

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 582  
Agriculture, Energy, and Environment Committee Substitute Adopted 4/19/23  
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S582-CSTQf-25 [v.16]  
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Short Title: North Carolina Farm Act of 2023.

(Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL AND  
3 WASTEWATER LAWS OF THIS STATE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. GENERAL AGRICULTURE PROVISIONS**

7  
8 **INCLUDE INCOME FROM THE SALE OF HONEY IN GROSS INCOME FOR**  
9 **PURPOSES OF PRESENT USE VALUE TAXATION**

10 **SECTION 1.(a)** G.S. 105-277.3(a)(1) reads as rewritten:

11 "(1) Agricultural land. – Individually owned agricultural land consisting of one or  
12 more tracts, one of which satisfies the requirements of this subdivision. For  
13 agricultural land used as a farm for aquatic species, as defined in  
14 G.S. 106-758, the tract must meet the income requirement for agricultural land  
15 and must consist of at least five acres in actual production or produce at least  
16 20,000 pounds of aquatic species for commercial sale annually, regardless of  
17 acreage. For all other agricultural land, the tract must meet the income  
18 requirement for agricultural land and must consist of at least 10 acres that are  
19 in actual production. Land in actual production includes land under  
20 improvements used in the commercial production or growing of crops, plants,  
21 or animals.

22 To meet the income requirement, agricultural land must, for the three years  
23 preceding January 1 of the year for which the benefit of this section is claimed,  
24 have produced an average gross income of at least one thousand dollars  
25 (\$1,000). Gross income includes income from the sale of the agricultural  
26 products produced from the land, grazing fees for livestock, the sale of bees  
27 or products derived from ~~beehives other than honey~~, beehives, any payments  
28 received under a governmental soil conservation or land retirement program,  
29 and the amount paid to the taxpayer during the taxable year pursuant to P.L.  
30 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004."

31 **SECTION 1.(b)** This section is effective for taxes imposed for taxable years  
32 beginning on or after July 1, 2023.  
33



\* S 5 8 2 - C S T Q F - 2 5 \*

1 **CLARIFY THAT TURKEY BROODER LITTER RECYCLING IS A BONA FIDE**  
2 **FARM PURPOSE WITH RESPECT TO COUNTY ZONING**

3 **SECTION 1.1.** G.S. 160D-903(a) reads as rewritten:

4 "(a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may  
5 not affect property used for bona fide farm purposes; provided, however, that this section does  
6 not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except  
7 as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under  
8 G.S. 106-743.2, bona fide farm purposes include the production and activities relating or  
9 incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants,  
10 dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.  
11 Activities incident to the farm include existing or new residences constructed to the applicable  
12 residential building code situated on the farm occupied by the owner, lessee, or operator of the  
13 farm and other buildings or structures sheltering or supporting the farm use and operation. A  
14 building or structure that is used solely for storage of cotton, peanuts, or sweetpotatoes, or any  
15 byproduct of those commodities, is a bona fide farm purpose, including a building or structure  
16 on a property that does not have the documentation listed in subdivisions (1) through (4) of this  
17 subsection. For purposes of this section, a facility that receives used turkey brooder litter from  
18 brooder farms and recycles the used litter by means of a drying process to reduce the moisture  
19 content of the litter sufficient to send the recycled litter to a turkey grow-out farm for reuse is a  
20 bona fide farm purpose. For purposes of this section, "when performed on the farm" in  
21 G.S. 106-581.1(6) includes the farm within the jurisdiction of the county and any other farm  
22 owned or leased to or from others by the bona fide farm operator, no matter where located. For  
23 purposes of this section, the production of a nonfarm product that the Department of Agriculture  
24 and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is  
25 produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm  
26 purpose. For purposes of determining whether a property is being used for bona fide farm  
27 purposes, any of the following is sufficient evidence that the property is being used for bona fide  
28 farm purposes, but other evidence may also be considered:

29 "...."

30  
31 **CORRECT REFERENCES TO NORTH CAROLINA TOBACCO FOUNDATION, INC.**

32 **SECTION 1.2.(a)** G.S. 106-568.3 reads as rewritten:

33 **"§ 106-568.3. Action of Board of Agriculture on petition for referendum; creation of the**  
34 **Tobacco Research Commission.**

35 (a) The State Board of Agriculture, upon a petition being filed with it so requesting and  
36 signed by the governing boards of the North Carolina Farm Bureau Federation, the North  
37 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall examine such  
38 petition and upon finding that it complies with the provisions of this Article shall authorize the  
39 holding of a referendum as hereinafter set out and the governing boards of the North Carolina  
40 Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural  
41 Foundation, Inc., shall thereupon be fully authorized and empowered to hold and conduct on the  
42 part of the producers and growers of the commodities herein mentioned a referendum on the  
43 question of whether or not such growers and producers shall levy upon themselves an assessment  
44 under and subject to and for the purposes stated in this Article. Provided, that the petition for a  
45 tobacco referendum shall be signed by and, once approved, shall authorize the holding of a  
46 referendum by the governing boards of the North Carolina Farm Bureau Federation, Inc., the  
47 North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the  
48 Tobacco Growers Association of North Carolina, Incorporated.

49 (b) There is hereby created a North Carolina Tobacco Research Commission within the  
50 Department of Agriculture and Consumer Services. The Commission shall consist of the  
51 Commissioner of Agriculture, or ~~his~~ the Commissioner's designee; the President of the North

1 Carolina Farm Bureau Federation, Inc., or ~~his~~the President's designee; the President of the  
2 Tobacco Growers Association of North Carolina, Incorporated, or ~~his~~the President's designee;  
3 the ~~Master~~President of the North Carolina State Grange, or ~~his~~the President's designee; and, the  
4 President of the North Carolina ~~Tobacco~~Agricultural Foundation, Inc., or his designee."

5 **SECTION 1.2.(b)** G.S. 106-568.4 reads as rewritten:

6 **"§ 106-568.4. By whom referendum to be managed; announcement.**

7 The governing boards of the North Carolina Farm Bureau Federation, the North Carolina  
8 State Grange, and the North Carolina Agricultural Foundation, Inc., shall arrange for and manage  
9 any referendum conducted under the provisions of this Article but shall, 60 days before the date  
10 upon which it is to be held, fix, determine, and publicly announce in each county the date, hours,  
11 and polling places in that county for voting in such referendum, the amount and basis proposed  
12 to be collected, the means by which such assessment shall be collected as authorized by the  
13 growers and producers, and the general purposes for which said funds so collected shall be  
14 applied. Provided, that the governing boards of the North Carolina Farm Bureau Federation, Inc.,  
15 the North Carolina State Grange, the North Carolina ~~Tobacco~~Agricultural Foundation, Inc., and  
16 the Tobacco Growers Association of North Carolina, Incorporated, shall arrange for and manage  
17 any referendum for tobacco poundage assessments under the provisions of this Article."

18 **SECTION 1.2.(c)** G.S. 106-568.7 reads as rewritten:

19 **"§ 106-568.7. Preparation and distribution of ballots; poll holders; canvass and  
20 announcement of results.**

21 The governing boards of the North Carolina Farm Bureau Federation, the North Carolina  
22 State Grange, and the North Carolina Agricultural Foundation, Inc., shall prepare and distribute  
23 in advance of such referendum all necessary ballots and shall under rules and regulations, adopted  
24 and promulgated by the organizations holding such referendum, arrange for the necessary poll  
25 holders and shall, within 10 days after the date of such referendum, canvass and publicly declare  
26 the results thereof. Provided, that for the tobacco poundage assessment referendum, the North  
27 Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina  
28 ~~Tobacco~~Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina,  
29 Incorporated, shall perform the functions set forth in this section."

30 **SECTION 1.2.(d)** G.S. 106-568.8 reads as rewritten:

31 **"§ 106-568.8. Collection and disposition of assessment; report of receipts and  
32 disbursements; audit.**

33 ...

34 (b) Tobacco Poundage Assessments. In the event two-thirds or more of the eligible  
35 farmers and producers participating in the tobacco referendum vote in favor of the tobacco  
36 poundage assessment authorized under this Article, then said assessment shall be collected for a  
37 period of six years under rules, regulations, and methods adopted by the North Carolina Tobacco  
38 Research Commission. The North Carolina Tobacco Research Commission is exempt from the  
39 provisions of Chapter 150B of the General Statutes.

40 The assessments collected shall be remitted to the Department of Agriculture and Consumer  
41 Services to be expended under the direction of the Tobacco Research Commission for research  
42 and dissemination of research facts concerning tobacco. Any person that receives assessment  
43 funds from the Tobacco Research Commission shall file quarterly written reports with the  
44 Tobacco Research Commission on the receipt and expenditure of assessment funds. The Tobacco  
45 Research Commission may transfer assessments to the North Carolina ~~Tobacco~~Agricultural  
46 Foundation, Inc., to be held and invested by the ~~Tobacco~~Agricultural Foundation until such time  
47 as the Commission shall direct their expenditure for the purposes set forth in this section."

48 **SECTION 1.2.(e)** G.S. 106-568.10 reads as rewritten:

49 **"§ 106-568.10. Subsequent referenda; continuation of assessment.**

50 If the assessment is defeated in the referendum, the governing boards of the North Carolina  
51 Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural

1 Foundation, Inc., shall have full power and authority to call another referendum for the purposes  
2 herein set out in the next succeeding year on the question of the annual assessment for six years.  
3 In the event the assessment carried in a referendum by two-thirds or more of the eligible farmers  
4 participating therein, such assessment shall be levied annually for the six years set forth in the  
5 call for such referendum and a new referendum may be called and conducted during the sixth  
6 year of such period on the question of whether or not such assessment shall be continued for the  
7 next ensuing six years. Provided, that if the tobacco poundage assessment is defeated in the  
8 referendum, the governing boards of the North Carolina Farm Bureau Federation, Inc., the North  
9 Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and Tobacco  
10 Growers Association of North Carolina, Incorporated, may call another referendum in the next  
11 succeeding year on the question of the annual assessment for six years. If the tobacco assessment  
12 carried in a referendum by two-thirds or more of the eligible farmers participating therein, the  
13 assessment shall be levied annually for the six years set forth in the call for the referendum and  
14 a new referendum may be called and conducted during the sixth year of the period on the question  
15 of whether or not the assessment shall be continued for the next ensuing six years."  
16

### 17 **ADD EQUINE INDUSTRY MEMBER TO THE BOARD OF AGRICULTURE**

18 **SECTION 1.3.** G.S. 106-2 reads as rewritten:

19 **"§ 106-2. Department of Agriculture and Consumer Services established; Board of**  
20 **Agriculture, membership, terms of office, etc.**

21 ...

22 (b) Membership; Qualifications. – The Board of Agriculture shall consist of the  
23 Commissioner of Agriculture, who shall be an ex officio member and chairman thereof and shall  
24 preside at all meetings, and of ~~11~~12 other members from the State, so distributed as to reasonably  
25 represent the different sections and agriculture of the State. The Commissioner of Agriculture  
26 and the members of the Board of Agriculture shall be practicing farmers engaged in their  
27 profession. The members of the Board shall be appointed by the Governor by and with the  
28 consent of the Senate. In the appointment of the members of the Board the Governor shall also  
29 take into consideration the different agricultural interests of the State, and shall appoint members  
30 with the following qualifications:

- 31 (1) One member who shall be a practicing tobacco farmer to represent the tobacco  
32 farming interest.
- 33 (2) One member who shall be a practicing cotton grower to represent the cotton  
34 interest.
- 35 (3) One member who shall be a practicing fruit or vegetable farmer to represent  
36 the fruit and vegetable farming interest.
- 37 (4) One member who shall be a practicing dairy farmer to represent the dairy and  
38 cattle interest of the State.
- 39 (5) One member who shall be a practicing poultryman to represent the poultry  
40 interest of the State.
- 41 (6) One member who shall be a practicing peanut grower to represent the peanut  
42 interests of the State.
- 43 (7) One member who shall be experienced in marketing to represent the  
44 marketing of products of the State.
- 45 (8) One member who shall be actively involved in forestry to represent the  
46 forestry interests of the State.
- 47 (9) One member who shall be actively involved in the nursery business to  
48 represent the nursery industry of the State.
- 49 (10) One member who shall be a practicing general farmer to represent the general  
50 farming interest.

- 1 (11) One member who shall be a practicing pork farmer to represent the swine  
2 interest of the State.
- 3 (12) One member who shall be actively involved in the equine industry to represent  
4 the equine industry of the State.
- 5 (c) Terms. – The term of office of members of the Board shall be six years and until their  
6 successors are duly appointed and qualified.
- 7 (d) Vacancies. – Vacancies in the Board shall be filled by the Governor for the unexpired  
8 term."  
9

## 10 EXEMPT COMPOST FROM SALES TAX FOR QUALIFYING FARMERS

11 SECTION 1.4.(a) G.S. 105-164.13E(a) reads as rewritten:

### 12 "§ 105-164.13E. Exemption for farmers.

13 (a) Exemption. – A qualifying farmer is a person who has an annual income from farming  
14 operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has  
15 an average annual income from farming operations for the three preceding taxable years of ten  
16 thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming  
17 operations" means sales plus any other amounts treated as gross income under the Code from  
18 farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg  
19 producer, and a livestock farmer, a farmer of crops, a farmer of an aquatic species, as defined in  
20 G.S. 106-758, and a person who boards horses. A qualifying farmer may apply to the Secretary  
21 for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires  
22 when a person fails to meet the income threshold for three consecutive taxable years or ceases to  
23 engage in farming operations, whichever comes first.

24 Except as otherwise provided in this section, the items exempt under this section must be  
25 purchased by a qualifying farmer or conditional farmer and used by the qualifying or conditional  
26 farmer primarily in farming operations. For purposes of this section, an item is used by a farmer  
27 for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm  
28 crops, in the production of dairy products, eggs, or animals, or by a person who boards horses.  
29 The items that may be exempt from sales and use tax under this section are:

- 30 (1) Fuel, piped natural gas, and electricity that are measured by a separate meter  
31 or another separate device and used for a purpose other than preparing food,  
32 heating dwellings, and other household purposes.
- 33 (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers,  
34 potting soil, baler twine, compost, and seeds.

35 ...."

36 SECTION 1.4.(b) This section becomes effective October 1, 2023.  
37

## 38 AMEND THE DEFINITION OF AGRICULTURE

39 SECTION 1.5. G.S. 106-581.1 reads as rewritten:

### 40 "§ 106-581.1. Agriculture defined.

41 For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all  
42 of the following:

- 43 ...
- 44 (2) The planting and production of trees and ~~timber~~ timber, including pine  
45 orchards planted and maintained for the purpose of harvesting pine needles  
46 for sale, or the harvesting of pine needles for sale from land with a forest  
47 management plan.
- 48 ...
- 49 (6) When performed on the farm, "agriculture", "agricultural", and "farming" also  
50 include the marketing and selling of agricultural products, agritourism, biofuel  
51 production for commercial sale, the storage and use of materials for

1 agricultural purposes, packing, treating, processing, sorting, storage, and other  
2 activities performed to add value to crops, livestock, and agricultural items  
3 produced on a farm, and similar activities incident to the operation of a farm  
4 ...."

## 6 AGRITOURISM ADVERTISING

7 **SECTION 2.** G.S. 136-32 reads as rewritten:

### 8 "§ 136-32. Regulation of signs.

9 (a) Commercial Signs. – No unauthorized person shall erect or maintain upon any  
10 highway any warning or direction sign, marker, signal or light or imitation of any official sign,  
11 marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency.  
12 No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing  
13 thereon any commercial or political advertising, except as provided in subsections (b) through  
14 (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or  
15 maintenance of signs, markers, or signals bearing thereon the name of an organization authorized  
16 to erect the same by the Department of Transportation or by any local authority referred to in  
17 G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of  
18 a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without  
19 authority or allowed to remain beyond the deadline established in ~~subsection (b)~~ subsections (b)  
20 and (b1) of this section.

21 (b) Compliant Political Signs Permitted. – During the period beginning on the 30<sup>th</sup> day  
22 before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10<sup>th</sup>  
23 day after the primary or election day, persons may place political signs in the right-of-way of the  
24 State highway system as provided in this section. Signs must be placed in compliance with  
25 subsection (d) of this section and must be removed by the end of the period prescribed in this  
26 subsection. Any political sign remaining in the right-of-way of the State highway system more  
27 than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully  
28 placed and abandoned property, and a person may remove and dispose of such political sign  
29 without penalty.

30 (b1) Compliant Farm Signs Permitted. – During a farm's seasonal operation, persons may  
31 place farm signs in the right-of-way of the State highway system as provided in this section.  
32 Signs must be placed in compliance with subsection (d) of this section and must be removed by  
33 the end of the farm's season. Any farm sign remaining in the right-of-way of the State highway  
34 system more than 30 days after the end of the period prescribed in this subsection shall be deemed  
35 unlawfully placed and abandoned property, and a person may remove and dispose of the farm  
36 sign without penalty.

37 (c) ~~Definition.~~ Definitions. – For purposes of this section, "~~political sign~~" means any the  
38 following definitions apply:

39 (1) Farm. – Any property that is used for a bona fide farm purpose as provided in  
40 G.S. 106-581.1.

41 (2) Farm sign. – A sign that advertises a farm, products grown, raised, or produced  
42 on a farm, or services provided on a farm; or that provides customers with  
43 directions to a farm.

44 (3) Political sign. – Any sign that advocates for political action. The term does  
45 not include a commercial sign.

46 (d) Sign Placement. – The permittee must obtain the permission of any property owner  
47 of a residence, business, or religious institution fronting the right-of-way where a sign would be  
48 erected. Signs must be placed in accordance with the following:

49 (1) No sign shall be permitted in the right-of-way of a fully controlled access  
50 highway.

- 1 (2) No sign shall be closer than three feet from the edge of the pavement of the  
2 road.  
3 (3) No sign shall obscure motorist visibility at an intersection.  
4 (4) No sign shall be higher than 42 inches above the edge of the pavement of the  
5 road.  
6 (5) No sign shall be larger than 864 square inches.  
7 (6) No sign shall obscure or replace another sign.

8 (e) Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person  
9 to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this  
10 section.

11 (f) Application Within Municipalities. – Pursuant to Article 8 of Chapter 160A of the  
12 General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on  
13 rights-of-way of streets located within the corporate limits of a municipality and maintained by  
14 the municipality. Any such ordinance shall provide that any political sign that remains in a  
15 right-of-way of streets located within the corporate limits of a municipality and maintained by  
16 the municipality more than 30 days after the end of the period prescribed in the ordinance is to  
17 be deemed unlawfully placed and abandoned property, and a person may remove and dispose of  
18 such political sign without penalty. In the absence of an ordinance prohibiting or regulating the  
19 placement of political signs on the rights-of-way of streets located within a municipality and  
20 maintained by the municipality, the provisions of subsections (b) through (e) of this section shall  
21 apply."  
22

## 23 AMEND REQUIREMENTS ON AGRITOURISM WARNING SIGNS

24 SECTION 2.1.(a) G.S. 99E-3 reads as rewritten:

### 25 "§ 99E-3. Warning required.

26 (a) Every equine professional and every equine activity sponsor shall post and maintain  
27 signs which contain the warning notice specified in subsection (b) of this section. The signs  
28 required by this section shall be placed in a clearly visible location on or near stables, corrals, or  
29 arenas where the equine professional or the equine activity sponsor conducts equine activities.  
30 The warning notice specified in subsection (b) of this section shall be designed by the Department  
31 of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter  
32 to be a minimum of three quarters of one inch in height. Every written contract entered into by  
33 an equine professional or by an equine activity sponsor for the providing of professional services,  
34 instruction, or the rental of equipment or tack or an equine to a participant, whether or not the  
35 contract involves equine activities on or off the location or site of the equine professional's or the  
36 equine activity sponsor's business, shall contain in clearly readable print the warning notice  
37 specified in subsection (b) of this section.

38 (b) The signs and contracts described in subsection (a) of this section shall contain the  
39 following warning notice:

#### 40 "WARNING

41 Under North Carolina law, an equine activity sponsor or equine professional is not liable for  
42 an injury to or the death of a participant in equine activities resulting exclusively from the  
43 inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

44 (c) Failure to comply with the requirements concerning warning signs and notices  
45 provided in this Part shall prevent an equine activity sponsor or equine professional from  
46 invoking the privileges of immunity provided by this Part."

47 SECTION 2.1.(b) G.S. 99E-8 reads as rewritten:

### 48 "§ 99E-8. Warning required.

49 (a) Every farm animal activity sponsor and every farm animal professional shall post and  
50 maintain signs which contain the warning notices specified in subsection (b) or (c) of this section.  
51 The signs required by this section shall be placed in a clearly visible location on or near stables,

1 corrals, arenas, or other farm animal facilities where the farm animal professional or the farm  
2 animal activity sponsor conducts animal activities. The warning notices specified in subsections  
3 (b) and (c) of this section shall be designed by the Department of Agriculture and Consumer  
4 Services and shall consist of a sign in black letters, with each letter to be a minimum of three  
5 quarters of one inch in height. Every written contract entered into by a farm animal professional  
6 or by a farm animal activity sponsor for the providing of professional services, instruction, or the  
7 rental of equipment or tack or a farm animal to a participant, whether or not the contract involves  
8 farm animal activities on or off the location or site of the farm animal professional's or farm  
9 animal activity sponsor's business, shall contain in clearly readable print the warning notice  
10 specified in subsection (b) or (c) of this section.

11 (b) The signs and contracts described in subsection (a) of this section shall contain the  
12 following warning notice:

13 "WARNING

14 Under North Carolina law, a farm animal activity sponsor or farm animal professional is not  
15 liable for an injury to or the death of a participant in farm animal activities resulting exclusively  
16 from the inherent risks of farm animal activities. Chapter 99E of the North Carolina General  
17 Statutes."

18 (c) If a farm animal activity sponsor or farm animal professional sponsors or engages in  
19 farm animal activities only involving equines, the signs and contracts described in subsection (a)  
20 of this section may contain the following warning notice:

21 "WARNING

22 Under North Carolina law, an equine activity sponsor or equine professional is not liable for  
23 an injury to or the death of a participant in equine activities resulting exclusively from the  
24 inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

25 (d) Failure to comply with the requirements concerning warning signs and notices  
26 provided in this Part shall prevent a farm animal activity sponsor or farm animal professional  
27 from invoking the privileges of immunity provided by this Part."

28 **SECTION 2.1.(c)** G.S. 99E-32 reads as rewritten:

29 **"§ 99E-32. Warning required.**

30 (a) Every agritourism professional must post and maintain signs that contain the warning  
31 notice specified in subsection (b) of this section. The sign must be placed in a clearly visible  
32 location at the entrance to the agritourism location and at the site of the agritourism activity. The  
33 warning notice must consist of a sign in black letters, with each letter to be a minimum of three  
34 quarters of one inch in height. Every written contract entered into by an agritourism professional  
35 for the providing of professional services, instruction, or the rental of equipment to a participant,  
36 whether or not the contract involves agritourism activities on or off the location or at the site of  
37 the agritourism activity, must contain in clearly readable print the warning notice specified in  
38 subsection (b) of this section.

39 (b) The signs and contracts described in subsection (a) of this section must contain the  
40 following notice of warning:

41 "WARNING

42 Under North Carolina law, there is no liability for an injury to or death of a participant in an  
43 agritourism activity conducted at this agritourism location if such injury or death results from the  
44 inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among  
45 others, risks of injury inherent to land, equipment, and animals, as well as the potential for you  
46 to act in a negligent manner that may contribute to your injury or death. You are assuming the  
47 risk of participating in this agritourism activity."

48 (c) Failure to comply with the requirements concerning warning signs and notices  
49 provided in this subsection will prevent an agritourism professional from invoking the privileges  
50 of immunity provided by this Article."

1           **SECTION 2.1.(d)** This section is effective when it becomes law and applies to  
2 actions arising from events occurring on or after that date.

3  
4 **CLARIFY DEFINITION OF PROPERTY-HAULING VEHICLES**

5           **SECTION 3.** G.S. 20-4.01 reads as rewritten:

6 **"§ 20-4.01. Definitions.**

7           Unless the context requires otherwise, the following definitions apply throughout this  
8 Chapter to the defined words and phrases and their cognates:

9           ...

10          (31) Property-Hauling Vehicles. –

11           ...

12           g.       A fifth-wheel trailer, recreational vehicle, semitrailer, or trailer used  
13 exclusively or primarily to transport vehicles in connection with  
14 motorsports competition events is not a property-hauling vehicle.

15          ...."

16  
17 **FARM EQUIPMENT DEFENSE FOR STOP LIGHT INDUCTIVE LOOPS**

18           **SECTION 3.1** G.S. 20-158 reads as rewritten:

19 **"§ 20-158. Vehicle control signs and signals.**

20           ...

21          (e)       Defense. – It shall be a defense to a violation of sub-subdivision (b)(2)a. of this section  
22 if the operator of a motorcycle, as defined in G.S. 20-4.01(27)h., or the operator of farm  
23 equipment or machinery, shows all of the following:

- 24           (1)       The operator brought the motorcycle or farm equipment or machinery to a  
25 complete stop at the intersection or stop bar where a steady red light was being  
26 emitted in the direction of the operator.
- 27           (2)       The intersection is controlled by a vehicle actuated traffic signal using an  
28 inductive loop to activate the traffic signal.
- 29           (3)       No other vehicle that was entitled to have the right-of-way under applicable  
30 law was sitting at, traveling through, or approaching the intersection.
- 31           (4)       No pedestrians were attempting to cross at or near the intersection.
- 32           (5)       The motorcycle or farm equipment or machinery operator who received the  
33 citation waited a minimum of three minutes at the intersection or stop bar  
34 where the steady red light was being emitted in the direction of the operator  
35 before entering the intersection."

36  
37 **AMEND VETERINARY MEDICAL BOARD INSPECTION PROCESS AND GIVE**  
38 **VETERINARY MEDICAL BOARD RESPONSIBILITY FOR PERFORMING**  
39 **INSPECTIONS OF BOARDING KENNELS OPERATED BY VETERINARIANS**

40           **SECTION 4.(a)** Article 11 of Chapter 90 of the General Statutes is amended by  
41 adding a new section to read:

42 **"§ 90-187.17. Inspection process.**

43           At least one week prior to conducting any inspection pursuant to G.S. 90-185(3) or  
44 G.S. 90-186(2), the Board shall provide written notice of the upcoming inspection to the  
45 veterinarian. The written notice may be provided via an electronic communication. The  
46 veterinarian may contact the Board to reschedule the inspection, but the inspection shall be  
47 rescheduled no later than one week after the originally scheduled date of the inspection. Along  
48 with the written notice of inspection, the Board shall provide the veterinarian with a checklist of  
49 all standards adopted by rule for which the inspector may issue a violation and, with as much  
50 specificity as possible, conditions that violate the standards."

51           **SECTION 4.(b)** G.S. 19A-37 reads as rewritten:

1 **"§ 19A-37. Application of Article.**

2 This Article shall not apply to a place or establishment which is operated under the immediate  
3 supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded,  
4 and cared for incidental to the treatment, prevention, or alleviation of disease processes during  
5 the routine practice of the profession of veterinary ~~medicine.~~ medicine or a boarding kennel, as  
6 defined in G.S. 90-181.1. This Article shall not apply to any dealer, pet shop, public auction,  
7 commercial kennel or research facility during the period such dealer or research facility is in the  
8 possession of a valid license or registration granted by the Secretary of Agriculture pursuant to  
9 Title 7, Chapter 54, of the United States Code. This Article shall not apply to any individual who  
10 occasionally boards an animal on a noncommercial basis, although such individual may receive  
11 nominal sums to cover the cost of such boarding."

12 **SECTION 4.(c)** G.S. 90-181.1(b) reads as rewritten:

13 "(b) The following definitions are applicable to this section:

14 (1) ~~"Animal health center" or "animal medical center" means a~~ Animal health  
15 center or animal medical center. – A veterinary practice facility in which  
16 consultative, clinical, and hospital services are rendered and in which a large  
17 staff of basic and applied veterinary scientists perform significant research and  
18 conduct advanced professional educational programs.

19 (1a) Boarding kennel. – A facility operating under a veterinary facility permit and  
20 which regularly offers to the public the service of boarding dogs or cats or  
21 both for a fee. Such a facility or establishment may, in addition to providing  
22 shelter, food, and water, offer grooming or other services for dogs and/or cats.

23 (2) ~~"Emergency facility" means a~~ Emergency facility. – A veterinary medical  
24 facility whose primary function is the receiving, treatment, and monitoring of  
25 emergency patients during its specified hours of operation. At this veterinary  
26 practice facility a veterinarian is in attendance at all hours of operation and  
27 sufficient staff is available to provide timely and appropriate emergency care.  
28 An emergency facility may be an independent veterinary medical after-hours  
29 facility, an independent veterinary medical 24-hour facility, or part of a  
30 full-service hospital or large teaching institution.

31 (3) ~~"Mobile facility" means a~~ Mobile facility. – A veterinary practice conducted  
32 from a vehicle with special medical or surgical facilities or from a vehicle  
33 suitable only for making house or farm calls; provided, the veterinary medical  
34 practice shall have a permanent base of operation with a published address  
35 and telephone facilities for making appointments or responding to emergency  
36 situations.

37 (4) ~~"Office" means a~~ Office. – A veterinary practice facility where a limited or  
38 consultative practice is conducted and which provides no facilities for the  
39 housing of patients.

40 (5) ~~"On-call emergency service" means a~~ On-call emergency service. – A  
41 veterinary medical service at a facility, including a mobile facility, where  
42 veterinarians and staff are not on the premises during all hours of operation or  
43 where veterinarians leave after a patient is treated. A veterinarian shall be  
44 available to be reached by telephone for after-hours emergencies.

45 (6) ~~"Veterinary clinic" or "animal clinic" means a~~ Veterinary clinic or animal  
46 clinic. – A veterinary practice facility in which the practice conducted is  
47 essentially an out-patient practice.

48 (7) ~~"Veterinary hospital" or "animal hospital" means a~~ Veterinary hospital or  
49 animal hospital. – A veterinary practice facility in which the practice  
50 conducted includes the confinement as well as the treatment of patients."

51 **SECTION 4.(d)** G.S. 90-186 reads as rewritten:

**"§ 90-186. Special powers of the Board.**

In addition to the powers set forth in G.S. 90-185 above, the Board may:

...

- (2) Inspect any boarding kennels, hospitals, clinics, mobile units or other facilities used by any practicing veterinarian, either by a member of the Board or its authorized representatives, for the purpose of reporting the results of the inspection to the Board on a form prescribed by the Board and seeking disciplinary action for violations of health, sanitary, and medical waste disposal rules of the Board affecting the practice of veterinary ~~medicine,~~ medicine or the operation of a boarding kennel, or violations of rules of any county, state, or federal department or agency having jurisdiction in these areas of health, sanitation, and medical waste disposal that relate to or affect the practice of veterinary ~~medicine;~~medicine or the operation of a boarding kennel;

...

- (6) Set and require fees pursuant to administrative rule. The Board may increase the following fees, provided (i) no fee shall be increased more than fifteen percent (15%) within a calendar year and (ii) the cumulative total increases of any fee shall not exceed one hundred percent (100%) of the fee amounts set in this subdivision:

...

- p. Issuance of a boarding kennel permit in the amount of seventy-five dollars (\$75.00), to be added the veterinary facility permit fee.

The fees set under this subdivision for the renewal of a license, a limited license, a registration, a certificate, or a ~~veterinary facility~~ permit apply to each year of the renewal period.

...."

**SECTION 4.(e)** G.S. 90-187.10 reads as rewritten:

**"§ 90-187.10. Necessity for license; certain practices exempted.**

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

...

- (12) Any person licensed pursuant to G.S. 19A-28 from operating a boarding kennel."

**SECTION 4.(f)** The Veterinary Medical Board shall adopt rules to establish minimum standards for boarding kennels operating under a veterinary facility permit and kennel permit no later than July 1, 2024. The standards shall be at least as stringent as those adopted by the Board of Agriculture pursuant to Article 3 of Chapter 19A of the General Statutes.

**SECTION 4.(g)** Subsection (a) of this section becomes effective October 1, 2023. Subsections (b), (d), and (e) of this section become effective 60 days after the rules adopted pursuant to subsection (f) of this section become effective. The remainder of this section is effective when it becomes law.

**REQUIRE CLEANUP OF ANIMAL WASTE SPILLS BY THE RESPONSIBLE PARTY**

**SECTION 4.1.(a)** G.S. 20-116 is amended by adding a new subsection to read:

1       "(q) Notwithstanding subdivision (g)(4) of this section, if the driver of any vehicle knows  
2 or reasonably should know that (i) animal waste, as defined in G.S. 143-215.10B, except for  
3 livestock or poultry excreta generated by live animals being transported on the vehicle from the  
4 farm to another farm or from the farm to a processor, (ii) dead animals or animal parts, or (iii)  
5 animal by-products have been blown, scattered, spilled, thrown, or placed from the vehicle in an  
6 amount exceeding 15 pounds, the driver of the vehicle, or, if the vehicle is a commercial vehicle,  
7 the business for whom the materials are being transported, shall either remove the materials  
8 discarded in violation of this subsection or reimburse any federal, State or local agency and any  
9 agent or contractor for expenses incurred in removing the materials. A federal, State, or local  
10 agency that removes materials discarded in violation of this subsection may bring a civil action  
11 against the driver or business responsible for discarding the materials in superior court in the  
12 county in which the materials were discarded to compel reimbursement for the costs of removing  
13 the materials. If the federal, State, or local agency prevails in the civil action, the court shall  
14 award attorney's fees to the federal, State, or local agency."

15               **SECTION 4.1.(b)** This section becomes effective July 1, 2023.

16  
17 **ENCOURAGE PUBLIC SCHOOLS TO MAKE ONE HUNDRED PERCENT**  
18 **MUSCADINE GRAPE JUICE AVAILABLE TO STUDENTS**

19               **SECTION 5.(a)** G.S. 115C-12 is amended by adding a new subdivision to read:

20               "(49) Goal To Make Available Muscadine Grape Juice In Certain Schools. – The  
21 State Board of Education shall strive to ensure that one hundred percent  
22 (100%) muscadine grape juice is made available to students in every school  
23 operated under Article 9C of this Chapter as a part of the school's nutrition  
24 program or through the operation of the school's vending facilities."

25               **SECTION 5.(b)** Part 2 of Article 17 of Chapter 115C of the General Statutes is  
26 amended by adding a new section to read:

27 **"§ 115C-264.5. Muscadine grape juice.**

28               Local boards of education shall strive to ensure that one hundred percent (100%) muscadine  
29 grape juice is made available to students in every school in the local school administrative unit  
30 as a part of the school's nutrition program or through the operation of the school's vending  
31 facilities."

32               **SECTION 5.(c)** G.S. 115C-218.75 is amended by adding a new subsection to read:

33               "(k) Muscadine Grape Juice. – A charter school shall strive to ensure that one hundred  
34 percent (100%) muscadine grape juice is made available to students as a part of the school's  
35 nutrition program or through the operation of the school's vending facilities."

36               **SECTION 5.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

37               "(19) Muscadine grape juice. – A regional school shall strive to ensure that one  
38 hundred percent (100%) muscadine grape juice is made available to students  
39 as a part of the school's nutrition program or through the operation of the  
40 school's vending facilities."

41               **SECTION 5.(e)** G.S. 116-239.8(b)(4)c. reads as rewritten:

42               "c.     Food services. – The laboratory school shall strive to ensure that one  
43 hundred percent (100%) muscadine grape juice is made available to  
44 students as a part of the school's nutrition program or through the  
45 operation of the school's vending facilities. Upon request, the local  
46 school administrative unit in which the laboratory school is located  
47 shall administer the National School Lunch Program for the laboratory  
48 school in accordance with G.S. 115C-264."

49               **SECTION 5.(f)** G.S. 115D-20 reads as rewritten:

50 **"§ 115D-20. Powers and duties of trustees.**

1 The trustees of each institution shall constitute the local administrative board of such  
2 institution, with such powers and duties as are provided in this Chapter and as are delegated to it  
3 by the State Board of Community Colleges. The powers and duties of trustees shall include the  
4 following:

5 ...

6 (15) To strive to make available one hundred percent (100%) muscadine grape  
7 juice as a beverage option in the operation of the community college's vending  
8 facilities."

9 **SECTION 5.(g)** Part 5 of Article 1 of Chapter 116 of the General Statutes is amended  
10 by adding a new section to read:

11 **"§ 116-43.25. Availability of muscadine grape juice on campuses.**

12 Each constituent institution shall strive to make one hundred percent (100%) muscadine  
13 grape juice available as a beverage option in the operation of the institution's vending facilities."

14 **SECTION 5.(h)** This section is effective when it becomes law. Subsections (a), (b),  
15 (c), (d), and (e) of this section apply beginning with the 2023-2024 school year. Subsections (f)  
16 and (g) of this section apply beginning with the 2023-2024 academic year.

17  
18 **CONFORM PENALTIES FOR ASSAULT WITH A DEADLY WEAPON ON**  
19 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES INSPECTORS**

20 **SECTION 5.1.(a)** G.S. 106-65.105D(e) reads as rewritten:

21 "(e) Any person who willfully resists, opposes, impedes, intimidates, or interferes with  
22 any duly authorized agent while engaged in or on account of the performance of the duly  
23 authorized agent's official duties under this Article shall be guilty of a Class 2 misdemeanor.  
24 Whoever, in the commission of any such acts, uses a deadly weapon shall be guilty of a ~~Class 4~~  
25 ~~misdemeanor.~~Class A1 misdemeanor."

26 **SECTION 5.1.(b)** G.S. 106-549.34 reads as rewritten:

27 **"§ 106-549.34. Interference with inspector.**

28 Any person who willfully assaults, resists, opposes, impedes, intimidates, or interferes with  
29 any person while engaged in or on account of the performance of his official duties under this or  
30 the previous Article shall be guilty of a Class 2 misdemeanor. For the purposes of this section,  
31 "impede," "oppose," and "intimidate," or "interfere" shall include, but not be limited to, the use  
32 of profane and indecent language, or any act or gesture, verbal or nonverbal, which tends to cast  
33 disrespect on an inspector or the Meat and Poultry Inspection Service. Whoever, in the  
34 commission of any such acts, uses a deadly weapon, shall be guilty of a ~~Class 4~~  
35 ~~misdemeanor.~~Class A1 misdemeanor."

36 **SECTION 5.1.(c)** This section becomes effective December 1, 2023, and applies to  
37 offenses committed on or after that date.

38  
39 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AUTHORITY TO**  
40 **ADOPT RULES FOR DEPARTMENT-OPERATED MARKETS AND SET**  
41 **METROLOGY LABORATORY FEES**

42 **SECTION 5.2.** G.S. 106-22 reads as rewritten:

43 **"§ 106-22. Joint duties of Commissioner and Board.**

44 The Commissioner of Agriculture, by and with the consent and advice of the Board of  
45 Agriculture shall:

46 ...

47 (24) Markets Operated by the Department. – Adopt rules and make policies related  
48 to markets operated by the Department. All rules in Title 2, Chapter 43,  
49 Subchapter of the North Carolina Administrative Code adopted under the  
50 authority of Article 47 of this Chapter, as repealed by S.L. 2021-90, shall

1 remain in full force and effect unless repealed or amended by the  
2 Commissioner.

3 (25) Metrology Fees. – Set reasonable fees for calibration services and adjustments  
4 performed by the Metrology Laboratory Section of the Standards Division."  
5

## 6 **CROSS-REFERENCE TECHNICAL CORRECTION**

7 **SECTION 5.3.** 136-129(2a) reads as rewritten:

8 "(2a) Outdoor advertising to promote a bona fide farm that is exempt from zoning  
9 regulations pursuant to ~~G.S. 153-340(b)~~, G.S. 160D-903, provided the sign is  
10 no more than three feet long on any side and the sign is located on any bona  
11 fide farm property owned or leased by the owner or lessee of the bona fide  
12 farm."  
13

## 14 **PART II. STATE SYMBOLS**

### 15 **ESTABLISH EQUINE STATE TRAIL**

16 **SECTION 6.(a)** The General Assembly makes the following findings:

- 17 (1) The equine industry provides a three billion four hundred forty million dollar  
18 (\$3,440,000,000) overall economic impact to the State of North Carolina, and  
19 horses are a rich part of our State's historical and cultural heritage.  
20 (2) The inclusion of an Equine State Trail as a State trail in the State Parks System  
21 would be beneficial to the people of North Carolina and further the  
22 development of North Carolina as the "Great Trails State."  
23

24 **SECTION 6.(b)** The General Assembly authorizes the Department of Natural and  
25 Cultural Resources to add the Equine State Trail in Chatham, Cumberland, Harnett, Hoke, Lee,  
26 Montgomery, Moore, and Richmond Counties to the State Parks System as a State trail, as  
27 provided in G.S. 143B-135.54(b).

28 **SECTION 6.(c)** The Department shall support, promote, encourage, and facilitate  
29 the establishment of trail segments on State park lands and on lands of other federal, State, local,  
30 and private landowners. On segments of the Equine State Trail that cross property controlled by  
31 agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules,  
32 and policies of those agencies or owners shall govern the use of the property.

33 **SECTION 6.(d)** The requirement of G.S. 143B-135.54(b) that additions be  
34 accompanied by adequate appropriations for land acquisition, development, and operations shall  
35 not apply to the authorization set forth in this act; provided, however, that the State may receive  
36 donations of appropriate land and may purchase other needed lands for the Equine State Trail  
37 with existing funds in the Land and Water Fund, the Parks and Recreation Trust Fund, the  
38 Complete the Trails Fund, the federal Land and Water Conservation Fund, and other available  
39 sources of funding.  
40

### 41 **RENAME THE OFFICIAL STATE FRUIT TO THE MUSCADINE GRAPE**

42 **SECTION 7.(a)** The General Assembly makes the following findings:

- 43 (1) North Carolina is the home of our nation's first cultivated grape, the variety of  
44 native Muscadine grape known as Scuppernong.  
45 (2) French explorers in 1524 first discovered Muscadine grapes while exploring  
46 the Cape Fear River Valley, and later British explorers in 1584 and 1585  
47 reported to Queen Elizabeth and Sir Walter Raleigh that the barrier islands  
48 were full of grapes and the soil of the land was "so abounding with sweet trees  
49 that bring rich and most pleasant gummies, grapes of such greatness, yet wild  
50 as France, Spain and Italy hath not greater..."

(3) The thick skins, fruit seed, and sweet pulp and juice that characterize Muscadine grapes make the native fruit a state treasure.

(4) In recent times, researchers have discovered that Muscadine grapes are rich in antioxidants and phytochemicals, including resveratrol, among many others.

**SECTION 7.(b)** G.S. 145-18(a) reads as rewritten:

"(a) The official fruit of the State of North Carolina is the ~~Seppernong~~ Muscadine grape (*Vitis* genus)."

**DESIGNATE THE LONGLEAF PINE AS THE EMBLEM REPRESENTING THE TREES OF NORTH CAROLINA**

**SECTION 8.** G.S. 145-3 reads as rewritten:

**"§ 145-3. State tree.**

The pine is hereby adopted as the official State tree of the State of North ~~Carolina~~ Carolina, and the longleaf pine (*Pinus palustris*) is designated as the emblem representing the trees of North Carolina."

**DESIGNATE THE SECOND WEDNESDAY IN NOVEMBER OF EACH YEAR AS NORTH CAROLINA FARMERS APPRECIATION DAY**

**SECTION 8.1.(a)** Chapter 103 of the General Statutes is amended by adding a new section to read:

**"§ 103-17. North Carolina Farmers Appreciation Day.**

(a) The General Assembly makes the following findings:

(1) The people of North Carolina should never forget that to remain a free nation we must maintain and improve our ability to feed and clothe ourselves.

(2) The food and fiber we produce to feed and clothe ourselves must necessarily be safe, reliable, and economically affordable.

(3) From the beginning of our nation, the agriculture sector has served the people of North Carolina well in these and many other areas.

(4) The people of North Carolina must continue to use our land, water, and air to produce food and fiber in environmentally responsible and sustainable ways.

(5) Many North Carolina citizens no longer reside near working farms and are therefore unfamiliar with how our food and fiber is produced.

(6) North Carolina farmers are dedicated to producing the food and fiber to feed and clothe our population.

(7) The farmers of North Carolina have set the pace and performed exceptionally well in many parts of the agriculture sector.

(8) Countless people across the United States and in many other nations depend on food and fiber produced here in North Carolina.

(9) It is important to properly acknowledge and express gratitude for the efforts of North Carolina farmers.

(b) The second Wednesday in November of each year, beginning in 2024, is designated as North Carolina Farmers Appreciation Day."

**SECTION 8.1.(b)** The North Carolina Grange is designated as the lead organization for the recognition of North Carolina Farmers Appreciation Day and shall develop a plan to raise awareness of and promote the first annual North Carolina Farmers Appreciation Day. In developing the plan, the Grange shall consult with the North Carolina Department of Agriculture and Consumer Services; North Carolina Cooperative Extension, including representatives from NC State University Extension and NC A&T State University Extension; the University of Mt. Olive School of Agricultural and Biological Sciences; North Carolina Farm Bureau Federation, Inc.; commodity groups and associations, including the North Carolina Pork Council, the North

1 Carolina Poultry Federation, and the North Carolina Cattlemen's Association; and any other  
2 organizations the Grange deems appropriate.

3 **SECTION 8.1.(c)** The North Carolina Grange shall report to the Joint Legislative  
4 Oversight Committee on Agriculture and Natural and Economic Resources no later than June 30,  
5 2024, regarding its plan to raise awareness of and promote the first annual North Carolina  
6 Farmers Appreciation Day.

### 7 8 **PART III. FORESTRY PROVISIONS**

#### 9 10 **PRESCRIBED BURNING ACT AMENDMENTS**

11 **SECTION 9.(a)** G.S. 106-966 reads as rewritten:

##### 12 **"§ 106-966. Definitions.**

13 As used in this Article:

- 14 (1) "Certified prescribed burner" means an individual who has successfully  
15 completed a certification program approved by the North Carolina Forest  
16 Service of the Department of Agriculture and Consumer Services.
- 17 (2) "Prescribed burning" means the planned and controlled application of fire to  
18 ~~naturally occurring~~ vegetative fuels under ~~safe specified~~ weather and safe  
19 environmental and other conditions, while following appropriate  
20 precautionary measures that will confine the fire to a predetermined area and  
21 accomplish the intended management objectives.
- 22 (3) "Prescription" means a written plan establishing the conditions and methods  
23 for conducting a prescribed burn prepared by a certified prescribed burner for  
24 starting, controlling, and extinguishing a prescribed burning."

25 **SECTION 9.(b)** G.S. 106-967 reads as rewritten:

##### 26 **"§ 106-967. Immunity from liability.**

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

29 (b) A landowner or the landowner's agent who conducts a prescribed burning in  
30 compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury  
31 caused by fire, including reignition of a smoldering, previously contained burn, or resulting from  
32 smoke.

33 (c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance  
34 or damage results from ~~a negligently or improperly conducted prescribed burning-gross~~  
35 negligence.

36 (d) Notwithstanding subsections (a), (b) and (c), this section shall not apply to claims by  
37 public utilities resulting from damage to their equipment or facilities, where a prescribed burn  
38 proximately causes such damage.

39 (e) For purposes of this section, the term "public utility" means an electric power  
40 supplier, as defined in 62-133.8(a)(3), a gas operator, as defined in 62-50(g), or a business  
41 providing telecommunications service taxed under G.S. 105-164.4(a)(4c)."

42 **SECTION 9.(c)** G.S. 106-968 reads as rewritten:

##### 43 **"§ 106-968. ~~Prescribed-Certified prescribed burning.~~**

44 (a) Prior to conducting a prescribed burning, a certified prescribed burner shall prepare  
45 and provide to the landowner shall obtain a prescription for the prescribed burning prepared by  
46 a certified prescribed burner and filed burning. The certified prescribed burner shall also file the  
47 prescription with the North Carolina Forest Service of the Department of Agriculture and  
48 Consumer Services. A copy of the prescription shall be provided to the landowner. A Both the  
49 landowner and the certified prescribed burner on site shall retain a copy of this prescription shall  
50 be in the possession of the responsible burner on site throughout the duration of the prescribed  
51 burning. The prescription shall include:

- 1 (1) The landowner's name and address.
- 2 (2) A description of the area to be burned.
- 3 (3) A map of the area to be burned.
- 4 (4) An estimate of tons of the fuel located on the area.
- 5 (5) The objectives of the prescribed burning.
- 6 (6) A list of the acceptable weather conditions and parameters for the prescribed
- 7 burning sufficient to minimize the likelihood of smoke damage and fire
- 8 escaping onto adjacent areas.
- 9 (7) The name of the certified prescribed burner responsible for conducting the
- 10 prescribed burning.
- 11 (8) A summary of the methods that are adequate for the particular circumstances
- 12 involved to be used to start, control, and extinguish the prescribed
- 13 ~~burning-burning, including firebreaks and sufficient personnel and~~
- 14 ~~firefighting equipment to contain the fire within the burn area.~~
- 15 a. Fire spreading outside the authorized burn area on the day of the
- 16 prescribed burn ignition shall not constitute conclusive proof of
- 17 inadequate firebreaks, insufficient personnel, or a lack of firefighting
- 18 equipment.
- 19 b. If the prescribed burn is contained within the authorized burn area
- 20 during the authorized period, there shall be a rebuttable presumption
- 21 that adequate firebreaks, sufficient personnel, and sufficient
- 22 firefighting equipment were present.
- 23 c. Continued smoldering of a prescribed burn resulting in a subsequent
- 24 wildfire does not in itself constitute evidence of gross negligence
- 25 under G.S. 106-967.
- 26 (9) Provision for reasonable notice of the prescribed burning to be provided to
- 27 ~~nearby-homes and businesses~~ located adjacent to the burn site to avoid effects
- 28 on health and property.
- 29 (b) The prescribed burning shall be conducted by a certified prescribed burner in
- 30 accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed
- 31 burner shall be present on the site and shall be in charge of the burning throughout the period of
- 32 the burning. A landowner may conduct a prescribed burning and be in compliance with this
- 33 Article without being a certified prescribed burner if the landowner is burning a tract of forestland
- 34 of 50 acres or less owned by that landowner and is following all conditions established in a
- 35 prescription prepared by a certified prescribed burner.
- 36 (c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall
- 37 obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest
- 38 Service of the Department of Agriculture and Consumer Services. This open-burning permit must
- 39 remain in effect throughout the period of the prescribed burning. The prescribed burning shall be
- 40 conducted in compliance with all the following:
- 41 (1) The terms and conditions of the open-burning permit under Article 78 of this
- 42 Chapter.
- 43 (2) The State's air pollution control statutes under Article 21 and Article 21B of
- 44 Chapter 143 of the General Statutes and any rules adopted pursuant to these
- 45 statutes.
- 46 (3) Any applicable local ordinances relating to open burning.
- 47 (4) The smoke management guidelines adopted by the North Carolina Forest
- 48 Service of the Department of Agriculture and Consumer Services.
- 49 (5) Any rules adopted by the North Carolina Forest Service of the Department of
- 50 Agriculture and Consumer Services, to implement this Article.

1 (d) The North Carolina Forest Service may accept prescribed burner certification from  
2 another State or other entity for the purpose of prescribed burning under this Article."  
3

#### 4 **PROHIBIT USE OF AN UNMANNED AIRCRAFT SYSTEM NEAR A FOREST FIRE**

5 **SECTION 10.(a)** Article 16B of Chapter 15A of the General Statutes is amended by  
6 adding a new section to read:

##### 7 **"§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.**

8 (a) Prohibition. – No person, entity, or State agency shall use an unmanned aircraft  
9 system within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet from  
10 any forest fire within the jurisdiction of the North Carolina Forest Service. For purposes of this  
11 section, the horizontal distance shall extend outward from the furthest exterior perimeter of the  
12 forest fire or forest fire control lines.

13 (b) Exceptions. – Unless the use of the unmanned aircraft system is otherwise prohibited  
14 under State or federal law, the prohibitions in subsection (a) of this section do not apply to any  
15 of the following:

16 (1) A person operating an unmanned aircraft system with the consent of the  
17 official in responsible charge of management of the forest fire.

18 (2) A law enforcement officer using an unmanned aircraft system in accordance  
19 with G.S. 15A-300.1(c).

20 (3) A North Carolina Forest Service employee or a person acting under the  
21 direction of a North Carolina Forest Service employee.

22 (c) Penalties. – The following penalties apply for violations of this section:

23 (1) A person who uses an unmanned aircraft system in violation of subsection (a)  
24 of this section and such use is the proximate cause of the death of another  
25 person is guilty of a Class D felony and shall also be fined not less than one  
26 thousand dollars (\$1,000).

27 (2) A person who uses an unmanned aircraft system in violation of subsection (a)  
28 of this section and such use is the proximate cause of serious bodily injury to  
29 another person is guilty of a Class E felony and shall also be fined not less  
30 than one thousand dollars (\$1,000).

31 (3) A person who uses an unmanned aircraft system in violation of subsection (a)  
32 of this section and such use is the proximate cause of serious physical or  
33 mental injury to another person is guilty of a Class F felony and shall also be  
34 fined not less than one thousand dollars (\$1,000).

35 (4) A person who uses an unmanned aircraft system in violation of subsection (a)  
36 of this section and such use interferes with emergency operations and such  
37 interference proximately causes damage to any real or personal property or  
38 any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands,  
39 springs, or any other matter or thing growing or being on the land is guilty of  
40 a Class G felony and shall also be fined not less than one thousand dollars  
41 (\$1,000).

42 (5) A person who uses an unmanned aircraft system in violation of subsection (a)  
43 of this section and such use interferes with emergency operations is guilty of  
44 a Class H felony and shall be fined not less than one thousand dollars (\$1,000).

45 (6) A person who uses an unmanned aircraft system in violation of subsection (a)  
46 of this section and such use is the proximate cause of physical or mental injury  
47 to another person is guilty of a Class I felony and shall also be fined not less  
48 than one thousand dollars (\$1,000).

49 (7) A person who uses an unmanned aircraft system in violation of subsection (a)  
50 of this section and such use is not covered under another provision of law

1 providing greater punishment is guilty of a Class A1 misdemeanor and shall  
2 be fined not less than one thousand dollars (\$1,000).

3 (d) Seizure, Forfeiture, and Disposition of Seized Property. – A law enforcement agency  
4 may seize an unmanned aircraft system and any attached property used in violation of this  
5 section. An unmanned aircraft system used in violation of this section and seized by a law  
6 enforcement agency is subject to forfeiture and disposition pursuant to G.S. 18B-504. An  
7 innocent owner or holder of a security interest applying to the court for release of the unmanned  
8 aircraft system, in accordance with G.S. 18B-504(h), shall also provide proof of ownership or  
9 security interest and written certification that the unmanned aircraft system will not be returned  
10 to the person who was charged with the violation of subsection (a) of this section.

11 (e) Definitions. – For purposes of this section, the following definitions apply:

12 (1) Physical or mental injury. – Cuts, scrapes, bruises, or other physical or mental  
13 injury that does not constitute serious bodily injury or serious physical or  
14 mental injury.

15 (2) Serious bodily injury. – Bodily injury that creates a substantial risk of death,  
16 or that causes serious permanent disfigurement, coma, a permanent or  
17 protracted condition that causes extreme pain, or permanent or protracted loss  
18 or impairment of the function of any bodily member or organ, or that results  
19 in prolonged hospitalization.

20 (3) Serious physical or mental injury. – Physical or mental injury that causes great  
21 pain and suffering."

22 **SECTION 10.(b)** This section becomes effective December 1, 2023, and applies to  
23 offenses committed on or after that date.

## 24 **AMEND TIMBER LARCENY STATUTE**

25 **SECTION 11.(a)** G.S. 14-135 reads as rewritten:

### 26 **"§ 14-135. Larceny of timber.**

27 **(a) Offense. –** Except as otherwise provided in subsection (b) of this section, a person  
28 commits the offense of larceny of timber if the person does any of the following:

29 (1) **Knowingly and willfully cuts down, injures, or removes any timber owned by**  
30 **another person, without the consent of the owner of the land or the owner of**  
31 **the timber, or without a lawful easement running with the land.**

32 (2) **Buys timber directly from the owner of the timber and fails to make payment**  
33 **in full to the owner by (i) the date specified in the written timber sales**  
34 **agreement or (ii) if there is no such agreement, 60 days from the date that the**  
35 **buyer removes the timber from the property.**

36 (3) **Knowingly and willfully aids, hires, or counsels an individual to cut down,**  
37 **injure, or remove any timber owned by another person without the consent of**  
38 **the owner of the land or the owner of the timber, or without a lawful easement**  
39 **running with the land.**

40 (4) **Knowingly and willfully transports forest products that have been cut down,**  
41 **removed, obtained, or acquired from the property of a landowner without the**  
42 **consent of the owner of the land or the owner of the timber, or without a lawful**  
43 **easement running with the land.**

44 **(b) Exceptions. –** The following are exceptions to the offense set forth in subsection (a)  
45 of this section:

46 (1) **A person is not guilty of an offense under subdivision (1) of subsection (a) of**  
47 **this section if the person is an employee or agent of an electric power supplier,**  
48 **as defined in G.S. 62-133.8, and either of the following conditions is met:**

49 a. **The person believed in good faith that consent of the owner had been**  
50 **obtained prior to cutting down, injuring, or removing the timber.**  
51

1           b.       The person believed in good faith that the cutting down, injuring, or  
2                 removing of the timber was permitted by a utility easement or was  
3                 necessary to remove a tree hazard. For purposes of this  
4                 ~~sub-subdivision, subsection,~~ the term "tree hazard" includes a dead or  
5                 dying tree, dead parts of a living tree, or an unstable living tree that is  
6                 within striking distance of an electric transmission line, electric  
7                 distribution line, or electric equipment and constitutes a hazard to the  
8                 line or equipment in the event of a tree failure.

9           (2)       A person is not guilty of an offense under subdivision (2) of subsection (a) of  
10                 this section if either of the following conditions is met:

11           a.       The person remitted payment in full within the time period set in  
12                 subdivision (2) of subsection (a) of this section to a person he or she  
13                 believed in good faith to be the rightful owner of the timber.

14           b.       The person remitted payment in full to the owner of the timber within  
15                 the 10-day period set forth in subsection (c) of this section.

16           (3)       A person is not guilty of an offense under subdivision (3) of subsection (a) of  
17                 this section if the person is an electric power supplier, as defined in  
18                 G.S. 62-133.8, and either of the following conditions is met:

19           a.       The person believed in good faith that consent of the owner had been  
20                 obtained prior to aiding, hiring, or counseling the individual to cut  
21                 down, injure, or remove the timber.

22           b.       The person believed in good faith that the cutting down, injuring, or  
23                 removing of the timber was permitted by a utility easement or was  
24                 necessary to remove a tree hazard.

25           (c)       Prima Facie Evidence. – An owner of timber who does not receive payment in full  
26                 within the time period set in subdivision (2) of subsection (a) of this section may notify the timber  
27                 buyer in writing of the owner's demand for payment at the timber buyer's last known address by  
28                 certified mail or by personal delivery. The timber buyer's failure to make payment in full within  
29                 10 days after the mailing or personal delivery authorized under this subsection shall constitute  
30                 prima facie evidence of the timber buyer's intent to commit an offense under subdivision (2) of  
31                 subsection (a) of this section.

32           (d)       Penalty; Restitution. – A person who commits an offense under subsection (a) of this  
33                 section is guilty of a Class G felony. Additionally, a defendant convicted of an offense under  
34                 subsection (a) of this section shall be ordered to make restitution to the timber owner in an amount  
35                 equal to either of the following:

36           (1)       Three times the value of the timber cut down, injured, or removed in violation  
37                 of subdivision (1) of subsection (a) of this section.

38           (2)       Three times the value of the timber bought but not paid for in violation of  
39                 subdivision (2) of subsection (a) of this section.

40           Restitution shall also include the cost incurred by the owner to determine the value of the  
41                 timber. For purposes of subdivisions (1) and (2) of this subsection, "value of the timber" shall be  
42                 based on the stumpage rate of the timber.

43           (e)       Civil Remedies. – Nothing in this section shall affect any civil remedies available for  
44                 a violation of subsection (a) of this section.

45           (f)       For purposes of this section, "person" means any individual, association, consortium,  
46                 corporation, partnership, unit of State or local government, or other group, entity, or  
47                 organization."

48           **SECTION 11.(b)** This section becomes effective December 1, 2023, and applies to  
49                 offenses committed on or after that date.

50

1 **LIMIT CIVIL PENALTIES FOR REMOVAL OF TIMBER IN A RIPARIAN BUFFER**  
2 **TO THE VALUE OF THE TIMBER**

3 **SECTION 11.1.(a)** G.S. 143-215.6A is amended by adding a new subsection to read:

4 "(b2) A civil penalty issued by the Secretary pursuant to this section for removal of timber  
5 in a riparian buffer in violation of rules applicable to that riparian buffer shall not exceed the  
6 value of the timber removed from the riparian buffer."

7 **SECTION 11.1.(b)** This section becomes effective July 1, 2023, and applies to acts  
8 committed on or after that date.

9  
10 **ESTABLISH FORESTRY SERVICES AND ADVICE FUND**

11 **SECTION 12.** G.S. 106-1003 reads as rewritten:

12 "**§ 106-1003. ~~Deposit of receipts with State treasury.~~Forestry Services and Advice Fund.**

13 (a) The Forestry Services and Advice Fund is established as a special fund within the  
14 Department of Agriculture and Consumer Services, North Carolina Forest Service. All moneys  
15 paid to the Commissioner for services rendered under the provisions of this Article shall be  
16 deposited into the ~~State treasury to the credit of the Department.~~Fund. The Fund may also consist  
17 of any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall  
18 be credited to this Fund.

19 (b) The Department shall use the Fund to develop, improve, repair, maintain, operate,  
20 and otherwise invest in providing forestry services and advice to owners and operators of  
21 forestland as authorized by this Article."

22  
23 **CLARIFY POWERS OF FOREST RANGERS**

24 **SECTION 12.1.** G.S. 106-899(a) reads as rewritten:

25 "(a) Forest rangers or deputy rangers shall prevent and extinguish forest fires and shall  
26 have control and direction of all persons and equipment while engaged in the extinguishing of  
27 forest fires. During a season of drought, the Commissioner or his designate may establish a fire  
28 patrol in any ~~district, and in~~district. In case of fire in or threatening any forest or woodland, the  
29 forest ranger or deputy ranger shall attend forthwith and use all necessary means to confine and  
30 extinguish such fire. The forest ranger may summon any resident between the ages of 18 and 45  
31 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and  
32 other property needed for such purposes; any person so summoned and who is physically able  
33 who refuses or neglects to assist or to allow the use of equipment and such other property required  
34 shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to a fine of  
35 not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No action for  
36 trespass shall lie against any forest ranger, deputy ranger, or person summoned by a forest ranger  
37 for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy  
38 ranger."

39  
40 **PART IV. ENVIRONMENTAL PROVISIONS**

41  
42 **ALLOW AN EMPLOYEE TO DRILL AN IRRIGATION WELL ON THE**  
43 **EMPLOYER'S PROPERTY WITHOUT A WELL CONTRACTOR CERTIFICATION**

44 **SECTION 13.** G.S. 87-98.4 reads as rewritten:

45 "**§ 87-98.4. Well contractor certification required; exemptions.**

46 (a) Certification Required. – No person shall perform, manage, or supervise any well  
47 contractor activity without being certified under this Article. A person who is not a certified well  
48 contractor or who is not employed by a certified well contractor shall not offer to perform any  
49 well contractor activity unless the person utilizes a certified well contractor to perform the well  
50 contractor activity and, prior to the performance of the well contractor activity, the person  
51 discloses to the landowner in writing the name of the certified well contractor who will perform

1 the well contractor activity, the certification number of the well contractor, and the name of the  
2 company that employs the certified well contractor.

3 (b) Exempt persons and activities. – This Article does not apply to any of the following  
4 persons or activities:

5 (1) A person who is employed by, or performs labor or services for, a certified  
6 well contractor in connection with well contractor activity performed under  
7 the personal supervision of the certified well contractor.

8 (2) A person who constructs, repairs, or abandons a well that is located on land  
9 owned or leased by that person.

10 (2a) An employee of a business who constructs, repairs, or abandons a well for the  
11 purpose of irrigation that is located on land owned or leased by the business.

12 ...."

### 14 **DIGESTER GENERAL PERMIT CLARIFICATION**

15 **SECTION 14.** G.S. 143-213(12a) reads as rewritten:

16 "(12a) The term "farm digester system" means a system, including all  
17 ~~associated~~ animal waste management equipment and lagoon covers, by which  
18 gases are collected and processed from an animal waste management system  
19 for the digestion of animal biomass for use as a renewable energy resource.  
20 The collected gases shall be used as a renewable energy resource as quickly  
21 as feasible, but within six months of the collection of the gases, and during  
22 that period the gas shall be flared rather than vented. A farm digester system  
23 shall be considered an agricultural feedlot activity within the meaning of  
24 "animal operation" and shall also be considered a part of an "animal waste  
25 management system" as those terms are defined in G.S. 143-215.10B."  
26

### 27 **CLARIFY DEFINITION OF WETLANDS**

28 **SECTION 15.(a)** Definitions. – For purposes of this section and its implementation,  
29 "Wetlands Definition" means 15A NCAC 02B .0202 (Definitions).

30 **SECTION 15.(b)** Wetlands Definition Rule. – Until the effective date of the revised  
31 permanent rule that the Environmental Management Commission (Commission) is required to  
32 adopt pursuant to subsection (d) of this section, the Commission shall implement the Wetlands  
33 Definition Rule as provided in subsection (c) of this section.

34 **SECTION 15.(c)** Implementation. – Wetlands classified as waters of the State are  
35 restricted to waters of the United States as defined by 33 C.F.R. § 328.3 and 40 C.F.R. § 230.3.  
36 Wetlands do not include prior converted cropland as defined in the National Food Security Act  
37 Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent  
38 amendments and editions.

39 **SECTION 15.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
40 a rule to amend the Wetlands Definition Rule consistent with subsection (c) of this section.  
41 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section  
42 shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted  
43 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General  
44 Statutes. Rules adopted pursuant to this section shall become effective as provided in  
45 G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in  
46 G.S. 150B-21.3(b2).

47 **SECTION 15.(e)** Sunset. – This section expires when permanent rules adopted as  
48 required by subsection (d) of this section become effective.  
49

### 50 **WASTEWATER AMENDMENTS**

1           **SECTION 16.(a)** Definitions. – For purposes of this section and its implementation,  
2 "Prefabricated Permeable Block Panel Systems Rule" means 15A NCAC 18E .0905  
3 (Prefabricated Permeable Block Panel Systems).

4           **SECTION 16.(b)** Prefabricated Permeable Block Panel Systems Rule. – Until the  
5 effective date of the revised permanent rule that the Commission for Public Health is required to  
6 adopt pursuant to subsection (d) of this section, the Commission shall implement the  
7 Prefabricated Permeable Block Panel Systems Rule as provided in subsection (c) of this section.

8           **SECTION 16.(c)** Implementation. – Prefabricated permeable block panel system  
9 trenches shall be located a minimum of 8 feet on center or three times the trench width. When  
10 used in sand-lined trench systems, bed, or fill systems, prefabricated permeable block panel  
11 systems shall use the equivalent trench width of 6 feet to calculate the minimum trench length  
12 unless otherwise instructed by the manufacturer on a case-by-case basis.

13           **SECTION 16.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
14 a rule to amend the Prefabricated Permeable Block Panel Systems Rule consistent with  
15 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the  
16 Commission pursuant to this section shall be substantively identical to the provisions of  
17 subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of  
18 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall  
19 become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections  
20 had been received as provided in G.S. 150B-21.3(b2).

21           **SECTION 16.(e)** Sunset. – This section expires when permanent rules adopted as  
22 required by subsection (d) of this section become effective.

23           **SECTION 17.(a)** G.S. 130A-343 reads as rewritten:  
24 "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

25           ...

26           (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an Innovative  
27 wastewater dispersal system or other approved trench dispersal system specifically identified in  
28 a rule adopted by the Commission that has been in general use in this State for a minimum of  
29 five years may petition the Commission to have the system designated as an Accepted wastewater  
30 system as provided in this subsection. The manufacturer shall provide the Commission with the  
31 data and findings of all prior evaluations of the performance of the system in this State and other  
32 states referenced in the petition, including disclosure of any conditions found to result in  
33 unacceptable structural integrity, treatment, or hydraulic performance. In addition, the  
34 manufacturer shall provide the Commission with information sufficient to enable the  
35 Commission to fully evaluate the performance of the system in this State for at least the five-year  
36 period immediately preceding the petition. The Commission shall designate a wastewater  
37 dispersal system as an Accepted wastewater system only if it finds that there is clear, convincing,  
38 and cogent evidence based on actual field surveys and county activity reports (i) to confirm the  
39 findings made by the Department at the time the Department approved the system as a wastewater  
40 dispersal system and (ii) that the system performs in a manner that is equal or superior to a  
41 conventional or Accepted wastewater system under actual field conditions in this State. The  
42 Commission shall specify the circumstances in which use of the system is appropriate and any  
43 conditions and limitations related to the use of the system. If the Department designates a  
44 wastewater dispersal system as an Accepted wastewater system pursuant to this section, the  
45 following shall apply:

46           (1) The approval shall be limited to the manufacturer who submitted the petition  
47 and received the Accepted status from the Commission.

48           (2) Neither the Commission, the Department, or any local health department shall  
49 condition, delay, or deny the substitution of any Accepted wastewater system  
50 based on location of nitrification lines when all parts of the dispersal field can

1 be installed within the approved initial dispersal field area while complying  
2 with all Commission rules.

3 (i) Nonproprietary Wastewater Systems. – The Department may initiate a review of a  
4 nonproprietary wastewater system and approve the system for use as a provisional wastewater  
5 system or an innovative wastewater system without having received an application from a  
6 manufacturer. ~~The Department may recommend that the Commission designate a nonproprietary~~  
7 ~~wastewater system as an accepted wastewater system without having received a petition from a~~  
8 ~~manufacturer.~~

9 ...  
10 (j2) Clarification of Use of Native Backfill. – In considering the use of backfill material  
11 in subsurface trench dispersal products, neither the Commission nor the Department shall  
12 condition, delay, or deny the approval of a subsurface trench dispersal product based on a  
13 non-native backfill material requirement without the prior approval of the manufacturer. With  
14 respect to approvals already issued by the Department or the Commission that include conditions  
15 or requirements specifying the use of non-native backfill material, the Department or  
16 Commission, as applicable, shall reissue those approvals, at the written request of the  
17 manufacturer, without conditions or requirements relating to the use of non-native backfill  
18 material.

19 ...."  
20 **SECTION 17.(b)** This section is effective when it becomes law and applies  
21 retroactively to any wastewater system approvals issued by the Commission for Public Health or  
22 the Department of Health and Human Services.

23  
24 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

25  
26 **SECTION 18.(a)** If any provision of this act or the application thereof to any person  
27 or circumstances is held invalid, such invalidity shall not affect other provisions or applications  
28 of this act that can be given effect without the invalid provision or application and, to this end,  
29 the provisions of this act are declared to be severable.

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