

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2017-108  
SENATE BILL 615**

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

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

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

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

**PRESENT-USE VALUE CHANGE**

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

"§ 105-277.3. Agricultural, horticultural, and forestland ♦ Classifications.

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

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

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



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

## ABANDONED LIVESTOCK AMENDMENTS

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

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

(a) Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to locate the owner.

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

## CLARIFY THE AUTHORITY OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO ADOPT AND ADMINISTER FOREST PRACTICE GUIDELINES FOR PURPOSES OF THE SEDIMENTATION POLLUTION CONTROL ACT

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

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

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



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



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

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

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

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

(c) The ~~Secretary-Commissioner~~ shall establish and appoint a Forestry Technical Advisory Committee to assist in the development and periodic review of Forest Practice Guidelines Related to Water Quality. The Forestry Technical Advisory Committee shall consist of one member from the forest products industry, one member who is a consulting forester, one member who is a private landowner knowledgeable in forestry, one member from the United States Forest Service, one member from the academic community who is knowledgeable in forestry, one member employed by the Department of Environmental Quality who is knowledgeable in erosion and sedimentation control, one member who is knowledgeable in wildlife management, one member who is knowledgeable in marine fisheries management, one member who is knowledgeable in water quality, and one member from the conservation community."

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

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

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

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

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

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

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

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

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

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

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

- (1) "Commissioner" means the Commissioner of Agriculture.
- (2) "Department" means the Department of Agriculture and Consumer Services."

## ASSENT TO MUTUAL AID PROVISIONS OF THE GREAT PLAINS WILDLAND PROTECTION COMPACT

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

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

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

## CLARIFY ACTIVITIES INCIDENT TO THE FARM AND AGRITOURISM

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

### "§ 153A-340. Grant of power.



(b)



- (2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- 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.

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

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

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(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, greenhouses or therapeutic equine facilities~~, (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 structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.
  - b. Any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.
  - c. Any unoccupied structure built upon land owned by the State of North Carolina and administratively allocated to the North Carolina Department of Agriculture and Consumer Services or North Carolina State University which is used primarily for forestry production and research or agriculture production and research. The term "agriculture" has the same meaning as in G.S. 106-581.1. The term "unoccupied" does not exclude the keeping of livestock.
- (1a) A "farm building" shall not lose its status as a farm building because it is 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.
- (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.
- (2a) A "therapeutic equine facility" is an equine facility as described in sub-subdivision (1)a. of this subsection operated by an organization exempt from federal income tax under section 501(c)(3) of

- the Internal Revenue Code that provides therapeutic equine-related activities for persons who are physically, intellectually, or emotionally challenged.
- (3) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- (4) A "primitive camp" shall include any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training, that are (i) not greater than 4,000 square feet in size and (ii) are not intended to be occupied for more than 24 hours consecutively. "Structures primarily used or associated with outdoor camping activities" include, but are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins, campfire shelters, picnic shelters, tents, tepees or other indigenous huts, support buildings used only for administrative functions and not for activities involving campers or program participants, and any other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with outdoor camping activities such as hiking, fishing, hunting, or nature appreciation, regardless of material used for construction. The specific types of primitive camping 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 are exempted from building rules.
- (5) A "primitive farm building" shall include any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices. "Primitive farm buildings" include, but are not limited to, sheds, barns, outhouses, doghouses, or other structures that are utilized to store any equipment, tools, commodities, livestock, or other items supporting farm management. These specific types of farming activities, structures, and uses set forth by this subdivision are for illustrative purposes and should not be construed to limit in any manner the types of activities, structures, or uses that are exempted from building rules.
- (6) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.



## AMEND DEFINITION OF AGRICULTURE, AGRICULTURAL, AND FARMING

**SECTION 8.1.** G.S. 106-581.1(6) reads as rewritten:

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

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



- (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on ~~the a~~ farm, and similar activities incident to the operation of a farm."

## ELIMINATE COUNTY AUTHORITY TO ADOPT ZONING REGULATIONS GOVERNING SWINE FARMS

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

- "(b) (1) These regulations may not affect property used for bona fide farm ~~purposes only as provided in subdivision (3) of this subsection. This~~ purposes; provided, however, that this subsection does not limit regulation under this Part with respect to the use of farm property for nonfarm purposes.
- (2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether

a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

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

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

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

"(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

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

## **ALLOW FOOD COMPLIANCE INSPECTORS TO DRIVE STATE VEHICLES WITHOUT STATE TAGS AND BUMPER STICKERS**

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

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

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

- (1) The vehicle has imprinted on the license plate, above the license number, the words "State Owned" and the vehicle has affixed to the front the words "State Owned";
- (2) In the case of a county, the vehicle has painted or affixed on its side a circle not less than eight inches in diameter showing a replica of the seal of the county; or
- (3) In the case of vehicles assigned to members of the Council of State, the vehicle has imprinted on the license plate the license number assigned to the appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a member of the Council of State shall not be assessed any registration fee if the member elects to have a State-owned motor vehicle assigned to the member designated by the official plate number.

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

(c) A motor vehicle used by a county for transporting day or residential facility clients of area mental health, developmental disabilities, and substance abuse authorities established under Article 4 of Chapter 122C of the General Statutes is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully

provide private license plates to counties for use on publicly owned or leased vehicles used for that purpose. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(c1) A motor vehicle used by the Department of Agriculture and Consumer Services exclusively for Meat and Poultry compliance officers to conduct inspections is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to the Department of Agriculture and Consumer Services for use on publicly owned or leased vehicles used for this purpose. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

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## MEAT AND POULTRY TECHNICAL CORRECTIONS

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

### "§ 106-549.15. Definitions.

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

- (1) "Adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:
  - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
  - b.
    1. If it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;
    2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;
    3. If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
    4. If it bears or contains any color additive which is unsafe within the meaning of section ~~706-721~~ of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not adulterated under clause 2, 3, or 4 shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive or color additive in or on such article is prohibited by order of the Commissioner in establishments at which inspection is maintained under this Article;

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

### "§ 106-549.51. Definitions.

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

- (1) "Adulterated" shall apply to any poultry product under one or more of the following circumstances:
  - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
  - b.
    1. If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;
    2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;



3. If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
4. If it bears or contains any color additive which is unsafe within the meaning of section ~~706~~721 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not otherwise deemed adulterated under paragraphs 2, 3, or 4 shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in official establishments;



## MODERNIZE FOREST RANGER STATUTES

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

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

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

- (1) "Deputy ranger" means a highly trained emergency worker hired on a temporary basis to respond to a given emergency or condition. A deputy ranger shall be sworn or affirmed to the terms of "General Oath" as provided in G.S. 11-11. A deputy ranger shall have the powers and duties as enumerated in G.S. 106-899.
- (2) "Emergency worker" means a person who is not an employee of the North Carolina Forest Service but is an individual serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency. Except for a deputy ranger, an emergency worker is not sworn or affirmed to the terms of "General Oath" provided in G.S. 11-11.
- (3) "Forest ranger" means an employee of the North Carolina Forest Service who has been sworn or affirmed to the terms of "General Oath" provided in G.S. 11-11. A forest ranger shall have the powers and duties as enumerated in G.S. 106-898 and G.S. 106-899."

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

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

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

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

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

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

~~Forest rangers, rangers, deputy rangers, and emergency workers~~ shall receive compensation from the Department at a reasonable rate to be fixed by said Department for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the Commissioner every month, and approved by him. Forest rangers shall render to the Commissioner a statement of the services rendered by the men employed by them or their deputy

rangers, as provided in this Article, within one month of the date of service, which bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the Commissioner. If said bill be duly approved by the Commissioner, it shall be paid by direction of the Department out of any funds provided for that purpose."

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

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

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

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

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

**"§ 106-941. Definitions.**

As used in this Article:

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

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

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

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

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

◆."

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

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

**"§ 97-2. Definitions.**

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

◆

- (2) Employee. ◆ The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with

or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of their employer.

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

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

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

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

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

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of

determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized ~~pickup firefighter~~ emergency worker when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

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

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

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



## **CREATE EXCEPTION FROM CONSERVATION BENEFIT ANALYSIS FOR CERTAIN EASEMENTS**

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

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



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

## **EXEMPT FARM TRUCKS THAT STAY IN STATE FROM HAVING A USDOT IDENTIFICATION NUMBER**

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

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

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

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

- (1) The motor vehicle is subject to 49 C.F.R. Part 390.
- (2) The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).
- (3) The motor vehicle is licensed at the farmer rate under G.S. 20-88.

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

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

## **EXEMPT CLOSURE OF HOG LAGOONS FROM REQUIRING THE USE OF A PROFESSIONAL ENGINEER**

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

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

This Chapter shall not prevent the following activities:

- (1) The practice of architecture as defined in Chapter 83A of the General Statutes, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of the General Statutes.
- (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor.
- (5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.
- (6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.
- (7) Repealed by Session Laws 2014-120, s. 11(a), effective September 18, 2014.
- (7a) The engineering or surveying activities of a person as defined by G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or transmitting and delivering a product or public utility service, and which activities are reasonably necessary and connected with the primary services performed by individuals regularly employed in the ordinary course of business by the person, provided that the engineering or surveying activity is not a holding out or an offer to the public of engineering or surveying services, as prohibited by this Chapter. The engineering and surveying services may not be offered, performed, or rendered independently from the primary services rendered by the person. For purposes of this subdivision, "activities reasonably necessary and connected with the primary service" include the following:
  - a. Installation or servicing of the person's product or public utility service by employees of the person conducted outside the premises of the person's business.
  - b. Design, acquisition, installation, or maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or public utility service performed by employees of the person upon property owned, leased, or used by the person.
  - c. Research and development performed in connection with the manufacturing, processing, or production of the person's product or public utility service by employees of the person.

Engineering or surveying activities performed pursuant to this subdivision, where the safety of the public is directly involved, shall be under the responsible charge of a licensed professional engineer or licensed professional surveyor.

- (8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of those corporations provided that the work is in connection with, or incidental to products of, or nonengineering services rendered by those corporations or their affiliates.
- (9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.
- (10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission.
- (11) The decommissioning of waste impoundments for animal waste management systems, as defined by G.S. 143-215.10B(3), by a person who is designated as a Technical Specialist in the Waste Utilization Plan/Nutrient Management Category by the North Carolina Soil and Water Conservation Commission. This subsection shall not apply to the design or installation of a spillway."

## EXEMPT FARM VEHICLES ENGAGED IN INTRASTATE COMMERCE FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS

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

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

- (a) The Department of Public Safety has the following powers and duties concerning motor carriers:
- (1) To prescribe qualifications and maximum hours of service of drivers and their helpers.
- (1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Department of Public Safety may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.
- (1b) To enforce this Article, rules adopted under this Article, and the federal safety and hazardous materials regulations.
- (2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers or property.
- (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the Department of Public Safety finds, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown in the transportation of passengers or property on a highway. If an agent of the Department of Public Safety finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public

highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the Department of Public Safety to make a written report, upon a form prescribed by the Department of Public Safety, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.
- (4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).
- (5) To prohibit the intrastate operation of a motor carrier subject to an order issued by the Federal Motor Carrier Safety Administration to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

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

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

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

**SECTION 17.1.(a) Rule.** ♦ Until the effective date of the revised permanent rule that the State Highway Patrol is required to adopt pursuant to subsection (c) of this section, the State Highway Patrol shall implement 14B NCAC 07C .0101 (Safety of Operation and Equipment), as provided in subsection (b) of this section.

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

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

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

## **AUTHORIZE WINE SALES AT FARMERS MARKETS**

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

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

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

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

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

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

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

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

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

- (1) Fuel, piped natural gas, and electricity that are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
- (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
- (3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.
- (4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.
- (5) A grain, feed, or soybean storage facility and parts and accessories attached to the facility.
- (6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:
  - a. Remedies, vaccines, medications, litter materials, and feeds for animals.
  - b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
  - c. Defoliants for use on cotton or other crops.
  - d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.
  - e. Semen.
- (7) Baby chicks and poults sold for commercial poultry or egg production.
- (8) Any of the following items concerning the housing, raising, or feeding of animals:
  - a. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility.
  - b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.



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

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

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

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

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

A person who purchases items with a conditional exemption certificate must maintain documentation of the items purchased and copies of State and federal income tax returns that reflect activities from farming operations for the period of time covered by the conditional exemption certificate for three years following the expiration of the conditional exemption certificate. The Secretary may require a person who has a conditional exemption certificate to provide any other information requested by the Secretary to verify the person met the conditions of this subsection. A person who fails to provide the information requested by the Secretary in a timely manner or who fails to meet the requirements of this subsection becomes liable for any taxes for which an exemption under this subsection was claimed. The taxes become due and payable at the expiration of the conditional exemption certificate, and interest accrues from the date of the original purchase. Additionally, where the person does not timely provide the information requested by the Secretary, the misuse of exemption certificate penalty in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the person made a purchase.

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

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

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

## AMEND G.S. 95-79

**SECTION 20.5.(a)** G.S. 95-79(b) reads as rewritten:

"(b) Any provision that directly or indirectly conditions the purchase of agricultural ~~products or products~~, the terms of an agreement for the purchase of agricultural ~~products~~products, or the terms of an agreement not to sue or settle litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. Further, notwithstanding G.S. 95-25.8, an agreement requiring an agricultural producer to transfer funds to a labor union or labor organization for the purpose of paying an employee's membership fee or dues is invalid and unenforceable against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

**SECTION 20.5.(b)** This section is effective when it becomes law and applies to agreements and settlements entered into, renewed, or extended on or after that date.

**SEVERABILITY/EFFECTIVE DATE**

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

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June, 2017.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 6:55 p.m. this 12<sup>th</sup> day of July, 2017