

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 615
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/30/17
House Committee Substitute Favorable 6/21/17
House Committee Substitute #2 Favorable 6/26/17

Short Title: North Carolina Farm Act of 2017.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS GOVERNING AGRICULTURAL MATTERS.

The General Assembly of North Carolina enacts:

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 1.(a) The Agriculture and Forestry Awareness Study Commission shall study all of the following matters:

- (1) Any updates it deems advisable to Article 44 of Chapter 106 of the General Statutes governing unfair practices by handlers of fruits and vegetables, including applicable definitions and requirements under the Article.
- (2) The advisability of providing property tax abatement to aging farm machinery. In conducting this study, the Commission shall consider all of the following: (i) whether farm machinery 10 years or older, or other time period the Commission deems appropriate, should be designated as a special class under Section 2(2) of Article V of the North Carolina Constitution and be excluded from property tax; (ii) if such farm machinery should be excluded from property tax, whether an eighty percent (80%) property tax exclusion is an appropriate exclusion amount, or another amount the Commission deems appropriate; and (iii) the fiscal impact on local governments if such machinery were to be excluded from property tax. The Commission may request any information necessary to complete the study from any county tax office in this State and from the Department of Revenue.
- (3) The type of activities that constitute agritourism when conducted on a bona fide farm and other relevant matters relating to agritourism activities.

SECTION 1.(b) The Agriculture and Forestry Awareness Study Commission shall complete the studies required by subsection (a) of this section and report its findings and recommendations, including any legislative proposals, to the General Assembly by March 1, 2018.

EXPAND FACILITIES EXEMPT FROM EMC RULE

SECTION 2.(a) Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of



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1 this section, the Commission shall implement 15A NCAC 02D .1806, as provided in subsection
2 (b) of this section.

3 **SECTION 2.(b)** Implementation. – Notwithstanding subsection (c) of 15A NCAC
4 02D .1806, any facility that stores products that are (i) grown, produced, or generated on one or
5 more agricultural operations and (ii) "renewable energy resources," as defined in
6 G.S. 62-133.8(a)(8), shall be exempt from the requirements of 15A NCAC 02D .1806 until the
7 Environmental Management Commission reviews and readopts the Rule pursuant to subsection
8 (c) of this section and determines the criteria under which the exemption should be made
9 permanent.

10 **SECTION 2.(c)** Additional Rule-Making Authority. – The Commission shall adopt
11 rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

12 **SECTION 2.(d)** Effective Date. – Subsection (b) of this section expires on the date
13 that rules adopted pursuant to subsection (c) of this section become effective. The remainder of
14 this section is effective when it becomes law.

15 16 **PRESENT-USE VALUE CHANGE**

17 **SECTION 3.(a)** G.S. 105-277.3 reads as rewritten:

18 **"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

19 (a) Classes Defined. – The following classes of property are designated special classes
20 of property under authority of Section 2(2) of Article V of the North Carolina Constitution and
21 must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- 22 (1) Agricultural land. – Individually owned agricultural land consisting of one
23 or more tracts, one of which satisfies the requirements of this subdivision.
24 For agricultural land used as a farm for aquatic species, as defined in
25 G.S. 106-758, the tract must meet the income requirement for agricultural
26 land and must consist of at least five acres in actual production or produce at
27 least 20,000 pounds of aquatic species for commercial sale annually,
28 regardless of acreage. For all other agricultural land, the tract must meet the
29 income requirement for agricultural land and must consist of at least 10 acres
30 that are in actual production. Land in actual production includes land under
31 improvements used in the commercial production or growing of crops,
32 plants, or animals.

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

43"

44 **SECTION 3.(b)** This section is effective when it becomes law.

45 46 **ABANDONED LIVESTOCK AMENDMENTS**

47 **SECTION 4.** G.S. 68-17 reads as rewritten:

48 **"§ 68-17. Impounding livestock at large; right to recover costs and ~~damages~~damages;** 49 **abandoned livestock.**

50 (a) Any person may take up any livestock running at large or straying and impound the
51 same; and such impounder may recover from the owner the reasonable costs of impounding

1 and maintaining the livestock as well as damages to the impounder caused by such livestock,
 2 and may retain the livestock, with the right to use with proper care until such recovery is had.
 3 Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to
 4 locate the owner.

5 (b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any
 6 other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake
 7 custody of the animal within two months after the last day the owner paid a fee to the custodian
 8 for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable
 9 attempts to collect any past-due fees during the two-month period. If, after the end of the
 10 two-month period, the custodian of the abandoned livestock has been unsuccessful in collecting
 11 the past-due fees and the owner of the livestock has not retaken custody of the livestock, the
 12 custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or
 13 transferee of the livestock and certifies compliance with the criteria and requirements of this
 14 subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but
 15 shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian
 16 shall provide written notice of the provisions of this subsection in conspicuous type to the
 17 owner of livestock at the time the livestock is delivered for treatment, boarding, or care as
 18 follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to
 19 sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."
 20

21 **CLARIFY THE AUTHORITY OF THE DEPARTMENT OF AGRICULTURE AND**
 22 **CONSUMER SERVICES TO ADOPT AND ADMINISTER FOREST PRACTICE**
 23 **GUIDELINES FOR PURPOSES OF THE SEDIMENTATION POLLUTION**
 24 **CONTROL ACT**

25 **SECTION 6.(a)** G.S. 113A-52.01 reads as rewritten:

26 **"§ 113A-52.01. Applicability of this Article.**

27 This Article shall not apply to the following land-disturbing activities:

28 ...

- 29 (2) Activities undertaken on forestland for the production and harvesting of
 30 timber and timber products and conducted in accordance with ~~best~~
 31 ~~management practices set out in~~ standards defined by the Forest Practice
 32 Guidelines Related to Water Quality, as adopted by the ~~Department~~
 33 Department of Agriculture and Consumer Services.

34"

35 **SECTION 6.(b)** G.S. 113A-52.1 reads as rewritten:

36 **"§ 113A-52.1. Forest Practice Guidelines.**

37 (a) The Department of Agriculture and Consumer Services shall adopt Forest Practice
 38 Guidelines Related to Water Quality (best management practices). The adoption of Forest
 39 Practices Guidelines Related to Water Quality under this section is subject to the provisions of
 40 Chapter 150B of the General Statutes.

41 (b) If land-disturbing activity undertaken on forestland for the production and
 42 harvesting of timber and timber products is not conducted in accordance with Forest Practice
 43 Guidelines Related to Water Quality, the provisions of this Article shall apply to such activity
 44 and any related land-disturbing activity on the tract.

45 (c) The ~~Secretary-Commissioner~~ shall establish and appoint a Forestry Technical
 46 Advisory Committee to assist in the development and periodic review of Forest Practice
 47 Guidelines Related to Water Quality. The Forestry Technical Advisory Committee shall consist
 48 of one member from the forest products industry, one member who is a consulting forester, one
 49 member who is a private landowner knowledgeable in forestry, one member from the United
 50 States Forest Service, one member from the academic community who is knowledgeable in
 51 forestry, one member employed by the Department of Environmental Quality who is

1 knowledgeable in erosion and sedimentation control, one member who is knowledgeable in
2 wildlife management, one member who is knowledgeable in marine fisheries management, one
3 member who is knowledgeable in water quality, and one member from the conservation
4 community."

5 **SECTION 6.(c)** G.S. 113A-61.1 reads as rewritten:

6 "**§ 113A-61.1. Inspection of land-disturbing activity; notice of violation.**

7 (a) The Commission, a local government that administers an erosion and sedimentation
8 control program approved under G.S. 113A-60, or other approving authority shall provide for
9 inspection of land-disturbing activities to ensure compliance with this Article and to determine
10 whether the measures required in an erosion and sedimentation control plan are effective in
11 controlling erosion and sedimentation resulting from the land-disturbing activity. Notice of this
12 right of inspection shall be included in the certificate of approval of each erosion and
13 sedimentation control plan. The Department of Agriculture and Consumer Services may inspect
14 land-disturbing activities undertaken on forestland for the production and harvesting of timber
15 and timber products to determine compliance with the Forest Practice Guidelines Related to
16 Water Quality adopted pursuant to G.S. 113A-52.1.

17 (b) No person shall willfully resist, delay, or obstruct an authorized representative of the
18 Commission, an authorized representative of a local government, or an employee or an agent of
19 the Department while the representative, employee, or agent is inspecting or attempting to
20 inspect a land-disturbing activity under this section.

21 (b1) No person shall willfully resist, delay, or obstruct an authorized representative,
22 employee, or agent of the Department of Agriculture and Consumer Services while the
23 representative, employee, or agent is inspecting or attempting to inspect a land-disturbing
24 activity undertaken on forestland for the production and harvesting of timber and timber
25 products under this section.

26 (c) If the Secretary, a local government that administers an erosion and sedimentation
27 control program approved under G.S. 113A-60, or other approving authority determines that
28 the person engaged in the land-disturbing activity has failed to comply with this Article, the
29 Secretary, local government, or other approving authority shall immediately serve a notice of
30 violation upon that person. The notice may be served by any means authorized under
31 G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply
32 with this Article and inform the person of the actions that need to be taken to comply with this
33 Article. Any person who fails to comply within the time specified is subject to additional civil
34 and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person
35 engaged in the land-disturbing activity has not received a previous notice of violation under this
36 section, the Department, local government, or other approving authority shall deliver the notice
37 of violation in person and shall offer assistance in developing corrective measures. Assistance
38 may be provided by referral to a technical assistance program in the Department, referral to a
39 cooperative extension program, or by the provision of written materials such as Department
40 guidance documents. If the Department, local government, or other approving authority is
41 unable to deliver the notice of violation in person within 15 days following discovery of the
42 violation, the notice of violation may be served in the manner prescribed for service of process
43 by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing
44 corrective measures."

45 **SECTION 6.(d)** G.S. 106-895 is amended by adding a new subsection to read:

46 "**§ 106-895. Powers of Department of Agriculture and Consumer Services.**

47 (a) The Department of Agriculture and Consumer Services may take such action as it
48 may deem necessary to provide for the prevention and control of forest fires in any and all parts
49 of this State, and it is hereby authorized to enter into an agreement with the Secretary of
50 Agriculture of the United States for the protection of the forested watersheds of streams in this
51 State.

1 (a1) The Department shall adopt Forest Practice Guidelines Related to Water Quality
 2 pursuant to G.S. 113A-52.1 of the Sedimentation Pollution Control Act.

3 (b) In this Article, unless the context requires otherwise:

4 (1) "Commissioner" means the Commissioner of Agriculture.

5 (2) "Department" means the Department of Agriculture and Consumer
 6 Services."

7
 8 **ASSENT TO MUTUAL AID PROVISIONS OF THE GREAT PLAINS WILDLAND**
 9 **PROTECTION COMPACT**

10 **SECTION 7.** G.S. 106-932 reads as rewritten:

11 **"§ 106-932. Assent of legislature to mutual aid provisions of other compacts.**

12 The legislature of this State hereby gives its assent to the mutual aid provisions of Articles
 13 IV and V of the South Central Interstate Forest Fire Protection ~~Compact~~ Compact, the Middle
 14 Atlantic Interstate Fire Protection Compact, and the Great Plains Wildland Fire Protection
 15 Compact, in accordance with Article VIII of ~~that Compact~~ those Compacts relating to
 16 interregional mutual aid; ~~and the legislature of this State also hereby gives its assent to the~~
 17 ~~mutual aid provisions of Articles IV and V of the Middle Atlantic Interstate Forest Fire~~
 18 ~~Protection Compact in accordance with Article VIII of that Compact relating to interregional~~
 19 ~~mutual aid."~~

20
 21 **CLARIFY AGRITOURISM**

22 **SECTION 8.(a)** G.S. 153A-340(b), as amended by Section 9 of this act, reads as
 23 rewritten:

24 **"§ 153A-340. Grant of power.**

25 ...

26 (b) ...

27 (2) Except as provided in G.S. 106-743.4 for farms that are subject to a
 28 conservation agreement under G.S. 106-743.2, bona fide farm purposes
 29 include the production and activities relating or incidental to the production
 30 of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy,
 31 livestock, poultry, and all other forms of agriculture, as defined in
 32 G.S. 106-581.1. For purposes of this subdivision, "when performed on the
 33 farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of
 34 the county and any other farm owned or leased to or from others by the bona
 35 fide farm operator, no matter where located. For purposes of this
 36 subdivision, the production of a nonfarm product that the Department of
 37 Agriculture and Consumer Services recognizes as a "Goodness Grows in
 38 North Carolina" product that is produced on a farm subject to a conservation
 39 agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes
 40 of determining whether a property is being used for bona fide farm purposes,
 41 any of the following shall constitute sufficient evidence that the property is
 42 being used for bona fide farm purposes:

43 a. A farm sales tax exemption certificate issued by the Department of
 44 Revenue.

45 b. A copy of the property tax listing showing that the property is
 46 eligible for participation in the present use value program pursuant to
 47 G.S. 105-277.3.

48 c. A copy of the farm owner's or operator's Schedule F from the owner's
 49 or operator's most recent federal income tax return.

50 d. A forest management plan.

e. ~~A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.~~

(2a) A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide purpose pursuant to this subdivision shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

...."

SECTION 8.(b) G.S. 143-138 reads as rewritten:

"§ 143-138. North Carolina State Building Code.

...

(b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the purposes of this subsection:

(1) For the purposes of this subdivision, a "farm building" means any nonresidential building or structure that is used for a bona fide farm purpose as provided in G.S. 153A-340. A "farm building" shall include:

a. Any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating

- 1 structures as well as ensuring the spectator-seating structure's
2 compliance with any building codes related to the construction of
3 spectator-seating structures in effect at the time of the construction of
4 the spectator-seating.
- 5 b. Any structure used for the display and sale of produce, no more than
6 1,000 square feet in size, open to the public for no more than 180
7 days per year, and certified by the Department of Agriculture and
8 Consumer Services as a Certified Roadside Farm Market.
- 9 c. Any unoccupied structure built upon land owned by the State of
10 North Carolina and administratively allocated to the North Carolina
11 Department of Agriculture and Consumer Services or North Carolina
12 State University which is used primarily for forestry production and
13 research or agriculture production and research. The term
14 "agriculture" has the same meaning as in G.S. 106-581.1. The term
15 "unoccupied" does not exclude the keeping of livestock.
- 16 (1a) A "farm building" shall not lose its status as a farm building because it is
17 used for public or private events, including, but not limited to, weddings,
18 receptions, meetings, demonstrations of farm activities, meals, and other
19 events that are taking place on the farm because of its farm or rural setting.
- 20 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more
21 glass or plastic walls, has an area over ninety-five percent (95%) of which is
22 used to grow or cultivate plants, is built in accordance with the National
23 Greenhouse Manufacturers Association Structural Design manual, and is not
24 used for retail sales. Additional provisions addressing distinct life safety
25 hazards shall be approved by the local building-rules jurisdiction.
- 26 (3) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- 27 (4) A "primitive camp" shall include any structure primarily used or associated
28 with outdoor camping activities, including structures used for educational,
29 instructional, or recreational purposes for campers and for management
30 training, that are (i) not greater than 4,000 square feet in size and (ii) are not
31 intended to be occupied for more than 24 hours consecutively. "Structures
32 primarily used or associated with outdoor camping activities" include, but
33 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,
34 campfire shelters, picnic shelters, tents, tepees or other indigenous huts,
35 support buildings used only for administrative functions and not for
36 activities involving campers or program participants, and any other
37 structures that are utilized to store any equipment, tools, commodities, or
38 other items that are maintained or used in conjunction with outdoor camping
39 activities such as hiking, fishing, hunting, or nature appreciation, regardless
40 of material used for construction. The specific types of primitive camping
41 activities, structures, and uses set forth in this subdivision are for illustrative
42 purposes and should not be construed to limit, in any manner, the types of
43 activities, structures, or uses that are exempted from building rules.
- 44 (5) A "primitive farm building" shall include any structure used for activities,
45 instruction, training, or reenactment of traditional or heritage farming
46 practices. "Primitive farm buildings" include, but are not limited to, sheds,
47 barns, outhouses, doghouses, or other structures that are utilized to store any
48 equipment, tools, commodities, livestock, or other items supporting farm
49 management. These specific types of farming activities, structures, and uses
50 set forth by this subdivision are for illustrative purposes and should not be

1 construed to limit in any manner the types of activities, structures, or uses
2 that are exempted from building rules.

3 (6) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.

4"

5
6 **ELIMINATE COUNTY AUTHORITY TO ADOPT ZONING REGULATIONS**
7 **GOVERNING SWINE FARMS**

8 **SECTION 9.(a)** G.S. 153A-340(b) reads as rewritten:

9 "(b) (1) These regulations may not affect property used for bona fide farm purposes
10 ~~only as provided in subdivision (3) of this subsection. This purposes;~~
11 provided, however, that this subsection does not limit regulation under this
12 Part with respect to the use of farm property for nonfarm purposes.

13 (2) Except as provided in G.S. 106-743.4 for farms that are subject to a
14 conservation agreement under G.S. 106-743.2, bona fide farm purposes
15 include the production and activities relating or incidental to the production
16 of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy,
17 livestock, poultry, and all other forms of agriculture, as defined in
18 G.S. 106-581.1. For purposes of this subdivision, "when performed on the
19 farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of
20 the county and any other farm owned or leased to or from others by the bona
21 fide farm operator, no matter where located. For purposes of this
22 subdivision, the production of a nonfarm product that the Department of
23 Agriculture and Consumer Services recognizes as a "Goodness Grows in
24 North Carolina" product that is produced on a farm subject to a conservation
25 agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes
26 of determining whether a property is being used for bona fide farm purposes,
27 any of the following shall constitute sufficient evidence that the property is
28 being used for bona fide farm purposes:

- 29 a. A farm sales tax exemption certificate issued by the Department of
30 Revenue.
31 b. A copy of the property tax listing showing that the property is
32 eligible for participation in the present use value program pursuant to
33 G.S. 105-277.3.
34 c. A copy of the farm owner's or operator's Schedule F from the owner's
35 or operator's most recent federal income tax return.
36 d. A forest management plan.
37 e. A Farm Identification Number issued by the United States
38 Department of Agriculture Farm Service Agency.

39 ~~(3) The definitions set out in G.S. 106-802 apply to this subdivision. A county
40 may adopt zoning regulations governing swine farms served by animal waste
41 management systems having a design capacity of 600,000 pounds steady
42 state live weight (SSLW) or greater provided that the zoning regulations
43 may not have the effect of excluding swine farms served by an animal waste
44 management system having a design capacity of 600,000 pounds SSLW or
45 greater from the entire zoning jurisdiction."~~

46 **SECTION 9.(b)** G.S. 106-743.4(a) reads as rewritten:

47 "(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that
48 remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of
49 nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations
50 under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm
51 product that the Department of Agriculture and Consumer Services recognizes as a "Goodness

1 Grows in North Carolina" product that is produced on a farm that is subject to a conservation
2 agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from
3 this subsection shall have the burden of establishing that the property's sale of nonfarm
4 products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an
5 ordinance pursuant to this section that sets forth the standards necessary for proof of
6 compliance.

7 ~~Nothing in this section shall affect the county's authority to zone swine farms pursuant to~~
8 ~~G.S. 153A-340(b)(3)."~~

9
10 **ALLOW FOOD COMPLIANCE INSPECTORS TO DRIVE STATE VEHICLES**
11 **WITHOUT STATE TAGS AND BUMPER STICKERS**

12 **SECTION 10.** G.S. 20-39.1 is amended by adding a new subsection to read:

13 **"§ 20-39.1. Publicly owned vehicles to be marked; private license plates on publicly**
14 **owned vehicles.**

15 (a) Except as otherwise provided in this section, the executive head of every department
16 of State government and every county, institution, or agency of the State shall mark every
17 motor vehicle owned by the State, county, institution, or agency with a statement that the
18 vehicle belongs to the State, county, institution, or agency. The requirements of this subsection
19 are complied with if:

20 (1) The vehicle has imprinted on the license plate, above the license number, the
21 words "State Owned" and the vehicle has affixed to the front the words
22 "State Owned";

23 (2) In the case of a county, the vehicle has painted or affixed on its side a circle
24 not less than eight inches in diameter showing a replica of the seal of the
25 county; or

26 (3) In the case of vehicles assigned to members of the Council of State, the
27 vehicle has imprinted on the license plate the license number assigned to the
28 appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a
29 member of the Council of State shall not be assessed any registration fee if
30 the member elects to have a State-owned motor vehicle assigned to the
31 member designated by the official plate number.

32 (b) A motor vehicle used by any State or county officer or official for transporting,
33 apprehending, or arresting persons charged with violations of the laws of the United States or
34 the laws of this State is not required to be marked as provided in subsection (a) of this section.
35 The Commissioner may lawfully provide private license plates to local, State, or federal
36 departments or agencies for use on publicly owned or leased vehicles used for those purposes.
37 Private license plates issued under this subsection shall be issued on an annual basis and the
38 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

39 (c) A motor vehicle used by a county for transporting day or residential facility clients
40 of area mental health, developmental disabilities, and substance abuse authorities established
41 under Article 4 of Chapter 122C of the General Statutes is not required to be marked as
42 provided in subsection (a) of this section. The Commissioner may lawfully provide private
43 license plates to counties for use on publicly owned or leased vehicles used for that purpose.
44 Private license plates issued under this subsection shall be issued on an annual basis and the
45 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

46 (c1) A motor vehicle used by the Department of Agriculture and Consumer Services
47 exclusively for Meat and Poultry compliance officers to conduct inspections is not required to
48 be marked as provided in subsection (a) of this section. The Commissioner may lawfully
49 provide private license plates to the Department of Agriculture and Consumer Services for use
50 on publicly owned or leased vehicles used for this purpose. Private license plates issued under

1 this subsection shall be issued on an annual basis and the records of issuance shall be
2 maintained in accordance with the provisions of G.S. 20-56.

3"
4

5 MEAT AND POULTRY TECHNICAL CORRECTIONS

6 SECTION 11.(a) G.S. 106-549.15(1) reads as rewritten:

7 "§ 106-549.15. Definitions.

8 As used in this Article, except as otherwise specified, the following terms shall have the
9 meanings stated below:

10 (1) "Adulterated" shall apply to any carcass, part thereof, meat or meat food
11 product under one or more of the following circumstances:

12 a. If it bears or contains any poisonous or deleterious substance which
13 may render it injurious to health; but in case the substance is not an
14 added substance, such article shall not be considered adulterated
15 under this clause if the quantity of such substance in or on such
16 article does not ordinarily render it injurious to health;

17 b. 1. If it bears or contains (by reason of administration of any
18 substance to the live animal or otherwise) any added
19 poisonous or added deleterious substance (other than one
20 which is (i) a pesticide chemical in or on a raw agricultural
21 commodity; (ii) a food additive; or (iii) a color additive)
22 which may, in the judgment of the Commissioner, make such
23 article unfit for human food;

24 2. If it is, in whole or in part, a raw agricultural commodity and
25 such commodity bears or contains a pesticide chemical which
26 is unsafe within the meaning of section 408 of the Federal
27 Food, Drug, and Cosmetic Act;

28 3. If it bears or contains any food additive which is unsafe
29 within the meaning of section 409 of the Federal Food, Drug,
30 and Cosmetic Act;

31 4. If it bears or contains any color additive which is unsafe
32 within the meaning of section ~~706-721~~ of the Federal Food,
33 Drug, and Cosmetic Act: Provided, that an article which is
34 not adulterated under clause 2, 3, or 4 shall nevertheless be
35 deemed adulterated if use of the pesticide chemical, food
36 additive or color additive in or on such article is prohibited by
37 order of the Commissioner in establishments at which
38 inspection is maintained under this Article;

39"

40 SECTION 11.(b) G.S. 106-549.51 reads as rewritten:

41 "§ 106-549.51. Definitions.

42 For purposes of this Article, the following terms shall have the meanings stated below:

43 (1) "Adulterated" shall apply to any poultry product under one or more of the
44 following circumstances:

45 a. If it bears or contains any poisonous or deleterious substance which
46 may render it injurious to health; but in case the substance is not an
47 added substance, such article shall not be considered adulterated
48 under this clause if the quantity of such substance in or on such
49 article does not ordinarily render it injurious to health;

50 b. 1. If it bears or contains (by reason of administration of any
51 substance to the live poultry or otherwise) any added

1 poisonous or added deleterious substance (other than one
2 which is a pesticide chemical in or on a raw agricultural
3 commodity; a food additive; or a color additive) which may,
4 in the judgment of the Commissioner, make such article unfit
5 for human food;

6 2. If it is, in whole or in part, a raw agricultural commodity and
7 such commodity bears or contains a pesticide chemical which
8 is unsafe within the meaning of section 408 of the Federal
9 Food, Drug, and Cosmetic Act;

10 3. If it bears or contains any food additive which is unsafe
11 within the meaning of section 409 of the Federal Food, Drug,
12 and Cosmetic Act;

13 4. If it bears or contains any color additive which is unsafe
14 within the meaning of section ~~706~~721 of the Federal Food,
15 Drug, and Cosmetic Act: Provided, that an article which is
16 not otherwise deemed adulterated under paragraphs 2, 3, or 4
17 shall nevertheless be deemed adulterated if use of the
18 pesticide chemical, food additive, or color additive in or on
19 such article is prohibited by regulations of the Board in
20 official establishments;

21"

22 23 MODERNIZE FOREST RANGER STATUTES

24 SECTION 12.(a) G.S. 106-896 reads as rewritten:

25 "§ 106-896. ~~Forest rangers.~~rangers, deputy rangers, and emergency workers.

26 The Commissioner ~~or the Commissioner's designee~~ may ~~appoint one county forest ranger~~
27 ~~and one or more deputy forest rangers in each county of the State in which, after careful~~
28 ~~investigation, the amount of forestland and the risks from forest fires shall, in his judgment,~~
29 ~~warrant the establishment of a forest fire organization.~~authorize as many forest rangers, deputy
30 rangers, or emergency workers as the Commissioner deems necessary and available. For
31 purposes of this Article, the following definitions apply:

32 (1) "Deputy ranger" means a highly trained emergency worker hired on a
33 temporary basis to respond to a given emergency or condition. A deputy
34 ranger shall be sworn or affirmed to the terms of "General Oath" as provided
35 in G.S. 11-11. A deputy ranger shall have the powers and duties as
36 enumerated in G.S. 106-899.

37 (2) "Emergency worker" means a person who is not an employee of the North
38 Carolina Forest Service but is an individual serving on a temporary basis in
39 case of fire, storm, snow, earthquake, flood, or other similar emergency.
40 Except for a deputy ranger, an emergency worker is not sworn or affirmed to
41 the terms of "General Oath" provided in G.S. 11-11.

42 (3) "Forest ranger" means an employee of the North Carolina Forest Service
43 who has been sworn or affirmed to the terms of "General Oath" provided in
44 G.S. 11-11. A forest ranger shall have the powers and duties as enumerated
45 in G.S. 106-898 and G.S. 106-899."

46 SECTION 12.(b) G.S. 106-899 reads as rewritten:

47 "§ 106-899. Powers of forest rangers and deputy rangers to prevent and extinguish fires; 48 authority to issue citations and warning tickets.

49 (a) Forest rangers ~~or deputy rangers~~ shall prevent and extinguish forest fires and shall
50 have control and direction of all persons and equipment while engaged in the extinguishing of
51 forest fires. During a season of drought, the Commissioner or his designate may establish a fire

1 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest
2 ranger or deputy ranger shall attend forthwith and use all necessary means to confine and
3 extinguish such fire. The forest ranger ~~or deputy forest ranger~~ may summon any resident
4 between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require
5 the use of crawler tractors and other property needed for such purposes; any person so
6 summoned and who is physically able who refuses or neglects to assist or to allow the use of
7 equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon
8 conviction shall only be subject to a fine of not less than fifty dollars (\$50.00) nor more than
9 one hundred dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy
10 ~~forest~~ ranger, or person summoned by ~~him~~ a forest ranger for crossing lands, backfiring,
11 burning out or performing his duties as a forest ranger or deputy ~~forest~~ ranger.

12 (b) Forest rangers are authorized to issue and serve citations under the terms of
13 G.S. 15A-302 and warning tickets under the terms of G.S. 106-901 for offenses under the forest
14 laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and
15 does not make them criminal justice officers within the meaning of G.S. 17C-2."

16 **SECTION 12.(c)** G.S. 106-902 reads as rewritten:

17 "**§ 106-902. Compensation of forest ~~rangers~~ rangers, deputy rangers, and emergency**
18 **workers.**

19 Forest ~~rangers~~ rangers, deputy rangers, and emergency workers shall receive compensation
20 from the Department at a reasonable rate to be fixed by said Department for the time actually
21 engaged in the performance of their duties; and reasonable expenses for equipment,
22 transportation, or food supplies incurred in the performance of their duties, according to an
23 itemized statement to be rendered the Commissioner every month, and approved by him. Forest
24 rangers shall render to the Commissioner a statement of the services rendered by the men
25 employed by them or their deputy rangers, as provided in this Article, within one month of the
26 date of service, which bill shall show in detail the amount and character of the service
27 performed, the exact duration thereof, the name of each person employed, and any other
28 information required by the Commissioner. If said bill be duly approved by the Commissioner,
29 it shall be paid by direction of the Department out of any funds provided for that purpose."

30 **SECTION 12.(d)** G.S. 106-907 reads as rewritten:

31 "**§ 106-907. Instructions on forest preservation and development.**

32 (a) It shall be the duty of all ~~district, county, township rangers, and all deputy forest~~
33 rangers provided for in this Chapter to distribute in all of the public schools and high schools of
34 the county in which they are serving as such ~~fire forest~~ rangers all such tracts, books,
35 periodicals and other literature that may, from time to time, be sent out to such rangers by the
36 State and federal forestry agencies touching or dealing with forest preservation, development,
37 and forest management.

38 (b) It shall be the duty of the ~~various forest~~ rangers herein mentioned under the
39 direction of the Commissioner, and the duty of the teachers of the various schools, both public
40 and high schools, to keep posted at some conspicuous place in the various classrooms of the
41 school buildings such appropriate bulletins and posters as may be sent out from the forestry
42 agencies herein named for that purpose and keep the same constantly before their pupils; and
43 said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various
44 schools on the subject of forest fires, their origin and their destructive effect on the plant life
45 and tree life of the forests of the State, the development and scientific management of the
46 forests of the State, and shall be prepared to give practical instruction to their pupils from time
47 to time and as often as they shall find it possible so to do."

48 **SECTION 12.(e)** G.S. 106-941 reads as rewritten:

49 "**§ 106-941. Definitions.**

50 As used in this Article:

51 (1) "Department" means the Department of Agriculture and Consumer Services.

- 1 (2) "Forest ranger" means ~~the county forest ranger or deputy a~~ forest ranger
2 designated under ~~G.S. 106-896~~.G.S. 106-896(3).
3 (3) "Person" means any individual, firm, partnership, corporation, association,
4 public or private institution, political subdivision, or government agency.
5 (4) "Woodland" means woodland as defined in G.S. 106-904."

6 **SECTION 12.(f)** G.S. 106-942 reads as rewritten:

7 **"§ 106-942. High hazard counties; permits required; standards.**

8 (a) The provisions of this section apply only to the counties of Beaufort, Bladen,
9 Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones,
10 Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as
11 high hazard counties in accordance with G.S. 106-940.

12 (b) It is unlawful for any person to willfully start or cause to be started any fire in any
13 woodland under the protection of the Department or within 500 feet of any such woodland
14 without first having obtained a permit from the Department. Permits for starting fires may be
15 obtained from forest rangers or other agents authorized by the ~~county~~ forest ranger to issue
16 such permits in the county in which the fire is to be started. Such permits shall be issued by the
17 ranger or other agent unless permits for the area in question have been prohibited or cancelled
18 in accordance with G.S. 106-944 or G.S. 106-946.

19"

20
21 **ALLOW EMERGENCY WORKERS TO RECEIVE WORKERS' COMPENSATION**
22 **WHEN RESPONDING TO NONFIRE EMERGENCIES**

23 **SECTION 13.** G.S. 97-2 reads as rewritten:

24 **"§ 97-2. Definitions.**

25 When used in this Article, unless the context otherwise requires:

- 26 ...
- 27 (2) Employee. – The term "employee" means every person engaged in an
28 employment under any appointment or contract of hire or apprenticeship,
29 express or implied, oral or written, including aliens, and also minors,
30 whether lawfully or unlawfully employed, but excluding persons whose
31 employment is both casual and not in the course of the trade, business,
32 profession, or occupation of his employer, and as relating to those so
33 employed by the State, the term "employee" shall include all officers and
34 employees of the State, including such as are elected by the people, or by the
35 General Assembly, or appointed by the Governor to serve on a per diem,
36 part-time or fee basis, either with or without the confirmation of the Senate;
37 as relating to municipal corporations and political subdivisions of the State,
38 the term "employee" shall include all officers and employees thereof,
39 including such as are elected by the people. The term "employee" shall
40 include members of the North Carolina National Guard while on State active
41 duty under orders of the Governor and members of the North Carolina State
42 Defense Militia while on State active duty under orders of the Governor. The
43 term "employee" shall include deputy sheriffs and all persons acting in the
44 capacity of deputy sheriffs, whether appointed by the sheriff or by the
45 governing body of the county and whether serving on a fee basis or on a
46 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
47 part-time basis, and including deputy sheriffs appointed to serve in an
48 emergency, but as to those so appointed, only during the continuation of the
49 emergency. The sheriff shall furnish to the board of county commissioners a
50 complete list of all deputy sheriffs named or appointed by him immediately
51 after their appointment and notify the board of commissioners of any

1 changes made therein promptly after such changes are made. Any reference
2 to an employee who has been injured shall, when the employee is dead,
3 include also the employee's legal representative, dependents, and other
4 persons to whom compensation may be payable: Provided, further, that any
5 employee, as herein defined, of a municipality, county, or of the State of
6 North Carolina, while engaged in the discharge of the employee's official
7 duty outside the jurisdictional or territorial limits of the municipality, county,
8 or the State of North Carolina and while acting pursuant to authorization or
9 instruction from any superior officer, shall have the same rights under this
10 Article as if such duty or activity were performed within the territorial
11 boundary limits of their employer.

12 Except as otherwise provided herein, every executive officer elected or
13 appointed and empowered in accordance with the charter and bylaws of a
14 corporation shall be considered as an employee of such corporation under
15 this Article.

16 Any such executive officer of a corporation may, notwithstanding any
17 other provision of this Article, be exempt from the coverage of the
18 corporation's insurance contract by such corporation's specifically excluding
19 such executive officer in such contract of insurance, and the exclusion to
20 remove such executive officer from the coverage shall continue for the
21 period such contract of insurance is in effect, and during such period such
22 executive officers thus exempted from the coverage of the insurance contract
23 shall not be employees of such corporation under this Article.

24 All county agricultural extension service employees who do not receive
25 official federal appointments as employees of the United States Department
26 of Agriculture and who are field faculty members with professional rank as
27 designated in the memorandum of understanding between the North
28 Carolina Agricultural Extension Service, North Carolina State University, A
29 & T State University, and the boards of county commissioners shall be
30 deemed to be employees of the State of North Carolina. All other county
31 agricultural extension service employees paid from State or county funds
32 shall be deemed to be employees of the county board of commissioners in
33 the county in which the employee is employed for purposes of workers'
34 compensation.

35 The term "employee" shall also include members of the Civil Air Patrol
36 currently certified pursuant to G.S. 143B-1031(a) when performing duties in
37 the course and scope of a State-approved mission pursuant to Subpart C of
38 Part 5 of Article 13 of Chapter 143B of the General Statutes.

39 "Employee" shall not include any person performing voluntary service as
40 a ski patrolman who receives no compensation for such services other than
41 meals or lodging or the use of ski tow or ski lift facilities or any combination
42 thereof.

43 "Employee" shall not include any person elected or appointed and
44 empowered as an executive officer, director, or committee member under the
45 charter, articles, or bylaws of a nonprofit corporation subject to Chapter
46 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization
47 exempt from federal income tax under section 501(c)(3) of the Internal
48 Revenue Code, who performs only voluntary service for the nonprofit
49 corporation, provided that the person receives no remuneration for the
50 voluntary service other than reasonable reimbursement for expenses incurred
51 in connection with the voluntary service. When a nonprofit corporation as

1 described herein employs one or more persons who do receive remuneration
2 other than reasonable reimbursement for expenses, then any volunteer
3 officers, directors, or committee members excluded from the definition of
4 "employee" by operation of this paragraph shall be counted as employees for
5 the sole purpose of determining the number of persons regularly employed
6 in the same business or establishment pursuant to G.S. 97-2(1). Other than
7 for the limited purpose of determining the number of persons regularly
8 employed in the same business or establishment, such volunteer nonprofit
9 officers, directors, or committee members shall not be "employees" under
10 the Act. Nothing herein shall prohibit a nonprofit corporation as described
11 herein from voluntarily electing to provide for workers' compensation
12 benefits in the manner provided in G.S. 97-93 for volunteer officers,
13 directors, or committee members excluded from the definition of
14 "employee" by operation of this paragraph. This paragraph shall not apply to
15 any volunteer firefighter, volunteer member of an organized rescue squad, an
16 authorized ~~pickup firefighter~~ emergency worker when that individual is
17 engaged in emergency fire suppression activities for the North Carolina
18 Forest Service, a duly appointed and sworn member of an auxiliary police
19 department organized pursuant to G.S. 160A-282, or a senior member of the
20 State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of
21 Chapter 143B of the General Statutes, even if such person is elected or
22 appointed and empowered as an executive officer, director, or committee
23 member under the charter, articles, or bylaws of a nonprofit corporation as
24 described herein.

25 Any sole proprietor or partner of a business or any member of a limited
26 liability company may elect to be included as an employee under the
27 workers' compensation coverage of such business if he or she is actively
28 engaged in the operation of the business and if the insurer is notified of his
29 election to be so included. Any such sole proprietor or partner or member of
30 a limited liability company shall, upon such election, be entitled to employee
31 benefits and be subject to employee responsibilities prescribed in this
32 Article.

33 "Employee" shall include an authorized ~~pickup firefighter~~ emergency
34 worker of the North Carolina Forest Service of the Department of
35 Agriculture and Consumer Services when that individual is engaged in
36 emergency ~~fire suppression~~ activities for the North Carolina Forest Service.
37 As used in this section, "authorized ~~pickup firefighter~~ emergency worker"
38 means an individual who has completed required ~~fire suppression~~ emergency
39 response training as a ~~wildland firefighter~~ required by the North Carolina
40 Forest Service and who is available as needed by the North Carolina Forest
41 Service for emergency ~~fire suppression~~ activities, including immediate
42 dispatch to ~~wildfires~~ wildfires, snow events, hurricanes, earthquakes, floods,
43 or other emergencies, and standby for initial attack on fires during periods of
44 high fire danger.

45 It shall be a rebuttable presumption that the term "employee" shall not
46 include any person performing services in the sale of newspapers or
47 magazines to ultimate consumers under an arrangement whereby the
48 newspapers or magazines are to be sold by that person at a fixed price and
49 the person's compensation is based on the retention of the excess of the fixed
50 price over the amount at which the newspapers or magazines are charged to
51 the person.

1 "

2
3 **CREATE EXCEPTION FROM CONSERVATION BENEFIT ANALYSIS FOR**
4 **CERTAIN EASEMENTS**

5 **SECTION 14.** G.S. 121-39.1 reads as rewritten:

6 **"§ 121-39.1. Termination or modification of agreements.**

7 ...
8 (g) This section shall not apply to a condemnation action initiated by a condemnor
9 governed by Article 6 of Chapter 40A of the General Statutes or to a voluntary
10 termination or modification affecting no more than the lesser of two percent (2%) or one acre
11 of the total easement area of the conservation agreement when requested by a public utility, the
12 Department of Transportation, or a government entity having eminent domain authority under
13 Article 3 of Chapter 40A of the General Statutes."

14
15 **EXEMPT FARM TRUCKS THAT STAY IN STATE FROM HAVING A USDOT**
16 **IDENTIFICATION NUMBER**

17 **SECTION 15.** G.S. 20-101 reads as rewritten:

18 **"§ 20-101. Certain business vehicles to be marked.**

19 (a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier
20 safety regulations, shall be marked as required by that Part.

21 (b) A motor vehicle with a gross vehicle weight rating of more than 26,000 pounds that
22 is used in intrastate commerce shall have (i) the name of the owner and (ii) the motor carrier's
23 identification number preceded by the letters "USDOT" and followed by the letters "NC"
24 printed on each side of the vehicle in letters not less than three inches in height. The provisions
25 of this subsection shall not apply if any of the following are true:

26 (1) The motor vehicle is subject to 49 C.F.R. Part 390.

27 (2) The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).

28 (3) The motor vehicle is licensed at the farmer rate under G.S. 20-88.

29 (c) A motor vehicle that is subject to regulation by the North Carolina Utilities
30 Commission shall be marked as required by that Commission and as otherwise required by this
31 section.

32 (d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the
33 purpose of towing or transporting another motor vehicle, shall have the name and address of the
34 registered owner of the vehicle, and the name of the business or person being hired if different,
35 printed on each side of the vehicle in letters not less than three inches in height. This subsection
36 shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

37
38 **EXEMPT CLOSURE OF HOG LAGOONS FROM REQUIRING THE USE OF A**
39 **PROFESSIONAL ENGINEER**

40 **SECTION 16.** G.S. 89C-25 reads as rewritten:

41 **"§ 89C-25. Limitations on application of Chapter.**

42 This Chapter shall not prevent the following activities:

43 (1) The practice of architecture as defined in Chapter 83A of the General
44 Statutes, landscape architecture as defined in Chapter 89A of the General
45 Statutes, or contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of
46 the General Statutes.

47 (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

48 (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

49 (4) Engaging in engineering or land surveying as an employee or assistant under
50 the responsible charge of a professional engineer or professional land
51 surveyor.

- 1 (5) The practice of professional engineering or land surveying by any person not
2 a resident of, and having no established place of business in this State, as a
3 consulting associate of a professional engineer or professional land surveyor
4 licensed under the provisions of this Chapter; provided, the nonresident is
5 qualified for performing the professional service in the person's own state or
6 country.
- 7 (6) Practice by members of the Armed Forces of the United States; employees
8 of the government of the United States while engaged in the practice of
9 engineering or land surveying solely for the government on
10 government-owned works and projects; or practice by those employees of
11 the Natural Resources Conservation Service, county employees, or
12 employees of the Soil and Water Conservation Districts who have federal
13 engineering job approval authority that involves the planning, designing, or
14 implementation of best management practices on agricultural lands.
- 15 (7) Repealed by Session Laws 2014-120, s. 11(a), effective September 18, 2014.
- 16 (7a) The engineering or surveying activities of a person as defined by
17 G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or
18 transmitting and delivering a product or public utility service, and which
19 activities are reasonably necessary and connected with the primary services
20 performed by individuals regularly employed in the ordinary course of
21 business by the person, provided that the engineering or surveying activity is
22 not a holding out or an offer to the public of engineering or surveying
23 services, as prohibited by this Chapter. The engineering and surveying
24 services may not be offered, performed, or rendered independently from the
25 primary services rendered by the person. For purposes of this subdivision,
26 "activities reasonably necessary and connected with the primary service"
27 include the following:
- 28 a. Installation or servicing of the person's product or public utility
29 service by employees of the person conducted outside the premises
30 of the person's business.
- 31 b. Design, acquisition, installation, or maintenance of machinery,
32 equipment, or apparatus incidental to the manufacture or installation
33 of the product or public utility service performed by employees of
34 the person upon property owned, leased, or used by the person.
- 35 c. Research and development performed in connection with the
36 manufacturing, processing, or production of the person's product or
37 public utility service by employees of the person.
- 38 Engineering or surveying activities performed pursuant to this
39 subdivision, where the safety of the public is directly involved, shall be
40 under the responsible charge of a licensed professional engineer or licensed
41 professional surveyor.
- 42 (8) The (i) preparation of fire sprinkler planning and design drawings by a fire
43 sprinkler contractor licensed under Article 2 of Chapter 87 of the General
44 Statutes, or (ii) the performance of internal engineering or survey work by a
45 manufacturing or communications common carrier company, or by a
46 research and development company, or by employees of those corporations
47 provided that the work is in connection with, or incidental to products of, or
48 nonengineering services rendered by those corporations or their affiliates.
- 49 (9) The routine maintenance or servicing of machinery, equipment, facilities or
50 structures, the work of mechanics in the performance of their established
51 functions, or the inspection or supervision of construction by a foreman,

1 superintendent, or agent of the architect or professional engineer, or services
 2 of an operational nature performed by an employee of a laboratory, a
 3 manufacturing plant, a public service corporation, or governmental
 4 operation.

5 (10) The design of land application irrigation systems for an animal waste
 6 management plan, required by G.S. 143-215.10C, by a designer who
 7 exhibits, by at least three years of relevant experience, proficiency in soil
 8 science and basic hydraulics, and who is thereby listed as an Irrigation
 9 Design Technical Specialist by the North Carolina Soil and Water
 10 Conservation Commission.

11 (11) The decommissioning of waste impoundments for animal waste
 12 management systems, as defined by G.S. 143-215.10B(3), by a person who
 13 is designated as a Technical Specialist in the Waste Utilization Plan/Nutrient
 14 Management Category by the North Carolina Soil and Water Conservation
 15 Commission. This subsection shall not apply to the design or installation of a
 16 spillway."
 17

18 **EXEMPT FARM VEHICLES ENGAGED IN INTRASTATE COMMERCE FROM**
 19 **CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS**

20 **SECTION 17.** G.S. 20-381 is amended by adding a new subsection to read:

21 "**§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor**
 22 **carriers; agricultural exemption.**

23 (a) The Department of Public Safety has the following powers and duties concerning
 24 motor carriers:

25 (1) To prescribe qualifications and maximum hours of service of drivers and
 26 their helpers.

27 (1a) To set safety standards for vehicles of motor carriers engaged in foreign,
 28 interstate, or intrastate commerce over the highways of this State and for the
 29 safe operation of these vehicles. The Department of Public Safety may stop,
 30 enter upon, and perform inspections of motor carriers' vehicles in operation
 31 to determine compliance with these standards and may conduct any
 32 investigations and tests it finds necessary to promote the safety of equipment
 33 and the safe operation on the highway of these vehicles.

34 (1b) To enforce this Article, rules adopted under this Article, and the federal
 35 safety and hazardous materials regulations.

36 (2) To enter the premises of a motor carrier to inspect a motor vehicle or any
 37 equipment used by the motor carrier in transporting passengers or property.

38 (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle
 39 equipment the Department of Public Safety finds, by reason of its
 40 mechanical condition or loading, would be likely to cause a crash or
 41 breakdown in the transportation of passengers or property on a highway. If
 42 an agent of the Department of Public Safety finds a motor vehicle of a motor
 43 carrier in actual use upon the highways in the transportation of passengers or
 44 property that, by reason of its mechanical condition or loading, would be
 45 likely to cause a crash or breakdown, the agent shall declare the vehicle "Out
 46 of Service." The agent shall require the operator thereof to discontinue its
 47 use and to substitute therefor a safe vehicle, parts or equipment at the earliest
 48 possible time and place, having regard for both the convenience and the
 49 safety of the passengers or property. When an inspector or agent stops a
 50 motor vehicle on the highway, under authority of this section, and the motor
 51 vehicle is declared "Out of Service," no motor carrier operator shall require,

1 or permit, any person to operate, nor shall any person operate, any motor
2 vehicle equipment declared "Out of Service" until all repairs required by the
3 "Out of Service" notice have been satisfactorily completed. Such agents or
4 inspectors shall also have the right to stop any motor vehicle which is being
5 used upon the public highways for the transportation of passengers or
6 property by a motor carrier subject to the provisions of this Article and to
7 eject therefrom any driver or operator who shall be operating or be in charge
8 of such motor vehicle while under the influence of alcoholic beverages or
9 impairing substances. It shall be the duty of all inspectors and agents of the
10 Department of Public Safety to make a written report, upon a form
11 prescribed by the Department of Public Safety, of inspections of all motor
12 equipment and a copy of each such written report, disclosing defects in such
13 equipment, shall be served promptly upon the motor carrier operating the
14 same, either in person by the inspector or agent or by mail. Such agents and
15 inspectors shall also make and serve a similar written report in cases where a
16 motor vehicle is operated in violation of this Chapter or, if the motor vehicle
17 is subject to regulation by the North Carolina Utilities Commission, of
18 Chapter 62 of the General Statutes.

19 (3) To relieve the highways of all undue burdens and safeguard traffic thereon
20 by adopting and enforcing rules and orders designed and calculated to
21 minimize the dangers attending transportation on the highways of all
22 hazardous materials and other commodities.

23 (4) To determine the safety fitness of intrastate motor carriers, to assign safety
24 ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct
25 intrastate motor carriers to take remedial action when required, to prohibit
26 the operation of intrastate motor carriers rated unsatisfactory, to determine
27 whether the continued operations of intrastate motor carriers pose an
28 "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit
29 the operation of an intrastate motor carrier found to be an "imminent hazard"
30 as defined in 49 C.F.R. § 386.72(b)(1).

31 (5) To prohibit the intrastate operation of a motor carrier subject to an order
32 issued by the Federal Motor Carrier Safety Administration to cease all
33 operations based on a finding that the continued operations of the motor
34 carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

35 (b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this
36 subsection. The transportation of an agricultural product, other than a Class 2 material, over
37 local roads between fields of the same farm by a farmer operating as an intrastate private motor
38 carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49
39 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150
40 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the
41 requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b).

42 (c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation
43 relating to hours-of-service rules for drivers engaged in the transportation of agricultural
44 commodities and farm supplies for agricultural purposes, the terms "planting and harvesting
45 season" and "planting and harvesting period" refer to the period from January 1 through
46 December 31 of each year.

47 (d) The definitions set out in 49 C.F.R. § 390.5 apply to this subsection. A covered farm
48 vehicle engaged in intrastate commerce is exempt from the requirements of 49 C.F.R. §
49 390.21."

50 **SECTION 17.1.(a)** Rule. – Until the effective date of the revised permanent rule
51 that the State Highway Patrol is required to adopt pursuant to subsection (c) of this section, the

1 State Highway Patrol shall implement 14B NCAC 07C .0101 (Safety of Operation and
2 Equipment), as provided in subsection (b) of this section.

3 **SECTION 17.1.(b)** Implementation. – Notwithstanding 14B NCAC 07C .0101, the
4 State Highway Patrol shall exempt covered farm vehicles engaged in intrastate commerce from
5 the requirements of 49 C.F.R. § 390.21.

6 **SECTION 17.1.(c)** Additional Rule-Making Authority. – The State Highway
7 Patrol shall adopt rules to amend 14B NCAC 07C .0101, consistent with subsection (b) of this
8 section.

9 **SECTION 17.1.(d)** Effective Date. – Subsection (b) of this section expires on the
10 date that rules adopted pursuant to subsection (c) of this section become effective. The
11 remainder of this section is effective when it becomes law.

12 13 **DISQUALIFY CERTAIN PROPERTY FROM THE PRESENT-USE VALUE** 14 **CLASSIFICATION**

15 **SECTION 18.(a)** G.S. 105-277.4(c) reads as rewritten:

16 "(c) Deferred Taxes. – Land meeting the conditions for classification under
17 G.S. 105-277.3 must be taxed on the basis of the value of the land for its present use. The
18 difference between the taxes due on the present-use basis and the taxes that would have been
19 payable in the absence of this classification, together with any interest, penalties, or costs that
20 may accrue thereon, are a lien on the real property of the taxpayer as provided in
21 G.S. 105-355(a). The difference in taxes must be carried forward in the records of the taxing
22 unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due
23 and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for
24 deferral as a result of a disqualifying event. A disqualifying event occurs when ~~the land fails to~~
25 ~~meet any condition or requirement for classification or when an application is not approved.~~any
26 one or more of the following conditions are met:

27 (1) The land fails to meet any condition or requirement for classification.

28 (2) An application is not approved.

29 (3) A solar energy electric system receiving the exclusion under
30 G.S. 105-275(45) is located on the land, and the energy generated by the
31 system is not solely used by the owner for the benefit of the land. If only part
32 of the land loses its eligibility for present-use value classification under this
33 subdivision, the assessor must determine the qualification of the remaining
34 land for present-use value classification."

35 **SECTION 18.(b)** This section is effective for taxes imposed for taxable years
36 beginning on or after July 1, 2018.

37 38 **AUTHORIZE WINE SALES AT FARMERS MARKETS**

39 **SECTION 19.** G.S. 18B-1114.1 reads as rewritten:

40 "**§ 18B-1114.1. Authorization of winery special event permit.**

41 (a) Authorization. – The holder of an unfortified winery permit, a limited winery
42 permit, a viticulture/enology course authorization, or a wine producer permit may obtain a
43 winery special permit allowing the winery or wine producer to give free tastings of its wine,
44 and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping
45 malls, wine festivals, street festivals, holiday festivals, agricultural festivals, farmers markets,
46 balloon races, local fund-raisers, and other similar events approved by the Commission.

47 (b) Limitation. – A winery special event permit is valid only in a jurisdiction that has
48 approved the establishment of ABC stores or has approved the sale of unfortified wine."
49

50 **ALLOW A ONE-YEAR EXTENSION OF A CONDITIONAL EXEMPTION FROM** 51 **SALES AND USE TAX FOR FARMERS UNDER CERTAIN CIRCUMSTANCES**

1 **SECTION 20.(a)** G.S. 105-164.13E reads as rewritten:

2 **"§ 105-164.13E. Exemption for farmers.**

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

14 The following tangible personal property, digital property, and services are exempt from
15 sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming
16 operations. For purposes of this section, an item is used by a farmer for farming operations if it
17 is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of
18 dairy products, eggs, or animals:

- 19 (1) Fuel, piped natural gas, and electricity that are measured by a separate meter
20 or another separate device and used for a purpose other than preparing food,
21 heating dwellings, and other household purposes.
- 22 (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers,
23 potting soil, baler twine, and seeds.
- 24 (3) Farm machinery, attachment and repair parts for farm machinery, and
25 lubricants applied to farm machinery. The term "machinery" includes
26 implements that have moving parts or are operated or drawn by an animal.
27 The term does not include implements operated wholly by hand or motor
28 vehicles required to be registered under Chapter 20 of the General Statutes.
- 29 (4) A container used in the planting, cultivating, harvesting, or curing of farm
30 crops or in the production of dairy products, eggs, or animals or used in
31 packaging and transporting the farmer's product for sale.
- 32 (5) A grain, feed, or soybean storage facility and parts and accessories attached
33 to the facility.
- 34 (6) Any of the following substances when purchased for use on animals or
35 plants, as appropriate, held or produced for commercial purposes. This
36 exemption does not apply to any equipment or devices used to administer,
37 release, apply, or otherwise dispense these substances:
 - 38 a. Remedies, vaccines, medications, litter materials, and feeds for
39 animals.
 - 40 b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
 - 41 c. Defoliant for use on cotton or other crops.
 - 42 d. Plant growth inhibitors, regulators, or stimulators, including systemic
43 and contact or other sucker control agents for tobacco and other
44 crops.
 - 45 e. Semen.
- 46 (7) Baby chicks and poults sold for commercial poultry or egg production.
- 47 (8) Any of the following items concerning the housing, raising, or feeding of
48 animals:
 - 49 a. A commercially manufactured facility to be used for commercial
50 purposes for housing, raising, or feeding animals or for housing
51 equipment necessary for these commercial activities. The exemption

1 also applies to commercially manufactured equipment, and parts and
2 accessories for the equipment, used in the facility.

- 3 b. Building materials, supplies, fixtures, and equipment that become a
4 part of and are used in the construction, repair, or improvement of an
5 enclosure or a structure specifically designed, constructed, and used
6 for housing, raising, or feeding animals or for housing equipment
7 necessary for one of these commercial activities. The exemption also
8 applies to commercially manufactured equipment, and parts and
9 accessories for the equipment, used in the enclosure or a structure.

- 10 (9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco
11 barn or rack, and any similar apparatus, part, or accessory used to cure or dry
12 tobacco or another crop.

- 13 (10) Repair, maintenance, and installation services.

14 (b) Conditional Exemption. – A person who does not meet the definition of a qualifying
15 farmer in subsection (a) of this section may apply to the Department for a conditional
16 exemption certificate under G.S. 105-164.28A. A person with a conditional exemption
17 certificate is allowed to purchase items exempt from sales and use tax to the same extent as a
18 qualifying farmer under subsection (a) of this section. To receive a conditional exemption
19 certificate under this subsection, the person must certify that the person intends to engage in
20 farming operations, as that term is described in subsection (a) of this section, and that the
21 person will timely file State and federal income tax returns that reflect income and expenses
22 incurred from farming operations during the taxable years that the conditional exemption
23 certificate applies.

24 A conditional exemption certificate issued under this subsection is valid for the taxable year
25 in which the certificate is issued and the following two taxable years, provided the person to
26 whom the certificate is issued is engaged in farming and provides copies of applicable State
27 and federal income tax returns to the Department within 90 days following the due date of an
28 income tax return for each taxable year covered by the conditional exemption certificate,
29 including an extension of the due date granted by the Secretary under G.S. 105-263. A
30 conditional exemption certificate issued under this subsection may not be extended or renewed
31 beyond the original three-year ~~period~~ period; provided that a person may request a one-year
32 extension of their conditional exemption certificate if the person satisfies all of the following
33 conditions:

- 34 (1) The person holds a conditional exemption certificate that is scheduled to
35 expire within 30 days of an extension request.
36 (2) The person suffers a weather-related disaster that prevents the person from
37 becoming eligible for a qualifying exemption certificate.
38 (3) The person provides the Department all of the following:
39 a. Documents showing that, but for the disaster, the person would have
40 earned ten thousand (\$10,000) or more in gross sales for the year in
41 which the disaster occurred.
42 b. Documentation of revenues and expenses relating to the damaged
43 crop.
44 c. An affidavit from a county extension director or FSA county
45 committee that the disaster occurred in the area of the county in
46 which the person farms.

47 The Department may not issue a conditional exemption certificate to a person who has had
48 a conditional exemption certificate issued under this subsection during the prior 15 taxable
49 years.

50 A person who purchases items with a conditional exemption certificate must maintain
51 documentation of the items purchased and copies of State and federal income tax returns that

1 reflect activities from farming operations for the period of time covered by the conditional
2 exemption certificate for three years following the expiration of the conditional exemption
3 certificate. The Secretary may require a person who has a conditional exemption certificate to
4 provide any other information requested by the Secretary to verify the person met the
5 conditions of this subsection. A person who fails to provide the information requested by the
6 Secretary in a timely manner or who fails to meet the requirements of this subsection becomes
7 liable for any taxes for which an exemption under this subsection was claimed. The taxes
8 become due and payable at the expiration of the conditional exemption certificate, and interest
9 accrues from the date of the original purchase. Additionally, where the person does not timely
10 provide the information requested by the Secretary, the misuse of exemption certificate penalty
11 in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the
12 person made a purchase.

13 (c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of
14 subsection (a) of this section purchased to fulfill a contract with a person who holds a
15 qualifying farmer exemption certificate or a conditional farmer exemption certificate issued
16 under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased
17 directly by the person who holds the exemption certificate. A contractor that purchases one of
18 the items allowed an exemption under this section must provide an exemption certificate to the
19 retailer that includes the name of the qualifying farmer or conditional farmer exemption
20 certificate holder and the qualifying farmer or conditional farmer exemption certificate number
21 issued to that holder.

22 (d) Definition. – For purposes of this section, the term "taxable year" has the same
23 meaning as defined in G.S. 105-153.3."

24 **SECTION 20.(b)** This section is effective for taxes imposed for taxable years
25 beginning on or after July 1, 2017.

26 **SEVERABILITY/EFFECTIVE DATE**

27 **SECTION 21.** If any provision of this act or the application thereof to any person
28 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
29 of this act which can be given effect without the invalid provision or application, and, to this
30 end, the provisions of this act are declared to be severable.

31 **SECTION 22.** Except as otherwise provided, this act is effective when it becomes
32 law.
33