

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 582
Agriculture, Energy, and Environment Committee Substitute Adopted 4/19/23
Judiciary Committee Substitute Adopted 4/25/23
Fourth Edition Engrossed 4/27/23
House Committee Substitute Favorable 5/31/23

Short Title: North Carolina Farm Act of 2023.

(Public)

Sponsors:

Referred to:

April 5, 2023

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

4 The General Assembly of North Carolina enacts:

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

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

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

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

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

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



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

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

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

29 "...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ...

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

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

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

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

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

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

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

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

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

21 ...

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

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

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

10 EXEMPT COMPOST FROM SALES TAX FOR QUALIFYING FARMERS

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

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

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

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

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

35"

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

38 AMEND THE DEFINITION OF AGRICULTURE

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

40 "§ 106-581.1. Agriculture defined.

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

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

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

4"

6 AGRITOURISM ADVERTISING

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

8 "§ 136-32. Regulation of signs.

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

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

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

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

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

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

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

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

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

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

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

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

23 AMEND REQUIREMENTS ON AGRITOURISM WARNING SIGNS

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

25 "§ 99E-3. Warning required.

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

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

40 "WARNING

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

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

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

48 "§ 99E-8. Warning required.

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

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

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

13 "WARNING

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

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

21 "WARNING

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

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

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

29 **"§ 99E-32. Warning required.**

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

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

41 "WARNING

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

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

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

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

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

6 "**§ 20-4.01. Definitions.**

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

9 ...

10 (31) Property-Hauling Vehicles. –

11 ...

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

15"

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

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

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

20 ...

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

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

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

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

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

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

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

"§ 19A-37. Application of Article.

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

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

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

- (1) ~~"Animal health center" or "animal medical center" means a~~ Animal health center or animal medical center. – A veterinary practice facility in which consultative, clinical, and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs.
- (1a) Boarding kennel. – A facility operating under a veterinary facility permit and which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food, and water, offer grooming or other services for dogs and/or cats.
- (2) ~~"Emergency facility" means a~~ Emergency facility. – A veterinary medical facility whose primary function is the receiving, treatment, and monitoring of emergency patients during its specified hours of operation. At this veterinary practice facility a veterinarian is in attendance at all hours of operation and sufficient staff is available to provide timely and appropriate emergency care. An emergency facility may be an independent veterinary medical after-hours facility, an independent veterinary medical 24-hour facility, or part of a full-service hospital or large teaching institution.
- (3) ~~"Mobile facility" means a~~ Mobile facility. – A veterinary practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls; provided, the veterinary medical practice shall have a permanent base of operation with a published address and telephone facilities for making appointments or responding to emergency situations.
- (4) ~~"Office" means a~~ Office. – A veterinary practice facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients.
- (5) ~~"On-call emergency service" means a~~ On-call emergency service. – A veterinary medical service at a facility, including a mobile facility, where veterinarians and staff are not on the premises during all hours of operation or where veterinarians leave after a patient is treated. A veterinarian shall be available to be reached by telephone for after-hours emergencies.
- (6) ~~"Veterinary clinic" or "animal clinic" means a~~ Veterinary clinic or animal clinic. – A veterinary practice facility in which the practice conducted is essentially an out-patient practice.
- (7) ~~"Veterinary hospital" or "animal hospital" means a~~ Veterinary hospital or animal hospital. – A veterinary practice facility in which the practice conducted includes the confinement as well as the treatment of patients."

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

1 **"§ 90-186. Special powers of the Board.**

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

3 ...

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

15 ...

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

21 ...

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

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

27"

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

29 **"§ 90-187.10. Necessity for license; certain practices exempted.**

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

37 Nothing in this Article shall be construed to prohibit:

38 ...

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

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

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

49
 50 **CREATE CLASS 3 MISDEMEANOR FOR LEAVING THE SCENE OF AN ANIMAL**
 51 **WASTE SPILL**

1 **SECTION 4.1.(a)** Article 52 of Chapter 14 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 14-399.3. Duty to stop in event of certain spills from vehicles.**

4 The driver of any vehicle who knows or reasonably should know that (i) animal waste, as
5 defined in G.S. 143-215.10B, except for livestock or poultry excreta generated by live animals
6 being transported on the vehicle, (ii) dead animals or animal parts except for feathers from live
7 birds being transported on the vehicle, or (iii) animal by-products have been blown, scattered,
8 spilled, thrown, or placed from the vehicle shall immediately stop his or her vehicle at the scene
9 of the incident. The driver shall remain with the vehicle at the scene of the incident until a law
10 enforcement officer completes the investigation of the incident or authorizes the driver to leave
11 and the vehicle to be removed, unless remaining at the scene places the driver or others at
12 significant risk of injury.

13 Prior to the completion of the investigation of the incident by a law enforcement officer, or
14 the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of
15 the vehicle from the scene for any purpose other than to call for a law enforcement officer; to call
16 for assistance in removing the materials that were blown, scattered, thrown, spilled, or placed
17 from the vehicle; or to remove oneself or others from significant risk of injury. If the driver does
18 leave for a reason permitted by this section, then the driver must return with the vehicle to the
19 scene of the incident within a reasonable period of time, unless otherwise instructed by a law
20 enforcement officer. A willful violation of this section shall be punished as a Class 3
21 misdemeanor, and the court may order restitution for the cost of removing the materials that were
22 blown, scattered, thrown, spilled, or placed from the vehicle."

23 **SECTION 4.1.(b)** This section becomes effective December 1, 2023, and applies to
24 offenses committed on or after that date.

25
26 **ENCOURAGE PUBLIC SCHOOLS TO MAKE ONE HUNDRED PERCENT**
27 **MUSCADINE GRAPE JUICE AVAILABLE TO STUDENTS**

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

29 "(49) Goal to Make Available Muscadine Grape Juice in Certain Schools. – The
30 State Board of Education shall strive to ensure that one hundred percent
31 (100%) muscadine grape juice is made available to students in every school
32 operated under Article 9C of this Chapter as a part of the school's nutrition
33 program or through the operation of the school's vending facilities."

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

36 **"§ 115C-264.5. Muscadine grape juice.**

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

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

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

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

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

"§ 106-549.34. Interference with inspector.

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

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AUTHORITY TO ADOPT RULES FOR DEPARTMENT-OPERATED MARKETS AND SET METROLOGY LABORATORY FEES

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

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

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

...

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

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

CROSS-REFERENCE TECHNICAL CORRECTION

SECTION 5.3. G.S. 136-129(2a) reads as rewritten:

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

PART II. STATE SYMBOLS**ESTABLISH EQUINE STATE TRAIL**

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

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

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

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

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

RENAME THE OFFICIAL STATE FRUIT TO THE MUSCADINE GRAPE

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

- 1 (1) North Carolina is the home of our nation's first cultivated grape, the variety of
2 native Muscadine grape known as Scuppernong.
- 3 (2) French explorers in 1524 first discovered Muscadine grapes while exploring
4 the Cape Fear River Valley, and later British explorers in 1584 and 1585
5 reported to Queen Elizabeth and Sir Walter Raleigh that the barrier islands
6 were full of grapes and the soil of the land was "so abounding with sweet trees
7 that bring rich and most pleasant gummies, grapes of such greatness, yet wild
8 as France, Spain and Italy hath not greater..."
- 9 (3) The thick skins, fruit seed, and sweet pulp and juice that characterize
10 Muscadine grapes make the native fruit a state treasure.
- 11 (4) In recent times, researchers have discovered that Muscadine grapes are rich in
12 antioxidants and phytochemicals, including resveratrol, among many others.

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

14 "(a) The official fruit of the State of North Carolina is the ~~Scuppernong~~ Muscadine grape
15 (Vitis genus)."

16
17 **DESIGNATE THE LONGLEAF PINE AS THE EMBLEM REPRESENTING THE**
18 **TREES OF NORTH CAROLINA**

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

20 "**§ 145-3. State tree.**

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

24
25 **DESIGNATE THE SECOND WEDNESDAY IN NOVEMBER OF EACH YEAR AS**
26 **NORTH CAROLINA FARMERS APPRECIATION DAY**

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

29 "**§ 103-17. North Carolina Farmers Appreciation Day.**

30 (a) The General Assembly makes the following findings:

- 31 (1) The people of North Carolina should never forget that to remain a free nation
32 we must maintain and improve our ability to feed and clothe ourselves.
- 33 (2) The food and fiber we produce to feed and clothe ourselves must necessarily
34 be safe, reliable, and economically affordable.
- 35 (3) From the beginning of our nation, the agriculture sector has served the people
36 of North Carolina well in these and many other areas.
- 37 (4) The people of North Carolina must continue to use our land, water, and air to
38 produce food and fiber in environmentally responsible and sustainable ways.
- 39 (5) Many North Carolina citizens no longer reside near working farms and are
40 therefore unfamiliar with how our food and fiber are produced.
- 41 (6) North Carolina farmers are dedicated to producing the food and fiber to feed
42 and clothe our population.
- 43 (7) The farmers of North Carolina have set the pace and performed exceptionally
44 well in many parts of the agriculture sector.
- 45 (8) Countless people across the United States and in many other nations depend
46 on food and fiber produced here in North Carolina.
- 47 (9) It is important to properly acknowledge and express gratitude for the efforts
48 of North Carolina farmers.

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

1 **SECTION 8.1.(b)** The North Carolina Grange is designated as the lead organization
2 for the recognition of North Carolina Farmers Appreciation Day and shall develop a plan to raise
3 awareness of and promote the first annual North Carolina Farmers Appreciation Day. In
4 developing the plan, the Grange shall consult with the North Carolina Department of Agriculture
5 and Consumer Services; North Carolina Cooperative Extension, including representatives from
6 NC State University Extension and NC A&T State University Extension; the University of Mt.
7 Olive School of Agricultural and Biological Sciences; North Carolina Farm Bureau Federation,
8 Inc.; commodity groups and associations, including the North Carolina Pork Council, the North
9 Carolina Poultry Federation, and the North Carolina Cattlemen's Association; and any other
10 organizations the Grange deems appropriate.

11 **SECTION 8.1.(c)** The North Carolina Grange shall report to the Joint Legislative
12 Oversight Committee on Agriculture and Natural and Economic Resources no later than June 30,
13 2024, regarding its plan to raise awareness of and promote the first annual North Carolina
14 Farmers Appreciation Day.

15 16 **PART III. FORESTRY PROVISIONS**

17 18 **PRESCRIBED BURNING ACT AMENDMENTS**

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

20 **"§ 106-966. Definitions.**

21 As used in this Article:

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

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

34 **"§ 106-967. Immunity from liability.**

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

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

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

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

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

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

51 **"§ 106-968. ~~Prescribed~~ Certified prescribed burning.**

1 (a) Prior to conducting a prescribed burning, a certified prescribed burner shall prepare
2 and provide to the landowner shall obtain a prescription for the prescribed burning prepared by
3 a certified prescribed burner and filed burning. The certified prescribed burner shall also file the
4 prescription with the North Carolina Forest Service of the Department of Agriculture and
5 Consumer Services. A copy of the prescription shall be provided to the landowner. A Both the
6 landowner and the certified prescribed burner on site shall retain a copy of this prescription shall
7 be in the possession of the responsible burner on site throughout the duration of the prescribed
8 burning. The prescription shall include:

- 9 (1) The landowner's name and address.
- 10 (2) A description of the area to be burned.
- 11 (3) A map of the area to be burned.
- 12 (4) An estimate of tons of the fuel located on the area.
- 13 (5) The objectives of the prescribed burning.
- 14 (6) A list of the acceptable weather conditions and parameters for the prescribed
15 burning sufficient to minimize the likelihood of smoke damage and fire
16 escaping onto adjacent areas.
- 17 (7) The name of the certified prescribed burner responsible for conducting the
18 prescribed burning.
- 19 (8) A summary of the methods that are adequate for the particular circumstances
20 involved to be used to start, control, and extinguish the prescribed
21 burning-burning, including firebreaks and sufficient personnel and
22 firefighting equipment to contain the fire within the burn area.
 - 23 a. Fire spreading outside the authorized burn area on the day of the
24 prescribed burn ignition shall not constitute conclusive proof of
25 inadequate firebreaks, insufficient personnel, or a lack of firefighting
26 equipment.
 - 27 b. If the prescribed burn is contained within the authorized burn area
28 during the authorized period, there shall be a rebuttable presumption
29 that adequate firebreaks, sufficient personnel, and sufficient
30 firefighting equipment were present.
 - 31 c. Continued smoldering of a prescribed burn resulting in a subsequent
32 wildfire does not in itself constitute evidence of gross negligence
33 under G.S. 106-967.
- 34 (9) Provision for reasonable notice of the prescribed burning to be provided to
35 nearby-homes and businesses located adjacent to the burn site to avoid effects
36 on health and property.

37 (b) The prescribed burning shall be conducted by a certified prescribed burner in
38 accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed
39 burner shall be present on the site and shall be in charge of the burning throughout the period of
40 the burning. A landowner may conduct a prescribed burning and be in compliance with this
41 Article without being a certified prescribed burner if the landowner is burning a tract of forestland
42 of 50 acres or less owned by that landowner and is following all conditions established in a
43 prescription prepared by a certified prescribed burner.

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

- 49 (1) The terms and conditions of the open-burning permit under Article 78 of this
50 Chapter.

- 1 (2) The State's air pollution control statutes under Article 21 and Article 21B of
2 Chapter 143 of the General Statutes and any rules adopted pursuant to these
3 statutes.
- 4 (3) Any applicable local ordinances relating to open burning.
- 5 (4) The smoke management guidelines adopted by the North Carolina Forest
6 Service of the Department of Agriculture and Consumer Services.
- 7 (5) Any rules adopted by the North Carolina Forest Service of the Department of
8 Agriculture and Consumer Services, to implement this Article.
- 9 (d) The North Carolina Forest Service may accept prescribed burner certification from
10 another State or other entity for the purpose of prescribed burning under this Article."
11

12 PROHIBIT USE OF AN UNMANNED AIRCRAFT SYSTEM NEAR A FOREST FIRE

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

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

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

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

- 24 (1) A person operating an unmanned aircraft system with the consent of the
25 official in responsible charge of management of the forest fire.
- 26 (2) A law enforcement officer using an unmanned aircraft system in accordance
27 with G.S. 15A-300.1(c).
- 28 (3) A North Carolina Forest Service employee or a person acting under the
29 direction of a North Carolina Forest Service employee.

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

- 31 (1) A person who uses an unmanned aircraft system in violation of subsection (a)
32 of this section and such use is the proximate cause of the death of another
33 person is guilty of a Class D felony and shall also be fined not less than one
34 thousand dollars (\$1,000).
- 35 (2) A person who uses an unmanned aircraft system in violation of subsection (a)
36 of this section and such use is the proximate cause of serious bodily injury to
37 another person is guilty of a Class E felony and shall also be fined not less
38 than one thousand dollars (\$1,000).
- 39 (3) A person who uses an unmanned aircraft system in violation of subsection (a)
40 of this section and such use is the proximate cause of serious physical or
41 mental injury to another person is guilty of a Class F felony and shall also be
42 fined not less than one thousand dollars (\$1,000).
- 43 (4) A person who uses an unmanned aircraft system in violation of subsection (a)
44 of this section and such use interferes with emergency operations and such
45 interference proximately causes damage to any real or personal property or
46 any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands,
47 springs, or any other matter or thing growing or being on the land is guilty of
48 a Class G felony and shall also be fined not less than one thousand dollars
49 (\$1,000).

- 1 (5) A person who uses an unmanned aircraft system in violation of subsection (a)
2 of this section and such use interferes with emergency operations is guilty of
3 a Class H felony and shall be fined not less than one thousand dollars (\$1,000).
4 (6) A person who uses an unmanned aircraft system in violation of subsection (a)
5 of this section and such use is the proximate cause of physical or mental injury
6 to another person is guilty of a Class I felony and shall also be fined not less
7 than one thousand dollars (\$1,000).
8 (7) A person who uses an unmanned aircraft system in violation of subsection (a)
9 of this section and such use is not covered under another provision of law
10 providing greater punishment is guilty of a Class A1 misdemeanor and shall
11 be fined not less than one thousand dollars (\$1,000).

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

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

- 21 (1) Physical or mental injury. – Cuts, scrapes, bruises, or other physical or mental
22 injury that does not constitute serious bodily injury or serious physical or
23 mental injury.
24 (2) Serious bodily injury. – Bodily injury that creates a substantial risk of death,
25 or that causes serious permanent disfigurement, coma, a permanent or
26 protracted condition that causes extreme pain, or permanent or protracted loss
27 or impairment of the function of any bodily member or organ, or that results
28 in prolonged hospitalization.
29 (3) Serious physical or mental injury. – Physical or mental injury that causes great
30 pain and suffering."

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

33 34 **AMEND TIMBER LARCENY STATUTE**

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

36 **"§ 14-135. Larceny of timber.**

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

- 39 (1) Knowingly and willfully cuts down, injures, or removes any timber owned by
40 another person, without the consent of the owner of the land or the owner of
41 the timber, or without a lawful easement running with the land.
42 (2) Buys timber directly from the owner of the timber and fails to make payment
43 in full to the owner by (i) the date specified in the written timber sales
44 agreement or (ii) if there is no such agreement, 60 days from the date that the
45 buyer removes the timber from the property.
46 (3) Knowingly and willfully aids, hires, or counsels an individual to cut down,
47 injure, or remove any timber owned by another person without the consent of
48 the owner of the land or the owner of the timber, or without a lawful easement
49 running with the land.
50 (4) Knowingly and willfully transports forest products that have been cut down,
51 removed, obtained, or acquired from the property of a landowner without the

1 consent of the owner of the land or the owner of the timber, or without a lawful
2 easement running with the land.

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

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

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

10 b. The person believed in good faith that the cutting down, injuring, or
11 removing of the timber was permitted by a utility easement or was
12 necessary to remove a tree hazard. For purposes of this
13 ~~sub-subdivision, subsection,~~ the term "tree hazard" includes a dead or
14 dying tree, dead parts of a living tree, or an unstable living tree that is
15 within striking distance of an electric transmission line, electric
16 distribution line, or electric equipment and constitutes a hazard to the
17 line or equipment in the event of a tree failure.

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

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

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

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

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

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

34 (c) Prima Facie Evidence. – An owner of timber who does not receive payment in full
35 within the time period set in subdivision (2) of subsection (a) of this section may notify the timber
36 buyer in writing of the owner's demand for payment at the timber buyer's last known address by
37 certified mail or by personal delivery. The timber buyer's failure to make payment in full within
38 10 days after the mailing or personal delivery authorized under this subsection shall constitute
39 prima facie evidence of the timber buyer's intent to commit an offense under subdivision (2) of
40 subsection (a) of this section.

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

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

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

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

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

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

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

9 **LIMIT CIVIL PENALTIES FOR REMOVAL OF TIMBER IN A RIPARIAN BUFFER** 10 **TO THE VALUE OF THE TIMBER**

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

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

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

17 **ESTABLISH FORESTRY SERVICES AND ADVICE FUND**

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

19 "**§ 106-1003. ~~Deposit of receipts with State treasury.~~Forestry Services and Advice Fund.**

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

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

29 **CLARIFY POWERS OF FOREST RANGERS**

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

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

45 **PART IV. ENVIRONMENTAL PROVISIONS**

46 **WELL CONTRACTOR EXAMINATION EXEMPTION**

47 **SECTION 13.** G.S. 87-98.6 reads as rewritten:

1 **"§ 87-98.6. Well contractor qualifications and ~~examination~~examination; exemption.**

2 (a) The Commission, with the advice and assistance of the Secretary, shall establish
3 minimum requirements of education, experience, and knowledge for each type of certification
4 for well contractors and shall establish procedures for receiving applications for certification,
5 conducting examinations, and making investigations of applicants as may be necessary and
6 appropriate so that prompt and fair consideration will be given to each applicant.

7 (b) The Commission, with the advice and assistance of the Secretary, shall establish
8 minimum requirements of education, experience, and knowledge for each type of certification
9 for well contractors for the installation, construction, maintenance, and repair of electrical wiring
10 devices, appliances, and equipment related to the construction, operation, and repair of wells.
11 Requirements developed pursuant to this subsection shall apply only to the initial certification of
12 an applicant and shall not be required as part of continuing education or as a condition of
13 certification renewal.

14 (c) A person who is 70 years of age or older who (i) has engaged in well contractor
15 activity for more than 20 years; (ii) has no record of having violated any provision of this Article,
16 Article 7 of this Chapter, or any order issued or rule adopted pursuant to this Article or Article 7
17 of this Chapter in the previous 10 years; and (iii) meets all other requirements for certification
18 under this Article is exempt from examination requirements adopted pursuant to this section."
19

20 **ALIGN ANIMAL WASTE MANAGEMENT SYSTEM OPERATOR FEES WITH**
21 **WATER POLLUTION CONTROL SYSTEM OPERATOR FEES**

22 **SECTION 13.1.(a)** G.S. 90A-47.4 reads as rewritten:

23 **"§ 90A-47.4. Fees; certificate renewals.**

24 (a) An applicant for certification under this Part shall pay a fee of ~~twenty-five dollars~~
25 ~~(\$25.00)~~ eighty-five dollars (\$85.00) for the examination and the certificate.

26 (b) The certificate shall be renewed annually upon payment of a renewal fee of ~~ten dollars~~
27 ~~(\$10.00)~~ twenty-five dollars (\$25.00). A certificate holder who fails to renew the certificate and
28 pay the renewal fee within 30 days of its expiration shall be required to ~~take and pass the~~
29 ~~examination for certification~~ pay the required renewal fee and a late application penalty
30 equivalent to twice the annual renewal fee in order to renew the certificate."

31 **SECTION 13.1.(b)** This section becomes effective July 1, 2023.
32

33 **DIGESTER GENERAL PERMIT CLARIFICATION**

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

35 "(12a) The term "farm digester system" means a system, including all ~~associated~~
36 animal waste management equipment and lagoon covers, by which gases are
37 collected and processed from an animal waste management system for the
38 digestion of animal biomass for use as a renewable energy resource. The
39 collected gases shall be used as a renewable energy resource as quickly as
40 feasible, but within six months of the collection of the gases, and during that
41 period the gas shall be flared rather than vented. A farm digester system shall
42 be considered an agricultural feedlot activity within the meaning of "animal
43 operation" and shall also be considered a part of an "animal waste
44 management system" as those terms are defined in G.S. 143-215.10B."
45

46 **DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO WITHDRAW**
47 **THE 2021 NPDES GENERAL PERMIT FOR AQUACULTURE AND REVISE IT TO BE**
48 **SUBSTANTIVELY IDENTICAL TO THE PREVIOUS GENERAL PERMIT**

49 **SECTION 14.1.(a)** Definitions. – The following definitions apply in this section:

50 (1) Aquaculture Permit. – The National Pollutant Discharge Elimination System
51 (NPDES) General Permit NCG530000 for discharges from seafood packing

1 and rinsing, aquatic animal operations, and similarly designated wastewaters
2 that took effect on December 1, 2021.

3 (2) Commission. – The Environmental Management Commission.

4 (3) Department. – The Department of Environmental Quality.

5 (4) Prior Aquaculture Permit. – The National Pollutant Discharge Elimination
6 System (NPDES) General Permit NCG530000 for discharges from seafood
7 packing and rinsing, aquatic animal operations, and similarly designated
8 wastewaters that expired on March 30, 2021, and was subsequently replaced
9 by the Aquaculture Permit.

10 **SECTION 14.1.(b)** Aquaculture Permit Reopener. – Pursuant to its authority under
11 G.S. 143-215.1(b)(3), no later than 180 days after the effective date of this act the Commission
12 and the Department shall reopen and modify the Aquaculture Permit as described in subsection
13 (c) of this section.

14 **SECTION 14.1.(c)** Aquaculture Permit Modification. – The Commission and
15 Department shall modify the Aquaculture Permit to be substantively identical to the Prior
16 Aquaculture Permit. For purposes of this subsection, "substantively identical" includes, at a
17 minimum, that species monitoring, discharge characteristic provisions, and best management
18 practice (BMP) requirements are no more stringent than and impose no requirements in addition
19 to those in the Prior Aquaculture Permit.

20 **SECTION 14.1.(d)** This section is effective when it becomes law and expires when
21 the Commission revises the Aquaculture Permit as set forth in subsection (c) of this section and
22 notifies the Revisor of Statutes that it has done so.

23 24 **CLARIFY DEFINITION OF WETLANDS**

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

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

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

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

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

46 47 **WASTEWATER AMENDMENTS**

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

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

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

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

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

20 **SECTION 17.(a)** G.S. 130A-343 reads as rewritten:

21 "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

22 ...

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

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

45 (2) Neither the Commission, the Department, or any local health department shall
46 condition, delay, or deny the substitution of any Accepted wastewater system
47 based on location of nitrification lines when all parts of the dispersal field can
48 be installed within the approved initial dispersal field area while complying
49 with all Commission rules.

50 (i) Nonproprietary Wastewater Systems. – The Department may initiate a review of a
51 nonproprietary wastewater system and approve the system for use as a provisional wastewater

1 system or an innovative wastewater system without having received an application from a
2 manufacturer. ~~The Department may recommend that the Commission designate a nonproprietary~~
3 ~~wastewater system as an accepted wastewater system without having received a petition from a~~
4 ~~manufacturer.~~

5 ...

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

15"

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

19 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

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

24 **SECTION 18.(b)** Except as otherwise provided, this act is effective when it becomes
25 law.
26