

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 513

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/15

Short Title: North Carolina Farm Act of 2015.

(Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE REGULATORY RELIEF TO THE AGRICULTURAL
3 COMMUNITY OF NORTH CAROLINA BY PROVIDING FOR VARIOUS
4 TRANSPORTATION AND ENVIRONMENTAL REFORMS AND BY MAKING
5 VARIOUS OTHER STATUTORY CHANGES.

6 The General Assembly of North Carolina enacts:

7
8 **REVISE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON**
9 **DURATION AND AMOUNT OF AN ASSESSMENT**

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

11 **"§ 106-823. Referendum.**

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

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

- 15 (1) The amount of the proposed assessment, not to exceed ~~two dollars~~
16 ~~(\$2.00)~~four dollars (\$4.00) per ton of commercial horse feed.
17 (2) The period for which the assessment shall be levied, not to exceed ~~three~~10
18 years.
19 (3) The time and place of the referendum.
20 (4) Procedures for conducting the referendum and counting votes.
21 (5) Any other matters pertaining to the referendum.

22"

23
24 **CONFORM COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER TO**
25 **FEDERAL WAGE WITHHOLDING STANDARDS**

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

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

- 28 (1) Compensation that is subject to the withholding requirement of
29 G.S. 105-163.2.
30 (2) Compensation paid to an ordained or licensed member of the clergy.
31 (3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.
32 (4) Compensation paid to an alien, as described by 8 U.S.C. §
33 1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding
34 under section 1441 of the Code."

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



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ESTABLISH POLICY SUPPORTING SUSTAINABLE AGRICULTURE

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

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

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

MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS

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

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

SECTION 4.(c) Implementation. – Notwithstanding subdivision (h)(2) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall only prohibit movement of a permitted oversize vehicle and vehicle combination after noon on the weekday preceding the three holidays of Independence Day, Thanksgiving Day, and Christmas Day until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday until 12:00 noon on the following Monday.

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

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

ALLOW OVERSIZE TRANSPORTATION OF HAY BALES

SECTION 5. G.S. 20-116 is amended by adding a new subsection to read:

"§ 20-116. Size of vehicles and loads.

...

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

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

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

AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES

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

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

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

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

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

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

...."

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

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

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

- 1 (1) When overtaking and passing another vehicle proceeding in the same
- 2 direction under the rules governing such movement;
- 3 (2) When an obstruction exists making it necessary to drive to the left of the
- 4 center of the highway; provided, any person so doing shall yield the
- 5 right-of-way to all vehicles traveling in the proper direction upon the
- 6 unobstructed portion of the highway within such distance as to constitute an
- 7 immediate hazard;
- 8 (3) Upon a highway divided into three marked lanes for traffic under the rules
- 9 applicable thereon; or
- 10 (4) Upon a highway designated and signposted for one-way traffic.

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

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

17"

18
 19 **AMEND DEFINITION OF "AGRICULTURAL SPREADER VEHICLE," INCREASE**
 20 **SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES, AND EXEMPT**
 21 **ALL-TERRAIN VEHICLES AND UTILITY VEHICLES USED FOR**
 22 **AGRICULTURAL PURPOSES FROM REGISTRATION AND CERTIFICATE OF**
 23 **TITLE REQUIREMENTS**

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

25 "§ 20-51. Exempt from registration.

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

27 ...

- 28 (16) A vehicle that meets all of the following conditions is exempt from the
- 29 requirement of registration and certificate of title. The provisions of
- 30 G.S. 105-449.117 continue to apply to the vehicle and to the person in whose
- 31 name the vehicle would be registered.
- 32 a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle"
- 33 is a vehicle that is designed for off-highway use on a farm to spread
- 34 feed, fertilizer, seed, lime, or other agricultural products on a
 35 field-products.
- 36 b. Is driven on the highway only for the purpose of going from the
- 37 location of its supply source for fertilizer or other products to and
- 38 from a farm.
- 39 c. Does not exceed a speed of ~~35~~45 miles per hour.
- 40 d. Does not drive outside a radius of 50 miles from the location of its
- 41 supply source for fertilizer and other products.
- 42 e. Is driven by a person who has a license appropriate for the class of
- 43 the vehicle.
- 44 f. Is insured under a motor vehicle liability policy in the amount
- 45 required under G.S. 20-309.
- 46 g. Displays a valid federal safety inspection decal if the vehicle has a
- 47 gross vehicle weight rating of at least 10,001 pounds.

48 ...

49 (18) An all-terrain vehicle or utility vehicle, when used for agricultural purposes."

50

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

3 **SECTION 8.(a)** G.S. 20-118(c)(12) reads as rewritten:

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

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

26 **SECTION 8.(b)** This section becomes effective July 1, 2015.

27
28 **ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR**
29 **METEOROLOGICAL TOWERS**

30 **SECTION 9.(a)** Chapter 63 of the General Statutes is amended by adding a new
31 Article to read:

32 "Article 11.

33 "Marking and Notice of Meteorological Towers.

34 **"§ 63-110. Marking of meteorological towers.**

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

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

43 (b) Except as required by federal law, rule, or regulation, any meteorological tower over
44 50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air
45 during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall
46 also comply with the following additional requirements:

- 47 (1) A meteorological tower shall be painted in equal alternating bands of
48 aviation orange and white, beginning with orange at the top of the tower.
- 49 (2) One marker ball shall be attached to the top third of each outside guy wire.

1 (3) Guy wires shall have a seven-foot-long safety sleeve at each anchor point
2 that extends from the anchor point along each guy wire attached to the
3 anchor point.

4 **"§ 63-111. Registration; notification; tower database; penalty.**

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

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

17 **"§ 63-112. Penalties.**

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

20 **SECTION 9.(b)** This section becomes effective January 1, 2017, and applies to
21 meteorological towers erected on or after that date.

22
23 **ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING**
24 **SUBMERGED AQUATIC VEGETATION**

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

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

33 **SECTION 10.(b)** This section becomes effective July 1, 2015, and applies to any
34 new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or
35 after that date.

36
37 **PRESENT-USE VALUE MODIFICATIONS**

38 **SECTION 11.(a)** G.S. 105-277.2 reads as rewritten:

39 **"§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

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

41 (1) Agricultural land. – Land that is a part of a farm unit that is actively engaged
42 in the commercial production or growing of crops, plants, or animals under a
43 sound management program. For purposes of this definition, the commercial
44 production or growing of animals includes the rearing, feeding, training,
45 caring, and managing of horses. Agricultural land includes woodland and
46 wasteland that is a part of the farm unit, but the woodland and wasteland
47 included in the unit must be appraised under the use-value schedules as
48 woodland or wasteland. A farm unit may consist of more than one tract of
49 agricultural land, but at least one of the tracts must meet the requirements in
50 G.S. 105-277.3(a)(1), and each tract must be under a sound management
51 program. If the agricultural land includes less than 20 acres of woodland,

1 then the woodland portion is not required to be under a sound management
2 program. Also, woodland is not required to be under a sound management
3 program if it is determined that the highest and best use of the woodland is
4 to diminish wind erosion of adjacent agricultural land, protect water quality
5 of adjacent agricultural land, or serve as buffers for adjacent livestock or
6 poultry operations.

7
8 ...
9 (4)

Individually owned. – Owned by one of the following:

a. An individual.

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

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

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

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

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

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

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

2. All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust that owns the land if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust that owns the land.

d. A testamentary trust that meets all of the following conditions:

1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.
 2. At the date of the creator's death, the creator had no relatives.
 3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).
- e. Tenants in common, if each tenant would qualify as an owner if the tenant were the sole owner. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity or a trust.

...."

SECTION 11.(b) G.S. 105-277.4 is amended by adding a new subsection to read:
"§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.

...

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

SECTION 11.(c) Section 11(a) of this act becomes effective July 1, 2015, and applies to taxes imposed for taxable years beginning on or after that date. The remainder of this section is effective when this act becomes law.

PROCEDURE FOR TERMINATION OR SUBSTANTIAL MODIFICATION OF CONSERVATION AGREEMENTS

SECTION 12.(a) Article 4 of Chapter 121 of the General Statutes is amended by adding a new section to read:

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

(a) For any conservation agreement subject to Council of State approval for termination or substantial modification, the Council shall deny any request for termination or substantial modification that is made for the purpose of economic development, including, but not limited to, instances where some or all of the property subject to the conservation agreement is to be commercially developed by a third party. For purposes of this section, "substantial modification" means a change to the terms of a conservation agreement that would result in a diminishment to the conservation restrictions applicable to the property contained in the agreement that would affect more than five percent (5%) of the property subject to the agreement.

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

1 instrumentality of any of the foregoing. This section shall not apply to a condemnation action
2 initiated by a public condemnor governed by Article 6 of Chapter 40A of the General Statutes.

3 (c) Parties to a conservation agreement may include a provision at the time an
4 agreement is executed requiring the consent of the grantor or the grantor's successors in interest
5 to terminate or substantially modify the agreement for any purpose.

6 (d) Any agency managing a conservation agreement program may adopt rules
7 governing its procedure for termination or substantial modification of a conservation
8 agreement, provided that any such rules may be no less stringent than the requirements of this
9 section."

10 **SECTION 12.(b)** G.S. 106-737.1 reads as rewritten:

11 **"§ 106-737.1. Revocation of conservation agreement.**

12 (a) ByFor conservation agreements between private parties, by written notice to the
13 county, the landowner may revoke this conservation agreement. Such revocation shall result in
14 loss of qualifying farm status.

15 (b) For conservation agreements where at least one party to the agreement is a public
16 body of this State, including the State, any of its agencies, any city, county, district, or other
17 political subdivision, or municipal or public corporation, the procedure set forth in
18 G.S. 121-39A shall apply."

19 **SECTION 12.(c)** G.S. 106-743.2 reads as rewritten:

20 **"§ 106-743.2. Conservation agreements for farmland in enhanced voluntary agricultural**
21 **districts; limitation.**

22 A conservation agreement entered into between a county or city and a landowner pursuant
23 to G.S. 106-743.1(a)(2) shall be irrevocable for a period of at least 10 years from the date the
24 agreement is executed. At the end of its term, a conservation agreement shall automatically
25 renew for a term of three years, unless notice of termination is given in a timely manner by
26 either party as prescribed in the ordinance establishing the enhanced voluntary agricultural
27 district. Notice of termination at the end of a term under this section shall not trigger the
28 procedure set forth in G.S. 121-39A. The benefits set forth in this Part shall be available to the
29 farmland that is the subject of the conservation agreement for the duration of the conservation
30 agreement."

31 **SECTION 12.(d)** G.S. 106-744 reads as rewritten:

32 **"§ 106-744. Purchase of agricultural conservation easements; establishment of North**
33 **Carolina Agricultural Development and Farmland Preservation Trust Fund**
34 **and Advisory Committee.**

35 (a) A county may, with the voluntary consent of landowners, acquire by purchase
36 agricultural conservation easements over qualifying farmland as defined by G.S. 106-737.

37 (b) For purposes of this section, "agricultural conservation easement" means a negative
38 easement in gross restricting residential, commercial, and industrial development of land for the
39 purpose of maintaining its agricultural production capability. Such easement:

40 (1) May permit the creation of not more than three lots that meet applicable
41 county zoning and subdivision regulations;

42 (1a) May permit agricultural uses as necessary to promote agricultural
43 development associated with the family farm; and

44 (2) Shall be perpetual in ~~duration, provided that, at least 20 years after the~~
45 ~~purchase of an easement, a county may agree to reconvey the easement to~~
46 ~~the owner of the land for consideration, if the landowner can demonstrate to~~
47 ~~the satisfaction of the county that commercial agriculture is no longer~~
48 ~~practicable on the land in question.~~duration.

49

50 **SECTION 12.(e)** G.S. 121-39A(c) becomes effective July 1, 2015, and applies to
51 conservation agreements executed on or after that date. The remainder of this section becomes

1 effective July 1, 2015, and applies to agreements in effect on that date and executed on or after
2 that date.

3
4 **TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF**
5 **AGRICULTURE AND CONSUMER SERVICES**

6 **SECTION 13.(a)** Article 49H of Chapter 106 of the General Statutes reads as
7 rewritten:

8 "Article 49H.

9 ~~"Production and Sale~~Production, Sale, and Transportation of Fallow Deer and Red
10 ~~Deer.~~Farmed Cervids.

11 "**§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of**
12 **certain farmed cervids produced and sold for commercial purposes; certain**
13 **authority of North Carolina Wildlife Resources Commission not affected;**
14 **definitions.**

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

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

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

23 (2) Department. – The North Carolina Department of Agriculture and Consumer
24 Services.

25 (3) Farmed Cervid. – Any cervid, as defined by the USDA Standards, that is
26 susceptible to Chronic Wasting Disease, or any other member of the
27 Cervidae family that is not susceptible to Chronic Wasting Disease, that is
28 held in captivity and produced, bought, or sold for commercial purposes.
29 With regard to cervids that are susceptible to Chronic Wasting Disease, the
30 term "farmed cervid" shall only include any cervid that was bred in captivity
31 and has been continuously maintained within a herd that is enrolled in and
32 complies with a USDA-approved Herd Certification Program. Any animal
33 registered or tagged in any licensed captive cervid facility existing within the
34 State as of July 1, 2015, is deemed to be a farmed cervid.

35 (4) Non-Farmed Cervid. – All animals in the family Cervidae other than farmed
36 cervids.

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

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

41 (a2) The Department of Agriculture and Consumer Services shall regulate the
42 production, sale, possession, and transportation, including importation and exportation, of
43 farmed cervids. The Department shall have sole authority with regard to farmed cervids,
44 including administration of the North Carolina Captive Cervid Herd Certification Program. The
45 Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part,
46 including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive
47 populations of farmed cervids. The Department shall follow the USDA Standards and the
48 provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this
49 Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may
50 adopt rules to implement this Article, including, but not limited to, requirements for captivity
51 licenses, captivity permits, transportation permits, importation permits, and exportation permits.

1 The Department may issue new captivity licenses or permits for farmed cervid facilities that
2 will hold cervids susceptible to Chronic Wasting Disease only if Chronic Wasting
3 Disease-susceptible source animals are from a certified herd in accordance with USDA
4 Standards from an existing licensed facility. Nothing in this section shall limit the Department's
5 ability to issue new captivity licenses and permits for farmed cervid facilities that will hold
6 cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an
7 importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or
8 suspect farmed cervid facility. Until such time as the USDA has adopted an approved method
9 of testing for Chronic Wasting Disease in living cervids, cervids susceptible to Chronic
10 Wasting Disease shall not be imported into North Carolina.

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

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

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

22 (c) The following definitions apply in this Article:

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

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

25 (3) ~~Cervid or Cervidae. — All animals in the Family Cervidae (elk and deer).~~

26 (4) ~~Farmed Cervid. — Any member of the Cervidae family, other than~~
27 ~~white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold~~
28 ~~for commercial purposes.~~

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

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

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

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

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

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

50 (i) Any person transporting a live farmed cervid on a public road within the State
51 without the appropriate farmed cervid identification and permit may be subject to a civil

1 penalty by the Department under this Article. Each cervid that fails to meet the tagging and
2 transportation requirements of the Department shall constitute a separate violation.

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

9 ~~"§ 106-549.98. Inspection fees.~~

10 ~~The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor,~~
11 ~~or operator of each slaughtering, meat canning, salting, packing, rendering, or similar~~
12 ~~establishment for the purpose of defraying the expenses incurred in the inspection of fallow~~
13 ~~deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may~~
14 ~~establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each~~
15 ~~slaughtering, meat canning, salting, packing, rendering, or similar establishment for the~~
16 ~~purpose of defraying the expenses incurred in the inspection of red deer as required by Article~~
17 ~~49B of Chapter 106 of the General Statutes."~~

18 SECTION 13.(b) G.S. 113-272.6 reads as rewritten:

19 ~~"§ 113-272.6. Transportation Possession, Transportation, Importation, and Exportation~~
20 ~~of non-farmed cervids and licensing of captive cervid facilities.cervids.~~

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

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

44 (c) ~~The Department of Agriculture and Consumer Services shall regulate the production~~
45 ~~and saleproduction, sale, and transportation, including importation and exportation, of farmed~~
46 ~~cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to~~
47 ~~G.S. 106-549.97. No action taken by the Wildlife Resources Commission shall in any way limit~~
48 ~~the authority of the Department of Agriculture and Consumer Services to regulate farmed~~
49 ~~cervids.~~

50 (d) ~~Notwithstanding any other provision of law, the North Carolina Wildlife Resources~~
51 ~~Commission shall issue captivity licenses, captivity permits, or transportation permits to any~~

1 person possessing cervids that were held in captivity by that person prior to May 17, 2002, if
2 the Executive Director finds that the applicant has come into compliance with all applicable
3 rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such
4 license or permit does not pose unreasonable risk to the conservation of wildlife resources.

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

8 9 **ALLOW ALTERNATE DISPOSAL OF BIODEGRADABLE AGRICULTURAL** 10 **PLASTICS**

11 **SECTION 14.** G.S. 106-950 reads as rewritten:

12 **"§ 106-950. Exempt fires; no permit fees.**

13 (a) This Article shall not apply and no air quality permit shall be required for any of the
14 following:

15 (1) ~~to any~~ Any fires started, or caused to be started, within 100 feet of an
16 occupied dwelling house if such fire shall be confined (i) within an enclosure
17 from which burning material may not escape or (ii) within a protected area
18 upon which a watch is being maintained and which is provided with
19 adequate fire protection equipment.

20 (2) The burning of polyethylene agricultural plastic used in connection with
21 agricultural operations related to the growing, harvesting, or maintenance of
22 crops when the burning is conducted as quickly as possible and in a manner
23 that will minimize total emissions.

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

25 26 **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"** 27 **AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM** 28 **PERFORMANCE STANDARDS**

29 **SECTION 15.** Section 21 of S.L. 2013-413 reads as rewritten:

30 **"SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions)~~ ~~(Definitions)~~ and 15A NCAC 02T
31 .1307 (Swine Waste Management System Performance Standards). – Until the effective date of
32 the revised permanent ~~rule~~ rules that the Environmental Management Commission is required
33 to adopt pursuant to Section 21(c) of this act, the Commission and the Department of
34 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and
35 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided
36 in Section 21(b) of this act.

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

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

- (2) Not apply to any facility that meets all of the following conditions:
- a. Has had no animals on site for five continuous years or more.
 - b. Notifies the Division of Water Resources in writing at least 60 days prior to bringing any animals back on to the site.
 - c. The system depopulated after January 1, 2005, and the system ceased operation no longer than 10 years prior to the current date.
 - d. At the time the system ceased operation, the system was in compliance with an individual permit or a general permit issued pursuant to G.S. 143-215.10C.
 - e. The Division of Water Resources issues an individual permit or certificate of coverage under a general permit issued pursuant to G.S. 143-215.10C for operation of the system before any animals are brought on the facility.
 - f. The permit for the animal waste management system does not allow production, measured by steady state live weight, to exceed the greatest steady state live weight previously permitted for the system under G.S. 143-215.10C.
 - g. No component of the animal waste management system and swine farm, other than an existing swine house or land application site, shall be constructed on land that is located within the 100-year floodplain.
 - h. The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost share agreement, or grant condition.

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

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

NO ODOR NUISANCE FOR ANIMAL WASTE USED FOR ENERGY PRODUCTION

SECTION 16.(a) Article 21 of Chapter 143 of the General Statutes amended by adding a new section to read:

"§ 143-215.10U. Use of animal waste for energy production; nuisance.

(a) The Department shall certify an animal waste management system as an energy-producing animal operation if it meets the following criteria:

- (1) It is an animal operation or dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system.
- (2) It is a renewable energy facility as defined by G.S. 62-133.8(7) that generates energy through the use of swine or poultry waste resources.
- (3) The energy produced is used to comply with the Renewable Energy Portfolio Standards (REPS) in accordance with G.S. 62-133.8(e) or G.S. 133.8(f).

(4) The animal waste management system decreases waste volumes by anaerobic digestion or shipment of waste offsite for energy generation or closes off waste lagoons to the open atmosphere by impervious lagoon cover. Activities conducted pursuant to this subdivision shall be performed in compliance with all statutes and rules governing closure and conversion of animal waste management systems.

(b) No certified energy-producing animal operation shall be or become a nuisance, private or public, in or about the locality outside of the operation for odor.

(c) The Commission shall adopt rules to establish a certification program to implement the provisions of this section."

SECTION 16.(b) G.S. 143-215.10U(a) and (b) as enacted by this section become effective December 1, 2015. The remainder of this section is effective when this act becomes law.

SECTION 16.1.(a) Definitions. – "Control of Odors From Animal Operations Rule" means 15A NCAC 02D .1802 (Air Pollution Control Requirements: Control of Odors From Animal Operations) for purposes of this section and its implementation.

SECTION 16.1.(b) Control of Odors From Animal Operations Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 16.1(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Control of Odor From Animal Operations Rule, as provided in Section 16.1(c) of this act.

SECTION 16.1.(c) Implementation. – Notwithstanding subsection (g) of the Control of Odors From Animal Operations Rule, the Commission shall not determine an odor to be objectionable from an energy-producing animal operation certified by the Department in accordance with G.S. 143-215.10U(a).

SECTION 16.1.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Control of Odors From Animal Operations Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be consistent with the provisions of Section 16.1(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

AMEND DEFINITION OF MINING RELATIVE TO AGRICULTURAL ACTIVITIES

SECTION 17. G.S. 74-49(7) reads as rewritten:

"§ 74-49. Definitions.

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

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

- a. ~~The~~ (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid ~~matter.~~matter;
- b. ~~Any~~ (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original ~~location.~~
- e. ~~The~~ location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include:

- 1 a. Those aspects of deep mining not having significant effect on the
2 surface, where the affected land does not exceed one acre in area.
- 3 b. Mining operations where the affected land does not exceed one acre
4 in area.
- 5 c. Plants engaged in processing minerals produced elsewhere and
6 whose refuse does not affect more than one acre of land.
- 7 d. Excavation or grading when conducted solely ~~in aid of on-site~~
8 ~~farming or off~~ on-site construction for purposes other than mining.
- 9 e. Removal of overburden and mining of limited amounts of any ores or
10 mineral solids when done only for the purpose and to the extent
11 necessary to determine the location, quantity, or quality of any
12 natural deposit, provided that no ores or mineral solids removed
13 during exploratory excavation or mining are sold, processed for sale,
14 or consumed in the regular operation of a business, and provided
15 further that the affected land resulting from any exploratory
16 excavation does not exceed one acre in area.
- 17 f. Excavation or grading where all of the following apply:
- 18 1. The excavation or grading is conducted to provide soil or
19 other unconsolidated material to be used without further
20 processing for a single off-site construction project for which
21 an erosion and sedimentation control plan has been approved
22 in accordance with Article 4 of Chapter 113A of the General
23 Statutes.
- 24 2. The affected land, including nonpublic access roads, does not
25 exceed five acres.
- 26 3. The excavation or grading is completed within one year.
- 27 4. The excavation or grading does not involve blasting, the
28 removal of material from rivers or streams, the disposal of
29 off-site waste on the affected land, or the surface disposal of
30 groundwater beyond the affected land.
- 31 5. The excavation or grading is not in violation of any local
32 ordinance.
- 33 6. An erosion and sedimentation control plan for the excavation
34 or grading has been approved in accordance with Article 4 of
35 Chapter 113A of the General Statutes.
- 36 g. Excavation or grading when conducted solely for activities
37 undertaken on agricultural land that are exempt, pursuant to
38 G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter
39 113A of the General Statutes."
40

41 AMEND THE HOLDING AND ADVERTISING PERIOD FOR UNCLAIMED 42 LIVESTOCK

43 SECTION 18.(a) G.S. 68-20 reads as rewritten:

44 "§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application
45 of proceeds.

46 If the owner fails to redeem his livestock within three days after the notice and demand as
47 provided in G.S. 68-18 is received or within three days after the determination of the costs and
48 damages as provided in G.S. 68-19, ~~then, upon written notice fully describing the livestock,~~
49 ~~stating the place, date, and hour of sale posted at the courthouse door and three or more public~~
50 ~~places in the township where the owner resides, and after the impounder shall notify the local~~
51 Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the

1 place, date, and hour of sale on the Web site of the Sheriff's department. After 10 days from
2 such posting, the impounder shall sell the livestock at public auction. If the owner of the
3 livestock remains unknown to the impounder, then, ~~30~~three days after publication of the notice
4 required by G.S. 68-18.1, the impounder shall ~~post at the courthouse door and three public~~
5 places in the township where the livestock is impounded a written notice fully describing the
6 livestock, and stating the place, date, and hour of sale. ~~notify the local Sheriff's office and the~~
7 Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of
8 sale on the Web site of the Sheriff's department. After ~~20~~10 days from such posting, the
9 impounder shall sell the livestock at public auction. The proceeds of any such public sale shall
10 be applied to pay the reasonable costs of impounding and maintaining the livestock and the
11 damages to the impounder caused by the livestock. Reasonable costs of impounding shall
12 include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the
13 livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the
14 owner is not known, then to the school fund of the county where the livestock was impounded."

15 **SECTION 18.(b)** This section is effective when this act becomes law and applies
16 to livestock impounded on or after that date.

17

18 **MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS**

19 **SECTION 19.(a)** G.S. 106-815 is repealed.

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

21 "(c) Report. – In ~~February~~March of each year, the Department must report to the Joint
22 Legislative Commission on Governmental Operations and the Fiscal Research Division. The
23 report must contain information regarding all revenues and expenditures of the Spay/Neuter
24 Account."
25

26 **PRESCRIBED BURNING ACT MODIFICATIONS**

27 **SECTION 20.** G.S. 106-968 reads as rewritten:

28 "**§ 106-968. Prescribed burning.**

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

- 35 (1) The landowner's name and address.
- 36 (2) A description of the area to be burned.
- 37 (3) A map of the area to be burned.
- 38 (4) An estimate ~~in~~of tons of the fuel located on the area.
- 39 (5) The objectives of the prescribed burning.
- 40 (6) A list of the acceptable weather conditions and parameters for the prescribed
41 burning sufficient to minimize the likelihood of smoke damage and fire
42 escaping onto adjacent areas.
- 43 (7) The name of the certified prescribed burner responsible for conducting the
44 prescribed burning.
- 45 (8) A summary of the methods that are adequate for the particular circumstances
46 involved to be used to start, control, and extinguish the prescribed burning.
- 47 (9) Provision for reasonable notice of the prescribed burning to be provided to
48 nearby homes and businesses to avoid effects on health and property.

49 (b) The prescribed burning shall be conducted by a certified prescribed burner in
50 accordance with a prescription that satisfies subsection (a) of this section. The certified
51 prescribed burner shall be present on the site and shall be in charge of the burning throughout

1 the period of the burning. A landowner may conduct a prescribed burning and be in compliance
2 with this Article without being a certified prescribed burner if the landowner is burning a tract
3 of forestland of 50 acres or less owned by that landowner and is following all conditions
4 established in a prescription prepared by a certified prescribed burner.

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

- 10 (1) The terms and conditions of the open-burning permit under Article 78 of this
11 Chapter.
- 12 (2) The State's air pollution control statutes under Article 21 and Article 21B of
13 Chapter 143 of the General Statutes and any rules adopted pursuant to these
14 statutes.
- 15 (3) Any applicable local ordinances relating to open burning.
- 16 (4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina
17 Forest Service of the Department of Agriculture and Consumer Services.
- 18 (5) Any rules adopted by the North Carolina Forest Service of the Department
19 of Agriculture and Consumer Services, to implement this Article.

20 (d) The North Carolina Forest Service may accept prescribed burner certification from
21 another State or other entity for the purpose of prescribed burning under this Article."
22

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

24 **SECTION 21.** G.S. 14-140.1 reads as rewritten:

25 **"§ 14-140.1. Certain fire to be guarded by watchman.**

26 Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other
27 material whereby any property may be endangered or destroyed, without keeping and
28 maintaining a careful watchman in charge of the burning, shall be guilty of a ~~Class 3~~
29 ~~misdemeanor~~ an infraction which may include a fine of not ~~less than ten dollars (\$10.00)~~ ~~or~~
30 more than fifty dollars (\$50.00). Fire escaping from the brush, grass, or other material while
31 burning shall be prima facie evidence of violation of this provision."
32

33 **ESTABLISH FARM WINERY PERMIT**

34 **SECTION 22.(a)** G.S. 18B-902(d) reads as rewritten:

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

- 37 (1) On-premises malt beverage permit – \$400.00.
- 38 (2) Off-premises malt beverage permit – \$400.00.
- 39 (3) On-premises unfortified wine permit – \$400.00.
- 40 (4) Off-premises unfortified wine permit – \$400.00.
- 41 (5) On-premises fortified wine permit – \$400.00.
- 42 (6) Off-premises fortified wine permit – \$400.00.
- 43 (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant
44 seating less than 50, in which case the fee shall be \$200.00.
- 45 (8) Special occasion permit – \$400.00.
- 46 (9) Limited special occasion permit – \$50.00.
- 47 (10) Mixed beverages permit – \$1,000.
- 48 (11) Culinary permit – \$200.00.
- 49 (12) Unfortified winery permit – \$300.00.
- 50 (13) Fortified winery permit – \$300.00.
- 51 (14) Limited winery permit – \$300.00.

- 1 (15) Brewery permit – \$300.00.
- 2 (16) Distillery permit – \$300.00.
- 3 (17) Fuel alcohol permit – \$100.00.
- 4 (18) Wine importer permit – \$300.00.
- 5 (19) Wine wholesaler permit – \$300.00.
- 6 (20) Malt beverage importer permit – \$300.00.
- 7 (21) Malt beverage wholesaler permit – \$300.00.
- 8 (22) Bottler permit – \$300.00.
- 9 (23) Salesman permit – \$100.00.
- 10 (24) Vendor representative permit – \$50.00.
- 11 (25) Nonresident malt beverage vendor permit – \$100.00.
- 12 (26) Nonresident wine vendor permit – \$100.00.
- 13 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- 14 (28) Winery special event permit – \$200.00.
- 15 (29) Mixed beverages catering permit – \$200.00.
- 16 (30) Guest room cabinet permit – \$1,000.
- 17 (31) Liquor importer/bottler permit – \$500.00.
- 18 (32) Cider and vinegar manufacturer permit – \$200.00.
- 19 (33) Brew on premises permit – \$400.00.
- 20 (34) Wine producer permit – \$300.00.
- 21 (35) Wine tasting permit – \$100.00.
- 22 (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and
- 23 applicable to wine shipper permit applications submitted on or after that
- 24 date.
- 25 (37) Wine shop permit – \$100.00.
- 26 (38) Winemaking on premises permit – \$400.00.
- 27 (39) Wine shipper packager permit – \$100.00.
- 28 (40) Malt beverage special event permit – \$200.00.
- 29 (41) Malt beverage tasting permit – \$100.00.
- 30 (42) Spirituous liquor tasting permit – \$100.00.
- 31 (43) Farm winery permit. – \$150.00.
- 32 (44) Farm winery on-premises unfortified wine permit. – \$100.00."

33 **SECTION 22.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:

34 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

35 When the issuance of the permit is lawful in the jurisdiction in which the premises are
36 located, the Commission may issue the following kinds of permits:

37 ...

- 38 (20) Farm winery on-premises unfortified wine permit. – A farm winery
39 unfortified wine permit authorizes the retail sale of unfortified wine for
40 consumption on the premises, either alone or mixed with other beverages,
41 and the retail sale of unfortified wine in the manufacturer's original container
42 for consumption off the premises. The permit also authorizes the permittee
43 to transfer unfortified wine, not more than four times per calendar year, to
44 another farm winery on-premises unfortified wine permittee that is under
45 common ownership or control as the transferor. Except as authorized by this
46 subdivision, transfers of wine by on-premises unfortified wine permittees,
47 purchases of wine by a retail permittee from another retail permittee for the
48 purpose of resale, and sale of wine by a retail permittee to another retail
49 permittee for the purpose of resale are unlawful. In addition, a particular
50 brand of wine may be transferred only if both the transferor and transferee
51 are located within the territory designated between the winery and the

1 wholesaler on file with the Commission. Prior to or contemporaneous with
2 any such transfer, the transferor shall notify each wholesaler who distributes
3 the transferred product of the transfer. The notice shall be in writing or
4 verifiable electronic format and shall identify the transferor and transferee,
5 the date of the transfer, quantity, and items transferred. The holder of the
6 permit is authorized to ship unfortified wine in closed containers to
7 individual purchasers inside and outside the State. Orders received by a
8 winery by telephone, Internet, mail, facsimile, or other off-premises means
9 of communication shall be shipped pursuant to a wine shipper permit and not
10 pursuant to this subdivision. The permit may be issued only for wineries
11 holding a farm winery permit pursuant to G.S. 18B-1103A."

12 **SECTION 22.(c)** G.S. 18B-1100 is amended by adding a new subdivision to read:

13 **"§ 18B-1100. Commercial permits.**

14 ...

15 (21) Farm winery."

16 **SECTION 22.(d)** Article 11 of Chapter 18B of the General Statutes is amended by
17 adding a new section to read:

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

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

22 (b) Exceptions to Special Qualifications. – In the event that the Commissioner of
23 Agriculture determines that a natural disaster, act of God, or continued adverse weather
24 condition has destroyed no less than forty percent (40%) of a certain grape varietal grown or
25 produced in this State and used for winemaking, the Commissioner, in consultation with the
26 Chairman of the Alcoholic Beverage Control Commission, may give authorization to a duly
27 licensed farm winery to manufacture or sell wine produced from grapes grown outside the
28 State. No such authorization shall be granted to a farm winery permittee unless such permittee
29 certifies to the Commissioner the quantity of North Carolina grown grapes unavailable to the
30 licensee due to the natural disaster, act of God, or continuing adverse weather condition and
31 satisfies the Commissioner that reasonable efforts were made to obtain grapes from a North
32 Carolina source for the purpose of making wine. No farm winery shall exceed the amount of
33 out-of-state grown grapes or juice authorized by the Commissioner.

34 (c) Authorized Acts. – The holder of a farm winery permit may:

35 (1) Manufacture unfortified wine.

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

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

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

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

- 1 (6) Sell the wine manufactured by the winery for on- or off-premise
2 consumption at no more than six other locations in the State, upon obtaining
3 the appropriate permit under G.S. 18B-1001.
- 4 (7) Receive, in closed containers, and sell at the winery, unfortified wine
5 produced inside North Carolina under contract with the winery. Such
6 contract wine must have the winery's name clearly displayed on each bottle.
7 The contract wine may be sold also at affiliated retail outlets of the winery
8 physically located on or adjacent to the winery. Any wine received by a
9 winery under this provision must be made available for sale by the winery to
10 wholesalers for distribution to retailers, without discrimination, in the same
11 manner as if the wine were being imported by the winery.
- 12 (8) Allow winemaking on premises as allowed by a permit issued pursuant to
13 G.S. 18B-1001(17).
- 14 (9) Give visitors free tasting samples of the wine manufactured at the farm
15 winery. The Commission may issue rules regulating these tastings.
- 16 (10) Affix to the bottle a label certifying that the wine originates from a permitted
17 farm winery. The North Carolina Department of Agriculture and Consumer
18 Services may issue rules regulating the certification label. Nothing in this
19 subdivision shall be construed as altering or superseding any other State or
20 federal wine labeling laws."

21 **SECTION 22.(e)** G.S. 18B-1112 reads as rewritten:

22 **"§ 18B-1112. Authorization of vendor representative permit.**

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

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

32 **SECTION 22.(f)** G.S. 18B-1114.1 reads as rewritten:

33 **"§ 18B-1114.1. Authorization of winery special event permit.**

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

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

43 **SECTION 22.(g)** G.S. 18B-1201 reads as rewritten:

44 **"§ 18B-1201. Definitions.**

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

- 46 (1) "Agreement" means a commercial relationship between a wine wholesaler
47 and a winery. The agreement may be of a definite or indefinite duration and
48 is not required to be in writing. Any of the following constitutes prima facie
49 evidence of an "agreement" within the meaning of this definition:
- 50 a. A relationship whereby the wine wholesaler is granted the right to
51 offer and sell a brand offered by a winery;

- 1 b. A relationship whereby the wine wholesaler, as an independent
2 business, constitutes a component of a winery's distribution system;
3 c. A relationship whereby the wine wholesaler's business is
4 substantially associated with a brand offered by a winery;
5 d. A relationship whereby the wine wholesaler's business is
6 substantially reliant on a winery for the continued supply of wine;
7 e. The shipment, preparation for shipment, or acceptance of any order
8 by any winery or its agent for any wine or beverages to a wine
9 wholesaler within this State;
10 f. The payment by a wine wholesaler and the acceptance of payment by
11 any winery or its agent for the shipment of any order of wine or
12 beverages intended for sale within this State.

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

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

18 (4) "Winery" means any holder of an unfortified winery permit, fortified winery
19 permit, limited winery permit, farm winery permit, or nonresident wine
20 vendor permit issued under the authority of this Chapter who sells at least
21 1,250 cases of wine in North Carolina per year."

22 **SECTION 22.(h)** The North Carolina Department of Agriculture and Consumer
23 Services shall study ways to promote farm wineries within the State, including the development
24 of a "passport" program where customers visiting a given number of farm wineries may receive
25 a form of special recognition, such as a special sticker for their car. The Department shall
26 report its findings and recommendations, including any legislative proposals, to the Agriculture
27 and Forestry Awareness Study Commission no later than February 1, 2016.

28 **SECTION 22.(i)** Section 22(h) of this act is effective when this act becomes law.
29 The remainder of this section becomes effective July 1, 2016, and applies to permits issued on
30 or after that date.

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

35 **SECTION 23.** G.S. 106-24.1 reads as rewritten:

36 **"§ 106-24.1. Confidentiality of information collected and published.**

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

50
51 **TECHNICAL CORRECTIONS**

1 **SECTION 24.(a)** G.S. 14-137 reads as rewritten:

2 "**§ 14-137. Willfully or negligently setting fire to woods and fields.**

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

11 **SECTION 24.(b)** G.S. 143-166.13 reads as rewritten:

12 "**§ 143-166.13. Persons entitled to benefits under Article.**

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

- 15 (1) State Government Security Officers, Department of Administration;
- 16 (2) State Correctional Officers, Division of Adult Correction of the Department
17 of Public Safety;
- 18 (3) State Probation and Parole Officers, Division of Adult Correction of the
19 Department of Public Safety;
- 20 (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of
21 Adult Correction of the Department of Public Safety;
- 22 (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the
23 Department of Justice;
- 24 (6) State Highway Patrol Officers, Department of Public Safety;
- 25 (7) General Assembly Special Police, General Assembly;
- 26 (8) Sworn State Law-Enforcement Officers with the power of arrest,
27 Department of Health and Human Services;
- 28 (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of
29 Public Safety;
- 30 (10) Insurance Investigators, Department of Insurance;
- 31 (11) State Bureau of Investigation Officers and Alcohol Law Enforcement
32 Agents, Department of Public Safety;
- 33 (12) Director and Assistant Director, License and Theft Enforcement Section,
34 Division of Motor Vehicles, Department of Transportation;
- 35 (13) Members of License and Theft Enforcement Section, Division of Motor
36 Vehicles, Department of Transportation, designated by the Commissioner of
37 Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- 38 (14) Utilities Commission Transportation Inspectors and Special Investigators;
- 39 (15) North Carolina Ports Authority Police, Department of Transportation;
- 40 (16) Sworn State Law-Enforcement Officers with the power of arrest,
41 Department of Environment and Natural Resources;
- 42 (17) Sworn State Law-Enforcement Officers with the power of arrest,
43 Department of Public Safety.
- 44 (18) Sworn State Law-Enforcement Officers with the power of arrest,
45 Department of Revenue.
- 46 (19) Sworn State Law-Enforcement Officers with the power of arrest, University
47 System.
- 48 (20) Sworn State Law-Enforcement Officers with the power of arrest,
49 Department of Agriculture and Consumer Services.

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

- 1 (1) Driver License Examiners injured by accident arising out of and in the
- 2 course of giving a road test, Division of Motor Vehicles, Department of
- 3 Transportation;
- 4 (2) Employees of the Division of Adult Correction of the Department of Public
- 5 Safety injured by a direct and deliberate act of an offender supervised by the
- 6 Division or while performing supervisory duties over offenders which place
- 7 the employees at risk of such injury.
- 8 (c) As used in this Article, the term "eligible person" or "person" shall mean any
- 9 individual listed under subsection (a) or (b) of this section."

10
11 **EFFECTIVE DATE AND SEVERABILITY CLAUSE**

12 **SECTION 25.(a)** If any provision of this act or its application is held invalid, the

13 invalidity does not affect other provisions or applications of this act that can be given effect

14 without the invalid provisions or application, and to this end the provisions of this act are

15 severable.

16 **SECTION 25.(b)** Except as otherwise provided, this act is effective when it

17 becomes law.