gasoline Divorcement Policies," 18 J. of Reg. Econ. 217 (2000).
- 33. Continental TV, Inc., v. GTE Sylvania, Inc., 433 U.S. 36, 52 n.19 (1977).
- 34. Id. at 51.
- 35. Id. at 59.
- 36. Id. at 52 n.19.
- 37. Id. at 56.
- 38. Id. at 55 n.23.
- 39. A.A. Blass and D.W. Carlton, "The Choice of Organization Form in Gasoline Retailing and the Costs of Laws Limiting that Choice," NBER Working Paper #7435 (1999).
- 40. J.M. Barron and J.R. Umbeck, "The Effect of Differenct Contractual Arrangements: the Case of Retail Gasoline Market," 37 Journal of Law and Economics 313 (1984).
- 41. See Vita, supra note 32.
- 42. Vita concluded that legislation prohibiting or limiting refiners from owning retail gas stations increased gasoline prices by 2.6 cents per gallon and reduced consumer welfare by approximately \$112 million annually in the six states that have such legislation.

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

)	You are h	nereby	y notified	that the	Committee of	on AG	RICULI	URE wi	il meet a	s follows	3:
		•									

DAY & DATE:	WEDNESDAY, APRIL 23, 2003
TIME:	1:00 P.M.
LOCATION:	1425
The following bills	will be considered (Bill # & Short Title & Bill Sponsor):
	Respectfully, Representative Hill Chair
I hereby certify this p.m. on <b>April 22, 2</b>	notice was filed by the committee assistant at the following offices at 4:00 003.
Principa Reading	ll Clerk Clerk - House Chamber
Gennie Thurlow (C	Committee Assistant)

## **BILLS TO BE CONSIDERED**

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

DAY & DATE: WEDNESDAY, APRIL 23, 2003

TIME: 1:00 P.M.

LOCATION: 1425 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1089 Farm Machinery Law/Notice of Termination - Rep. Lewis

HB 1203 No Motor Fuel Sales Limits – Rep. Gibson and Brubaker

Respectfully, Representative Hill Chair

I hereby certify this notice	was filed by the	committee a	assistant at the	following	offices at	4:00
p.m. on <b>April 22, 2003.</b>	•					

Principal Clerk
Reading Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

## **AGENDA**

## HOUSE COMMITTEE ON AGRICULTURE

April 23, 2003 1425 Legislative Building 1:00 P.M.

#### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

#### **AGENDA ITEMS**

HB 1089 Farm Machinery Law/Notice of Termination – Rep. Lewis

HB 1203 No Motor Fuel Sales Limits – Rep. Gibson and Brubaker

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

## Ή

## **HOUSE BILL 1089**

GENERAL ASSEMBLY OF NORTH CAROLINA

**SESSION 2003** 

Short Title: Farm Machinery Law/Notice of Termination. (Public)

Sponsors: Representatives Lewis; McHenry and Moore.

Referred to: Agriculture.

## April 10, 2003

## A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING NOTICE OF TERMINATION OF FARM MACHINERY AGREEMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 66-182 reads as rewritten:

## "§ 66-182. Notice of termination of agreements.

- (a) No supplier, directly or through an officer, agent, or employee, may terminate, cancel, fail to renew, or substantially change the competitive circumstances of an agreement without good cause. Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer without good cause shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination and shall provide a 60-day right-to-cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation is enacted due to market penetration, a reasonable period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. If there is any reason constituting good cause for action, the notice shall state that reason.
- (a1) Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer for good cause is not required to notify the dealer of the termination or to provide a right-to-cure the deficiency.
- (b) Notwithstanding any agreement to the contrary, a dealer who terminates an agreement with a supplier shall notify the supplier of the termination not less than 90 days prior to the effective date of the termination.
- (b1) A supplier shall provide a dealer with at least 90 days' written notice of termination of the agreement and a 60-day right to cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation of an agreement is based upon the dealer's failure to capture the share of the market required in the agreement, a minimum 12 month period of time shall have existed where the

## GENERAL ASSEMBLY OF NORTH CAROLINA

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**SESSION 2003** 

supplie	or has worked with the dealer to gain the desired market share. The notice shall
<del>state al</del>	1 reasons constituting good cause.
(c)	Notification under this section shall be in writing and shall be by certified
mail or	personally delivered to the recipient. It shall contain all of the following:
	(1) A statement of intention to terminate the dealership.
	(2) A statement of the reasons for the termination.
	(3) The date on which the termination takes effect."
	<b>SECTION 2.</b> This act becomes effective October 1, 2003.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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## **HOUSE BILL 1203\***

Short Title:	No Motor Fuel Sales Limits. (Public)
Sponsors:	Representatives Gibson, Brubaker (Primary Sponsors); Cole, Culpepper, Hill, Kiser, McComas, McHenry, Miner, and Sauls.
Referred to:	Agriculture.
	April 10, 2003
	A BILL TO BE ENTITLED
AN ACT TO	O PROHIBIT LIMITING THE QUANTITY OF MOTOR FUEL SOLD OR
OFFERE	ED FOR SALE UNDER THE MOTOR FUEL MARKETING ACT.
The General	Assembly of North Carolina enacts:
	ECTION 1. G.S. 75-88 reads as rewritten:
"8 75-88. P	ublic <del>disclosure.</del> disclosure; quantity of motor fuel available for sale.
(a) A	ny refiner or terminal supplier computing prevailing price under the of G.S. 75-81(4)(a)(i) or (ii) shall be required to publicly disclose said this
price.	17 (1.5. 75-61(4)(a)(1) of (ii) shall be required to publicly absence that
	to person shall limit the quantity of motor fuel sold or offered for sale from a
motor fuel	pump to any one customer to a quantity less than the entire supply that is
owned or n	ossessed by the seller and that the seller is authorized to sell at the place of
	offering for sale.
(c) N	Notor fuel that is purchased under subsection (b) of this section shall be
(C) IV	article 2 and Article 3 of Chapter 119 of the General Statutes and enforced by
the Commis	ssioner of Agriculture.  Any violation under this section is punishable as a Class 2 misdemeanor."
(d) <u>A</u>	ECTION 2. This act is effective when it becomes law and applies to sales
and offers of	of sale on or after that date.

Handout Rep. Lewis HB 1089

- (6) "Good cause" means failure by a dealer to comply with requirements imposed upon the dealer by the agreement if the requirements are not different from those imposed on other dealers similarly situated in this State. In addition, good cause exists in any of the following circumstances:
  - a. A petition under bankruptcy or receivership law has been filed against the dealer.
  - b. The dealer has made an intentional misrepresentation with the intent to defraud supplier.
  - c. Default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier or a revocation or discontinuance of a guarantee of a present or future obligation of the retailer to the supplier.
  - d. Closeout or sale of a substantial part of the dealer's business related to the handling of goods; the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation; or a change, without the prior written approval of the supplier, which shall not be unreasonably withheld, in the location of the dealer's principal place of business or additional locations set forth in the agreement.
  - e. Withdrawal of an individual proprietor, partner, major shareholder, or manager of the dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written consent of the supplier.
  - f. Revocation or discontinuance of any guarantee of the dealer's present or future obligations to the supplier.
  - g. The dealer has failed to operate in the normal course of business for seven consecutive business days or has otherwise abandoned the business.
  - h. The dealer has pleaded guilty to or has been convicted of a felony affecting the relationship between the dealer and the supplier.
  - i. The dealer transfers an interest in the dealership, or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies, or a substantial reduction occurs in the interest of a partner or major shareholder in the dealership.

## VISITOR REGISTRATION SHEET

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Name of Committee	7/28/03 Date
VISITORS: PLEASE SIGN BELOW AND	O PETITRAL TO COMP.
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NAME	FIRM OR AGENCY AND ADDRESS
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JERRY HARdesty	NCAC
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## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2003**

H

## **HOUSE BILL 1203\*** PROPOSED COMMITTEE SUBSTITUTE H1203-CSLD-3 [v.1]

Short Title: Amend Motor Fuel Marketing Act.

Sponsors: (Public) Referred to:

## April 10, 2003

A BILL TO BE ENTITLED 1 AN ACT TO AMEND THE MOTOR FUEL MARKETING ACT. 2 The General Assembly of North Carolina enacts: 3 SECTION 1. Article 3 of Chapter 75 of the General Statutes reads as 4 5 rewritten: "Article 3. 6

"\\$ 75-80. Title.

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This Article shall be known and may be cited as the "Motor Fuel Marketing Act".

"Motor Fuel Marketing Act.

"§ 75-81. Definitions.

The following terms shall have the meanings ascribed to them. As used in this section unless otherwise stated and section, unless the context or subject matter clearly indicates otherwise: otherwise, the following definitions apply:

- 'Person' shall meanmeans any person, firm, association, organization, (1) partnership, business trust, joint stock company, company, corporation or legal entity.
- 'Sale' shall meanmeans selling, offering for sale or advertising for sale. (2)
- 'Motor Fuel' means motor fuel, as defined in G.S. 105-449.60, and (3) alternative fuel, as defined in G.S. 105-449.130.
- 'Cost' or 'Costs' shall mean as follows: (4)
  - For a refiner or terminal supplier, costs shall be presumed to be the refiner's or terminal supplier's prevailing price to the wholesale class of trade at the terminal used by the refiner or terminal supplier to obtain the motor fuel in question or the lowest prevailing price within 10 days prior to a sale alleged to be in violation of G.S. 75-82 hereof plus all transportation expenses including freight expenses (incurred and not otherwise included in the cost of the motor fuel), and motor fuel taxes. If a

refiner or terminal supplier does not regularly sell to the wholesale class of trade at the terminal in question, then such refiner or terminal supplier shall use as the prevailing price either (i) the lowest price to the wholesale class of trade of those other refiners or terminal suppliers at the same terminal who regularly sell to the wholesaler class or (ii) a price determined by using standard functional accounting procedures.

- b. For all other sellers, cost includes the invoice or replacement cost, whichever is less, of the grade, brand or blend, of motor fuel within 10 days prior to the date of sale, in the quantity or quantities last purchased, less all rebates and discounts received including prompt payment discounts and plus all applicable State, federal and local taxes, and transportation expenses including freight expenses, incurred and not otherwise included in the cost of the motor fuel. means the total of all of the following:
- a. The most recently published average reseller rack cost of motor fuel by grade and quality, as calculated by the Oil Price Information Service (OPIS) for the particular terminal from which the motor fuel was delivered to the motor fuel merchant.
- b. The freight charges on the motor fuel.
- c. All applicable State and federal excise taxes.
- (5) "Prompt Payment Discounts" shall mean any allowance for payment within a specified time, but shall not include discounts for eash made to the motoring public at motor fuel outlets.
- (6) 'Affiliate' shall meanmeans any person who (other than by means of a franchise) controls, is controlled by or is under common control with, any other person.
- (7) 'Motor Fuel Merchant' is means any person selling motor fuel to the public.
- (8) 'Motor Fuel Outlet' is-means any retail facility selling motor fuel to the motoring public.
- (9) 'New Retail Outlet' shall mean a new retail facility constructed from the ground or an existing retail facility that is offering motor fuel to the motoring public for the first time.
- (10) 'Refiner' shall meanmeans any person engaged in the production or refining of motor fuel, whether such production or refining occurs in this State or elsewhere, and includes any affiliate of such person or firm.
- (11) 'Terminal Supplier' shall meanmeans any person engaged in selling or brokering motor fuel to wholesalers or retailers from a storage facility of more than 2,000,000 gallons capacity and such person has an ownership interest in or control of the storage facility.

"§ 75-82. Unlawful below-cost selling; exceptions.

- (a) It shall be unlawful where the intent is to injure competition for any No motor fuel merchant or the affiliate of any motor fuel merchant to shall sell with such frequency as to indicate a general business practice of selling at a motor fuel outlet any grade, brand or blend of motor fuel for less than the cost of that grade, brand or blend of motor fuel except where (i) the unless either of the following applies:
  - (1) The price is established in good faith to meet or compete with the lower price of a competitor in the same market area on the same level of distribution selling the same or comparable product of like quality, (ii) the price remains in effect for no more than 10 days after the first sale of that grade, brand or blend by the merchant at a new retail outlet, (iii) the sale is made in good faith to dispose of a grade, brand or blend of motor fuel for the purpose of discontinuing sales of that product, or (iv) thequality.
  - (2) The sale is made pursuant to the order or authority of any court or governmental agency.
- (b) For purposes of this Article, motor fuel cost shall be computed separately for each grade, brand or blend of each motor fuel at each location where said motor fuel is offered for sale; however, nothing in this subsection shall prevent a motor fuel merchant from using a weighted average motor fuel cost for comparable grade, brand or blend when such motor fuel merchant is supplied by more than one refiner or terminal supplier at one or more terminals.
- (c) This Article shall applyapplies only to retail sales of motor fuel at motor fuel outlets.
- (d) A violation of this section is an unfair method of competition under G.S. 75-1.1

## "§ 75-83. Unlawful inducement; civil penalty.

It shall beis unlawful to knowingly induce, or to knowingly attempt to induce, a violation of this Article, whether by otherwise lawful or unlawful means. In any action initiated by the Attorney General, General at the request of the Commissioner of Agriculture, anyone found to have violated this provision shall be subject to the civil penalty applicable to the sales made in violation of this Article; or, if no sales were made, to a civil penalty of one thousand dollars (\$1,000). The clear proceeds of any civil penalties imposed in any actions initiated by the Attorney General under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

## "§ 75-84. Separate offenses; injunctions.

Each act of establishing a price <u>below cost</u> in violation of this Article shall constitute a separate offense by the <u>seller seller</u>, and the civil penalty for each offense shall be not more than one thousand dollars (\$1,000). ten thousand dollars (\$10,000). Upon a proper showing by the Attorney General or <u>his delegate</u>, the Commissioner of Agriculture, further violations may be temporarily or permanently enjoined. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 75-85. Investigations by Attorney General Commissioner of Agriculture.

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The Attorney General is authorized to Notwithstanding G.S. 75-9, the Commissioner of Agriculture may investigate any allegation of a violation of this Article made by a motor fuel merchant or by an association or group of motor fuel merchants. If the Commissioner of Agriculture receives a complaint in writing that a motor fuel merchant is selling motor fuel below cost, the Commissioner of Agriculture shall investigate and determine within three business days of the receipt of the written complaint whether the allegations in the complaint are true. If an investigation discloses a violation, the Commissioner of Agriculture may request the Attorney General may to exercise the authority under this Article to seek an injunction and he may also seek impose civil penalties. The Commissioner of Agriculture may, in order to prevent further sales, request the Attorney General to seize and seal any dispensing pump or dispensing devices from which motor fuel is offered or exposed for sale in violation of this Article. Motor fuel that has been seized and sealed under this section shall not be offered for sale until the Commissioner of Agriculture and the Attorney General, after consultation, are satisfied that the motor fuel merchant has satisfied the requirements of this Article. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

Any person, corporation, or other business entity which that is engaged in the sale of motor fuel for resale or consumption and which that is directly or indirectly injured by a violation of this Article may bring an action in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, of the county where the violation is alleged to have occurred to recover actual damages, exemplary damages, costs treble damages under G.S. 75-16, costs, and reasonable attorneys' fees. The court shall also grant such equitable relief as is proper, including a declaratory judgment and injunctive relief. Any action under this Article must be brought within one year of the alleged violation.

## "§ 75-87. Private action presumptions.

"§ 75-86. Private actions.

- (a) In any private action brought under this Article, a violation shall be presumed to have occurred if: (i) the prevailing price under G.S. 75-81(4)(a) for any grade, brand or blend of a motor fuel sold by a refiner or terminal supplier to a wholesaler or retailer is greater than the price of the same grade, brand or blend of motor fuel sold by such refiner or terminal supplier directly through its own motor fuel outlet or through the outlet of an affiliate of said refiner or terminal supplier; or (ii) if the product price of any grade, brand or blend of a motor fuel sold by a wholesaler to a retailer is greater than the retail price of the same grade, brand or blend of motor fuel sold by such wholesaler through its own motor fuel outlet or the outlet of an affiliate of said wholesaler, provided the method of delivery and quantities of each delivery of motor fuel to the retailer and to the wholesaler's outlet or affiliate's outlet are the same or comparable.
- (b) A party may rebut the presumption created by this section by presenting evidence to establish his cost of the grade, brand or blend of motor fuel in question, or by qualifying for an exception under <u>subdivision (1) or subdivision (2) of subsection (a) of G.S. 75-82.</u>

"§ 75-88. Public disclosure; quantity of motor fuel available for sale.

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- (a) Any refiner or terminal supplier computing prevailing price under the provisions of G.S. 75-81(4)(a)(i) or (ii) shall be required to publicly disclose said-this price.
- (b) No person shall limit the quantity of motor fuel sold or offered for sale from a motor fuel pump to any one customer to a quantity less than the entire supply that is owned or possessed by the seller and that the seller is authorized to sell at the place of the sale or offering for sale.
- (c) Motor fuel that is purchased under subsection (b) of this section shall be subject to Article 2 and Article 3 of Chapter 119 of the General Statutes and enforced by the Commissioner of Agriculture.
- (d) Any violation under this section is punishable as a Class 2 misdemeanor.

  "§ 75-89. Powers and remedies supplementary.

The powers and remedies provided by this Article shall be cumulative and supplementary to all powers and remedies otherwise provided by law."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to sales of motor fuels and offers of sale of motor fuel on or after that date.



## **HB 1203: Amend Motor Fuel Marketing Act**

Introduced by: Representative Gibson House Agriculture Committee:

Barbara Riley April 23, 2003 Summary by: Date:

Committee Counsel Version: **PCS** 

#### SUMMARY:

House Bill 1203 amends the Motor Fuels Marketing Act redefining the meaning of "costs", removing the requirement of an "intent to injure competition" for a violation of the Act to occur, making a violation of the act an unfair method of competition under G.S. 75-1.1, and authorizing the Commissioner of Agriculture, instead of the Attorney General, to investigate violations of the Act. The civil penalty for a violation of the bill is increased from \$1,000 to \$10,000 for each offense. The bill also makes it a Class 2 misdemeanor to (1) limit the quantity of motor fuel sold to any one customer to less than the entire supply that is owned or possessed by the seller and that he is authorized to sell at the location of the sale or offering or (2) fail to comply with the provisions of Article 2 and 3 of Chapter 119, dealing with Liquid fuels, lubricating oils, and greases, and Gasoline and Oil Inspections.

The act becomes effective October 1, 2003 and applies to sales of motor fuels and offers of sale made on or after that date.

### **NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT**

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## NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

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## 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented: By Representative Hill Chair for the Committee on Agriculture Committee Substitute for H.B. 1089 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING NOTICE OF TERMINATION OF FARM MACHINERY AGREEMENTS. With a favorable report. With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance With a favorable report, as amended. With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance With a favorable report as to the committee substitute bill (# ), which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # recommendation that the committee substitute bill # ) be re-referred to the Committee .) With a favorable report as to House committee substitute bill (# the title, unfavorable as to Senate committee substitute bill. With an unfavorable report. With recommendation that the House concur. With recommendation that the House do not concur. With recommendation that the House do not concur; request conferees. With recommendation that the House concur; committee believes bill to be material. With an unfavorable report, with a Minority Report attached. Without prejudice. With an indefinite postponement report. With an indefinite postponement report, with a Minority Report attached. With recommendation that it be adopted. (HOUSE RESOLUTION ONLY) 3/06/03

## **Gennie Thurlow (Rep. Hill)**

rom:

Edna Pearce (Rep. Pate)

Thursday, April 24, 2003 12:12 PM

Rep. Rex Baker; Anne Misenheimer (Rep. Baker); Rep. Billy Creech; Rhonda Todd (Rep. Creech); Rep. Joe Tolson; Gayle Christian (Rep. Tolson); Barbara Riley (Research); Erika

Churchill (Research)

Subject:

Subcommittee on Agriculture Mtg. Monday, 4/28/03 at 4 PM

## SUBCOMMITTEE NOTICE 2003-2004 SESSION

You are hereby notified that the Subcommittee on Agriculture will meet as follows:

DAY & DATE:

Monday, April 28, 2003

TIME:

4:00 PM

LOCATION:

302-C (Rep. Rex Baker's Office)

The following bill will be discussed:

HB 1203 - NO MOTOR FUEL SALES LIMITS - Reps. Gibson and Brubaker

Respectfully,

Rep. Louis Pate Chair

## MINUTES HOUSE COMMITTEE ON AGRICULTURE

## April 29, 2003

The House Committee on Agriculture met on Tuesday, April 29, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Coates, Creech, Culp, Daughtridge, Ellis, Fox, Kiser, Mitchell, Pate, Tolson, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:05 P.M. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill stated that HOUSE BILL 1203 NO MOTOR FUEL SALES LIMITS, sponsored by Representatives Gibson, would be taken up first. Chair Hill indicated that there was a PROPOSED COMMITTEE SUBSTITUTE for HOUSE BILL 1203 AMEND MOTOR FUEL MARKETING ACT, and without any objections, it would be discussed. Representative Baker moved that the PROPOSED COMMITTEE SUBSTITUTE for HOUSE BILL 1203 be discussed. The motion passed. After discussion, Representative Baker made a motion that HOUSE BILL 1203 PROPOSED COMMITTEE SUBSTITUTE be given a favorable report, the original bill an unfavorable report. The motion passed.

Representative Lewis was recognized, and he moved that HOUSE BILL 939 PROPOSED COMMITTEE SUBSTITUTE, DACS TO REGULATE FARMED CERVIDS, and HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE, CLARIFY AUTHORITY/REGULATION OF CERVIDS, be adopted for discussion. The motion carried. After some discussion, Representative Lewis made a motion that the Agriculture Committee postpone consideration of HOUSE BILL 939 PROPOSED COMMITTEE SUBSTITUTE and HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE until after the next meeting of the Wildlife Commission (May 16, 2003). The motion carried.

The meeting was adjourned at 12:40 P.M.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

## Gennie Thurlow (Rep. Hill)

From:

Gennie Thurlow (Rep. Hill)

Sent:

Thursday, April 24, 2003 1:57 PM

Subject:

Agriculture Committee Meeting 4-29-03; 12 Noon and 2:00 P.M.

Importance: High

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE:

TUESDAY, APRIL 29, 2003

TIME:

12:00 NOON and 2:00 P.M.

LOCATION:

1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 939** 

DACS TO REGULATE FARMED CERVIDS Representatives Coates, Barbee, Starnes, and Warner

**HB 948** 

**CLARIFY AUTHORITY/REGULATION OF CERVIDS** 

Representative A. Williams

**HB 1203** 

NO MOTOR FUEL SALES LIMITS Representatives Gibson and Brubaker

> Respectfully, Representative Hill Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:45 p.m. on April 24, 2003.

Principal Clerk	
Reading Clerk - House	e Chamber

## **AGENDA**

## HOUSE COMMITTEE ON AGRICULTURE

April 29, 2003 1228 Legislative Building

12:00 Noon and 2:00 P.M.

#### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

#### **AGENDA ITEMS**

HB 939 DACS TO REGULATE FARMED CERVIDS

Representatives Coates, Barbee, Starnes, and Warner

HB 948 CLARIFY AUTHORITY/REGULATION OF CERVIDS

Representative A. Williams

HB 1203 NO MOTOR FUEL SALES LIMITS

Representatives Gibson and Brubaker

**CHAIR'S REMARKS** 

OTHER BUSINESS

**ADJOURNMENT** 

VISITOR R	EGISTRATION SHEET
Muculture	4/29/23
Name of Committee	Date
VISITORS: PLEASE SIGN BELOW AN	ND RETURN TO COMMITTEE ASSISTANT
NAME	FIRM OR AGENCY
William Bullaged	N.C. WRC
JOHN PECHNANN	Newre
Jave Windham Jerry HARLES 19	NCRC NCRC
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## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2003**

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## **HOUSE BILL 1203\***

	Short Title:	No Motor Fuel Sales Limits.	(Public)	
	Sponsors:	Representatives Gibson, Brubaker (Primary Sponsors); Ce Hill, Kiser, McComas, McHenry, Miner, and Sauls.	ole, Culpepper,	
	Referred to:	Agriculture.		
		April 10, 2003	·	
1		A BILL TO BE ENTITLED		
2	AN ACT TO	O PROHIBIT LIMITING THE QUANTITY OF MOTOR FU	JEL SOLD OR	
3	OFFERE	ED FOR SALE UNDER THE MOTOR FUEL MARKETING	GACT.	
4	The General Assembly of North Carolina enacts:			
5		ECTION 1. G.S. 75-88 reads as rewritten:		
6	- "8 75-88. P	ublic <del>disclosure.</del> disclosure; quantity of motor fuel availab	<u>le for sale.</u>	
7	(a) A	ny refiner or terminal supplier computing prevailing p	rice under the	
8	provisions of	of G.S. 75-81(4)(a)(i) or (ii) shall be required to publicly di	sclose said this	
9	price.			
10	(b) N	to person shall limit the quantity of motor fuel sold or offered	for sale from a	
11	motor fuel	pump to any one customer to a quantity less than the entire	e supply that is	
12	owned or pe	ossessed by the seller and that the seller is authorized to sell	l at the place of	
13	the sale or c	offering for sale.		
14	(c) N	Motor fuel that is purchased under subsection (b) of this s	section shall be	
15	subject to A	article 2 and Article 3 of Chapter 119 of the General Statutes a	and enforced by	
16	the Commis	ssioner of Agriculture.		
17	<u>(d)</u> <u>A</u>	any violation under this section is punishable as a Class 2 mis	demeanor."	
18	S	ECTION 2. This act is effective when it becomes law and	applies to sales	
19	and offers of	of sale on or after that date.	•	

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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## HOUSE BILL 1203\* PROPOSED COMMITTEE SUBSTITUTE H1203-PCS45112-ST-23

Short Title: A	amend Motor Fuel Marketing Act.	(Public)
Sponsors:		
Referred to:		
	April 10, 2003	
	A BILL TO BE ENTITLED	
AN ACT TO A	MEND THE MOTOR FUEL MARKETING ACT.	
The General A	ssembly of North Carolina enacts:	
SEC rewritten:	TION 1. Article 3 of Chapter 75 of the General	Statutes reads as
rewritten.	"Article 3.	
	"Motor Fuel Marketing Act.	
"§ 75-80. Title	<del>_</del>	
_	shall be known and may be cited as the "Motor Fuel N	Marketing Act"
"§ 75-81. Defi		idikoting riot .
•	ing terms shall have the meanings ascribed to then	a-As used in this
	otherwise stated and Article, unless the context or sub	
	wise: otherwise, the following definitions apply:	
(1)	'Person' shall meanmeans any person, firm, associa	tion, organization,
	partnership, business trust, joint stock company, con	
	or legal entity.	
(2)	'Sale' shall meanmeans selling, offering for sale or ac	lvertising for sale.
(3)	'Motor Fuel' means motor fuel, as defined in G.S	. 105-449.60, and
	alternative fuel, as defined in G.S. 105-449.130.	
(4)	'Cost' or 'Costs' shall mean as follows:	
	a. For a refiner or terminal supplier, costs shall	-
	the refiner's or terminal supplier's prevail	
	wholesale class of trade at the terminal used	
	terminal supplier to obtain the motor fuel i	
	lowest prevailing price within 10 days prior t	
	be in violation of G.S. 75-82 hereof plus	-
	expenses including freight expenses (incurred included in the cost of the motor fuel), and motor fuels.	
	monded in the cost of the motor fuel), and me	<del>noi iuci-laxes: IT-a</del>

1		refiner or terminal supplier does not regularly sell to the
2		wholesale class of trade at the terminal in question, then such
3		refiner or terminal supplier shall use as the prevailing price
4		either (i) the lowest price to the wholesale class of trade of
5		those other refiners or terminal suppliers at the same terminal
6		who regularly sell to the wholesaler class or (ii) a price
7		determined by using standard functional accounting procedures.
8		b. For all other sellers, cost includes the invoice or replacement
9		cost, whichever is less, of the grade, brand or blend, of motor
10		fuel within 10 days prior to the date of sale, in the quantity or
11		quantities last purchased, less all rebates and discounts received
12		including prompt payment discounts and plus all applicable
13		State, federal and local taxes, and transportation expenses
14		including freight expenses, incurred and not otherwise included
15		in the cost of the motor fuel. means the total of all of the
16		following:
17		a. The most recently published average reseller rack cost of motor
18		fuel by grade and quality, as calculated by the Oil Price
19		Information Service (OPIS) for the particular terminal from
20		which the motor fuel was delivered to the motor fuel merchant
21		or the low OPIS Rack Price as reported by OPIS for the
22		particular terminal from which the motor fuel was delivered to
23		the motor fuel merchant, whichever is less.
24		b. The freight charges on the motor fuel.
25		c. All applicable State and federal excise taxes.
26	<del>(5)</del>	"Prompt Payment Discounts" shall mean any allowance for payment
27	(5)	within a specified time, but shall not include discounts for cash made
28		to the motoring public at motor fuel outlets.
29	(6)	'Affiliate' shall meanmeans any person who (other than by means of a
30	(0)	franchise) controls, is controlled by or is under common control with,
31		any other person.
32	(7)	'Motor Fuel Merchant' is means any person selling motor fuel to the
33	(,)	public.
34	(8)	'Motor Fuel Outlet' is-means any retail facility selling motor fuel to the
35	(0)	motoring public.
36	<del>(9)</del>	'New Retail Outlet' shall mean a new retail facility constructed from
37	(>)	the ground or an existing retail facility that is offering motor fuel to the
38		motoring public for the first time.
39	(10)	'Refiner' shall meanmeans any person engaged in the production or
40		refining of motor fuel, whether such production or refining occurs in
41		this State or elsewhere, and includes any affiliate of such person or
42		firm.
43	(11)	'Terminal Supplier' shall meanmeans any person engaged in selling or
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brokering motor fuel to wholesalers or retailers from a storage facility

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of more than 2,000,000 gallons capacity and such person has an ownership interest in or control of the storage facility.

## "§ 75-82. Unlawful below-cost selling; exceptions.

- (a) It shall be unlawful where the intent is to injure competition for any No motor fuel merchant or the affiliate of any motor fuel merchant to—shall sell with—such frequency as to indicate a general business practice of selling at a motor fuel outlet any grade, brand or blend of motor fuel for less than the cost of that grade, brand or blend of motor fuel except where (i) theunless either of the following applies:
  - (1) The price is established in good faith to meet or compete with the lower price of a competitor in the same market area on the same level of distribution selling the same or comparable product of like quality, (ii) the price remains in effect for no more than 10 days after the first sale of that grade, brand or blend by the merchant at a new retail outlet, (iii) the sale is made in good faith to dispose of a grade, brand or blend of motor fuel for the purpose of discontinuing sales of that product, or (iv) thequality.
  - (2) The sale is made pursuant to the order or authority of any court or governmental agency.
- (b) For purposes of this Article, motor fuel cost shall be computed separately for each grade, brand or blend of each motor fuel at each location where said motor fuel is offered for sale; however, nothing in this subsection shall prevent a motor fuel merchant from using a weighted average motor fuel cost for comparable grade, brand or blend when such motor fuel merchant is supplied by more than one refiner or terminal supplier at one or more terminals.
- (c) This Article shall applyapplies only to retail sales of motor fuel at motor fuel outlets.
- (d) A violation of this section is an unfair method of competition under G.S. 75-1.1.

## "§ 75-83. Unlawful inducement; civil penalty.

It shall beis unlawful to knowingly induce, or to knowingly attempt to induce, a violation of this Article, whether by otherwise lawful or unlawful means. In any action initiated by the Attorney General, General at the request of the Commissioner of Agriculture, anyone found to have violated this provision shall be subject to the civil penalty applicable to the sales made in violation of this Article; or, if no sales were made, to a civil penalty of one thousand dollars (\$1,000). The clear proceeds of any civil penalties imposed in any actions initiated by the Attorney General under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

## "§ 75-84. Separate offenses; injunctions.

Each act of establishing a price <u>below cost</u> in violation of this Article shall constitute a separate offense by the <u>seller seller</u>, and the civil penalty for each offense shall be not more than <del>one thousand dollars (\$1,000).ten thousand dollars (\$10,000).</del> Upon a proper showing by the Attorney General or his delegate, the Commissioner of Agriculture, further violations may be temporarily or permanently enjoined. The clear proceeds of

 civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

## "§ 75-85. Investigations by Attorney General. Commissioner of Agriculture.

The Attorney General is authorized to Notwithstanding G.S. 75-9, the Commissioner of Agriculture may investigate any allegation of a violation of this Article made by a motor fuel merchant or by an association or group of motor fuel merchants. If the Commissioner of Agriculture receives a complaint in writing that a motor fuel merchant is selling motor fuel below cost, the Commissioner of Agriculture shall investigate and determine within three business days of the receipt of the written complaint whether the allegations in the complaint are true. If an investigation discloses a violation, the Commissioner of Agriculture may request the Attorney General may to exercise the authority under this Article to seek an injunction and he may also seek impose civil penalties. The Commissioner of Agriculture may, in order to prevent further sales, request the Attorney General to seize and seal any dispensing pump or dispensing devices from which motor fuel is offered or exposed for sale in violation of this Article. Motor fuel that has been seized and sealed under this section shall not be offered for sale until the Commissioner of Agriculture and the Attorney General, after consultation, are satisfied that the motor fuel merchant has satisfied the requirements of this Article. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

## "§ 75-86. Private actions.

Any person, corporation, or other business entity which that is engaged in the sale of motor fuel for resale or consumption and which that is directly or indirectly injured by a violation of this Article may bring an action in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, of the county where the violation is alleged to have occurred to recover actual damages, exemplary damages, costs treble damages under G.S. 75-16, costs, and reasonable attorneys' fees. The court shall also grant such equitable relief as is proper, including a declaratory judgment and injunctive relief. Any action under this Article must be brought within one year of the alleged violation.

## "§ 75-87. Private action presumptions.

- (a) In any private action brought under this Article, a violation shall be presumed to have occurred if: (i) the prevailing price under G.S. 75-81(4)(a) for any grade, brand or blend of a motor fuel sold by a refiner or terminal supplier to a wholesaler or retailer is greater than the price of the same grade, brand or blend of motor fuel sold by such refiner or terminal supplier directly through its own motor fuel outlet or through the outlet of an affiliate of said refiner or terminal supplier; or (ii) if the product price of any grade, brand or blend of a motor fuel sold by a wholesaler to a retailer is greater than the retail price of the same grade, brand or blend of motor fuel sold by such wholesaler through its own motor fuel outlet or the outlet of an affiliate of said wholesaler, provided the method of delivery and quantities of each delivery of motor fuel to the retailer and to the wholesaler's outlet or affiliate's outlet are the same or comparable.
- (b) A party may rebut the presumption created by this section by presenting evidence to establish his that party's cost of the grade, brand or blend of motor fuel in

question, or by qualifying for an exception under <u>subdivision (1) or subdivision (2) of subsection (a) of</u> G.S. 75-82.

## "§ 75-88. Public disclosure, disclosure; quantity of motor fuel available for sale.

- (a) Any refiner or terminal supplier computing prevailing price under the provisions of G.S. -75-81(4)(a)(i) or (ii) G.S. -75-81(4) shall be required to publicly disclose said this price.
- (b) No entity shall limit the quantity of motor fuel sold or offered for sale from a motor fuel pump to any one customer to a quantity less than the entire supply that is owned or possessed by the seller and that the seller is authorized to sell at the place of sale or offering for sale unless preempted by a State or federal state of emergency.
- (c) Motor fuel purchased under this section shall be dispensed into a container approved by the fire prevention code, the State Building Code as authorized under G.S. 143-139, or a containment vehicle approved by the Department of Transportation.
- (d) Each act violating this section shall constitute a separate offense, and is subject to a civil penalty. The civil penalty for each offense shall be not more than five thousand dollars (\$5,000). Upon a proper showing by the Attorney General or the Commissioner of Agriculture, further violations may be temporarily or permanently enjoined. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

### "§ 75-89. Powers and remedies supplementary.

The powers and remedies provided by this Article shall be cumulative and supplementary to all powers and remedies otherwise provided by law."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to sales of motor fuels and offers of sale of motor fuel on or after that date.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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### **HOUSE BILL 939\***

Short Title: DACS to Regulate Farmed Cervids. (Public)

Sponsors: Representatives Coates, Barbee, Starnes, Warner (Primary Sponsors); Howard, McCombs, Mitchell, Preston, and Sexton.

Referred to: Agriculture.

## April 8, 2003

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A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO REGULATE FARMED CERVIDS, TO CHANGE CERTAIN REQUIREMENTS FOR QUALIFYING FOR CAPTIVITY LICENSES FOR CERTAIN DEER, AND TO AUTHORIZE THE INTRASTATE TRANSPORT OF CERTAIN DEER.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 49H of Chapter 106 of the General Statutes reads as rewritten:

#### "Article 49H.

"Production and Sale of Fallow Deer and Red Deer. Farmed Cervids.

- § 106-549.97. Regulation of fallow deer and red deer farmed cervids by Department of Agriculture and Consumer Services; certain authority of North Carolina Wildlife Resources Commission not affected; definitions. affected.
- (a) It is the intent of the General Assembly that farmed cervids are treated as domesticated livestock in order to promote the development and improvement of the farmed cervid industry in the State. The Department of Agriculture and Consumer Services shall regulate the production-possession, production, transportation, and sale of fallow deer and red deer farmed cervids for food purposes purposes or for other commercial or noncommercial purposes. The Board of Agriculture shall adopt rules for the production-possession, production, transportation, and sale of fallow deer and red deer for food purposes farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and possessing, producing, transporting, or selling fallow deer or red deer, or both, for food purposes. farmed cervids.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules

1 to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red-deer, or both, or to prevent damage to 2 the native deer population or its habitat.

- The following definitions apply in this Article:
  - Fallow deer. A member of the Dama dama species.
  - Red deer. A member of the Cervus elephus species. (2)

For purposes of this Article, 'farmed cervid' means any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is born and raised in captivity.

"§ 106-549.98. Inspection fees.

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

## **SECTION 2.** G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. - Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale farmed cervids, defined in G.S. 106-549.97, raised for food purposes or raised for other commercial or noncommercial purposes under G.S. 106-549.97."

## **SECTION 3.** G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. - Bear, fox, rabbit, squirrel, wild boar, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; deer; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals. Game animals does not include farmed cervids, defined in G.S. 106-549.97, raised for food purposes or raised for other commercial or noncommercial purposes under G.S. 106-549.97."

## **SECTION 4.** G.S. 106-549.15(14) reads as rewritten:

"(14) 'Meat food product' means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, bison, fallow-deer, or red deer, or farmed cervids, excepting products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food

products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, goats, and bison."

**SECTION 5.** G.S. 106-549.17 reads as rewritten:

## "§ 106-549.17. Inspection of animals before slaughter; humane methods of slaughtering.

- (a) For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this State in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.
- (b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.
- (c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:
  - (1) In the case of cattle, calves, fallow deer, red deer, farmed cervids, bison, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
  - (2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia

of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

SECTION 6. G.S. 106-549.18 reads as rewritten:

#### "§ 106-549.18. Inspection; stamping carcass.

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For the purposes hereinbefore set forth the Commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as 'Inspected and Passed'; and said inspectors shall label, mark, stamp, or tag as 'Inspected and Condemned,' all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof."

**SECTION 7.** G.S. 106-549.19 reads as rewritten:

#### "§ 106-549.19. Application of Article; place of inspection.

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Article is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Commissioner or his authorized representative may limit the entry of carcasses, part of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this Article is maintained, under such conditions as he may prescribe to assure

that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this and the subsequent Article."

**SECTION 8.** G.S. 106-549.22 reads as rewritten:

#### "§ 106-549.22. Rules and regulations of Board.

The Commissioner or his authorized representative shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and the Board shall prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, the Commissioner or his authorized representative shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'North Carolina Department of Agriculture and Consumer Services Inspected and Passed.'"

**SECTION 9.** G.S. 549.23 reads as rewritten:

#### "§ 106-549.23. Prohibited slaughter, sale and transportation.

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

- (1) Slaughter any of these animals or prepare any of these articles which are capable of use as human food, at any establishment preparing any such articles for intrastate commerce except in compliance with the requirements of this and the subsequent Article;
- (2) Slaughter, or handle in connection with slaughter, any such animals in any manner not in accordance with G.S. 106-549.17(c) of this Article;
- (3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
  - a. Any of these articles which (i) are capable of use as human food and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or
  - b. Any articles required to be inspected under this Article unless they have been so inspected and passed; or
- (4) Do, with respect to any of these articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

SECTION 10. G.S. 106-549.25 reads as rewritten:

"§ 106-549.25. Slaughter, sale and transportation of equine carcasses.

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No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Commissioner or his authorized representative, with respect to establishments at which inspection is maintained under this Article, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats are slaughtered or their carcasses, parts thereof, meats or meat food products are prepared."

SECTION 11. G.S. 106-549.26 reads as rewritten:

#### "§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony which may include a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a Class I felony and shall, upon

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conviction thereof, be summarily discharged from office and may be punished by a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000)."

#### **SECTION 12.** G.S. 106-549.27(a) reads as rewritten:

- The provisions of this Article requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not
  - Apply to the slaughtering by any person of animals of his own raising, (1) and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor
  - To the custom slaughter by any person, firm, or corporation of cattle, (2) sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him, and members of his household and his nonpaying guests and employees: Provided, that all carcasses, parts thereof, meat and meat food products derived from custom slaughter shall be identified as required by the Commissioner, during all phases of slaughtering, chilling, cooling, freezing, packing, meat canning, rendering, preparation, storage and transportation; provided further, that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, meat or meat food products of any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, or equines, capable of use as human food, unless the carcasses, parts thereof, meat or meat food products have been inspected and passed and are identified as having been inspected and passed by the Commissioner or the United States Department of Agriculture."

#### SECTION 13. G.S. 106-549.28 reads as rewritten:

#### "§ 106-549.28. Regulation of storage of meat.

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a Class 2 misdemeanor."

**SECTION 14.** G.S. 113-272.5(c) reads as rewritten:

"§ 113-272.5. Captivity license.

- (a) In the interests of humane treatment of wild animals and wild birds that are crippled, tame, or otherwise unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold at a specified location one or more of any particular species of wild animal or wild bird alive in captivity. Before issuing this license, the Executive Director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the Executive Director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird.
- (b) Unless a shorter time is set for a license upon its issuance under the provisions of subsection (c), captivity licenses are annual licenses issued beginning January 1 each year and running until the following December 31. This license is issued upon payment of five dollars (\$5.00) to the Wildlife Resources Commission. An increase in pen size or an increase in the number of pens for the purpose of increasing the holding capacity of a licensed facility shall not be a basis for refusing to reissue a captivity license for deer that are game animals, as defined in G.S. 113-129.
- (c) The Wildlife Resources Commission may require standards of caging and care and reports to and supervision by employees of the Wildlife Resources Commission as necessary to insure humane treatment and furtherance of the objectives of this Subchapter. The Executive Director in implementing the provisions of this section may administratively impose through responsible agents and employees restrictions upon the mode of captivity that he deems necessary, including prescribing methods of treatment and handling designed, if possible, to enable the wild animal or wild bird to become self-sufficient and requiring that the wild animal or wild bird be set free when self-sufficiency is attained. To this end, the Executive Director may issue the captivity license with an expiration date earlier than December 31 and may also act to terminate any captivity license earlier than the expiration date for good cause. The standards for caging and care adopted pursuant to this section shall satisfy all of the following:
  - (1) When a fence is required for deer that are game animals, as defined in G.S. 113-129, the fence shall not be required to exceed a height of eight feet.
  - When a building is required to shelter deer that are game animals, as defined in G.S. 113-129, the floor of the building shall not be required to be made of wood.
  - (3) When application for a tag is required for a newborn deer that is a game animal, as defined in G.S. 113-129, the application shall not request the sex of the newborn.
- (d) Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders possession of the wild animal or wild bird unlawful.
  - (e) No captivity license may be issued for any cougar (Felis concolor), except to:

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A bona fide publicly supported zoo. (1)

- **(2)** An educational or scientific research institution.
- An individual who lawfully possessed the cougar on June 29, 1977. (3) The license may not be granted, however, for possession of a cougar within a municipality which that prohibits such possession by ordinance.
- (4) An individual who holds a cougar without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission.
- The licensing provisions of this section apply to black bears held in captivity, (f) but, to the extent that it differs from this section, Article 2 of Chapter 19A of the General Statutes governs the keeping of black bears in captivity."

**SECTION 15.** G.S. 113-274(c) reads as rewritten:

- "(c) The Wildlife Resources Commission may issue the following permits:
  - **(2)** Transportation Permit. - The Wildlife Resources Commission may require the use of transportation permits by persons required to be licensed under this Article, or by persons and individuals exempt from license requirements, while transporting wildlife resources within the State - as necessary to discourage unlawful taking or dealing in wildlife resources and to control and promote the orderly and systematic transportation of wildlife resources within, into, through, and out of the State. Transportation permits may be issued for wildlife transported either dead or alive, in accordance with restrictions that may be reasonably imposed. When convenient, rules or administrative directives may require the retention and use of an invoice or memorandum of sale, or the license or permit authorizing the taking or acquisition of the wildlife resources, as a transportation permit. When circumstances warrant, however, a separate additional transportation permit may be required. Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders the transportation of the wildlife resources unlawful. Upon proper application, the Wildlife Resources Commission shall issue permits authorizing any person or facility that has obtained a captivity license under G.S. 113-272.5 to transport within the State deer that are game animals, as defined in G.S. 113-129, to another person or another facility that has obtained a captivity license under G.S. 113-272.5.

SECTION 16. Notwithstanding any rule or law to the contrary, any person who, as of May 17, 2002, held deer that are game animals, as defined in G.S. 113-129, as amended by Section 3 of this act, may apply no later than July 1, 2004, for a captivity license under G.S. 113-272.5, as amended by Section 14 of this act.

# GENERAL ASSEMBLY OF NORTH CAROLINA

**SESSION 2003** 

1	SECTION 17. Except for any rule adopted by the Department of Agriculture
2	and Consumer Services, any rule regulating farmed cervids, as defined in G.S.
3	106-549.97, as amended by Section 1 of this act, is repealed.
1	SECTION 18. This act is effective when it becomes law.

House Bill 939\*-First Edition

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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# HOUSE BILL 939\* PROPOSED COMMITTEE SUBSTITUTE H939-CSRF-12 [v.6]

4/29/2003 10:31:28 AM

Short Title: DACS to Regulate Farmed Cervids.	(Public)
Sponsors:	
Referred to:	
April 8, 2003	
A BILL TO BE ENTITLED	
AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE AN	
SERVICES TO REGULATE FARMED CERVIDS, TO CHA	
REQUIREMENTS FOR QUALIFYING FOR CAPTIVITY I	
CERTAIN DEER, AND TO AUTHORIZE THE INTRASTATE T	TRANSPORT OF
CERTAIN DEER.	
The General Assembly of North Carolina enacts:	0 1
SECTION 1. Article 49H of Chapter 106 of the General	Statutes reads as
rewritten:  "Article 49H.	
"Production and Sale of Fallow Deer and Red Deer. Farmed (	Cervids
§ 106-549.97. Regulation of fallow deer and red deer farm	
Department of Agriculture and Consumer Services; cert	
North Carolina Wildlife Resources Commission not affect	
affected.	• • • • • • • • • • • • • • • • • • •
(a) It is the intent of the General Assembly that farmed cervi	ids are treated as
domesticated livestock in order to promote the development and im-	
farmed cervid industry in the State. The Department of Agricultur	e and Consumer
Services shall regulate the production possession, production, transport	tation, and sale of
fallow deer and red deer farmed cervids. for food purposes. The Boa	
shall adopt rules for the production possession, production, transporta	
fallow deer and red deer for food purposes farmed cervids in such	•
provide for close supervision of any person, firm, or corporation	_
possessing, producing, transporting, or selling fallow deer or red deer,	or both, for food
purposes. farmed cervids.	
(b) The North Carolina Wildlife Resources Commission sl	<del>nall regulate the</del>

possession and transportation of live fallow deer and live red deer and may adopt rules

to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is

necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.

- (e) The following definitions apply in this Article:
  - (1) Fallow deer. A member of the Dama dama species.
  - (2) Red deer. A member of the Cervus elephus species.
- (b) The Board of Agriculture may adopt rules establishing permit requirements for the possession of farmed cervids.
  - (c) Notwithstanding any other provision of law:
- (1) Any person who, as of May 1, 2003, held a captivity permit or captivity license issued by the Wildlife Resources Commission, shall qualify to receive a possession permit from the Department.
- (2) Any person who, as of May 16, 2002, held farmed cervids but did not hold a captivity permit or license issued by the Wildlife Resources Commission, although, as of May 16,2002, they satisfied the requirements for receiving a captivity permit or captivity license from the Commission. shall qualify to receive a possession permit from the Department.

Persons qualifying for a possession permit under this subsection shall apply for the possession permit no later than July1, 2004. Any person who does not apply for a possession permit from the Department under this subsection on or before July 1, 2004, shall not be eligible to receive a possession permit from the Department, and the farmed cervids held by those persons shall not be subject to the jurisdiction of the Department.

- (d) The Department may charge a fee of up to fifty dollars (\$50.00) for each possession permit issued. The fees collected shall be used solely for the administration and enforcement of this Article.
- (e) If the Board adopts rules establishing enclosure and care standards for farmed cervids, the rules shall not require:
  - (1) Any fence to exceed a height of eight feet.
  - (2) Any building required to shelter farmed cervids to have a wood floor.
- (3) Any application for a tag for a newborn farmed cervid, to request the sex of the newborn.
- (f) The Department may, for good cause shown, call upon peace officers with general subject matter jurisdiction anywhere in this State to enforce the statutes and rules regulating farmed cervids that are under the jurisdiction of the Department.
- (g) For purposes of this Article, 'farmed cervid' means any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is born and raised in captivity.
- "§ 106-549.98. Inspection fees.

The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat-canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of fallow deer farmed cervids as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat-canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses

incurred in the inspection of red deer as required by Article 49B of Chapter 106 of the General Statutes."

**SECTION 2.** G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. – Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale farmed cervids, as defined in G.S. 106-549.97. under G.S. 106-549.97."

**SECTION 3.** G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; deer; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals.

Game animals does not include farmed cervids, as defined in G.S. 106-549.97."

**SECTION 4.** G.S. 106-549.15(14) reads as rewritten:

"(14) 'Meat food product' means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, bison, fallow deer, or red deer, or farmed cervids, excepting products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, goats, and bison."

**SECTION 5.** G.S. 106-549.17 reads as rewritten:

"§ 106-549.17. Inspection of animals before slaughter; humane methods of slaughtering.

(a) For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this State in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines shall

be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.

- (b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.
- (c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:
  - (1) In the case of cattle, calves, fallow deer, red deer, farmed cervids, bison, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
  - (2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

SECTION 6. G.S. 106-549.18 reads as rewritten:

#### "§ 106-549.18. Inspection; stamping carcass.

For the purposes hereinbefore set forth the Commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as 'Inspected and Condemned,' all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and

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said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof."

SECTION 7. G.S. 106-549.19 reads as rewritten:

# "§ 106-549.19. Application of Article; place of inspection.

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Article is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Commissioner or his authorized representative may limit the entry of carcasses, part of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this Article is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this and the subsequent Article."

SECTION 8. G.S. 106-549.22 reads as rewritten:

#### "§ 106-549.22. Rules and regulations of Board.

The Commissioner or his authorized representative shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and the Board shall prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, the Commissioner or his authorized representative shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'North Carolina Department of Agriculture and Consumer Services Inspected and Passed.'"

**SECTION 9.** G.S. 106-549.23 reads as rewritten:

"§ 106-549.23. Prohibited slaughter, sale and transportation.

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

- (1) Slaughter any of these animals or prepare any of these articles which are capable of use as human food, at any establishment preparing any such articles for intrastate commerce except in compliance with the requirements of this and the subsequent Article;
- (2) Slaughter, or handle in connection with slaughter, any such animals in any manner not in accordance with G.S. 106-549.17(c) of this Article;
- (3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
  - a. Any of these articles which (i) are capable of use as human food and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or
  - b. Any articles required to be inspected under this Article unless they have been so inspected and passed; or
- (4) Do, with respect to any of these articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

#### SECTION 10. G.S. 106-549.25 reads as rewritten:

# "§ 106-549.25. Slaughter, sale and transportation of equine carcasses.

No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Commissioner or his authorized representative, with respect to establishments at which inspection is maintained under this Article, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats are slaughtered or their carcasses, parts thereof, meats or meat food products are prepared."

# SECTION 11. G.S. 106-549.26 reads as rewritten:

# "§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or

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meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony which may include a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a Class I felony and shall, upon conviction thereof, be summarily discharged from office and may be punished by a fine not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000)."

#### **SECTION 12.** G.S. 106-549.27(a) reads as rewritten:

- "(a) The provisions of this Article requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not
  - (1) Apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor
  - (2) To the custom slaughter by any person, firm, or corporation of cattle, sheep, swine, fallow deer, red deer, farmed cervids, bison, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him, and members of his household and his nonpaying guests and employees: Provided, that all carcasses, parts thereof, meat and meat food products

derived from custom slaughter shall be identified as required by the Commissioner, during all phases of slaughtering, chilling, cooling, freezing, packing, meat canning, rendering, preparation, storage and transportation; provided further, that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, meat or meat food products of any cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, or equines, capable of use as human food, unless the carcasses, parts thereof, meat or meat food products have been inspected and passed and are identified as having been inspected and passed by the Commissioner or the United States Department of Agriculture."

SECTION 13. G.S. 106-549.28 reads as rewritten:

#### "§ 106-549.28. Regulation of storage of meat.

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, red deer, farmed cervids, bison, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a Class 2 misdemeanor."

# SECTION 14. G.S. 113-272.5(c) reads as rewritten: "§ 113-272.5. Captivity license.

- (a) In the interests of humane treatment of wild animals and wild birds that are crippled, tame, or otherwise unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold at a specified location one or more of any particular species of wild animal or wild bird alive in captivity. Before issuing this license, the Executive Director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the Executive Director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird.
- (b) Unless a shorter time is set for a license upon its issuance under the provisions of subsection (c), captivity licenses are annual licenses issued beginning January 1 each year and running until the following December 31. This license is issued upon payment of five dollars (\$5.00) to the Wildlife Resources Commission. An increase in pen size or an increase in the number of pens for the purpose of increasing the holding capacity of a licensed facility shall not be a basis for refusing to reissue a captivity license for deer that are game animals, as defined in G.S. 113-129.
- (c) The Wildlife Resources Commission may require standards of eaging enclosure and care and reports to and supervision by employees of the Wildlife Resources Commission as necessary to insure humane treatment and furtherance of the

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objectives of this Subchapter. The Executive Director in implementing the provisions of this section may administratively impose through responsible agents and employees restrictions upon the mode of captivity that he deems necessary, including prescribing methods of treatment and handling designed, if possible, to enable the wild animal or wild bird to become self-sufficient and requiring that the wild animal or wild bird be set free when self-sufficiency is attained. To this end, the Executive Director may issue the captivity license with an expiration date earlier than December 31 and may also act to terminate any captivity license earlier than the expiration date for good cause. The standards for enclosure and care of deer that are game animals, as defined in G.S. 113-129, adopted pursuant to this section shall satisfy all of the following:

- (1) When a fence is required for deer that are game animals, the fence shall not be required to exceed a height of eight feet.
- (2) When a building is required to shelter deer that are game animals, the floor of the building shall not be required to be made of wood.
- When application for a tag is required for a newborn deer, the application shall not request the sex of the newborn.
- (d) Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders possession of the wild animal or wild bird unlawful.
  - (e) No captivity license may be issued for any cougar (Felis concolor), except to:
    - (1) A bona fide publicly supported zoo.
    - (2) An educational or scientific research institution.
    - (3) An individual who lawfully possessed the cougar on June 29, 1977. The license may not be granted, however, for possession of a cougar within a municipality which that prohibits such possession by ordinance.
    - (4) An individual who holds a cougar without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission.
- (f) The licensing provisions of this section apply to black bears held in captivity, but, to the extent that it differs from this section, Article 2 of Chapter 19A of the General Statutes governs the keeping of black bears in captivity."

#### **SECTION 15.** G.S. 113-274(c) reads as rewritten:

- "(c) The Wildlife Resources Commission may issue the following permits:
  - (2) Transportation Permit. The Wildlife Resources Commission may require the use of transportation permits by persons required to be licensed under this Article, or by persons and individuals exempt from license requirements, while transporting wildlife resources within the State as necessary to discourage unlawful taking or dealing in wildlife resources and to control and promote the orderly and systematic transportation of wildlife resources within, into, through, and out of the State. Transportation permits may be issued for wildlife

 transported either dead or alive, in accordance with restrictions that may be reasonably imposed. When convenient, rules or administrative directives may require the retention and use of an invoice or memorandum of sale, or the license or permit authorizing the taking or acquisition of the wildlife resources, as a transportation permit. When circumstances warrant, however, a separate additional transportation permit may be required. Any substantial deviation from reasonable requirements imposed by rule or administratively under the authority of this section renders the transportation of the wildlife resources unlawful. Upon proper application, the Wildlife Resources Commission shall issue permits authorizing any person or facility that has obtained a captivity license under G.S. 113-272.5 to transport within the State deer that are game animals, as defined in G.S. 113-129, to another person or another facility that has obtained a captivity license under G.S. 113-272.5."

SECTION 16. G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
  - The individual may possess and transport the game lawfully taken on a trip:
    - a. To his residence;
    - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
    - c. From a place authorized in subparagraph b to his residence.
  - (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - a. The applicable possession limit for each species; or
    - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

SECTION 17. G.S. 113-291.2 is amended by adding a new subsection to read:

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experts, may transmit such a disease."

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Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor." **SECTION 19.** Notwithstanding any other provision of law, any person who, as of May 17, 2002 held deer that are game animals, as defined in G.S. 113-129, may apply, no later than July 1, 2004, for a captivity license under G.S. 113-272.5. SECTION 20. Except for any rule adopted by the Board of Agriculture, any

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that

poses an imminent threat to the health or habitat of wildlife species, the Wildlife

Resources Commission may adopt rules to regulate the importation, transportation, or

possession of those carcasses or parts of carcasses that, according to wildlife disease

**SECTION 18.** G.S. 113-294 is amended by adding a new subsection to read:

rule regulating farmed cervids, as defined in Section 1 of this act, is repealed. SECTION 21. Section 19 of this act becomes effective October 1, 2003, and applies to acts committed on or after this date. The remainder of this act is effective when it becomes law.



# **HB 939:** Clarify Authority/Regulation of Cervids

Committee: House Agriculture Committee

Introduced by:

Summary by: Barbara Riley

Version: H939-CSRF-12(v.6)

April 21, 2003

Committee Counsel

Representative Williams Coates

#### **SUMMARY:**

Date:

House Bill 939 authorizes the Department of Agriculture and Consumer Services to regulate the possession, production and transportation of farmed cervids (deer and elk). The bill allows persons who (1) held a captivity license or captivity permit issued by the Wildlife Resources Commission or (2) held "farmed cervids", but did not have a captivity license or permit although they satisfied the requirement for a license or permit, to qualify for a possession permit from the Department if they apply for a possession permit on or before July 1, 2004. The bill allows the transport within the State of game animals that are deer between facilities that hold captivity licenses. HB 939 also repeals the rules adopted by the WRC regulating the possession and transportation of farmed cervids. Farmed cervids are defined as any member of the Cervidae family except white-tailed deer, elk, mule deer or blacktailed deer, that is born and raised in captivity.

The proposed committee substitute (v.6) adds a new subdivision to G.S. 106-549.97 that authorizes the Department of Agriculture to charge a fee for issuing a possession permit for cervids.

#### **BACKGROUND:**

House Bill House Bill 939 has its roots in the controversy over the adoption of rules by the Wildlife Resources Commission and the North Carolina Department of Agriculture and Consumer Services to protect the State's white tailed deer population and farmed deer population from the disease known as Chronic Wasting Disease (CWD). CWD is a fatal neurological disease of farmed and wild deer and elk. (Please see the attached memo for more information on CWD's spread, the response of USDA and NCDA, and the potential economic impact of the disease on deer hunting and on deer and elk farming in North Carolina.)

In May of 2002 (and again in October 2002) the WRC proposed emergency rules that restricted the transportation of farmed cervids within the State and also increased the requirements for tagging cervids, and fencing, maintenance and recordkeeping at captive cervid facilities. The North Carolina Deer/ Elk Farmers Association, Ltd. filed objections to the rules on the basis that the WRC lacked jurisdiction to promulgate those rules. The basis of the objections rested in part on the definitions in the Wildlife laws that exempted red deer and fallow deer, from the definitions of "big game" and "game animal", and therefore from the definition of "wild animal" such that the WRC did not have jurisdiction to regulate the possession of these animals. The objections, however, were overruled as G.S. 106-549.97 gives the WRC specific authority to regulate the possession and transportation of red deer and fallow deer. House Bill 948 was introduced to clarify the WRC's jurisdiction to regulate the possession and transportation of cervids.

#### **BILL ANALYSIS:**

Section 1 of House Bill 939amends G.S. 106-549.97 and places the responsibility for the regulation of the possession, production and transportation of farmed cervids with the Department of Agriculture and

#### **HB 939**

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Consumer Services. Currently the Department is authorized to regulate only the production and sale of red and fallow deer. The WRC regulates the possession and transportation of cervids. "Farmed cervids are defined as any member of the Cervidae family other than white-tailed deer, elk, mule deer, or blacktailed deer that is born and raised in captivity.

G.S. 106-549.97 is also amended by adding a new subdivision (c) providing that persons who held captivity permits or captivity licenses from the Wildlife Resources Commission as of May 16, 2002 qualify for a possession permit from the Department. Also, persons who had farmed cervids as of May 16, 2002, but who did not have a captivity permit or license, although they qualified for such are also eligible for a possession permit. Persons qualifying for a possession permit under this subsection have until July 1, 2004 to apply for the possession permit.

The Department may request peace officers of general jurisdiction in the State to enforce the statutes and rules governing farmed cervids under the jurisdiction of the Department.

Sections 2 and 3 of the bill amend the wildlife statute definitions of 'big game" and "game animal" to exempt farmed cervids.

Sections 4 through 14 of the bill amend references to "red and fallow deer" in various statutes to "farmed cervids".

Section 15 of the bill amends the wildlife statutes governing the issuance of transportation permits to authorize the issuance of transportation permits by the WRC for the purpose of moving game animals that are deer between facilities having captivity licenses.

Sections 16 and 17 of the bill provide for the WRC to regulate the importation, possession or transportation of game carcasses that are suspected of carrying an infectious or contagious disease that presents an imminent threat to wildlife in the State.

Section 18 makes the importation or possession of black-tailed or mule deer a Class 1 misdemeanor.

Section 19 of the bill allows for the enforcement of the laws relating to farmed cervids by any law enforcement officer.

Section 20 repeals all rules adopted by the WRC that would regulate farmed cervids.

Section 19 of the act becomes effective October 1, 2003 and applies to offenses committed on or after that date. The rest of the bill is effective when it becomes law.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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#### **HOUSE BILL 948**

Short Title: Clarify Authority/Regulation of Cervids.

(Public)

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Sponsors:	Representatives A. Williams; B. Allen, G. Allen, L. Allen, Church, Cole, Culpepper, Cunningham, Decker, Dickson, England, Glazier, Goforth, Gulley, Hackney, Haire, Harrell, Hill, LaRoque, Lucas, Luebke, Miller, Nye, Owens, Pate, Rapp, Sauls, Tolson, Wainwright, Warren, West, K. Williams, and Yongue.
Referred to:	Agriculture.
	April 8, 2003
AGRICI	A BILL TO BE ENTITLED TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF JLTURE AND CONSUMER SERVICES AND THE WILDLIFE RCES COMMISSION WITH RESPECT TO THE REGULATION OF
CERVII	·
	Assembly of North Carolina enacts:
	ECTION 1. G.S. 113-129(1b) reads as rewritten:
"(	1b) Big Game. – Bear, wild boar, wild turkey, and deer, not to include
	fallow deer or red deer raised for production and sale under G.S.
6	106-549.97. white-tailed deer."
	ECTION 2. G.S. 113-129 is amended by adding a new subdivision to read:
	(1d) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer)."
	ECTION 3. G.S. 113-129 is amended by adding a new subdivision to read:
" <u>·</u>	(5a) Deer White-tailed deer (Odocoileus virginianus), except when
~	otherwise specified in this Chapter."
	ECTION 4. G.S. 113-129(7c) reads as rewritten:
"(	(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and white-tailed deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon except when trapped in accordance with
	provisions relating to fur-bearing animals."
S	ECTION 5. Article 21 of Chapter 113 of the General Statutes is amended
by adding a	new section to read:

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses or parts of game carcasses extracted by hunters, and shall adopt rules to implement this section, including requirements for captivity licenses or permits, including transportation permits, fencing, tagging, record keeping, and inspection of captive cervid facilities.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that the activity is authorized subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of cervids other than white-tailed deer for commercial purposes pursuant to G.S. 106-549.97.
  - (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission may issue captivity licenses or permits, including transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, provided that the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by October 1, 2003, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
  - (e) Any captivity license or permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

**SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."

**SECTION 7.** G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.

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- (2) The individual may possess and transport the game lawfully taken on a trip:
  - a. To his residence;
  - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
  - c. From a place authorized in subparagraph b to his residence.
- (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
  - a. The applicable possession limit for each species; or
  - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission may adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

#### SECTION 9. G.S. 113-292(d) reads as rewritten:

- "(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."
  - SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:
- "(o) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 106-549.97 reads as rewritten:

"§ 106-549.97. Regulation of fallow deer and red deer by Department of Agriculture and Consumer Services; Services of certain cervids

produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.

- (a) The Department of Agriculture and Consumer Services shall regulate the production and sale of fallow deer and red deer for food purposes. cervids other than white-tailed deer for commercial purposes. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes cervids other than white-tailed deer for commercial purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes. cervids other than white-tailed deer for commercial purposes, and shall notify any such person, firm, or corporation that such activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat. possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.
  - (c) The following definitions apply in this Article:
    - (1) Fallow deer. A member of the Dama dama species.
    - (2) Red deer. A member of the Cervus elephus species.
    - (3) Cervid or Cervidae. All animals in the Family Cervidae elk and deer).
- White-tailed deer. A member of the species Odocoileus virginianus."

  SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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(Public)

#### HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE H948-CSRF-13 [v.3]

4/29/2003 9:32:24 AM

Short Title: Clarify Authority/Regulation of Cervids.

	Sponsors:		
	Referred to:		
	April 8, 2003		
1	A BILL TO BE ENTITLED		
2	AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF		
3	AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE		
4	RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF		
5	CERVIDS.		
6	The General Assembly of North Carolina enacts:		
7	SECTION 1. G.S. 113-129(1b) reads as rewritten:		
8	"(1b) Big Game. – Bear, wild boar, wild turkey, and deer, not to include		
9	fallow deer or red deer raised for production and sale under G.S.		
10	106-549.97. white-tailed deer."		
11	<b>SECTION 2.</b> G.S. 113-129 is amended by adding a new subdivision to read:		
12	"(1f) Cervid or Cervidae All animals in the Family Cervidae (elk and		
13	deer)."		
14	<b>SECTION 3.</b> G.S. 113-129 is amended by adding two new subdivisions to		
15	read:		
16	"(5a) Deer White-tailed deer (Odocoileus virginianus), except when		
17	otherwise specified in this Chapter."		
18	"(5b) Farmed Cervid Any member of the Cervidae family, other than		
19	white-tailed deer, elk, mule deer, or black-tailed deer, that is bought		
20	and sold for commercial purposes."		
21	SECTION 4. G.S. 113-129(7c) reads as rewritten:		
22	"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and		
23	white-tailed deer, not to include fallow-deer or red deer raised for		
24	production and sale under G.S. 106-549.97; and, except when trapped		
25	in accordance with provisions relating to fur-bearing animals, bobcat,		
26	opossum, and raccoon raccoon except when trapped in accordance		
27	with provisions relating to fur-bearing animals."		

**SECTION 5.** Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars (\$50.00) for the processing of applications for captivity licenses, captivity permits and transportation permits, and the renewal or modification of those licenses and permits. The fees collected shall be applied to the costs of administering this section.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission may issue captivity licenses, captivity permits or transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by October 1, 2003, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license, captivity permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

#### **SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."

SECTION 7. G.S. 113-291.2(c) reads as rewritten:

Page 2 House Bill 948 H948-CSRF-13 [v.3]

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
  - (2) The individual may possess and transport the game lawfully taken on a trip:
    - a. To his residence;
    - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
    - c. From a place authorized in subparagraph b to his residence.
  - (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - a. The applicable possession limit for each species; or
    - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

#### SECTION 9. G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.

White-tailed deer. - A member of the species Odocoileus virginianus." **(5)** SECTION 12. Section 10 of this act becomes effective October 1, 2003, and

applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

H948-CSRF-13 [v.3]

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# **HB 948:** Clarify Authority/Regulation of Cervids

Committee: House Agriculture Committee **Introduced by:** Representative Williams

Date: April 21, 2003 Summary by: Barbara Riley

Version: HB 948-CSRF-13 (v.3) Committee Counsel

House Bill 948 amends a number of definitions governing the provisions of 'Subchapter IV of Chapter 113 of the General Statutes, Conservation of Marine and Estuarine and Wildlife Resources. The definition changes help to clarify the Wildlife Resources Commission's authority to regulate the possession and transportation ofcervids; members of the deer and elk family. The bill adds a new section to Chapter 113 providing specifically for the transportation of cervids and the licensing of captive cervid facilities. House Bill 948 also authorizes the WRC to adopt rules regulating the import and possession of game carcasses that are known or suspected of carrying an infectious or contagious disease posing an imminent threat to the health of the State's wildlife and makes the willfull possession or importation of a black-tailed deer or a mule deer in North Carolina a Class I misdemeanor.

The proposed committee substitute (v.3) authorizes the Commission to charge a fee of up to \$50 for the issuance of captivity licenses, captivity permits and transportation permits for cervids.

BACKGROUND: House Bill 948 (and House Bill 939) have their roots in the controversy over the adoption of rules by the Wildlife Resources Commission and the North Carolina Department of Agriculture and Consumer Services to protect the State's white tailed deer population and farmed deer population from the disease known as Chronic Wasting Disease (CWD). CWD is a fatal neurological disease of farmed and wild deer and elk. (Please see the attached memo for more information on CWD's spread, the response of USDA and NCDA, and the potential economic impact of the disease on deer hunting and on deer and elk farming in North Carolina.)

In May of 2002 (and again in October 2002) the WRC proposed emergency rules that restricted the transportation of farmed cervids within the State and also increased the requirements for tagging cervids, and fencing, maintenance and recordkeeping at captive cervid facilities. The North Carolina Deer/ Elk Farmers Association, Ltd. filed objections to the rules on the basis that the WRC lacked jurisdiction to promulgate those rules. The basis of the objections rested in part on the definitions in the Wildlife laws that exempted red deer and fallow deer, from the definitions of "big game" and "game animal", and therefore from the definition of "wild animal" such that the WRC did not have jurisdiction to regulate the possession of these animals. The objections, however, were overruled as G.S. 106-549.97 gives the WRC specific authority to regulate the possession and transportation of red deer and fallow deer. House Bill 948 was introduced to clarify the WRC's jurisdiction to regulate the possession and transportation of cervids.

**BILL ANALYSIS:** Section 1 of House Bill 948 amends G.S. 113-129(1b) to define b"big game" animals to include only white-tailed deer. The reference exempting red deer and fallow deer is removed.

Section 2 of the bill amends G.S. 113-129 by adding a new subdivision (1f) defining "cervids" to mean all animals in the Cervidae family (elk and deer).

Section 3 adds two new subdivisions (5a) and (5b) which define "deer" to mean white-tailed deer" and "farmed cervid" to mean any member of the cervidae family other than white-tailed deer, elk, mule deer or black-tailed deer, that is bought and sold for commercial purposes.

#### **HB 948**

Page 2

Section 4 of the bill amends G.S. 113-129 to clarify that the term "game animals" includes only white-tailed deer. It removes the language exempting red deer and fallow deer.

Section 5 adds G.S. 113-272.6 requiring the WRC to regulate the transportation of cervids and licensing of captive cervid facilities. This includes the transportation, importation, exportation, and possession of cervids, including game carcasses and parts of game carcasses. The WRC's shall adopt rules for the licensing of captive cervid facilities including rules on fencing, tagging, record keeping and inspections of captive cervid facilities.

Subsections (b) and (c) of G.S. 113-272.6 provide that persons issued transportation permits by the WRC must be notified of the transportation requirements of the Department of Agriculture and Consumer Services and provide that the Department shall regulate the production and sale of farmed cervids.

G.S. 113-272.6 (d) provides that the WRC may issue captivity licenses to persons with cervids held prior to May 17, 2002 if the Executive Director finds that the person has complied with all rules applicable to the holding of cervids in captivity by October 1, 2003, and that the issuance of the captivity license does not present a unreasonable risk to the State's wildlife.

Subdivision (e) provides for the forfeiture and disposition of any cervids held contrary to the provisions of G.S. 113-272.6.

Section 6 of the bill amends G.S. 113-276.2 to make that section applicable to transportation permits and licensing of captive cervid facilities. G.S. 113-276.2 requires the Executive Director of the WRC to satisfy himself that the qualifications for licenses and permits are met by the applicant and provides for license revocations and refusals to reissue permits or licenses based upon failure to meet the qualifications requirements or the commission of a substantial violation of the wildlife statutes or rules governing the permit or license.

Sections 7 and 8 provide for the WRC to regulate the importation, possession or transportation of game carcasses that are suspected of carrying an infectious or contagious disease that presents an imminent threat to wildlife in the State.

Section 9 expands the authority of the WRC to regulate the import, possession, transportation disposition or release of plant and animal species that may create a danger to or imbalance in the environment that would be harmful to the conservation of wildlife resources, to include those species that may threaten the introduction of an epizootic disease

Section 10 makes the importation or possession of black-tailed or mule deer a Class 1 misdemeanor.

Section 11 of the bill amends G.S. 106-549.97, the regulation of the production and sale of red deer and fallow deer by the Department of Agriculture and Consumer Services, to make it consistent with the definitions in G.S. 113-129 regarding farmed cervids. Section 11 also amends the statute to require the Department to notify persons subject to its rules on farmed cervids that their activity is also subject to compliance with the WRC rules under G.S. 113-272.6.

Section 10 of the act becomes effective October 1, 2003 and applies to acts committed on or after that date. The remainder of the act is effective when it becomes law.

#### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:  By Representative Hill Chair for the Committee on Agriculture	
Committee Substitute for H.B. 1203 A BILL TO BE ENTITLED AN ACT TO PROHIBIT LIMITING THE QUANTITY OF MOTOR FUEL SOLD OR OFFERED FOR SALE UNDER THE MOTOR FUEL MARKETING ACT.	
☐ With a favorable report.	
☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.	
With a favorable report, as amended.	
☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.	
With a favorable report as to the committee substitute bill (#	
☐ With a favorable report as to House committee substitute bill (# ), ☐ which changes the title, unfavorable as to Senate committee substitute bill.	
☐ With an unfavorable report.	
With recommendation that the House concur.	
With recommendation that the House do not concur.	
With recommendation that the House do not concur; request conferees.	
With recommendation that the House concur; committee believes bill to be material.	
☐ With an unfavorable report, with a Minority Report attached.	
☐ Without prejudice.	
☐ With an indefinite postponement report.	
With an indefinite postponement report, with a Minority Report attached.	
☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)  3/06/03	

# MINUTES HOUSE COMMITTEE ON AGRICULTURE

May 6, 2003

The House Committee on Agriculture met on Tuesday, May 6, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Bell, Bonner, Coates, Culp, Daughtridge, Fox, Kiser, Mitchell, Nye, Pate, Tolson, Warren, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 8:35 A.M. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Senator Garrou was recognized to explain **SENATE BILL 992 PROTECT MASTER SETTLEMENT MONEY.** Up motion by Representative Tolson, the bill received a favorable report.

Senator Albertson was recognized to explain **SENATE BILL 731 FERTILIZER PACKAGING NUTRIENT GUARANTEES.** Upon motion made by Representative Nye, the Committee voted for a favorable report.

Senator Hagan was recognized to explain **SENATE BILL 751 CIVIL PENALTIES/FOOD, DRUG AND COSMETICS.** Upon motion by Representative Yongue, the bill was given a favorable report.

Vice Chair Lewis was recognized to chair the meeting to permit Chair Hill to explain HOUSE BILL 968 FARM FUTURES PILOT PROGRAM. Representative Culp made a motion to give House Bill 968 a favorable report. The motion carried.

The meeting was adjourned at 9:30 A.M.

Representative Dewey Hill, Chair

Gennie Thurlow Committee Assistant

#### **AGENDA**

#### HOUSE COMMITTEE ON AGRICULTURE

May 6, 2003 1228 Legislative Building

12:00 Noon

#### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

#### **AGENDA ITEMS**

HB 968 Farm Futures Pilot Program

Sponsor: Representative Hill

SB 731 Fertilizer Packaging Nutrient Guarantees

Sponsor: Senator Albertson

SB 751 Civil Penalties/Food, Drug and Cosmetics

Sponsor: Senator Hagan

SB 992 Protect Master Settlement Money

Sponsor: Senator Garrou

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

#### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:  By Representative HILL Chair for the Committee on AGRICULTURE		
S.B 9	Committee Substitute for 992 A BILL TO BE ENTITLED AN ACT TO PROTECT THE STATE'S MASTER SETTLEMENT AGREEMENT MONEY.	
<b>X</b>	With a favorable report.	
	With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations  Finance .	
□ <b>'</b>	With a favorable report, as amended.	
	With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations  Finance .	
t	With a favorable report as to the committee substitute bill (# ),  which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # ), (and recommendation that the committee substitute bill # ) be re-referred to the Committee on .)	
	With a favorable report as to House committee substitute bill (# ), \( \subseteq \) which changes the title, unfavorable as to Senate committee substitute bill.	
□ <b>'</b>	With an unfavorable report.	
□ <b>'</b>	With recommendation that the House concur.	
□ <b>'</b>	With recommendation that the House do not concur.	
□ <b>'</b>	With recommendation that the House do not concur; request conferees.	
	With recommendation that the House concur; committee believes bill to be material.	
□ <b>'</b>	With an unfavorable report, with a Minority Report attached.	
	Without prejudice.	
	With an indefinite postponement report.	
□ <b>'</b>	With an indefinite postponement report, with a Minority Report attached.	
□ <b>v</b>	With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)	

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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#### **SENATE BILL 992**

Short Title: Protect Master Settlement Money. (Public)

Sponsors: Senator Garrou.

Referred to: Judiciary I.

#### April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE STATE'S MASTER SETTLEMENT AGREEMENT MONEY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 66-291(b)(2) reads as rewritten:

"(2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)the Master Settlement Agreement payments, as determined pursuant to Section IX(i) of that agreement including after final determination of all adjustments, that the manufacturer would have been required to make on account of the units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or".

SECTION 2. If this act, or any portion of the amendment made to G.S. 66-291(b)(2) by this act, is held by a court of competent jurisdiction to be unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety. If G.S. 66-291(b) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this act shall be repealed, and G.S. 66-291(b)(2) shall be restored as if no amendments had been made by this act. Neither any judicial holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or invalidate any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes, or the application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any other

#### GENERAL ASSEMBLY OF NORTH CAROLINA

- 1 person or circumstance, and the remaining portions of Part 1 of Article 37 of Chapter 66
- of the General Statutes shall at all times continue in full force and effect.
- 3 **SECTION 3.** This act becomes effective October 1, 2003.



# **SENATE BILL 992: Protect Master Settlement Money**

Committee: Senate Judiciary I

April 15, 2003 Date: First Edition Version:

Introduced by: Senator Garrou Summary by:

O. Walker Reagan,

Committee Co-Counsel

SUMMARY: Senate Bill 992 would amend the law that establishes how much money a tobacco product manufacturer who does not participate in the national tobacco Master Settlement Agreement has to place in escrow against possible future damage claims by the states. This amendment would change the determination of the amount to be placed in escrow from being based on the allocable share per state to an allocable share of units of tobacco sold in each individual state.

**CURRENT LAW:** As part of the national tobacco Master Settlement Agreement (MSA) each state was required to enact the Model Escrow Statute to cover the liability of Non-Participating Manufacturers (NPMs) and to create a level competitive playing field by preventing NPMs from undercutting the market due to savings from not having to make payments to the states like participating manufacturers.

The current model escrow statute was enacted as Article 37 - Tobacco Reserve Fund in Chapter 66 of the General Statutes. The amount a NPM currently has to put into escrow in the State based on their sales n the State that exceeds what their allocable share would have been had they participated in the Master Settlement Agreement may be refunded to the NPM from their escrow.

Section 1 of the bill would amend the formula for a NPM's funds to be released **BILL ANALYSIS:** from escrow by changing the determination from what the NPM's allocable market share would have been had they participated to a calculation based on the tobacco units sold in the State.

Section 2 contains a severability clause if either this provision or the underlying subsection is found to be unconstitutional that effectively restores the law as it exists prior to this amendment.

The Model Escrow Statute (Tobacco Reserve Fund in NC) was intended to create **BACKGROUND:** a reserve against which claims could be made against tobacco product manufacturers who were not given immunity from suit by participating in the Master Settlement Agreement. It was also intended to reduce the competitive advantage a manufacturer would gain from not having to make payments to the states under the MSA and not being subject to the advertising restrictions agreed to in the MSA.

The current formula for escrow payments presumes sales nationwide on the same allocable share as under the MSA. If a NPM focuses a large portion of their sales in one state, their allocable share under the current escrow statutes may be far less than the comparable payment a participating manufacturer has to make based on a per unit sold basis under the MSA. This amendment puts NPMs on the same basis for determining the amount of payments they are require to make into escrow as the participating manufacturers are required to make to the states under the MSA.

The bill becomes effective October 1, 2003. **EFFECTIVE DATE:** 

S992-SMRU-001

## SENATE BILL 992

Page 2

#### § 66-291. Requirements.

- (a) Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) after the effective date of this Article shall do one of the following:
  - (1) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or
  - Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):
    - a. 1999: \$.0094241 per unit sold after the effective date of this Article.
    - b. 2000: \$.0104712 per unit sold.
    - c. For each of 2001 and 2002: \$.0136125 per unit sold.
    - d. For each of 2003 through 2006: \$.0167539 per unit sold.
    - e. For each of 2007 and each year thereafter: \$.0188482 per unit sold.
- (b) A tobacco product manufacturer that places funds into escrow pursuant to subdivision (2) of subsection (a) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:
  - (1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subdivision (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;
  - (2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
  - (3) To the extent not released from escrow under subdivisions (1) or (2) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.
- (c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the Attorney General that it is in compliance with this section. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:
  - (1) Be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation either of subdivision (2) of subsection (a) of this section, of subsection (b) of this section, or of this section, may impose a civil penalty (the clear proceeds of which shall be paid to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2) in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;
  - (2) In the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation either of subdivision (2) of subsection (a) of this section, of subsection (b) of this section, or of this section, may impose a civil penalty (the clear proceeds of which shall be paid to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2) in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and
  - (3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer, or similar intermediary) for a period not to exceed two years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. (1999-311, s. 1; 2000-140, s. 58; 2002-145, s. 2.)

#### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented: Chair for the Committee on AGRICULTURE By Representative HILL Committee Substitute for S.B 731 A BILL TO BE ENTITLED AN ACT TO INCREASE THE SIZE OF PACKAGES OF FERTILIZER THAT MAY BE SOLD WITH NUTRIENT GUARANTEES STATED IN FRACTIONAL PERCENTAGES AND TO AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT TEMPORARY RULES IN ORDER TO ESTABLISH RENTAL RATES FOR THE USE OF FACILITIES OPERATED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. X With a favorable report. With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance With a favorable report, as amended. With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance With a favorable report as to the committee substitute bill (# ), which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # ). (and recommendation that the committee substitute bill # ) be re-referred to the Committee With a favorable report as to House committee substitute bill (# ), which changes the title, unfavorable as to Senate committee substitute bill. With an unfavorable report. With recommendation that the House concur. With recommendation that the House do not concur. With recommendation that the House do not concur; request conferees. With recommendation that the House concur; committee believes bill to be material. With an unfavorable report, with a Minority Report attached. Without prejudice. With an indefinite postponement report. With an indefinite postponement report, with a Minority Report attached. With recommendation that it be adopted. (HOUSE RESOLUTION ONLY) 3/06/03

## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2003**

S

#### **SENATE BILL 731**

1

Short Title: Fertilizer Packaging Nutrient Guarantees.

(Public)

Sponsors:

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Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

#### April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE SIZE OF PACKAGES OF FERTILIZER THAT MAY BE SOLD WITH NUTRIENT GUARANTEES STATED IN FRACTIONAL PERCENTAGES AND TO AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT TEMPORARY RULES IN ORDER TO ESTABLISH RENTAL RATES FOR THE USE OF FACILITIES OPERATED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 106-659 reads as rewritten:

#### "§ 106-659. Minimum plant food content.

Superphosphate-Except as provided in this section, superphosphate containing less than eighteen percent (18%) available phosphate, or any mixed fertilizer in which the guarantees for the nitrogen, available phosphate, or soluble potash are in fractional percentages shall not be offered for sale, sold, or distributed in this State; provided, however, packages State. Packages of 16-32 fluid ounces or less when in liquid form, or 1632 ounces or less avoirdupois when in a dry form, may be sold in fractional percentages, but such these packages are not exempt from any other requirements of this Article."

**SECTION 2.** Pursuant to G.S. 106-6.1, the Board of Agriculture may adopt temporary and permanent rules to establish rental rates for the use of farmers markets and agriculture centers operated by the Department of Agriculture and Consumer Services.

**SECTION 3.** This act is effective when it becomes law. The authority of the Board of Agriculture to adopt temporary rules under Section 2 of this act expires 1 March 2004.



# **SB 731:** Fertilizers with Minimum Plant Food Content

Committee: House Agriculture

Date:

May 6, 2003

Version:

1<sup>st</sup> Edition

Introduced by: Senator Albertson

Summary by:

Barbara Riley

Committee Counsel

#### SUMMARY:

Senate Bill 731 would amend the fertilizer law to provide that superphosphate containing less than 18% available phosphate and mixed fertilizers in which the nutrient guarantees are in fractional percentages may be sold in packages of 32 fluid oz. or less. The current law limits packages to 16 fluid oz. or less.

The act is effective when it becomes law.

#### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative HILL Chair for the Committee on AGRICULTURE

	By Representative HILL Chair for the Committee on AGRICULTURE
	Committee Substitute for 751 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.
$\boxtimes$	With a favorable report.
	With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations    Finance .
	With a favorable report, as amended.
	With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations   Finance   .
	With a favorable report as to the committee substitute bill (# ),  which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # ), (and recommendation that the committee substitute bill # ) be re-referred to the Committee on .)
	With a favorable report as to House committee substitute bill (# ),  which changes the title, unfavorable as to Senate committee substitute bill.
	With an unfavorable report.
	With recommendation that the House concur.
	With recommendation that the House do not concur.
	With recommendation that the House do not concur; request conferees.
	With recommendation that the House concur; committee believes bill to be material.
	With an unfavorable report, with a Minority Report attached.
	Without prejudice.
	With an indefinite postponement report.
	With an indefinite postponement report, with a Minority Report attached.
	With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)  3/06/03

## 

# **SESSION 2003**

GENERAL ASSEMBLY OF NORTH CAROLINA

S

## **SENATE BILL 751**

## Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/03

Short Title: Civil Penalties/Food, Drug and Cosmetics. (Public)
Sponsors:
Referred to:
April 3, 2003
A BILL TO BE ENTITLED  AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.  The General Assembly of North Carolina enacts:  SECTION 1. Article 12 of Chapter 106 of the General Statutes is amended
by adding a new section to read:  "§ 106-124.1. Civil penalties.  (a) The Commissioner may assess a civil penalty of not more than two thousand dollars (\$2,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. No penalty shall be
assessed unless the person has been given written notice of the violation and has been given a reasonable period of time in which to correct the violation; provided that a person shall not be entitled to a period of time to correct a violation before a penalty is assessed when the violation is likely to cause physical injury or illness.
(b) Training and management practices implemented for the purpose of complying with this Article shall be a mitigating factor in the assessment of a civil penalty.  (c) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
<b>SECTION 2.</b> This act is effective when it becomes law and applies to violations of Article 12 of Chapter 106 of the General Statutes occurring on or after that date.



# **SB751:** Civil Penalties/Food, Drug & Cosmetics

BILL ANALYSIS

Committee: House Agriculture

Date: Version: April 21, 2003

2<sup>nd</sup> Edition

Introduced by: Senator Hagan

Summary by: Barbara Riley

Committee Counsel

#### SUMMARY:

Senate Bill 751 provides the Commissioner of Agriculture with the authority to level a civil penalty of up to \$2,000 for a violation of the North Carolina Food, Drug, and Cosmetic Act.

#### **CURRENT LAW:**

The North Carolina Food, Drug and Cosmetic Act prohibits the manufacture and sale of foods, drugs and cosmetics that are "adulterated" or "misbranded". An adulterated food, for example, would be one that contains poisonous or harmful substances that may render the food injurious to health, or a raw agricultural commodity that bears or contains an unsafe pesticide. G.S. 106-129. Drugs deemed to be adulterated include those that contain filthy or putrid substances, that are produced, packaged or held under unsanitary conditions, or whose strength, quality or purity fall below national standards. G.S. 106-134. Adulterated cosmetics include those containing poisonous or deleterious substances which may injure users. G.S. 106-136. Misbranding covers various aspects of false labeling. G.S. 106-130; 106-134; 106-137.

To enforce the Act, when an inspector from NCDA&CS finds or has reasonable cause to believe that an article is adulterated or so misbranded as to be dangerous or fraudulent, the inspector may tag and embargo the article so that it may not be sold or disposed of without the consent of the inspector. The inspector then must obtain a court order to have the product destroyed. G.S. 106-125. The Department may also seek an injunction from the court restraining an individual from violating the Act. G.S. 106-123. Violation of the Act is a Class 2 misdemeanor.

#### **BILL ANALYSIS:**

Senate Bill 751 would give the Commissioner of Agriculture the authority to impose a civil penalty of up to \$2,000 for a violation of the Food, Drug and Cosmetic Act. Except in circumstances where the violation is likely to cause physical injury or illness, a person violating the Act must first be given written notice of the violation and an opportunity to correct the problem.

In setting the amount of a penalty, the Commissioner is required to consider the degree and extent of harm caused by the violation. Training and management practices implemented for the purpose of complying with the Food, Drug and Cosmetic Act shall be a mitigating factor in the assessment of a penalty.

The act is effective when it becomes law.

#### **BACKGROUND:**

NCDA&CS has the authority to impose civil penalties as an enforcement tool for many of the laws that they administer including the Gasoline and Oil Inspection Act, G.S. 119-39.1; the Meat Inspection Laws. G.S. 106-549.35; the Animal Welfare Act, G.S. 19A-40; The Bee and Honey Act, 106-644, and various Animal Health laws in Chapter 106 of the General Statutes.

#### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:  By Representative HILL Chair for the Committee on AGRICULTURE	
Committee Substitute for H.B 968 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A FARM FUTURES PILOT PROGRAM THAT PROMOTES COLLABORATIVE EFFORTS AMONG FEDERAL AND STATE AGENCIES, UNIVERSITIES, NONGOVERNMENTAL ORGANIZATIONS, PRIVATE ENTERPRISE, AND LANDOWNERS TO PROTECT AND ENHANCE WORKING FARMS FOR PURPOSES OF SUPPORTING RURAL COMMUNITIES, PRODUCING SAFE AND HEALTHY FOOD AND FIBER, PROTECTING HABITAT FOR ENDANGERED AND OTHER WILDLIFE AND PLANT SPECIES, PRESERVING OPEN SPACE, IMPROVING WATER QUALITY AND GROUNDWATER RECHARGE, AND INCREASING ECONOMIC OPPORTUNITIES FOR EXISTING AND NEW FARM FAMILIES.	•
With a favorable report.	
With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations  Finance .	ì
With a favorable report, as amended.	
☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.	
☐ With a favorable report as to the committee substitute bill (# ), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill # ), (and recommendation that the committee substitute bill # ) be re-referred to the Committee on .)	
☐ With a favorable report as to House committee substitute bill (# ), ☐ which changes the title, unfavorable as to Senate committee substitute bill.	
☐ With an unfavorable report.	
With recommendation that the House concur.	
With recommendation that the House do not concur.	
With recommendation that the House do not concur; request conferees.	
With recommendation that the House concur; committee believes bill to be material.	
With an unfavorable report, with a Minority Report attached.	
☐ Without prejudice.	
With an indefinite postponement report.	
With an indefinite postponement report, with a Minority Report attached.	
☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)	

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

H

#### **HOUSE BILL 968\***

(Public)

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Sponsors: Representatives Hill; and Church.

Short Title: Farm Futures Pilot Program.

Referred to: Agriculture, if favorable, Appropriations.

#### April 9, 2003

#### A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A FARM FUTURES PILOT PROGRAM THAT PROMOTES COLLABORATIVE EFFORTS AMONG FEDERAL AND STATE AGENCIES, UNIVERSITIES, NONGOVERNMENTAL ORGANIZATIONS, PRIVATE ENTERPRISE, AND LANDOWNERS TO PROTECT AND ENHANCE **FARMS** FOR **PURPOSES OF** WORKING SUPPORTING COMMUNITIES, PRODUCING SAFE AND HEALTHY FOOD AND FIBER, PROTECTING HABITAT FOR ENDANGERED AND OTHER WILDLIFE AND PLANT SPECIES, PRESERVING OPEN SPACE, IMPROVING WATER **OUALITY AND** GROUNDWATER RECHARGE, AND **INCREASING** ECONOMIC OPPORTUNITIES FOR EXISTING AND NEW FARM FAMILIES.

Whereas, in S.L. 2000-23, the General Assembly found that additional permanent protection of lands for environmental protection and public use is needed to complement our State's economic growth and to meet our citizens' needs for generations to come; and

Whereas, the General Assembly reaffirms the strong desire of the State and its citizens to conserve and protect working farms as part of North Carolina's agricultural heritage and finds this conservation and protection of working farms is a necessary component of the State's economic health and also protects the State's natural resources and open space; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. A Farm Futures Pilot Program is established in the Department of Agriculture and Consumer Services. The Commissioner of Agriculture shall establish the initial pilot program at an existing facility or research farm of the Department of Agriculture and Consumer Services. The Department of Agriculture and Consumer Services shall develop the Pilot Program so that the Pilot Program serves as a regional catalyst to promote and enhance working farms in North Carolina.

**SECTION 2.** The purposes of the Farm Futures Pilot Program are to:

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- Promote collaborative efforts that will enhance the sustainability of 1 (1) 2 working farms in North Carolina. Provide office space for nongovernmental land trust and farmland 3 (2) protection organizations, entrepreneur farm product incubator 4 5 activities, satellite university and community college and extension coursework, and other activities associated with farmland protection, 6 7 farm production, marketing, and value-added industries. 8 Develop the need for a food-processing center for local farmers and (3) 9 marketers. 10 **(4)** Conduct workshops for county agricultural districting programs, farmland protection and preservation services, new crop and new farm 11 12 management systems, and environmental stewardship programs. 13 Develop a mentoring program to encourage older farmers to remain on (5) 14 the farm while training young farm families to assume the financial 15 and production responsibilities of the farm. Partner with private enterprises, government agencies, educational 16 (6) 17 institutions, and nongovernmental organizations in developing complementary financial, production, and marketing plans with a 18 19 regional perspective and reflective of changes in traditional agriculture 20 with designs for transitioning to new crops, new farming methods, and 21 new management plans. SECTION 3. The Department of Agriculture and Consumer Services shall 22 initially develop the Farm Futures Pilot Program to focus on those central Piedmont 23 24 counties and communities whose farms traditionally relied on tobacco production to support the working farm and the rural economy. The Farm Futures Pilot Program shall 25 be developed so that it is adaptable to other regions of the State and designed to meet 26 27 the continued changes predicted for agriculture in North Carolina. 28 SECTION 4. There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of five hundred thousand 29 dollars (\$500,000) for the 2003-2004 fiscal year to initiate the Farm Futures Pilot 30 31 Program established under Section 1 of this act. There is appropriated from the General 32 Fund to the Department of Agriculture and Consumer Services the sum of two hundred
  - Internet information site for the Farm Futures Pilot Program. **SECTION 5.** This act becomes effective July 1, 2003.

fifty thousand dollars (\$250,000) for the 2004-2005 fiscal year to continue the Farm

Futures Pilot Program established under Section 1 of this act, for continued staffing, promotion, and coordination of regional programs, and to establish and maintain an

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# **HOUSE BILL 968:** Farm Futures Pilot Program.

**BILL ANALYSIS** 

Committee: House Agriculture **Introduced by:** Representatives Hill & Church

Date: May 6, 2003 Summary by: R. Erika Churchill Version: First Edition Committee Co-Counsel

SUMMARY: The bill creates the Farm Futures Pilot Program within the Department of

Agriculture and appropriate funds for the program.

#### **BILL ANALYSIS:**

The bill would establish a Farm Futures Pilot Program in the Department of Agriculture and Consumer Services. The Commissioner is establish the initial pilot program at an existing facility or research farm. and develop the program so that it will serve as a regional catalyst to promote and enhance working farms in North Carolina.

The purposes of the pilot program are to:

- 1. Promote collaborative efforts that will enhance the sustainability of working farms in North Carolina.
- 2. Provide office space for nongovernmental land trust and farmland protection organizations, entrepreneur farm product incubator activities, satellite university and community college and extension coursework, and other activities associated with farmland protection, farm production, marketing, and value-added industries.
- 3. Develop the need for a food-processing center for local farmers and marketers.
- 4. Conduct workshops for county agricultural districting programs, farmland protection and preservation services, new crop and new farm management systems, and environmental stewardship programs.
- 5. Develop a mentoring program to encourage older farmers to remain on the farm while training young farm families to assume the financial and production responsibilities of the farm.
- 6. Partner with private enterprises, government agencies, educational institutions, and nongovernmental organizations in developing complementary financial, production, and marketing plans with a regional perspective and reflective of changes in traditional agriculture with designs for transitioning to new crops, new farming methods, and new management plans.

The initial pilot program is to focus on the Central Piedmont farms that traditionally relied on tobacco production to support the working farm.

The bill would appropriate \$500,000 in this fiscal year and \$250,000 in the next fiscal year for the pilot program.

**EFFECTIVE DATE:** The act would become effective July 1, 2003.

# This meeting has been rescheduled for 8:30 a.m., Tuesday, May 6, 2003.

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: TUESDAY, MAY 6, 2003

**TIME:** 12:00 Noon

LOCATION: 1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 968 FARM FUTURES PILOT PROGRAM

SPONSOR: REPRESENTATIVE HILL

SB 731FERTILIZER PACKAGING NUTRIENT GUARANTEES

SPONSOR: SENATOR ALBERTSON

SB 751CIVIL PENALTIES/FOOD, DRUG AND COSMETICS

**SPONSOR: SENATOR HAGAN** 

SB 992PROTECT MASTER SETTLEMENT MONEY SPONSOR: SENATOR GARROU

Respectfully, Representative Hill Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:55 a.m. on May 1, 2003.

Principal Clerk	
Reading Clerk - Hou	ise Chamber

Gennie Thurlow (Committee Assistant)

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

	•	
DAY & DAT	E: TUESDAY, MAY 6, 2003	
TIME:	12:00 NOON	
LOCATION	1228 Legislative Building	
The following	bills will be considered (Bill # & Short Title & Bill Sponsor):	
HB 968	FARM FUTURES PILOT PROGRAM SPONSOR: REPRESENTATIVE HILL	
SB 731	FERTILIZER PACKAGING NUTRIENT GUARANTEES SPONSOR: SENATOR ALBERTSON	
SB 751	CIVIL PENALTIES/FOOD, DRUG AND COSMETICS SPONSOR: SENATOR HAGAN	
SB 992	PROTECT MASTER SETTLEMENT MONEY SPONSOR: SENATOR GARROU	
	Respectfully, Representative Hill Chair	
I hereby certify this notice was filed by the committee assistant at the following offices at 11:55 a.m. on May 1, 2003.		
Principal Clerk Reading Clerk - House Chamber		

Gennie Thurlow (Committee Assistant)

AGRICULTURE
Name of Committee

May 6, 2003

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

**NAME** 

#### FIRM OR AGENCY AND ADDRESS

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AGRICULTURE

Name of Committee

May 6, 2003

NAME	FIRM OR AGENCY AND ADDRESS
Carrell James	NCRA
PSP	
JERRY HARdesty	Ne P.C.
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Brance Toponeson	packer for pams of Sociation W, LLP
Jim CummiNBS	NCDA & C5
Martha Glass	NC DA & CS
Julie Allen	NC Statewatch
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AGRICULTURE
Name of Committee

May 6th, 2003

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NAME	FIRM OR AGENCY AND ADDRESS	
Bill brewie	Cheyenne International	
Tim Crowby	UNCTV	
Bun Willin	NEDA + CS From + DW	
Don Howell	NCDA+C5	
Tom Sri	NCRMIL	
And Ellen	NAMA	
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# MINUTES SPECIAL JOINT MEETING OF THE HOUSE COMMITTEE ON AGRICULTURE AND THE SENATE COMMITTEE ON AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

May 7, 2003

The Special Joint Meeting of the House Committee on Agriculture and the Senate Committee on Agriculture/Environment/Natural Resources met on Wednesday, May 7, 2003, in Room 643 of the Legislative Office Building. The following House Agriculture members were present: Chair Dewey Hill; Vice Chair Lewis; Representatives Baker, Bell, Coates, Culp, Daughtridge, Fox, Kiser, Mitchell, Nye, Pate, Tolson, Walker, Warren, and A. Williams.

Senator Albertson called the meeting to order at 11:00 a.m. He welcomed the members of The Rural Center and the Senate Committee on Agriculture/Environment/ Natural Resources. Representative Hill welcomed the members of the House Committee on Agriculture and the visitors. The Visitor Registration Sheet is attached and made part of these minutes.

Billy Ray Hall, president of The Rural Center, was introduced. Copies of the presentations that were made are attached. A question and answer period followed each of the presentations. Lunch was served from 11:55 a.m. to 12:30 p.m. One additional presentation was made, and there was a final question and answer period.

The meeting was adjourned at 1:00 p.m.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

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Name of Committee

NAME	FIRM OR AGENCY AND ADDRESS
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Managhenison	MCIC
Steve Woodson	NC Farm Buren
Charle Dieh	NC Trucking Assn.
Gene Aineworth	RJR
and Duren	altria
· A Reyan	N.C.A.C.C
Tommy Sure	Let There Exporters Association
Frank Johnson	
Johnny Wyane	NC State Univ.
Steven Leat	NC State Love
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Agriculture	
Name of C	'ommittee

05/07/03 Date

NAME	FIRM OR AGENCY AND ADDRESS
JON DET	NC State Univ
JOHN COOPER	USDA-RURAL DEVELOPMENT
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# SPECIAL JOINT MEETING HOUSE AGRICULTURE AND

# SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE: WEDNESDAY, MAY 7, 2003

TIME: 11:00 A.M. to 1:00 P.M.

LOCATION: 643 Legislative Office Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Special Joint Meeting of the House Agriculture Committee and Senate Agriculture/Environment/Natural Resources Committee.

**Topic:** Agricultural Grants and Investments

This is a special two-hour meeting coordinated by The Rural Center. Lunch will be provided to members of the House and Senate Agriculture Committees <u>only</u>, compliments of The Rural Center. An agenda will be sent under separate cover. Senator Albertson and I hope everyone will make arrangements to attend this special informative meeting.

Thank you.

**Dewey and Charlie** 

Respectfully,

Representative Hill Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:00 p.m. on April 30, 2003.

 Principa	l Clerk	
Reading	Clerk - House	Chamber

Gennie Thurlow (Committee Assistant)

## Senate Agriculture / Environment / Natural Resources Committee House Agriculture Committee

## Presentations on Agricultural Grants and Investments

Wednesday, May 7, 2003

## Legislative Office Building, Room 643

#### Chairs:

Hon. Charlie Albertson

Hon. Dewey Hill

## Agenda

11 am	Welcome	Hon. Charlie Albertson
11:10	Agricultural Advancement Consortium Overview	Larry Wooten
11:20	Question & Answer	Hon. Dewey Hill
11:25	Tobacco Trust Fund Commission Presentation	Billy Carter
11:45	Tobacco Trust Fund Commission Q&A	Hon. Dewey Hill
11:55	Lunch	
12:30	Golden LEAF Presentation	Lawrence Davenport
12:50	Golden LEAF Q&A	Hon. Charlie Albertson
1 pm	Adjourn	Hon. Dewey Hill

# Agricultural Advancement Consortium Presentation

Presented by Billy Ray Hall

Joint Meeting of the Senate Agriculture / Environment / Natural

Resources Committee

and the House Agriculture Committee

Wednesday May 7, 2003

# Agricultural Advancement Consortium

Lois Britt, Chair
Larry Wooten, Vice Chair
Billy Ray Hall, Secretary / Treasurer

# Agricultural Advancement Consortium

The consortium is a 25-member board, composed of North Carolina's foremost leadership in agriculture, business and public policy. Its purpose is to develop a shared vision for farming in North Carolina and to coordinate prudent actions to improve farming's long-term vitality.

# Membership

Lois Britt, Murphy-Brown, LLC (Chair)
Larry Wooten, North Carolina Farm Bureau (Vice Chair)
Billy Ray Hall, Rural Center
Hon. Charles Albertson, N.C. Senate
Hon. Dewey Hill, N.C. House of Representatives
James Oblinger, Dean, NCSU College of Agriculture and Life Sciences
Alton Thompson, Dean, NC A&T College of Agriculture
Faylene Whitaker, Farmer, Randolph County
Robert Caldwell, N.C. State Grange
John Adams, Farmer, Greene County
John Ashe, Farmer, Rockingham County
Betty Bailey, Rural Advancement Foundation International - USA
Hon. Meg Scott Phipps, Commissioner of Agriculture
Jim Fain, Secretary of Commerce
Lisbeth Evans, Secretary of Cultural Resources
William Ross, Secretary of Environment & Natural Resources
Dale Bone, Farmer, Edgecombe County
John Cooper, USDA Rural Development
Lawrence Davenport, Chair, Golden LEAF
Billy Carter, Chair, Tobacco Trust Fund Commission
Ronald Jackson, Farmer, Sampson County
O.C. Jenkins, Farmer, Columbus County
Gordon Meyers, N.C. Citizens for Business & Industry
Cecil Settle, N.C. Foundation for Soil and Water Conservation Districts
Richard Jones, Wachovia Bank

# **Origins**

In response to the recommendation of the Rural Prosperity Task Force, the N.C. General Assembly authorized the establishment of the Agricultural Advancement Consortium during its 2000 session

‡

# Goals

- advocate for legislation at the state and national levels that will positively affect North Carolina's farm communities
- coordinate and promote practical agricultural research and demonstration efforts with a view towards capturing opportunities and innovations in marketing and production
- document the impact of farming on North Carolina's economy, environment and culture.

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# **Funding**

Funding is provided by the General Assembly to cover the basic costs of staff, research, meetings and other operating expenses of the consortium.

## Appropriations:

	-
FY 01	\$250,000.00
FY 02	\$200,000.00
FY 03	\$200,000.00
FY 04	\$190,500.00

# Staff

The consortium is staffed by the Rural Center. For information, contact:

#### **Charles Hall**

Director, Agricultural Advancement Consortium N.C. Rural Economic Development Center 4021 Carya Drive Raleigh, NC 27610

Telephone: 919-250-4314

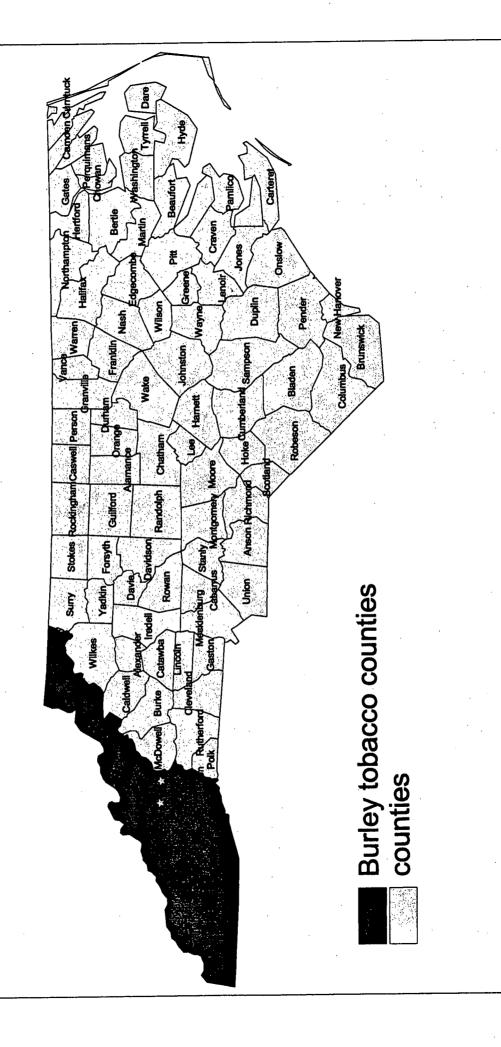
Fax: 919-250-4325

E-Mail: chall@ncruralcenter.org

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# Major Accomplishments

# **Burley Tobacco Production Counties**



# Burley Marketing Center Fall 2001

- Funded by a Tobacco Trust Fund Commission grant and sponsored by the Agricultural Advancement Consortium
- Two auction warehouses operated successfully in Asheville in the 2001 and 2002 seasons.
- Handled 5.4 million pounds of burley tobacco in the inaugural 2001 season and 5.2 million pounds in the 2002 season, or about 70% of the N.C. burley crop.
- In 2001 and 2002, the grant increased farmer income by nearly \$700,000 that would otherwise have been paid in fees.

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# Disaster Relief 2001

- Led effort to distribute \$6.6 million to farm victims of Hurricane Floyd
- Supported farm financial counseling and outreach program through:
  - Rural Advancement Foundation International -USA
  - Land Loss Prevention Project
  - North Carolina Department of Agriculture
  - Coalition of Farm and Rural Families
  - Cooperative Extension Service

# Research & Demonstration Grants

- FY 2002 nine projects totalling \$135,000
  - Specialty and alternative crops
  - Biodiesel and value-added ag products
  - Internet-based marketing strategies
  - Farmer's cooperatives
- FY 2003 six projects totalling \$120,000
  - Increased access to new or existing markets
  - Lower on-farm production costs

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# FY 2002 Research Grants

North Carolina Department of Agriculture  Mountain Microgrants Specialty Crop Program	\$20,000	
Carolina Farm Stewardship Association National Organic Standard Training Seminars	\$15,000	
Rural Advancement Foundation International On-Farm Participatory Research Projects	\$25,000	
North Carolina Department of Agriculture Appalachian Food Ventures Feasibility Study	\$15,000	
Central North Carolina Nursery Growers Association  Cooperative Marketing Strategy	\$20,000	
Grain Growers Cooperative Biodiesel Feasibility Study	\$10,000	
NC Farm Bureau Legal Foundation Farm Labor Procurement Non-Profit	\$15,000	
Southern States Cooperative Foundation New Generation Cooperative Development	\$15,000	12

# FY 2003 Research Grants

\$20,000 NC Department of Agriculture Farmstead Dairy Cheese Development Program \$20,000 **New River Community Partners** New River Basin Agricultural Marketing Initiative \$20,000 NC Christmas Tree Association North Carolina Fraser Fir Brand Identity Promotion NC Coalition of Farm & Rural Families \$20,000 Improving Farm Profits by Using Plasticulture And Pot-in-Pot Techniques \$20,000 Operation Spring Plant Market Research and Development for Small Family Farmers \$20,000 Rural Advancement Foundation International-USA Efficacy and Impact of Advocacy Services For Farmers in North Carolina

Impacts and Leverage 2002

- FY 02 Research and Demonstration Grants
  - \$15,000 matched Advantage West funding 1:1 to produce feasibility study on a value-added food processing facility in Buncombe Co., and leveraged a further \$750,00 in grants received to date.
  - \$10,000 in addition to \$50,000 from Golden LEAF purchased a feasibility study for a biodiesel production facility, resulting in \$10 million in equity commitments.
  - \$20,000 extended an initial \$90,000 speciality crops microgrants program to three additional farmers.

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# Impacts and Leverage 2003

- FY 03 grants -
  - \$120,000 to six awards leveraged \$289,500 in matching funds
  - High priority placed on developing promising agricultural enterprises

15

# Benchmark Report on Agriculture 2003 - 2004

- Document statewide trends in agriculture
- Examine structural changes in North Carolina's agricultural economy and culture
- Results to be released in phases beginning in Fall 2003

# North Rural Economic Development Center,

MAJOR R&D INITIATIVES

Main Menu:

In This Section

Background
Project Overview
Funding
Next Steps
Members
Contact
2002-2003 Research
Grants Program

# Agricultural Advancement Consortium

Contents of this page:

Background: Project overview: Funding: Members:

Contact

#### **Background**

Agriculture remains a vital sector of North Carolina's economy. Sales of products from the farm totaled \$7.4 billion in 2000, and this figure has increased every year. The sale of farm products provides raw inputs to the state's food, fiber and forest product manufacturing industry. When the value added to North Carolina farm products by processing, manufacturing, distribution, wholesale and retail is tallied, North Carolina farms are shown to be the first link of a value chain totaling \$62 billion.

The state's farming community, however, continues to be challenged by a number of powerful forces, including stagnant commodity prices, natural disasters, regulatory pressures, and events in foreign markets. As a result, the number of farms and the number of farm jobs are declining rapidly. One underlying cause may be the small percentage of the value of retail food products that is retained by the farmer - only about twenty cents on the dollar. While the value of all agribusiness-related production and distribution continues to increase in North Carolina, the farmer's share has remained relatively flat. Farm commodity prices have fallen and in some cases plummeted. In one well-known instance, hog producers saw sales drop by \$800 million from 1997 to 1998. During that year, the four counties of Sampson, Duplin, Jones and Pender - the state's most productive agricultural area - experienced a \$387 million loss in farm income.

The agricultural sector is dealing with fundamental changes that portend a revolution in how farmers work, produce, market and manage their crops and farms. Declines in the tobacco quota have drastically cut farm income for farmers across the state. Farmers abandon the profession at the rate of one every day. A significant change is taking place in the area of marketing. Rather than selling commodity crops locally to the highest bidder, some farmers are producing products specifically for the supply chains of major processors, wholesalers, and retailers. The products sold are typically produced according to exacting customer specifications. Farmers are discovering that changing

consumer preferences are creating niche market opportunities for new food crops and value-added products, and that farms can find profits in non-traditional, non-food products. Commodity crops are still profitable for many. Producers of these crops are learning to employ new technologies and risk management tools to avoid boom-bust cycles and to protect razor-thin margins.

Yet, farmers are not sitting idly by as the fundamental structure of agriculture changes. A growing number of farmers rely on computers and the Internet, on new product development, on business, finance and marketing plans for new ventures, and other technologies and activities commonly associated with finance or high-tech manufacturing. Farmers look to new crops and alternative market opportunities to increase sales and income. The state's agricultural leadership is keeping pace. To turn the tide of agricultural declines and to prepare for the challenges of the 21st century, the Governor's Rural Prosperity Task Force recommended in February 2000 the creation of an Agricultural Advancement Consortium to seek ways to keep farming viable.

#### Overview

In response to the recommendation of the Rural Prosperity Task Force, the N.C. General Assembly authorized the establishment of the Agricultural Advancement Consortium during its 2000 session.

The consortium is a 25-member board, composed of North Carolina's foremost leadership in agriculture, business and public policy. Its purpose is to develop a shared vision for farming in North Carolina and to coordinate prudent actions to improve farming's long-term vitality.

The consortium's primary goals are to advocate for legislation at the state and national levels that will positively affect North Carolina's farm communities, to coordinate and promote practical agricultural research and demonstration efforts with a view towards capturing emerging opportunities and innovations in production and marketing, and to document the impact of farming on North Carolina's economy, environment and culture.

#### **Major Activities and Accomplishments:**

Burley Tobacco Marketing Center – the center, which is funded by the Tobacco Trust Fund Commission and is sponsored by the Agricultural Advancement Consortium, handled 5.4 million pounds of burley tobacco in the inaugural 2001 season and 5.2 million pounds in the 2002 season, or about 70% of North Carolina's burley crop. Burley growers received on average \$1.93 per pound in 2002, comparable to prices earned in Virginia and Tennessee warehouses. The center is located in Asheville. Without it, burley growers would have to travel to out-of-state auctions or contract receiving stations to market their crop.

Benchmark Report on Agriculture - the report will examine

the critical issues facing North Carolina farmers and farm families and explore where North Carolina's agricultural sector stands amid the transition to a new economy. The report will look at how agricultural policymakers can respond to the unique challenges facing our farmers.

Research & Demonstration Grants -- A key function of the Consortium has been to fund projects and studies that lead to new agribusiness opportunities.

In the FY 2002 grants round, the Agricultural Advancement Consortium awarded a total of eight research grants totaling \$125,000 to projects that demonstrated innovations in specialty and alternative crops, provided opportunities for adding value to farm commodities, promoted the development of farmers' cooperatives, and promoted the use of on-farm internet and computer technologies.

In the FY 2003 grants round, the consortium funded six projects totaling \$120,000 that enhance farm profitability by providing access to new and existing markets or by lowering on-farm production costs. FY 2003 award winners include:

N.C. Coalition of Farm and Rural Families

Project title: Improving Farm Profits Using Plasticulture and

Pot-in-Pot Techniques Operation Spring Plant

Project title: Market Research and Development for Small

Family Farmers

N.C. Christmas Tree Association

Project title: North Carolina Fraser Fir Brand Identity

Promotion

NC Department of Agriculture & Consumer Services,

Agribusiness Development Office

Project title: Farmstead Dairy Development Program

**New River Community Partners** 

Project title: New River Basin Agricultural Marketing Initiative

Rural Advancement Foundation International – USA

Project title: Efficacy and Impact of Advocacy Services for

Farmers in North Carolina

#### **Funding**

Funding is provided by the General Assembly to cover the basic costs of staff, research, meetings and other operating expenses of the consortium.

#### Members

Chair - Lois Britt, Murphy-Brown, LLC
Vice-Chair - Larry Wooten, North Carolina Farm Bureau
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#### **Rural Center Contact**

#### **Charles Hall**

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Telephone: 919-250-4314 Fax: 919-250-4325

E-Mail: chall@ncruralcenter.org

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Home Page :: About the Center :: News and Events :: How to Contact Us :: Research & Demonstration :: Grant & Loan Programs :: Leadership Development :: Rural Data Bank ::

**Publications Catalog:: Resource Guide** 

N.C. Rural Economic Development Center 4021 Carya Drive, Raleigh, NC 27610 info@ncruralcenter.org

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Tobacco Trust Fund Commission Presentation

Presented by Billy Carter, Commission Chairman

## TOBACCO TRUST FUND COMMISSION

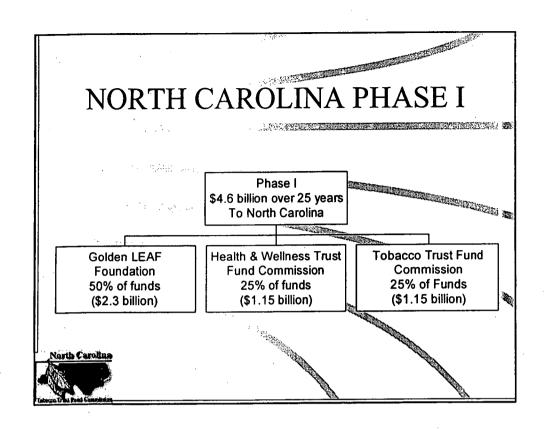
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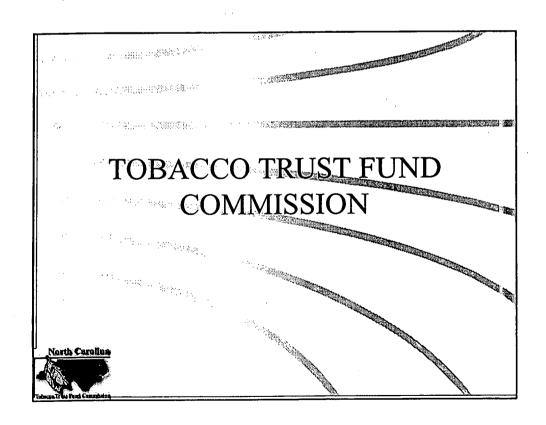


## MASTER SETTLEMENT AGREEMENT "MSA"

- Completed during the Fall of 1998
- Agreement between 46 states and the tobacco companies
- \$206 billion over 25 years
- Phase I of the MSA



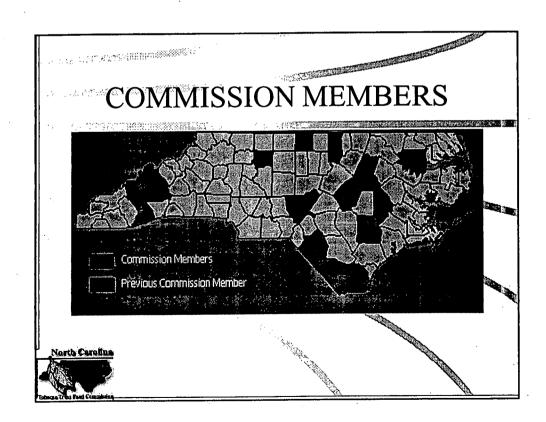




# BOARD MEMBERS

- 18 member board appointed equally by the Governor, Speaker and President Pro Tem
- -5 flue cured tobacco farmers
- 1 flue cured quota owner who is not a farmer
  - -1 burley tobacco farmer
- 1 burley tobacco farmer who is a quota holder
  - 1 person in or displaced from tobacco related employment
  - -9 at-large appointees





#### **PARAMETERS**

- State Commission
- Not limited to interest earnings or reserves
- Administratively located at NCDA&CS
- Function independently of the Commissioner of Agriculture



## STATUTORY PURPOSES OF THE COMMISSION

- Program that benefits the tobaccorelated segment of the agricultural economy.
  - Alleviate and avoid unemployment.
  - Preserve and increase local tax base
  - Encourage the economic stability of participants in the State's agricultural economy.

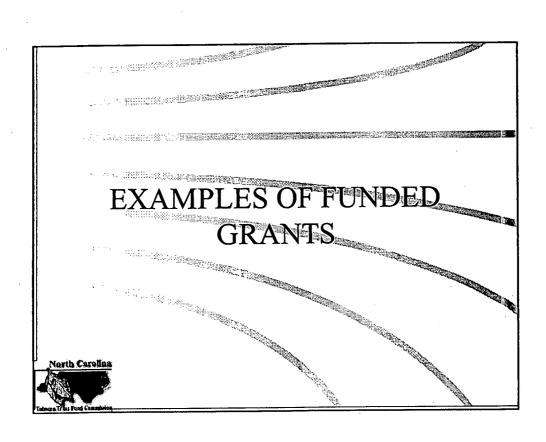


· Use natural resources optimally.

## EXAMPLES OF POTENTIAL PROGRAMS

- Modernization of farming equipment
- Conversion of existing equipment to comply with environmental/regulatory requirements
- requirements
   Conversion/Replacement of equipment to cultivate other more profitable crops
- Etc.....





#### BARN RETROFIT PROGRAM

- \$41 million
- Conversion to heat exchanger technology
- Lowered Tobacco-Specific Nitrosamines
- NitrosaminesAdministered by Stabilization
- ~ 68 counties / 6,540 applications / 24,377 barns



#### NCDA/NCSU-RESEARCH STATIONS

•~ \$168,000

- Conversion of barns for experimental purposes
- Keeps research in check with industry standards



## BURLEY MARKETING CENTER

- ~ \$ 2 million over two years
- Opened November 13, 2001
- Last two burley auction-warehouses
- Incorporates the Pros of a receiving station into an auction environment
- Put \$ 1.4 million back in the farmers' pocket and the local economies.
- ~ 19 counties / 10.7 mil. lbs. / 60 65% of N.C. burley.



#### FCTCG GRANT

- \$ 2.050 million for 2002 Marketing Season
- Helps alleviate a burden placed on the farmer in recent years
- Assist farmers by offsetting some of their packaging expenses (wire, slip sheets, etc..)
- Half cent per pound sold
- Checks to be mailed Spring of 2003



#### 2002 GRAN

- Up to \$ 3 millionReceived 42 applications for ≈ \$13 million
- Approved a total 12 grants for \$2.8 million



#### 2002 GRANTING CY

,400,000
700,000
350,000
350,000
A 2000

## 2002 GRANTING CYCLE

**RAFI** 

Johnston Co. Farmer's Mkt.

Columbus County

Stokes County

Martin Co. EDC

ASAP

N.C. A&T

N.C. Ag. Found.

Carolina Farm Stewardship N.C. Found. for S&W Dist.

N.C. Tobacco Found.

TGANC

N.C. Tobacco Found.

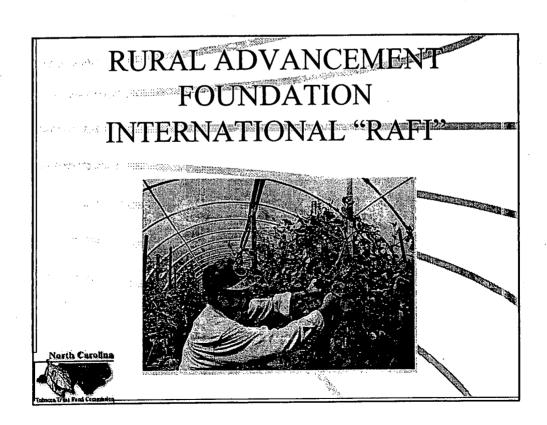


# N.C. FOUNDATION FOR SOIL \*\* WATER CONSERVATION

## AUTOMATION AND OUTREACH GRANT

- \$350,000
- Statewide impact
- Helps farmers implement nutrient plans for control of nitrogen and phosphorus
- Provides for needed computer hardware in county offices
- Conducts outreach programs to educate farmers of the need and procedures





## TOBACCO COMMUNITIES REINVESTMENT FUND

- \$300,000
- In February 2003, awarded 20 cost-share grants to farmers and community groups working in 11 counties in North Carolina.
- Assists with the establishment of new enterprises, which demonstrate ways to replace lost tobacco income.
- Provides farmers and communities with an opportunity to try innovative strategies to obtain more value from agricultural production.



#### 2003 GRANTING CYCLE

Up to \$4 million available for cycle

- Applications to disburse in late May 2003
- Application deadline August 1, 2003
- Awards announced in October 2003



#### 2003 FUNDING PRIORITIES

- Agri-Economic Development
- Product and Marketing
   Diversification Initiatives
- Displaced Tobacco Worker
   Workforce Development
- Conservation of Natural Resources



## PLANNING FOR THE FUTURE

Give the man a fish and feed him for a day.....teach him how to fish and feed him for a lifetime.



#### PROGRAM INITIATIVES

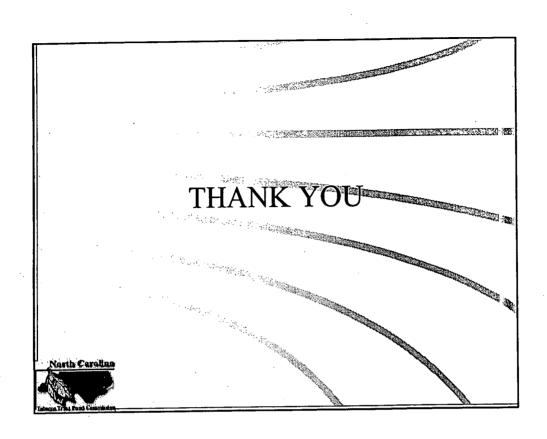
- AGRI-VENTURE FUND
- NEW MARKETS INITIATIVE
- WORKFORCE DEVELOPMENT
- CONSERVATION OF NATURAL RESOURCES



#### IN CONCLUSION.....

- The Commission has lost \$120 million to the budget shortfall
- Placed ~ \$45 million in 93 counties
- Thankful for the support by the Members in this room today
- Looking forward to serving North Carolina in the future.....







#### www.tobaccotrustfund.org

#### Post Office Box 27647 Raleigh, North Carolina 27611

Phone: 919-733-2160 - Fax: 919-733-2510

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WARD, George W. Jr. 3404 Shady Grove Road Providence, NC 27315

WISE, Earle 997 Long Branch Road Marshall, NC 28753

## Golden LEAF Presentation Presented by Lawrence Davenport, Board Chair



#### GOLDEN CLEAF, INC

(Long-term Economic Advancement Foundation)



**Rocky Mount, North Carolina** 



#### **Golden LEAF Foundation**

- Receives and distributes a portion of the funds from the settlement of litigation involving the manufacture of tobacco products.
- Created in 1999 as a non-profit corporation by Court Order in the consent decree resolving litigation initiated by the NC Department of Justice.
- Helps tobacco dependent counties and impacted communities deal with the long-term consequences of the decline of the tobacco industry.



#### **Golden LEAF Foundation**

#### **Purpose**

➤To make grants and support organizations that promote the social welfare of North Carolina's citizens and to receive and distribute funds to lessen the economic impact of changes in our tobacco economy.

➤ The Foundation's objective is to assist rural communities as they adapt to changing economic conditions and as they make a transition to more diversified economic bases.



#### **Golden LEAF Foundation**

#### **Board of Directors**

- > Lawrence Davenport, Chair Greenville
- Michael A. Almond Charlotte
- > Erskine Bowles Charlotte
- Jesse Thomas Bunn Raleigh
- Julius Chambers Durham
- William Clarke Asheville
- ➤ Lisbeth C. Evans Winston-Salem
- John H. Harmon New Bern

- > Richard Holder Kinston
- William Johnson Raleigh
- > H. Kel Landis Rocky Mount
- > John D. Merritt Wilmington
- David T. Stephenson, III Lumberton
- William Ward, Jr. Ahoskie
- > Debbie E. Worley Princeton

#### **Golden LEAF Foundation**

#### Staff

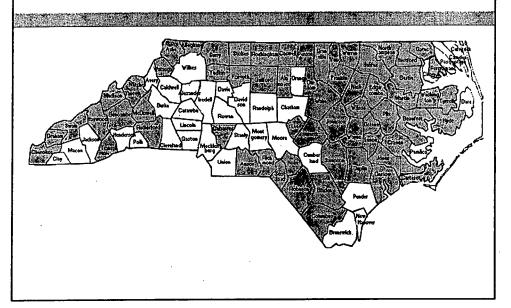
- > Valeria Lee
  - **President**
- Mark Sorrells
  Vice President of Programs
- Joseph Gray
   Vice President of Finance and Operations
- > Alexis Vaughn
  - **Vice President of Strategic Initiatives**
- > Courtney Mills
  - **Program Associate**
- > Rhea Barnes
  - **Administrative Assistant**

#### **Golden LEAF Foundation**

#### Serves All North Carolinians

While we serve all North Carolinians, our mandate is to assist areas which are the most dramatically affected by the change on our tobacco economy, especially tobacco dependent regions of the state.

Projects serving communities that have historically relied on tobacco and those that are economically distressed receive the highest priority.





#### **Project Priorities**

During the current funding cycle, highest priority will be given to projects in the areas of

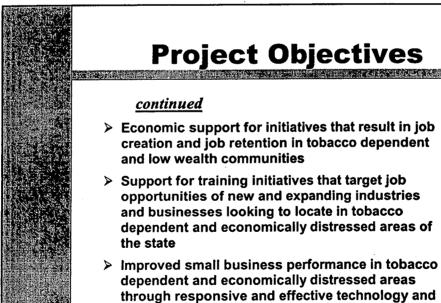
- > Agriculture
- > Economic Development
- > Workforce Preparedness

Educational activities which complement these priorities will also be of interest.



We will look for projects that

- > Expand market opportunities for agricultural products
- Assist farmers with cost-effective production techniques that result in increased profitability
- > Support for farmers who wish to transition into alternative agricultural enterprises



business training

#### **Golden LEAF Foundation**

<u>Low priority will be placed on proposals</u> seeking funding for:

- > Endowments
- > Capital Campaigns
- > Construction Projects
- > Infrastructure
- **▶** Debt
- > Revolving Loan Funds

#### The Golden LEAF Foundation is

- ➢ In business to help people stay on the farm and produce needed food and fiber
- ➤ To help people forced from the farm or from tobacco-related industries to compete for and obtain jobs that ensure a high quality of life



#### The Golden LEAF Foundation

- Cannot make grants to corporations and private for profit businesses.
- > Cannot make grants to individuals.



#### **Grant Proposal Guidelines**

- > Applicant must be 501 (c) (3) organization or a government agency
- > Application must be submitted on our form (forms can be downloaded from our website, www.goldenleaf.org)
- > Provide the proposal narrative & other information requested in the guidelines

We have an open-door policy.

Please call if you have questions.



## Economic Stimulus Grants

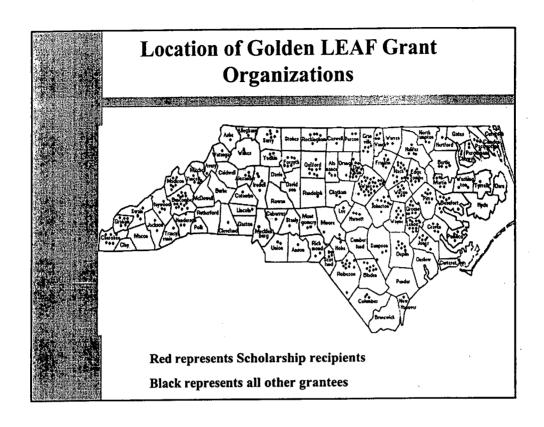
- > \$10 million reserved for Jobs Development Grants
- > \$5 million reserved for Site Certification Grants

➤ Application Deadlines are: May 1

October 1

February 1

Golden L		Awards
Project Area	Number	Amount
Agriculture	84	\$11,191,855.0
Economic Development	45	\$12,821,663.00
Workforce Preparedness	20	\$ 3,115,402.40
Community Assistance & Education	35	\$ 5,106,751.00
TOTALS	184	\$32,235,671.54







#### Support for the development of the wine grape industry in the Yadkin Valley

- > Two grants totaling \$280,000 have been used by Surry Community College to develop a Viticulture and Enology training program targeting area tobacco growers.
- > Investment in the development of the industry has resulted in more than \$10 million investment in the area, including new vineyards, restaurants, and expansions in agricultural supply businesses.
- > A grant of \$280,000 was made to the Old North State Winegrowers Foundation to establish a market for area wine grapes through the creation of a winery in downtown Mount Airy.



### Positioning for the Future: Agriculture

- > 1,791 farmers have received training in alternative crop production.
- > More than 760 growers are participating in alternative crop production projects supported by Golden LEAF.
- >In 2002 10 farmers grew 80 acres of Sprite melons that sold for \$1,000,000.
- >7 limited resource farmers participating in upscale pork production sold 751 pigs at the first sale for \$80,241.
- >8 Madison County farmers produced \$121,792 in additional income from alternative crops.





## Helping farm communities transition through:

- > Specialty crops research sprite melons, peppers, etc.
- > Development of new nursery crops weeping river birch, evergreen dogwood trees, stewartias, etc.
- > Medicinal and edible herbs and mushroom cultivation
- > Organic vegetables and fruits
- > Upscale pork and goat meat production
- > Ornamentals including wild crafted and new varieties
- > Value-added opportunities including Biodiesel, food based businesses, entrepreneurial training, & vertical integration into value-added processing



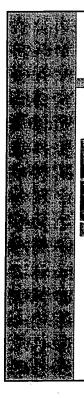
#### Creating Clusters of Opportunity

#### Franklin County Committee of 100 - Flextronics

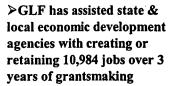
- >1,900 jobs created or retained with average annual salaries of \$32,240 and \$20 million of new investment
- >Project strengthens NC's competitiveness in the IT industry by creating a local source of electrical & optical components for RTP companies.

#### NC's Eastern & Northeastern Regional Partnerships

- > Training for 1,450 jobs created at BSH Home Appliance and 154 jobs created from suppliers locating in eastern NC
- > \$241 million in new investment



#### **Economic Development**



> New investment resulting from these activities total \$654,274,503

> Self-Help Credit Union has utilized GLF funding to make 46 loans totaling \$10,202,760 in 19 tobacco dependent communities that created or maintained 258 jobs.

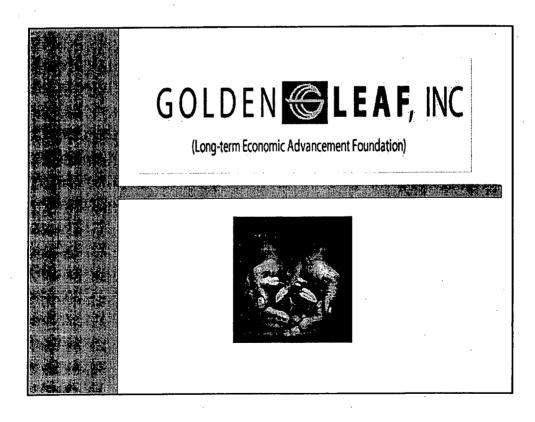
>The Rural Center's Capital Access Program has already booked more than 200 loans through participating banks totaling in excess of \$8 million and creating or retaining1,000 jobs.



#### **Education**

- > 599 students from 25 community colleges serving tobacco dependent communities received scholarships to attend curriculum & continuing education classes.
- > 4,695 individuals have participated in training aimed at preparing them for specific job opportunities in rural communities.
- > 88 individuals received Golden LEAF scholarships to attend 13 of the 16 public universities in NC.





#### MINUTES HOUSE COMMITTEE ON AGRICULTURE

May 20, 2003

The House Committee on Agriculture met on Tuesday, May 20, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Bell, Bonner, Coates, Culp, Daughtridge, Daughtry, Ellis, Fox, Kiser, Nye, Pate, Tolson, Walker, Warren, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:05 P.M. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Chair Hill stated that HOUSE BILL 948 CLARIFY AUTHORITY/REGULATION OF CERVIDS would be discussed and there was a PROPOSED COMMITTEE SUBSTITUTE for this bill. Vice Chair Lewis made a motion that the PROPOSED COMMITTEE SUBSTITUTE be adopted for discussion. The motion carried. Representative A. Williams was recognized to explain HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE. After a short discussion, Representative Nye made a motion that HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE be given a favorable report, unfavorable as to the original bill. The bill was re-referred to the House Committee on Finance.

The meeting was adjourned at 12:15 P.M.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

VISITOR REGISTRATION SHEET

Name of Committee

5/20/Q3 Date/

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Bolly Dinan	RRC
J Troy	WIL
Norman Tom	WRC (NCDOJ)
Kristen Kochellian	Inten WI Ab
JOHN PECHMANN	NCWRC
DICK HAMILTON	WRC
Strue Windham	Newho
Marles Follumed	Wildlife
Law Rubsest	CHC
John Ins	n & State Grange
HAVER GROEPET	DAMID KNIGHT
Julie Allen	NC Statematch
Martin Glass	NC DAi, CS
Davil M'Ling	NCDA+CS
Darpa Nashall	NCDA9CS
OH. Rland	NCDAGES
JOE DELVIA	NC RRC
fano Jamesta	Tayner & mull
Dle Jenja	NECTO V
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#### Gennie Thurlow (Rep. Hill)

From:

Gennie Thurlow (Rep. Hill)

Sent:

Thursday, May 15, 2003 12:15 PM

Subject:

Agriculture Committee Meeting 5-20-03

Importance: High

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as follows:

DAY & DATE:

**TUESDAY, MAY 20, 2003** 

TIME:

12:00 NOON

**LOCATION:** 

1228 Legislative Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 939

DACS TO REGULATE FARMED CERVIDS

Sponsors:

Representatives Coates, Barbee, Starnes, and Warner

HB 948

CLARIFY AUTHORITY/REGULATION OF CERVIDS

**Sponsor:** 

Representative A. Williams

Respectfully, Representative Hill Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:15 p.m. on May15, 2003.

Principal Clerk	
Reading Clerk -	House Chamber

Gennie Thurlow (Committee Assistant)

#### AGENDA

#### HOUSE COMMITTEE ON AGRICULTURE

Tuesday, May 20, 2003 1228 Legislative Building

12:00 Noon

#### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

#### **AGENDA ITEMS**

HB 939 DACS TO REGULATE FARMED CERVIDS

Sponsors: Representatives Coates, Barbee, Starnes, and Warner

**HB 948** 

**CLARIFY AUTHORITY/REGULATION OF CERVIDS** 

Sponsor: Representative A. Williams

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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by adding a new section to read:

### **HOUSE BILL 948**

Short Title: Clarify Authority/Regulation of Cervids.

(Public)

Sponsors:	Representatives A. Williams; B. Allen, G. Allen, L. Allen, Church, Cole Culpepper, Cunningham, Decker, Dickson, England, Glazier, Goforth Gulley, Hackney, Haire, Harrell, Hill, LaRoque, Lucas, Luebke, Miller Nye, Owens, Pate, Rapp, Sauls, Tolson, Wainwright, Warren, West K. Williams, and Yongue.
Referred to:	Agriculture.
	April 8, 2003
AGRICU RESOUR CERVID The General SE "(1	A BILL TO BE ENTITLED  TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF LTURE AND CONSUMER SERVICES AND THE WILDLIFE CES COMMISSION WITH RESPECT TO THE REGULATION OF S.  Assembly of North Carolina enacts: CCTION 1. G.S. 113-129(1b) reads as rewritten: b) Big Game. – Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97. white-tailed deer."  CCTION 2. G.S. 113-129 is amended by adding a new subdivision to read: d) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer)."  CCTION 3. G.S. 113-129 is amended by adding a new subdivision to read: (a) Deer. – White-tailed deer (Odocoileus virginianus), except when otherwise specified in this Chapter."  CCTION 4. G.S. 113-129(7c) reads as rewritten: (b) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and
· ·	white-tailed deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals."

SECTION 5. Article 21 of Chapter 113 of the General Statutes is amended

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses or parts of game carcasses extracted by hunters, and shall adopt rules to implement this section, including requirements for captivity licenses or permits, including transportation permits, fencing, tagging, record keeping, and inspection of captive cervid facilities.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that the activity is authorized subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of cervids other than white-tailed deer for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission may issue captivity licenses or permits, including transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, provided that the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by October 1, 2003, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license or permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

SECTION 6. G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."

**SECTION 7.** G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.

- (2) The individual may possess and transport the game lawfully taken on a trip:
  - a. To his residence;
  - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
  - c. From a place authorized in subparagraph b to his residence.
- (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
  - a. The applicable possession limit for each species; or
  - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission may adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

### SECTION 9. G.S. 113-292(d) reads as rewritten:

- "(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."
  - SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:
- "(o) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 106-549.97 reads as rewritten:

"§ 106-549.97. Regulation of fallow deer and red deer by Department of Agriculture and Consumer Services; Services of certain cervids

produced and sold for commercial purposes; certain authority of North
Carolina Wildlife Resources Commission not affected; definitions.

- (a) The Department of Agriculture and Consumer Services shall regulate the production and sale of fallow deer and red deer for food purposes. cervids other than white-tailed deer for commercial purposes. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes cervids other than white-tailed deer for commercial purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes. cervids other than white-tailed deer for commercial purposes, and shall notify any such person, firm, or corporation that such activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat. possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.
  - (c) The following definitions apply in this Article:
    - (1) Fallow deer. A member of the Dama dama species.
    - (2) Red deer. A member of the Cervus elephus species.
    - (3) Cervid or Cervidae. All animals in the Family Cervidae elk and deer).
- White-tailed deer. A member of the species Odocoileus virginianus."

  SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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### HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE H948-CSRFf-21 [v.2]

5/20/2003 9:09:37 AM

	Short Title: Clarify Authority/Regulation of Cervids. (Public)
	Sponsors:
	Referred to:
	April 8, 2003
1	A BILL TO BE ENTITLED
2	AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF
3	AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE
4	RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF
5	CERVIDS.
6	The General Assembly of North Carolina enacts:
7	SECTION 1. G.S. 113-129(1b) reads as rewritten:
8	"(1b) Big Game Bear, wild boar, wild turkey, and deer, not to include
9	fallow deer or red deer raised for production and sale under G.S.
10	106-549.97. white-tailed deer."
11	<b>SECTION 2.</b> G.S. 113-129 is amended by adding a new subdivision to read:
12	"(1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and
13	deer)."
14	<b>SECTION 3.</b> G.S. 113-129 is amended by adding two new subdivisions to
15	read:
16	"(5a) Deer White-tailed deer (Odocoileus virginianus), except when
17	otherwise specified in this Chapter."
18	"(5b) Farmed Cerv. 1. – Any member of the Cervidae family, other than
19	white-tailed deer, elk, mule deer, or black-tailed deer, that is bought
20	and sold for commercial purposes."
21	SECTION 4. G.S. 113-129(7c) reads as rewritten:
22	"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, and
23	white-tailed deer, not to include fallow deer or red deer raised for
24	production and sale under G.S. 106-549.97; and, except when trapped
25	in accordance with provisions relating to fur-bearing animals, bobcat,
26	opossum, and raccoon raccoon except when trapped in accordance
27	with provisions relating to fur-bearing animals."

**SECTION 5.** Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars (\$50.00) for the processing of applications for captivity licenses, captivity permits and transportation permits, and the renewal or modification of those licenses and permits. The fees collected shall be applied to the costs of administering this section.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the North Carolina General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits or transportation permits, to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license, captivity permit or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

### **SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."
  - **SECTION 7.** G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
  - (2) The individual may possess and transport the game lawfully taken on a trip:
    - a. To his residence;
    - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
    - c. From a place authorized in subparagraph b to his residence.
  - (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - a. The applicable possession limit for each species; or
    - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

### **SECTION 9.** G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

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**SECTION 10.** G.S. 113-294 is amended by adding a new subsection to read:

Any person who willfully imports or possesses black-tailed or mule deer "(o) (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

**SECTION 11.** G.S. 106-549.97 reads as rewritten:

- Regulation of fallow deer and red deer by Department of "\§ 106-549.97. Agriculture and Consumer Services; Services of certain cervids produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.
- The Department of Agriculture and Consumer Services shall regulate the (a) production and sale of fallow deer and red deer for food purposes. farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes. farmed cervids, and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.
- The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat, possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.
  - The following definitions apply in this Article: (c)
    - Fallow deer. A member of the Dama dama species. (1)
    - (2)Red deer. A member of the Cervus elephus species.
    - Cervid or Cervidae. All animals in the Family Cervidae (elk and (3) deer).
    - Farmed Cervid. Any member of the Cervidae family, other than <u>(4)</u> white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
    - White-tailed deer. A member of the species Odocoileus virginianus." <u>(5)</u>
- SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.



### HB 948: Clarify Authority/Regulation of Cervids

DILL ANALISI

**Committee:** House Agriculture Committee

**Date:** April 21, 2003

**Version:** HB 948-CSRF-13 (v.3)

Introduced by: Representative Williams

Summary by: Barbara Riley

Committee Counsel

House Bill 948 amends a number of definitions governing the provisions of `Subchapter IV of Chapter 113 of the General Statutes, Conservation of Marine and Estuarine and Wildlife Resources. The definition changes help to clarify the Wildlife Resources Commission's authority to regulate the possession and transportation ofcervids; members of the deer and elk family. The bill adds a new section to Chapter 113 providing specifically for the transportation of cervids and the licensing of captive cervid facilities. House Bill 948 also authorizes the WRC to adopt rules regulating the import and possession of game carcasses that are known or suspected of carrying an infectious or contagious disease posing an imminent threat to the health of the State's wildlife and makes the willfull possession or importation of a black-tailed deer or a mule deer in North Carolina a Class I misdemeanor.

The proposed committee substitute amends the provisions of proposed G.S. 113-272.6(d) to require the WRC to issue a captivity license or transportation permit to a person who possesses cervids that were held in captivity by that person as of May 17, 2002 if the Director finds that the person meets all the applicable rules for holding cervids by January 1, 2004. The PCS also authorizes the Commission to charge a fee of up to \$50 for the issuance of captivity licenses, captivity permits and transportation permits for cervids.

### **BACKGROUND:**

House Bill 948 (and House Bill 939) have their roots in the controversy over the adoption of rules by the Wildlife Resources Commission and the North Carolina Department of Agriculture and Consumer Services to protect the State's white tailed deer population and farmed deer population from the disease known as Chronic Wasting Disease (CWD). CWD is a fatal neurological disease of farmed and wild deer and elk. (Please see the attached memo for more information on CWD's spread, the response of USDA and NCDA, and the potential economic impact of the disease on deer hunting and on deer and elk farming in North Carolina.)

In May of 2002 (and again in October 2002) the WRC proposed emergency rules that restricted the transportation of farmed cervids within the State and also increased the requirements for tagging cervids, and fencing, maintenance and recordkeeping at captive cervid facilities. The North Carolina Deer/Elk Farmers Association, Ltd. filed objections to the rules on the basis that the WRC lacked jurisdiction to promulgate those rules. The basis of the objections rested in part on the definitions in the Wildlife laws that exempted red deer and fallow deer, from the definitions of "big game" and "game animal", and therefore from the definition of "wild animal" such that the WRC did not have jurisdiction to regulate the possession of these animals. The objections, however, were overruled as G.S. 106-549.97 gives the WRC specific authority to regulate the possession and transportation of red deer and fallow deer. House Bill 948 was introduced to clarify the WRC's jurisdiction to regulate the possession and transportation of cervids.

### **HB 948**

Page 2

### **BILL ANALYSIS:**

Section 1 of House Bill 948 amends G.S. 113-129(1b) to define b"big game" animals to include only white-tailed deer. The reference exempting red deer and fallow deer is removed.

Section 2 of the bill amends G.S. 113-129 by adding a new subdivision (1f) defining "cervids" to mean all animals in the Cervidae family (elk and deer).

Section 3 adds two new subdivisions (5a) and (5b) which define "deer" to mean white-tailed deer" and "farmed cervid" to mean any member of the cervidae family other than white-tailed deer, elk, mule deer or black-tailed deer, that is bought and sold for commercial purposes.

Section 4 of the bill amends G.S. 113-129 to clarify that the term "game animals" includes only white-tailed deer. It removes the language exempting red deer and fallow deer.

Section 5 adds G.S. 113-272.6 requiring the WRC to regulate the transportation of cervids and licensing of captive cervid facilities. This includes the transportation, importation, exportation, and possession of cervids, including game carcasses and parts of game carcasses. The WRC's shall adopt rules for the licensing of captive cervid facilities including rules on fencing, tagging, record keeping and inspections of captive cervid facilities.

Subsections (b) and (c) of G.S. 113-272.6 provide that persons issued transportation permits by the WRC must be notified of the transportation requirements of the Department of Agriculture and Consumer Services and provide that the Department shall regulate the production and sale of farmed cervids.

G.S. 113-272.6 (d) provides that the WRC shall issue captivity licenses to persons with cervids held prior to May 17, 2002 if the Executive Director finds that the person has complied with all rules applicable to the holding of cervids in captivity by January 1, 2004, and that the issuance of the captivity license does not present a unreasonable risk to the State's wildlife.

Subdivision (e) provides for the forfeiture and disposition of any cervids held contrary to the provisions of G.S. 113-272.6.

Section 6 of the bill amends G.S. 113-276.2 to make that section applicable to transportation permits and licensing of captive cervid facilities. G.S. 113-276.2 requires the Executive Director of the WRC to satisfy himself that the qualifications for licenses and permits are met by the applicant and provides for license revocations and refusals to reissue permits or licenses based upon failure to meet the qualifications requirements or the commission of a substantial violation of the wildlife statutes or rules governing the permit or license.

Sections 7 and 8 provide for the WRC to regulate the importation, possession or transportation of game carcasses that are suspected of carrying an infectious or contagious disease that presents an imminent threat to wildlife in the State.

Section 9 expands the authority of the WRC to regulate the import, possession, transportation disposition or release of plant and animal species that may create a danger to or imbalance in the environment that would be harmful to the conservation of wildlife resources, to include those species that may threaten the introduction of an epizootic disease

Section 10 makes the importation or possession of black-tailed or mule deer a Class 1 misdemeanor.

### **HB 948**

Page 3

Section 11 of the bill amends G.S. 106-549.97, the regulation of the production and sale of red deer and fallow deer by the Department of Agriculture and Consumer Services, to make it consistent with the definitions in G.S. 113-129 regarding farmed cervids. Section 11 also amends the statute to require the Department to notify persons subject to its rules on farmed cervids that their activity is also subject to compliance with the WRC rules under G.S. 113-272.6.

Section 10 of the act becomes effective October 1, 2003 and applies to acts committed on or after that date. The remainder of the act is effective when it becomes law.

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

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### HOUSE BILL 948 PROPOSED COMMITTEE SUBSTITUTE H948-PCS60353-RFf-21

Snort 1	itie: Ci	larity Authority/Regulation of Cervids.	(Public)
Sponsor	rs:		
Referre	d to:		
		April 8, 2003	
		A BILL TO BE ENTITLED	
		CLARIFY THE AUTHORITIES OF THE DEPA	RTMENT OF
			E WILDLIFE
		ES COMMISSION WITH RESPECT TO THE REG	ULATION OF
	RVIDS.		
The Ge		sembly of North Carolina enacts:	
		<b>FION 1.</b> G.S. 113-129(1b) reads as rewritten:	
	"(1b)	Big Game. – Bear, wild boar, wild turkey, and deer,	
		fallow-deer or red deer raised for production and s	sale under G.S.
	OD CO	106-549.97.white-tailed deer."	
		FION 2. G.S. 113-129 is amended by adding a new subd	
	"(11)	Cervid or Cervidae. – All animals in the Family Ce	rvidae (elk and
	CIE/CI	deer)."	
read:	SEC	<b>FION 3.</b> G.S. 113-129 is amended by adding two new	subdivisions to
reau.	"(50)	Deer White-tailed deer (Odocoileus virginianus)	avaant whan
	(Ja)	otherwise specified in this Chapter.	, except when
	(5b)	· · · · · · · · · · · · · · · · · · ·	nily other than
	(20)	white-tailed deer, elk, mule deer, or black-tailed deer	
		and sold for commercial purposes."	, ulat is bought
	SECT	<b>FION 4.</b> G.S. 113-129(7c) reads as rewritten:	
	"(7c)	` '	ild boar, and
	( /	white-tailed deer, not to include fallow deer or red-	•
		production and sale under G.S. 106-549.97; and, excer	
		in accordance with provisions relating to fur-bearing a	
		opossum, and raccoon raccoon except when trapped	
		with provisions relating to fur hearing animals."	•

**SECTION 5.** Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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

- (a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars (\$50.00) for the processing of applications for captivity licenses, captivity permits, and transportation permits, and the renewal or modification of those licenses and permits. The fees collected shall be applied to the costs of administering this section.
- (b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.
- (c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.
- (d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.
- (e) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

### SECTION 6. G.S. 113-276.2(a) reads as rewritten:

- "(a) This section applies to the administrative control of:
  - (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
  - (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
  - (3) Individuals holding collection licenses under G.S. 113-272.4;
  - (4) Individuals holding captivity licenses under G.S. 113-272.5; G.S. 113-272.5 and G.S. 113-272.6; and
  - (5) Persons holding dealer licenses under G.S. 113-273."
- **SECTION 7.** G.S. 113-291.2(c) reads as rewritten:

- "(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:
  - (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
  - (2) The individual may possess and transport the game lawfully taken on a trip:
    - a. To his residence;
    - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
    - c. From a place authorized in subparagraph b to his residence.
  - (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
    - a. The applicable possession limit for each species; or
    - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

### SECTION 9. G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

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SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:

Any person who willfully imports or possesses black-tailed or mule deer

"(o) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 106-549.97 reads as rewritten:

- "§ 106-549.97. Regulation of fallow deer and red deer by Department of Agriculture and Consumer Services; Services of certain cervids produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.
- (a) The Department of Agriculture and Consumer Services shall regulate the production and sale of fallow deer and red deer for food purposes. farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes. farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.
- (b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.
  - (c) The following definitions apply in this Article:
    - (1) Fallow deer. A member of the Dama dama species.
    - (2) Red deer. A member of the Cervus elephus species.
    - (3) Cervid or Cervidae. All animals in the Family Cervidae (elk and deer).
    - (4) Farmed Cervid. Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
    - (5) White-tailed deer. A member of the species Odocoileus virginianus."

**SECTION 12.** Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

### 2003 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:  By Representative HILL Chair for the Committee on AGRICULTURE
Committee Substitute for  H.B. 948 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF CERVIDS.
☐ With a favorable report.
☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.
☐ With a favorable report, as amended.
☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.
With a favorable report as to the committee substitute bill (#
☐ With a favorable report as to House committee substitute bill (# ), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
☐ With an unfavorable report.
With recommendation that the House concur.
☐ With recommendation that the House do not concur.
With recommendation that the House do not concur; request conferees.
☐ With recommendation that the House concur; committee believes bill to be material.
☐ With an unfavorable report, with a Minority Report attached.
☐ Without prejudice.
☐ With an indefinite postponement report.
☐ With an indefinite postponement report, with a Minority Report attached.
☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

### MINUTES HOUSE COMMITTEE ON AGRICULTURE

June 3, 2003

The House Committee on Agriculture met on Tuesday, June 3, 2003, in Room 1228 of the Legislative Building. The following members were present: Chair Hill; Vice Chair Lewis; Representatives Baker, Bell, Bonner, Coates, Creech, Culp, Daughtridge, Daughtry, Fox, Kiser, Mitchell, Pate, Tolson, Walker, Warren, A. Williams, and Yongue.

Chair Hill presided and called the meeting to order at 12:00 Noon. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Mike Blanton of the North Carolina Department of Agriculture and Consumer Services was introduced. He gave a power point presentation on North Carolina Food Security, North Carolina's interagency effort to protect the food chain. A copy of Mr. Blanton's presentation is attached.

Dr. David Marshall of the North Carolina Department of Agriculture and Consumer Services was then introduced. His presentation was: Mad Cow Disease and Exotic New Castle Disease Update.

There was a brief question-and-answer period.

Chair Hill made closing remarks.

The meeting was adjourned at 12:40 p.m.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

### NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2003-2004 SESSION

You are hereby	y notified that the	Committee on A	AGRICULTURE	will meet as follows:
----------------	---------------------	----------------	-------------	-----------------------

DAY & DATE:	TUESDAY, JUNE 3, 2003		
TIME:	12:00 NOON		
LOCATION:	1228 Legislative Building		
The following bill	s will be considered (Bill # & Short Title & Bill Sponsor):		
Presentations by	the North Carolina Department of Agriculture and Consumer Services		
(1) No.	rth Carolina Food Safety and Security		
(2) Ma	(2) Mad Cow Disease and Exotic New Castle Disease Update		
	Respectfully,		
	Representative Hill Chair		
I hereby certify thi a.m. on <b>May 29, 2</b>	is notice was filed by the committee assistant at the following offices at 10:30 003.		
	al Clerk g Clerk - House Chamber		
Gennie Thurlow (	Committee Assistant)		

### **AGENDA**

### HOUSE COMMITTEE ON AGRICULTURE

Tuesday, June 3, 2003 1228 Legislative Building

12:00 Noon

### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

### **AGENDA ITEMS**

Presentations by the North Carolina Department of Agriculture and Consumer Services:

- (1) North Carolina Food Safety and Security
- (2) Mad Cow Disease and Exotic New Castle Disease Update

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

### **VISITOR REGISTRATION SHEET**

Mame of Committee

6/3/03 pate

### VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	FIRM OR AGENCY
Martha Glass	NC DA : CS
Barbara Baldwin	osa
Andy Ellen	NCRMA
Tom Sri	NAMA
Fran Prestan	NCRMA
F. Carlyle Teague	Co-op Council of NC
David Marshall	NCDA4CS
Fran Cockma	NC State Water
BRUCE MADMISEN	PAAS
Thunk	Nast
Durura Luglinghou	NS
DICK HAMPILTON	NCWRC
Den: H Harder	WCDA
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## NC Food Security

protect the food chain interagency effort to North Carolina's

# 2002 State Auditor's findings

The 2002 North Carolina Food Safety review by the N.C. Auditor's office has highlighted significant shortcomings in the capability of NCDA&CS to insure the safety of the state's food supply.

extraordinary funds are currently being invested in Human Further, in the face of the current bio-terrorism threat, Disease response and prevention efforts. However, the investment at national and state levels in food security has been minimal to date!

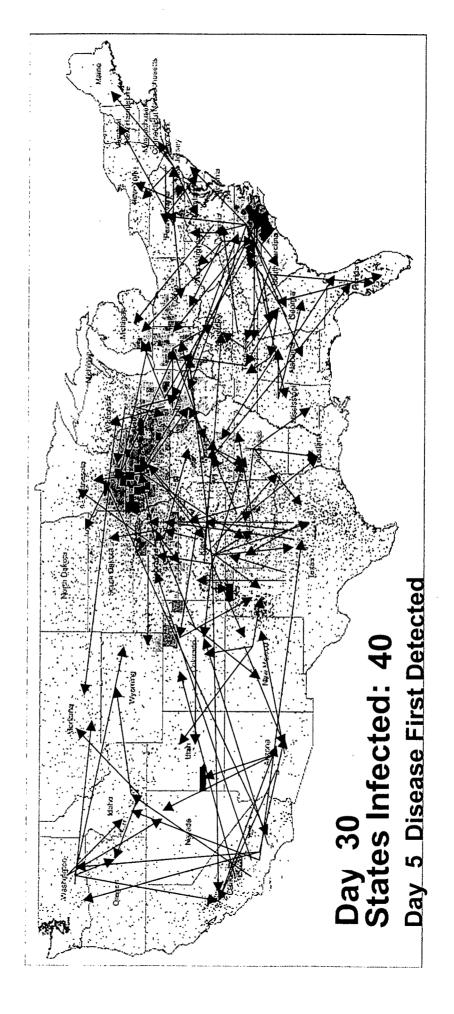
## Is agriculture a target?

- Current intelligence and recent history suggest that terrorist acts targeting the food chain are a real threat
- Terrorist have historically exploited agriculture to create weapons
- In North Carolina, like in many states, agriculture is the single organizations seeks to harm our economy, this is where the most important component of our economy. If a terrorist body blow can be delivered!

## Is agriculture a target?

response capability in the event of a terrorist attack on the food supply is hindered by inadequate laboratory staffing, Finally, the overall capability of the state to ensure a safe safety surveillance needs. This situation complicates our capacity and modern equipment to deal with current state's food chain.

## simulated terrorist attack at 5 Locations Potential FMD disease spread after a



Potential Impact:

Even if a national "stop Movement" of all susceptible animals is ordered on Day 8, by the time the disease is eradicated the nation could lose still 23.6 million animals!

## What is the Terrorism Risk? **National Food Security**

- How secure is our national food chain from farm to table?
- What are our national vulnerabilities to food adulteration and contamination on a large scale?
- What is industry already doing to prevent intentional food contamination?
- FSIS and State inspection programs do not routinely test for botulism, anthrax or other weaponizable bio-agents, but instead rely on processing controls and carcass inspections to prevent accidental introduction of contaminating agents into the food supply.

## What is the Terrorism Risk? **National Food Security**

- Where do state and federal laws conflict with reasonable security practices and create vulnerabilities?
- Have our potential adversaries demonstrated an intent and/or capability to target our food supply?

### Vulnerable to terrorism? Why is U.S. agriculture

- vulnerable to interdiction with significant downstream affects. Nearly all agriculture production and delivery is multi-state, highly integrated and "just-in-time" inventory based. It is
- Our agri-industry is open and public, just like our society.
- Historically, we have focused on safety not security. No "security culture" exists!
- Terrorists have targeted and exploited the agriculture community throughout history.
- We lack effective surveillance and detection capabilities!

### Current N.C. Interagency Food Security Initiatives

NC Governor's Terrorism Preparedness Task Force

NCDA&CS Terrorism Vulnerability Self Assessment Program

NCDA&CS Retail Food Security Training Program

NC Interagency Food Security & Safety Task Force

NC Retail Food Security Task Force

NC Milk Security Task Force

# Production facility food security



- Employee Background Checks
- Contract haulers must adhere to physical & transport security procedures
- Physical Security
- **External Facility Monitoring**
- Language/Cultural Issues
- Immigrant Workers
- Employee Chem & Bio-Security Training
- Terrorism Vulnerability Self Assessments

## **Food Security Issues**

- Public-Private Partnerships
- Role of federal laboratories
- Role of local physicians, Medical Examiners and state public health labs
- Rapid detection and accurate patient history are key elements
- Industry staff food security training
- Access to retail food business customer databases

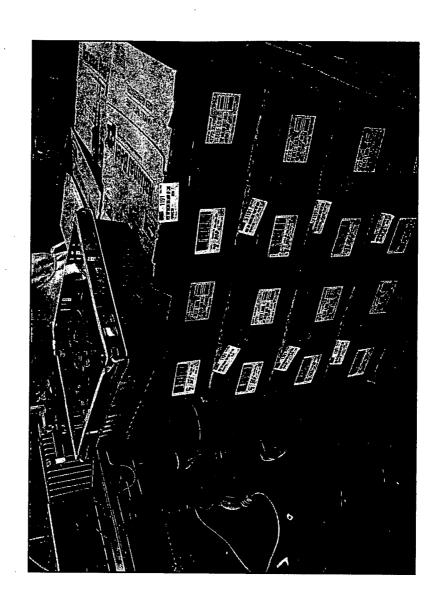
## Food Security Issues

- Role and training posture of FSIS or State Inspectors in food security events
- Integration of state inspectors and laboratories with the FBI criminal investigation
- Surveillance of in-plant state and federal inspectors for disease indicators
- Identify the Essential Elements of Information (EEI) for forensic, Public Health, Veterinary and Food and Drug investigators to detect and understand food security events

### Economic Issues Food Security

What will be the impact on the state's economy?

What will be the effect on our foreign trade?



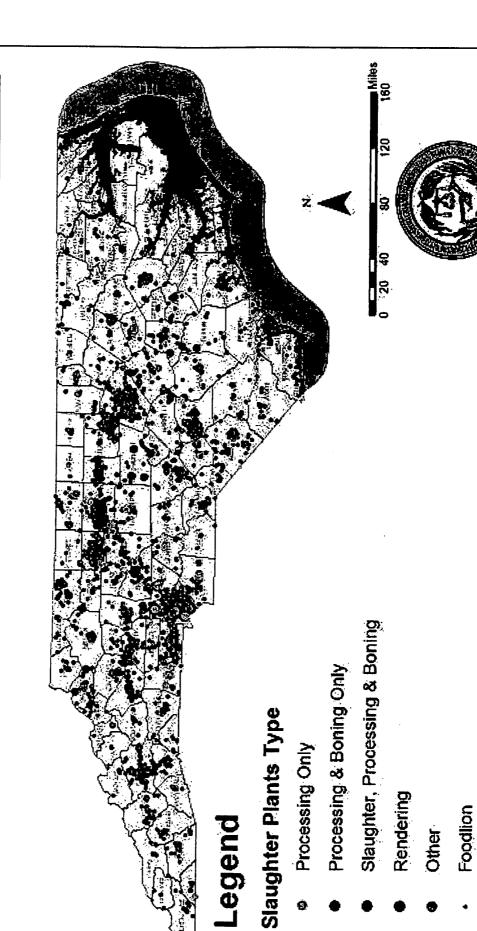
### PROPOSED NORTH CAROLINA FOOD SECURITY PROJECT

# N.C. Food Security Project

With the increasing focus on the potential impact on our supply are now being appreciated in a new context at nation of bio-terrorism, the risks to our nation's food every level.

of this project is to understand the vulnerabilities within been provided to human health issues. 'This project is intended to address that need. Our initial requirement The need to harden our food chain against such acts must receive equal priority and focus of effort as has the N.C. food chain to criminal and terrorist acts and then to provide a program to harden the overall food chain against such acts.

# Food Safety Establishments North Carolina

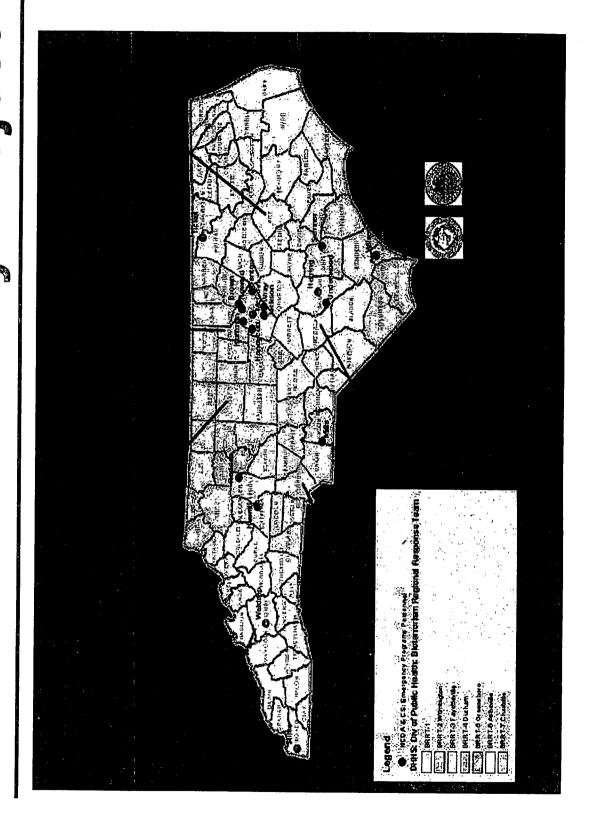


Hotels & Restaurants

### Proposed NC Food **Security Project**

# Interagency Project Team Composition:

- NCDA&CS
- N.C. Department of Public Health
- N.C. State Bureau of Investigation
- N.C. Department of Justice
- N.C. Department of Crime Control and Public Safety
- Industry Organizations
- Federal Agencies



# N.C. Food Security Project Deliverables

- 1. Permanent Interagency State Food Security Task Force
- 2. Food Security Strategy for the state of NC
- Vulnerability assessments of food production-distribution within NC
- 4. Integrated threat assessment and reporting system with Law Enforcement
- Implementation of a Food Security Threat Reduction Plan 5.
- 6. Strategy for implementing needed regulations, policies, and legislation

# N.C. Food Security Project Deliverables

- Strategy Integration with federal, neighboring states and industry
- Integrated Interagency Food Security Response Plan ∞.
- GIS based surveillance, reporting, decision support and threat management
- 10. Improved Food Chain bio-threat and disease surveillance and reporting
- 11. Identify and fulfill training needs of stakeholders
- 12. Prototype National Food Security Program

### Final Thoughts on Food Safety

- distribution of the contaminated product will not be limited In any terrorist food contamination scenario, the to one store or one even area.
- Imagine how far that distribution might be in a real terrorist attack on food at the production level in multiple locations!
- laboratory needs and interagency coordination levels, we In forecasting response needs: trained people, supplies, will need to plan and respond on a massive scale!
- guidance and standards to all states and to all industries. We need a national program that provides the same
- N.C. is positioned to be the national prototype.

### North Carolina Department of Agriculture & Consumer Services N.C. Inter-agency Food Security Project Expansion Budget

Account	Description	2003-04	2004-05
531211	Salaries & Wages	\$1,231,535	\$1,278,539
	(TIME LIMITED EMPLOYEES)		
	1 Emergency Mgmt. Section Manager		
	(Project Administrator- Agriculture) (PG 76) @ \$50,004/ yr		}
	1 Emergency Mgmt. Section Manager (Project Administrator- Public Health) (PG76) @ \$50,004/ yr	•	
	18 members of Vulnerability Assess Team @ \$4800/person/month effective October 03-Jan 05		
	1 Project Manager (PG 74) \$42,000 1 Public Health Epidemiologist (PG70) \$49,799		
	1 Public Health Data Processing Asst (PG 59) @ \$21,996 Begins work October 03 - Jun 05		
	1 Paralegal I (PG 65) @ \$37,992 Begins work October 03 - Jun 05		
	2 Training Administrators(PG-NG) \$37,992 Jan 04 - Jun 05		
-	2 Law Enforcement Officer I (PG 70) \$37,992 Nov 03 - Jun 05		
	1 Emergency Management Plans Supervisor (Response Planner) (PG74) @ \$42,000/yr Aug 03 – Jun 05		
	1 Emergency Management Support (Threat Specialist) (PG 72) \$42,000	:	
	2 Mitigation Specialists(PG NG) \$37,992 Jan 04 thur Jun 05	,	
	1 GIS Technician (PG-NG) \$37,992		
531511	Social Security @ 7.65% total salary	\$94,212	\$97,808
531521	Retirement	\$37,316	\$38,740
531561	Medical Insurance @ \$2933.00/position	\$70,875	\$78,451
532199	Misc. Contract:	\$8,700	
E22440	Initial Recruiting Expenses		
533110	Office Supplies & Materials	\$26,230	\$24,130
533900	Other Materials & Supplies	\$23,500	\$12,000
532714	In-State Transportation	\$195,073	\$160,802
532724	In-State Subsistence	\$46,376	\$36,856
532715	Out-of-State Transportation	\$46,238	\$37,670
532725	Out-of-State Subsistence	\$14,594	\$12,214
532814	Telephone Cell Phones (1200min) \$70/employee/mo.	\$23,870	\$18,970
532840	Postage	\$2,705	\$2,355

532850	Printing	\$6,115	\$5,065
534534	Computer Equipment \$120/employee/mo. GIS Work Station & Licenses	\$25,080 \$20,513	\$17,400
534511	Furniture Initial Office Setup Costs \$145,000	\$100,000	
532714	Motor Fleet Vehicles (1050 miles) \$350/ 4 employees/mo.	\$29,838	\$23,713
	Total Requirements	\$2,002,770	\$1,844,713
	Sum Total Two year Requirements	\$3,847,483	
	Receipts:		
Food Security Project- Federal		\$1,802,493	\$1,660,242
	Appropriations	\$200,277	\$184,471
	Total Number of Positions	33	

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### North Carolina Food Safety and Security Task Force

Account	Description	2003-04	2004-05
532714	In-State Transportation	12,000	12,000
532715	Out of State Transportation	11,600	11,600
532724	In-State Subsistence	4,000	4,000
532850	Printing	4,800	4,800
533110	Office Supplies & Materials	2,400	2,400
533900	Other Materials & Supplies	1,200	1,200
	Total Requirements	\$ 36,000	\$ 36,000

Sum Total Requirement	s \$72,000	
Receipts	-0-	-0-
Appropriations	\$36,000	\$ 36,000

### MINUTES HOUSE COMMITTEE ON AGRICULTURE

May 25, 2004

The House Committee on Agriculture met on Tuesday, May 25, 2004, in Room 1228 of the Legislative Building. The following members were present: Chair Dewey Hill; Vice Chair Lewis; Representatives Bell, Bonner, Coates, Culp, Daughtridge, Ellis, Fox, Mitchell, Pate, Tolson, Walker, Warren, A. Williams, G. Wilson, and Yongue.

Chair Hill presided and called the meeting to order at 12:00 p.m. He welcomed the members of the Agriculture Committee and the visitors and made opening remarks. The Visitor Registration Sheet is attached and made part of these minutes.

Commissioners W. Britt Cobb, Jr. was introduced by Chair Hill. A copy of his presentation outline is attached.

Chair Hill made closing remarks.

The meeting was adjourned at 12:22 p.m.

Representative Dewey Hill, Chair

Gennie Thurlow, Committee Assistant

### NORTH CAROLINA HOUSE OF REPRESENTATIVES **COMMITTEE MEETING NOTICE** AND **BILL SPONSOR NOTIFICATION** 2003-2004 SESSION

You are hereby notified that the Committee on AGRICULTURE will meet as fo	llo	WS
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You are nereby no	ined that the Committee on AGRICULTURE will meet as follows:
DAY & DATE:	TUESDAY, MAY 25, 2004
TIME:	12:00 Noon - Lunch will be served.
LOCATION:	1228 Legislative Building
Guest Spea	aker
	nmission W. Britt Cobb, Jr. th Carolina Department of Agriculture
<u>Lunch will</u>	be served during the meeting.
	Respectfully, Representative Hill Chair
I hereby certify thi p.m. on May 20, 2	s notice was filed by the committee assistant at the following offices at 12:30 <b>004.</b>
	al Clerk g Clerk - House Chamber

Gennie Thurlow (Committee Assistant)

### **AGENDA**

### HOUSE COMMITTEE ON AGRICULTURE

Tuesday, May 25, 2004 1228 Legislative Building

12:00 Noon

### **OPENING REMARKS**

Representative Dewey Hill Chair, House Agriculture Committee

AGENDA ITEMS

**Guest Speaker** 

Commission W. Britt Cobb, Jr. North Carolina Department of Agriculture

**CHAIR'S REMARKS** 

**OTHER BUSINESS** 

**ADJOURNMENT** 

### VISITOR REGISTRATION SHEET

Name of Committee

Date

### VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

VISITORS. FLEASE SIGN BELOW A	AND RETURN TO COMMITTEE ASSISTANT
NAME	FIRM OR AGENCY
TERRYM. WILLIAMS	Jimbo's Jumbos, INA.
2 BEN FUESTON	JIM BO'S JUMBOS, INC.
Start Harrise	AP
F. Carlyle Teague	Co-up Council of NC
Cindy Wastord	nc Horse Council
Colin Mac Nair	NC Horse Council
Dlum (Velty	nc Horse Council
Benny Scarbon	VC Horse Council
mayon Fittle	CPA, Lynch & Howard PA
Charles Elm	NCDA Retined
Blady Williams	NOVA-Refixed - Friends OF BRITT Cubb Campaign
Mary Pais Thomsson	Friends & Britt Pollo Campaign
Walter Harris	Fruit of Batt Copp Compagne
Cassille Stell	KCLH
· Vaul & Den	
Tommy Burn	Leaf Tabacco Exporters Assoc.
John Gynes	n. C. Slator Etrange
William Howas Vick	NCDA Refired friend
Mr. Hay Tuchen	NCDA-Refined
Hone Kennett	NENA/USDA Refired
Bill Wilder	NCDA - Retried.
Larry E. Tettarton	NCDA-Actived
JERRY HARDSLY	N.C. Pork Course.
BRYCE THOMPSON	PARICER POE GOOMS & BERNSTEW
Rogandon	Bo. a + 1450e
Charles Colwand	Dale Bone Farais
Keith Purvis	Dale Bone Forms

### VISITOR REGISTRATION SHEET

One Cellture

Name of Committee

5/25/04 Date

### VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	FIRM OR AGENCY
James O Buckeren	Retired 718 DA
Marc Tiesel	MOR
Amylynen	Conservation This for NC.
Edgar Miller	CTNC
Jell Turne	UMDA BORD
070 × 650	CAR
Erin Kining	NCCONNET
Sara Brodnax	Conservation Council NC
Marily Merricen	VINCIC
Clad Exid	Poym + Sprill
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### Gennie Thurlow (Rep. Hill)

from: nt:

Subject:

Bonnie Denkins [bdenkins@ncfb.net] Tuesday, May 25, 2004 11:34 AM

Rep. Dewey Hill

NC Farm Bureau Staff Attending House Agriculture Committee Luncheon

Peter Daniel, Assistant to President

Julian Philpott, General Counsel & State Legislative Director

Paula Gupton Page, Legislative Liaison

Steve Woodson, Assoc. General Counsel & Legislative Liaison

Chester Lowder, Natural Resources Specialist

### Outline of Commissioner Cobb's Remarks to the House Agriculture Committee May 25, 2004

### 1) Agriculture is the most powerful economic engine in North Carolina

- a) \$62-billion industry including production agriculture and related agribusiness
- b) It employs one of every five workers in the state
- c) Small farms are the epitome of small business in North Carolina, creating jobs throughout the state
- d) Despite setbacks from weather events and cuts in the tobacco quota, agriculture is resilient

### 2) The N.C. Department of Agriculture and Consumer Services is focusing on four key areas

- a) Creating jobs
  - i) Value-added products
  - ii) Farm-to-School Program
  - iii) New international markets
- b) Protecting consumers
  - i) Inspections
  - ii) Protection against tainted food
- c) Preserving the environment
  - i) Research partnerships with NCSU and N.C. A&T
  - ii) Keeping farmland in production/AGR-Lite insurance program
- d) Preventing the spread of deadly diseases
  - i) Sudden oak death quarantine
  - ii) Cooperation with farmers and USDA to protect North Carolina