

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 513  
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/15  
Finance Committee Substitute Adopted 5/14/15  
Fourth Edition Engrossed 5/19/15

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."



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

3  
4 **ESTABLISH POLICY SUPPORTING SUSTAINABLE AGRICULTURE**

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

7 **"§ 106-26.3. Declaration of policy supporting sustainable agriculture.**

8           The General Assembly hereby finds and declares that it shall be the policy of this State to  
9 support and promote sustainable agriculture. For purposes of this section, "sustainable  
10 agriculture" means the use of science-based agricultural practices, technologies, or biological  
11 systems supported by research or otherwise demonstrated to lead to broad outcomes-based  
12 improvements, including such critical outcomes as increasing agricultural productivity and  
13 improving human health through access to safe, nutritious, affordable food and other  
14 agricultural products, while enhancing agricultural and surrounding environmental conditions  
15 through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat. Further,  
16 the General Assembly finds and declares that it is in the interest of the people of this State to  
17 use sustainable agriculture to meet the needs of the present and to improve the ability of future  
18 generations to meet their own needs, while advancing progress toward environmental, social,  
19 and economic goals and the well-being of agricultural producers and rural communities."  
20

21 **MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS**

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

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

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

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

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

3  
4 **ALLOW OVERSIZE TRANSPORTATION OF HAY BALES**

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

6 **"§ 20-116. Size of vehicles and loads.**

7           ...  
8           (o) Any vehicle carrying baled hay from place to place on the same farm, from one  
9 farm to another, from farm to market, or from market to farm that does not exceed 12 feet in  
10 width may be operated on the highways of this State. Vehicles carrying baled hay that exceed  
11 10 feet in width may only be operated under the following conditions:

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

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

17  
18 **AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL**  
19 **VEHICLES**

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

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

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

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

34           (3) Equipment covered by this section, which by necessity must travel more  
35 than 10 miles or where by nature of the terrain or obstacles the flags or lights  
36 referred to in subdivision (2) of this subsection are not visible from both  
37 directions for 300 feet at any point along the proposed route, must be  
38 preceded at a distance of 300 feet and followed at a distance of 300 feet by a  
39 flagman in a vehicle having mounted thereon an appropriate warning light or  
40 flag. No flagman in a vehicle shall be required pursuant to this subdivision if  
41 the equipment is being moved under its own power or on a trailer from any  
42 field to another field, or from the normal place of storage of the vehicle to  
43 any field, for no more than ten miles and if visible from both directions for  
44 300 feet at any point along the proposed route.

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

50           ...."

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

1 **"§ 20-146. Drive on right side of highway; exceptions.**

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

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

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

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

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

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

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

20 ...."

21  
22 **AMEND DEFINITION OF "AGRICULTURAL SPREADER VEHICLE," INCREASE**  
23 **SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES**

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 3545 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 **ALLOW ALL-TERRAIN VEHICLES AND UTILITY VEHICLES USED FOR**  
50 **AGRICULTURAL PURPOSES TO OPERATE ON PUBLIC ROADS**

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

1 **"§ 20-171.22. Exceptions.**

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

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

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

9 (c) The provisions of G.S. 20-171.19(a1) do not apply to any person 16 years of age or  
10 older if the person is otherwise lawfully using the all-terrain vehicle on any ocean beach area  
11 where such vehicles are allowed by law. As used in this subsection, "ocean beach area" means  
12 the area adjacent to the ocean and ocean inlets that is subject to public trust rights. Natural  
13 indicators of the landward extent of the ocean beaches include, but are not limited to, the first  
14 line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line."  
15

16 **CLARIFY THE ROAD WEIGHT LIMITATION EXCEPTIONS FOR**  
17 **TRANSPORTATION OF AGRICULTURAL PRODUCTS AND SUPPLIES**

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

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

21 a. Is transporting any of the following items within 150 miles of the  
22 point of origination:

- 23 1. ~~Agriculture~~ Agriculture, dairy, and crop products transported  
24 from a farm to a processing plant or market.
- 25 2. Water, fertilizer, pesticides, seeds, fuel, or animal waste  
26 transported to or from a ~~farm by a farm vehicle as defined in~~  
27 ~~G.S. 20-37.16(e)(3)-farm.~~
- 28 3. Meats, livestock, or live poultry transported from the farm  
29 where they were raised to a processing plant or market.
- 30 3a. Feed or feed ingredients that ~~is~~are used in the feeding of  
31 poultry or livestock and transported from a storage facility,  
32 holding facility, or mill to a farm.
- 33 4. Forest products originating and transported from a farm or  
34 woodlands to market with delay interruption or delay for  
35 further packaging or processing after initiating transport.
- 36 5. Wood residuals, including wood chips, sawdust, mulch, or  
37 tree bark from any site.
- 38 6. Raw logs to market.
- 39 7. Trees grown as Christmas trees from field, farm, stand, or  
40 grove to a processing point."

41 **SECTION 9.(b)** This section becomes effective July 1, 2015.

42  
43 **ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR**  
44 **METEOROLOGICAL TOWERS**

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

47 "Article 11.

48 "Marking and Notice of Meteorological Towers.

49 **"§ 63-110. Marking of meteorological towers.**

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

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

8           (b)    Except as required by federal law, rule, or regulation, any meteorological tower over  
9           50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air  
10          during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall  
11          also comply with the following additional requirements:

- 12          (1)    A meteorological tower shall be painted in equal alternating bands of  
13          aviation orange and white, beginning with orange at the top of the tower.
- 14          (2)    One marker ball shall be attached to the top third of each outside guy wire.
- 15          (3)    Guy wires shall have a seven-foot-long safety sleeve at each anchor point  
16          that extends from the anchor point along each guy wire attached to the  
17          anchor point.

18    **"§ 63-111. Registration; notification; tower database; penalty.**

19          (a)    The Department of Transportation shall adopt rules requiring any person proposing  
20          to construct a meteorological tower to register with the Department. The person proposing to  
21          construct the tower shall notify the Department of the proposal, the location and height of the  
22          proposed tower, and any other information the Department may require to ensure aviation  
23          safety and shall pay a registration fee of three hundred fifty dollars (\$350.00). The rules shall  
24          require the owner of a meteorological tower to notify the Department upon removal or  
25          destruction of a tower.

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

31    **"§ 63-112. Penalties.**

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

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

36

37    **ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING**  
38    **SUBMERGED AQUATIC VEGETATION**

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

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

47          **SECTION 11.(b)** This section becomes effective July 1, 2015, and applies to any  
48          new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or  
49          after that date.

50

51    **PRESENT-USE VALUE MODIFICATIONS**

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

2   "**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

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

4           (1)   Agricultural land. – Land that is a part of a farm unit that is actively engaged  
5               in the commercial production or growing of crops, plants, or animals under a  
6               sound management program. For purposes of this definition, the commercial  
7               production or growing of animals includes the rearing, feeding, training,  
8               caring, and managing of horses. Agricultural land includes woodland and  
9               wasteland that is a part of the farm unit, but the woodland and wasteland  
10              included in the unit must be appraised under the use-value schedules as  
11              woodland or wasteland. A farm unit may consist of more than one tract of  
12              agricultural land, but at least one of the tracts must meet the requirements in  
13              G.S. 105-277.3(a)(1), and each tract must be under a sound management  
14              program. If the agricultural land includes less than 20 acres of woodland,  
15              then the woodland portion is not required to be under a sound management  
16              program. Also, woodland is not required to be under a sound management  
17              program if it is determined that the highest and best use of the woodland is  
18              to diminish wind erosion of adjacent agricultural land, protect water quality  
19              of adjacent agricultural land, or serve as buffers for adjacent livestock or  
20              poultry operations.

21           ...

22           (4)   Individually owned. – Owned by one of the following:

23           a.     An individual.

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

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

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





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

8 (b) Notwithstanding any authority given to a public body of this State, including the  
9 State, any of its agencies, any city, county, district or other political subdivision, or municipal  
10 or public corporation, or any instrumentality of any of the foregoing, to release or terminate  
11 conservation easements under other law, this section shall apply to conservation agreements  
12 that are intended to be effective perpetually or that are terminated or substantially modified  
13 prior to the period of time stipulated in the agreement, and where at least one party to the  
14 agreement is a public body of this State, including the State, any of its agencies, any city,  
15 county, district or other political subdivision, or municipal or public corporation, or any  
16 instrumentality of any of the foregoing. This section shall not apply to a condemnation action  
17 initiated by a public condemnor governed by Article 6 of Chapter 40A of the General Statutes.

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

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

25 **SECTION 13.(b)** G.S. 106-737.1 reads as rewritten:

26 **"§ 106-737.1. Revocation of conservation agreement.**

27 (a) ~~By~~For conservation agreements between private parties, by written notice to the  
28 county, the landowner may revoke this conservation agreement. Such revocation shall result in  
29 loss of qualifying farm status.

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

34 **SECTION 13.(c)** G.S. 106-743.2 reads as rewritten:

35 **"§ 106-743.2. Conservation agreements for farmland in enhanced voluntary agricultural**  
36 **districts; limitation.**

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

46 **SECTION 13.(d)** G.S. 106-744 reads as rewritten:

47 **"§ 106-744. Purchase of agricultural conservation easements; establishment of North**  
48 **Carolina Agricultural Development and Farmland Preservation Trust Fund**  
49 **and Advisory Committee.**

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

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

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

6 (1a) May permit agricultural uses as necessary to promote agricultural  
 7 development associated with the family farm; and

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

13 ...."

14 **SECTION 13.(e)** G.S. 121-39A(c) becomes effective July 1, 2015, and applies to  
 15 conservation agreements executed on or after that date. The remainder of this section becomes  
 16 effective July 1, 2015, and applies to agreements in effect on that date and executed on or after  
 17 that date.

18  
 19 **TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF**  
 20 **AGRICULTURE AND CONSUMER SERVICES**

21 **SECTION 14.(a)** Article 49H of Chapter 106 of the General Statutes reads as  
 22 rewritten:

23 "Article 49H.

24 "~~Production and Sale~~Production, Sale, and Transportation of Fallow Deer and Red  
 25 Deer-Farmed Cervids.

26 "**§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of**  
 27 **certain farmed cervids produced and sold for commercial purposes; certain**  
 28 **authority of North Carolina Wildlife Resources Commission not affected;**  
 29 **definitions.**

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

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

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

38 (2) Department. – The North Carolina Department of Agriculture and Consumer  
 39 Services.

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

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

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

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

5           (a2)   The Department of Agriculture and Consumer Services shall regulate the  
6           production, sale, possession, and transportation, including importation and exportation, of  
7           farmed cervids. The Department shall have sole authority with regard to farmed cervids,  
8           including administration of the North Carolina Captive Cervid Herd Certification Program. The  
9           Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part,  
10          including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive  
11          populations of farmed cervids. The Department shall follow the USDA Standards and the  
12          provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this  
13          Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may  
14          adopt rules to implement this Article, including, but not limited to, requirements for captivity  
15          licenses, captivity permits, transportation permits, importation permits, and exportation permits.  
16          The Department may issue new captivity licenses or permits for farmed cervid facilities that  
17          will hold cervids susceptible to Chronic Wasting Disease only if Chronic Wasting  
18          Disease-susceptible source animals are from a certified herd in accordance with USDA  
19          Standards from an existing licensed facility. Nothing in this section shall limit the Department's  
20          ability to issue new captivity licenses and permits for farmed cervid facilities that will hold  
21          cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an  
22          importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or  
23          suspect farmed cervid facility. Until such time as the USDA has adopted an approved method  
24          of testing for Chronic Wasting Disease in living cervids, cervids susceptible to Chronic  
25          Wasting Disease shall not be imported into North Carolina.

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

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

31          (a5)    The Department and the Commission may develop a Memorandum of Agreement  
32          authorizing joint enforcement activities. The Memorandum of Agreement may allow for  
33          enforcement activities by the Commission on captive cervid facilities in instances of illegal  
34          importation. The Memorandum of Agreement may also provide for additional enforcement  
35          activities by the Commission on captive cervid facilities where appropriate as requested by the  
36          Department.

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

43          (e)    The following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

21       (i) Any person transporting a live farmed cervid on a public road within the State  
22 without the appropriate farmed cervid identification and permit may be subject to a civil  
23 penalty by the Department under this Article. Each cervid that fails to meet the tagging and  
24 transportation requirements of the Department shall constitute a separate violation.

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

31 ~~"§ 106-549.98. Inspection fees.~~

32 ~~The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor,~~  
33 ~~or operator of each slaughtering, meat canning, salting, packing, rendering, or similar~~  
34 ~~establishment for the purpose of defraying the expenses incurred in the inspection of fallow~~  
35 ~~deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may~~  
36 ~~establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each~~  
37 ~~slaughtering, meat canning, salting, packing, rendering, or similar establishment for the~~  
38 ~~purpose of defraying the expenses incurred in the inspection of red deer as required by Article~~  
39 ~~49B of Chapter 106 of the General Statutes."~~

40 **SECTION 14.(b)** G.S. 113-272.6 reads as rewritten:

41 **"§ 113-272.6. Transportation-Possession, Transportation, Importation, and Exportation**  
42 **of non-farmed cervids and licensing of captive cervid facilities.cervids.**

43       (a) The Wildlife Resources Commission shall regulate the possession and  
44 transportation, including importation and exportation, and possession of non-farmed cervids,  
45 including game carcasses and parts of game carcasses extracted by hunters.hunters and  
46 carcasses and parts of carcasses imported from hunt facilities as defined by USDA Standards.  
47 For purposes of this section, the term "non-farmed cervid" has the same meaning as in  
48 G.S. 106-549.97. The Commission shall allow the sale of antlers, antler velvet, or hides from  
49 eaptive populations of cervids. The Commission shall follow the USDA Standards as defined in  
50 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  
51 implementation of this section and shall not adopt any rule or standard that is in conflict with,

1 in lieu of, or more restrictive than the USDA Standards. The Commission shall adopt rules to  
2 implement this section, including requirements for ~~captivity licenses, captivity permits, and~~  
3 ~~transportation permits-transportation, importation, and exportation permits.~~ The rules adopted  
4 pursuant to this section shall establish standards of care for the transportation and possession of  
5 cervids, including requirements for fencing, tagging, record keeping, and inspection of captive  
6 cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee  
7 of up to fifty dollars (\$50.00) for the processing of applications for ~~captivity licenses, captivity~~  
8 ~~permits, and transportation~~transportation, importation, and exportation permits, and the renewal  
9 or modification of those ~~licenses and permits.~~ The fees collected shall be applied to the costs of  
10 administering this section.

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

15 (c) The Department of Agriculture and Consumer Services shall regulate the ~~production~~  
16 ~~and sale~~production, sale, and transportation, including importation and exportation, of farmed  
17 cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to  
18 G.S. 106-549.97. No action taken by the Wildlife Resources Commission shall in any way limit  
19 the authority of the Department of Agriculture and Consumer Services to regulate farmed  
20 cervids.

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

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

## 30 31 **ALLOW ALTERNATE DISPOSAL OF BIODEGRADABLE AGRICULTURAL** 32 **PLASTICS**

33 **SECTION 15.** G.S. 106-950 reads as rewritten:

34 "**§ 106-950. Exempt fires; no permit fees.**

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

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

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

46 (b) No charge shall be made for the granting of any permit required by this Article."  
47

## 48 **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"** 49 **AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM** 50 **PERFORMANCE STANDARDS**

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

1       "**SECTION 21.(a)** ~~15A NCAC 02T .1302 (Definitions).~~(Definitions) and 15A NCAC 02T  
2 .1307 (Swine Waste Management System Performance Standards). – Until the effective date of  
3 the revised permanent ~~rule-rules~~ that the Environmental Management Commission is required  
4 to adopt pursuant to Section 21(c) of this act, the Commission and the Department of  
5 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and  
6 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided  
7 in Section 21(b) of this act.

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

- 17           (1) Apply to any farm facility that receives a permit for its animal waste  
18 management system that allows a level of production at the farm, as  
19 measured by steady state live weight, greater than the largest production for  
20 which the farm has received a permit in the past, and so that they also apply  
21 to any other animal waste management system otherwise subject to  
22 regulation under G.S. 143-215.10I.
- 23           (2) Not apply to any facility that meets all of the following conditions:
- 24           a. Has had no animals on site for five continuous years or more.  
25           b. Notifies the Division of Water Resources in writing at least 60 days  
26 prior to bringing any animals back on to the site.  
27           c. The system depopulated after January 1, 2005, and the system ceased  
28 operation no longer than 10 years prior to the current date.  
29           d. At the time the system ceased operation, the system was in  
30 compliance with an individual permit or a general permit issued  
31 pursuant to G.S. 143-215.10C.  
32           e. The Division of Water Resources issues an individual permit or  
33 certificate of coverage under a general permit issued pursuant to  
34 G.S. 143-215.10C for operation of the system before any animals are  
35 brought on the facility.  
36           f. The permit for the animal waste management system does not allow  
37 production, measured by steady state live weight, to exceed the  
38 greatest steady state live weight previously permitted for the system  
39 under G.S. 143-215.10C.  
40           g. No component of the animal waste management system and swine  
41 farm, other than an existing swine house or land application site,  
42 shall be constructed on land that is located within the 100-year  
43 floodplain.  
44           h. The inactive animal waste management system was not closed using  
45 the expenditure of public funds and was not closed pursuant to a  
46 settlement agreement, court order, cost share agreement, or grant  
47 condition.

48       "**SECTION 21.(c)** Additional Rule-Making Authority. – The Environmental Management  
49 Commission shall adopt ~~a rule~~rules as promptly as practicable to amend 15A NCAC 02T .1302  
50 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance  
51 Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the ~~rule~~

1 rules adopted by the Commission pursuant to this section shall be substantively identical to the  
2 provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to  
3 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
4 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written  
5 objections had been received as provided by G.S. 150B-21.3(b2).

6 "SECTION 21.(d) Sunset. – Section 21(b) of this act expires on the date that rules adopted  
7 pursuant to Section 21(c) of this act become effective."  
8

9 **DIRECT DIVISION OF MARINE FISHERIES AND WILDLIFE RESOURCES**  
10 **COMMISSION TO DEVELOP A PILOT AMERICAN EEL AQUACULTURE PLAN**

11 **SECTION 17.(a)** The Division of Marine Fisheries of the Department of  
12 Environment and Natural Resources and the Wildlife Resources Commission shall jointly  
13 develop a pilot American Eel Aquaculture Plan for the harvest and aquaculture of American  
14 eels (*Anguilla rostrata*). The pilot American Eel Aquaculture Plan shall include all of the  
15 following conditions:

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

33 **SECTION 17.(b)** The Division and the Wildlife Resources Commission shall  
34 make every effort to have the pilot American Eel Aquaculture Plan approved by the Atlantic  
35 States Marine Fisheries Commission to be implemented during 2016. Persons interested in  
36 participating in the pilot American Eel Aquaculture Plan shall submit all information required  
37 by the Division and the Wildlife Resources Commission, in a form acceptable to the Division  
38 and the Wildlife Resources Commission, no later than September 1, 2015.

39 **SECTION 17.(c)** If the pilot American Eel Aquaculture Plan described in Sections  
40 17.(a) and (b) of this act has not been approved by the Atlantic States Marine Fisheries  
41 Commission by January 1, 2016, the Division and the Marine Fisheries Commission shall make  
42 available a permit pursuant to their authority under G.S. 113-169.1 for the harvest and  
43 aquaculture of American eels in the State. Each permit shall allow for the harvest of at least  
44 200 pounds of American eels and shall allow for the harvest of a greater amount if the impact  
45 to other species is minimized and the greater amount is supported by scientific evidence. The  
46 Commission shall adopt rules to implement this section.  
47

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

49 **SECTION 18.** G.S. 74-49(7) reads as rewritten:

50 "§ 74-49. **Definitions.**

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

3 ...

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

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



1 G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter  
2 113A of the General Statutes."  
3

4 **AMEND THE HOLDING AND ADVERTISING PERIOD FOR UNCLAIMED**  
5 **LIVESTOCK**

6 **SECTION 19.(a)** G.S. 68-20 reads as rewritten:

7 "**§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application**  
8 **of proceeds.**

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

29 **SECTION 19.(b)** This section is effective when this act becomes law and applies  
30 to livestock impounded on or after that date.

31  
32 **MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS**

33 **SECTION 20.(a)** G.S. 106-815 is repealed.

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

35 "(c) Report. – In ~~February-March~~ of each year, the Department must report to the Joint  
36 Legislative Commission on Governmental Operations and the Fiscal Research Division. The  
37 report must contain information regarding all revenues and expenditures of the Spay/Neuter  
38 Account."  
39

40 **PRESCRIBED BURNING ACT MODIFICATIONS**

41 **SECTION 21.** G.S. 106-968 reads as rewritten:

42 "**§ 106-968. Prescribed burning.**

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

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

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

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

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

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

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

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

38 **SECTION 22.** G.S. 14-140.1 reads as rewritten:

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

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

## 47 **ESTABLISH FARM WINERY PERMIT**

48 **SECTION 23.(a)** G.S. 18B-902(d) reads as rewritten:

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

- 51 (1) On-premises malt beverage permit – \$400.00.

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

**SECTION 23.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:

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

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

51 ...

1           (20) Farm winery on-premises unfortified wine permit. – A farm winery  
2 unfortified wine permit authorizes the retail sale of unfortified wine for  
3 consumption on the premises, either alone or mixed with other beverages,  
4 and the retail sale of unfortified wine in the manufacturer's original container  
5 for consumption off the premises. The permit also authorizes the permittee  
6 to transfer unfortified wine, not more than four times per calendar year, to  
7 another farm winery on-premises unfortified wine permittee that is under  
8 common ownership or control as the transferor. Except as authorized by this  
9 subdivision, transfers of wine by on-premises unfortified wine permittees,  
10 purchases of wine by a retail permittee from another retail permittee for the  
11 purpose of resale, and sale of wine by a retail permittee to another retail  
12 permittee for the purpose of resale are unlawful. In addition, a particular  
13 brand of wine may be transferred only if both the transferor and transferee  
14 are located within the territory designated between the winery and the  
15 wholesaler on file with the Commission. Prior to or contemporaneous with  
16 any such transfer, the transferor shall notify each wholesaler who distributes  
17 the transferred product of the transfer. The notice shall be in writing or  
18 verifiable electronic format and shall identify the transferor and transferee,  
19 the date of the transfer, quantity, and items transferred. The holder of the  
20 permit is authorized to ship unfortified wine in closed containers to  
21 individual purchasers inside and outside the State. Orders received by a  
22 winery by telephone, Internet, mail, facsimile, or other off-premises means  
23 of communication shall be shipped pursuant to a wine shipper permit and not  
24 pursuant to this subdivision. The permit may be issued only for wineries  
25 holding a farm winery permit pursuant to G.S. 18B-1103A."

26           **SECTION 23.(c)** G.S. 18B-1100 is amended by adding a new subdivision to read:

27 **"§ 18B-1100. Commercial permits.**

28           ...

29           (21) Farm winery."

30           **SECTION 23.(d)** Article 11 of Chapter 18B of the General Statutes is amended by  
31 adding a new section to read:

32 **"§ 18B-1103A. Authorization of farm winery permit.**

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

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

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

49           (1) Manufacture unfortified wine.

50           (2) Sell, deliver, and ship unfortified wine in closed containers to wholesalers  
51 licensed under this Chapter as authorized by the ABC laws, except that wine

- 1                   may be sold to exporters and nonresident wholesalers only when the  
2                   purchase is not for resale in this State.
- 3           (3)       Ship its wine in closed containers to individual purchasers inside and outside  
4                   this State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1,  
5                   and 18B-1001.2 and other applicable provisions of this Chapter.
- 6           (4)       Furnish or sell "short-filled" packages, on which State taxes have been or  
7                   will be paid, to its employees for the use of the employees or their families  
8                   and guests in this State. A sale under this subdivision shall not be considered  
9                   a retail or wholesale sale under the ABC laws.
- 10          (5)       Regardless of the results of any local wine election, sell the wine owned by  
11                   the winery at the winery for on- or off-premise consumption, upon obtaining  
12                   the appropriate permit under G.S. 18B-1001.
- 13          (6)       Sell the wine manufactured by the winery for on- or off-premise  
14                   consumption at no more than three other locations in the State, upon  
15                   obtaining the appropriate permit under G.S. 18B-1001.
- 16          (7)       Receive, in closed containers, and sell at the winery, unfortified wine  
17                   produced inside North Carolina under contract with the winery. Such  
18                   contract wine must have the winery's name clearly displayed on each bottle.  
19                   The contract wine may be sold also at affiliated retail outlets of the winery  
20                   physically located on or adjacent to the winery. Any wine received by a  
21                   winery under this provision must be made available for sale by the winery to  
22                   wholesalers for distribution to retailers, without discrimination, in the same  
23                   manner as if the wine were being imported by the winery.
- 24          (8)       Allow winemaking on premises as allowed by a permit issued pursuant to  
25                   G.S. 18B-1001(17).
- 26          (9)       Give visitors free tasting samples of the wine manufactured at the farm  
27                   winery. The Commission may issue rules regulating these tastings.
- 28          (10)       Affix to the bottle a label certifying that the wine originates from a permitted  
29                   farm winery. The North Carolina Department of Agriculture and Consumer  
30                   Services may issue rules regulating the certification label. Nothing in this  
31                   subdivision shall be construed as altering or superseding any other State or  
32                   federal wine labeling laws."

33                   **SECTION 23.(e)** G.S. 18B-1112 reads as rewritten:

34                   **"§ 18B-1112. Authorization of vendor representative permit.**

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

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

44                   **SECTION 23.(f)** G.S. 18B-1114.1 reads as rewritten:

45                   **"§ 18B-1114.1. Authorization of winery special event permit.**

46                   (a)       Authorization. – The holder of an unfortified winery permit, a limited winery  
47                   permit, a farm winery permit, a viticulture/enology course authorization, or a wine producer  
48                   permit may obtain a winery special permit allowing the winery or wine producer to give free  
49                   tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows,  
50                   conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural

1 festivals, balloon races, local fund-raisers, and other similar events approved by the  
2 Commission.

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

5 **SECTION 23.(g)** G.S. 18B-1201 reads as rewritten:

6 **"§ 18B-1201. Definitions.**

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

8 (1) "Agreement" means a commercial relationship between a wine wholesaler  
9 and a winery. The agreement may be of a definite or indefinite duration and  
10 is not required to be in writing. Any of the following constitutes prima facie  
11 evidence of an "agreement" within the meaning of this definition:

- 12 a. A relationship whereby the wine wholesaler is granted the right to  
13 offer and sell a brand offered by a winery;
- 14 b. A relationship whereby the wine wholesaler, as an independent  
15 business, constitutes a component of a winery's distribution system;
- 16 c. A relationship whereby the wine wholesaler's business is  
17 substantially associated with a brand offered by a winery;
- 18 d. A relationship whereby the wine wholesaler's business is  
19 substantially reliant on a winery for the continued supply of wine;
- 20 e. The shipment, preparation for shipment, or acceptance of any order  
21 by any winery or its agent for any wine or beverages to a wine  
22 wholesaler within this State;
- 23 f. The payment by a wine wholesaler and the acceptance of payment by  
24 any winery or its agent for the shipment of any order of wine or  
25 beverages intended for sale within this State.

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

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

31 (4) "Winery" means any holder of an unfortified winery permit, fortified winery  
32 permit, limited winery permit, farm winery permit, or nonresident wine  
33 vendor permit issued under the authority of this Chapter who sells at least  
34 1,250 cases of wine in North Carolina per year."

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

41 **SECTION 23.(i)** Section 23(h) of this act is effective when this act becomes law.  
42 The remainder of this section becomes effective July 1, 2016, and applies to permits issued on  
43 or after that date.

44  
45 **LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE**  
46 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE**  
47 **ABOUT ITS ANIMAL HEALTH PROGRAMS**

48 **SECTION 24.** G.S. 106-24.1 reads as rewritten:

49 **"§ 106-24.1. Confidentiality of information collected and published.**

50 All information published by the Department of Agriculture and Consumer Services  
51 pursuant to this Part shall be classified so as to prevent the identification of information

1 received from individual farm operators. All information generated by any federal agency  
2 received pursuant to this Part ~~from individual farm operators~~ that is confidential under federal  
3 law shall be held confidential by the Department and its employees. All information collected  
4 by the Department from ~~individual farm operators~~ farm owners or animal owners, for the  
5 purposes of its animal health programs, including, but not limited to, certificates of veterinary  
6 inspection, animal medical records, laboratory ~~reports~~, reports received or generated from  
7 samples submitted for analysis, or other records that may be used to identify a person or private  
8 business entity subject to regulation by the Department shall not be disclosed without the  
9 permission of the owner unless the State Veterinarian determines that disclosure is necessary to  
10 prevent the spread of an animal disease or to protect the public health, or the disclosure is  
11 necessary in the implementation of these animal health programs."  
12

### 13 TECHNICAL CORRECTIONS

14 **SECTION 25.(a)** G.S. 14-137 reads as rewritten:

15 **"§ 14-137. Willfully or negligently setting fire to woods and fields.**

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

24 **SECTION 25.(b)** G.S. 143-166.13 reads as rewritten:

25 **"§ 143-166.13. Persons entitled to benefits under Article.**

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

- 28 (1) State Government Security Officers, Department of Administration;
- 29 (2) State Correctional Officers, Division of Adult Correction of the Department  
30 of Public Safety;
- 31 (3) State Probation and Parole Officers, Division of Adult Correction of the  
32 Department of Public Safety;
- 33 (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of  
34 Adult Correction of the Department of Public Safety;
- 35 (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the  
36 Department of Justice;
- 37 (6) State Highway Patrol Officers, Department of Public Safety;
- 38 (7) General Assembly Special Police, General Assembly;
- 39 (8) Sworn State Law-Enforcement Officers with the power of arrest,  
40 Department of Health and Human Services;
- 41 (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of  
42 Public Safety;
- 43 (10) Insurance Investigators, Department of Insurance;
- 44 (11) State Bureau of Investigation Officers and Alcohol Law Enforcement  
45 Agents, Department of Public Safety;
- 46 (12) Director and Assistant Director, License and Theft Enforcement Section,  
47 Division of Motor Vehicles, Department of Transportation;
- 48 (13) Members of License and Theft Enforcement Section, Division of Motor  
49 Vehicles, Department of Transportation, designated by the Commissioner of  
50 Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- 51 (14) Utilities Commission Transportation Inspectors and Special Investigators;

- 1 (15) North Carolina Ports Authority Police, Department of Transportation;
- 2 (16) Sworn State Law-Enforcement Officers with the power of arrest,
- 3 Department of Environment and Natural Resources;
- 4 (17) Sworn State Law-Enforcement Officers with the power of arrest,
- 5 Department of Public Safety.
- 6 (18) Sworn State Law-Enforcement Officers with the power of arrest,
- 7 Department of Revenue.
- 8 (19) Sworn State Law-Enforcement Officers with the power of arrest, University
- 9 System.
- 10 (20) Sworn State Law-Enforcement Officers with the power of arrest,
- 11 Department of Agriculture and Consumer Services.

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

- 14 (1) Driver License Examiners injured by accident arising out of and in the
- 15 course of giving a road test, Division of Motor Vehicles, Department of
- 16 Transportation;
- 17 (2) Employees of the Division of Adult Correction of the Department of Public
- 18 Safety injured by a direct and deliberate act of an offender supervised by the
- 19 Division or while performing supervisory duties over offenders which place
- 20 the employees at risk of such injury.

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

23

24 **EFFECTIVE DATE AND SEVERABILITY CLAUSE**

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

29 **SECTION 26.(b)** Except as otherwise provided, this act is effective when it  
30 becomes law.