

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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1

HOUSE BILL 210*

Short Title: Ag Dept. Name Change.

(Public)

Sponsors: Representatives Brown; and Yongue.

Referred to: Agriculture.

February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA DEPARTMENT
2 OF AGRICULTURE TO THE NORTH CAROLINA DEPARTMENT OF
3 AGRICULTURE AND CONSUMER SERVICES.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 19A-22 reads as rewritten:

7 **"§ 19A-22. Animal Welfare Section in Animal Health Division of Department of**
8 **Agriculture created; Director.**

9 There is hereby created within the Animal Health Division of the North Carolina
10 Department of ~~Agriculture~~, Agriculture and Consumer Services, a new section thereof, to
11 be known as the Animal Welfare Section of said division.

12 The Commissioner of Agriculture is hereby authorized to appoint a Director of said
13 section whose duties and authority shall be determined by the Commissioner subject to
14 the approval of the Board of Agriculture and subject to the provisions of this Article.

15 Section 2. G.S. 19A-23(8) reads as rewritten:

16 "(8) 'Director' means the Director of the Animal Welfare Section of the
17 Animal Health Division of the Department of ~~Agriculture~~, Agriculture
18 and Consumer Services."

19 Section 3. G.S. 62-102(b)(6) reads as rewritten:

20 "(6) The Department of ~~Agriculture~~, Agriculture and Consumer Services;"

1 Section 4. G.S. 66-58(b)(2) reads as rewritten:

2 "(2) The Department of Human Resources, the Department of Environment,
3 Health, and Natural Resources, or the Department of Agriculture and
4 Consumer Services for the sale of serums, vaccines, and other like
5 products."

6 Section 5. G.S. 66-58(b)(13b) reads as rewritten:

7 "(13b) The Department of Agriculture and Consumer Services with regard
8 to its lessees at farmers' markets operated by the Department."

9 Section 6. G.S. 66-58(c)(7) and (8) read as rewritten:

10 "(7) The operation by penal, correctional or facilities operated by the
11 Department of Human Resources or by the ~~State~~ Department of
12 ~~Agriculture~~, Agriculture and Consumer Services, of dining rooms
13 for the inmates or clients or members of the staff while on duty and
14 for the accommodation of persons visiting such inmates or clients,
15 and other bona fide visitors.

16 (8) The sale by the Department of Agriculture and Consumer Services
17 of livestock, poultry and publications in keeping with its present
18 livestock and farm program."

19 Section 7. G.S. 81A-9(2) reads as rewritten:

20 "(2) Authorized Agent. – An 'authorized agent' is any employee of the
21 North Carolina Department of Agriculture and Consumer Services
22 designated by the Commissioner to enforce any provisions of this
23 Chapter and who is designated by an official identification card
24 issued by the Commissioner."

25 Section 8. G.S. 81A-29 reads as rewritten:

26 **"§ 81A-29. Offenses and penalties.**

27 Any person who violates any provision of this section or any provision of this Chapter
28 or regulations promulgated pursuant thereto for which a specific penalty has not been
29 prescribed shall be guilty of a Class 2 misdemeanor upon a first conviction. Upon a
30 subsequent conviction thereof, said person shall be guilty of a Class 1 misdemeanor. No
31 person shall:

32 (1) Use or have in possession for use in commerce any incorrect
33 weight or measure.

34 (2) Remove any tag, seal, or mark from any weight or measure without
35 specific written authorization from the Commissioner or his
36 authorized agent.

37 (3) Hinder or obstruct any weights-and-measures official in the
38 performance of his duties.

39 (4) Impersonate in any way any employee of the North Carolina
40 Department of Agriculture and Consumer Services designated by
41 the Commissioner to enforce any part of this Chapter.

42 (5) Use in retail trade, except in the preparation of packages put up in
43 advance of sale, a weighing or measuring device which is not so

1 positioned so that its indications may be accurately read and the
2 weighing or measuring operation observed from some position
3 which may be reasonably assumed by a customer.

- 4 (6) Manufacture, use or possess a counterfeit seal, tag, mark,
5 certificate, label or decal representing, imitating or copying the
6 same issued by the Commissioner under this Chapter."

7 Section 9. G.S. 81A-51(3) reads as rewritten:

- 8 "(3) 'Department' means the North Carolina Department of ~~Agriculture.~~
9 Agriculture and Consumer Services."

10 Section 10. G.S. 81A-71 reads as rewritten:

11 "§ 81A-71. Prerequisites for scale technician. **It shall be unlawful for any scale**
12 **technician to render service as a scale technician until after he or she has**
13 **compiled with the following requirements:**

- 14 (1) Obtained from the Department of Agriculture and Consumer
15 Services a copy of this Article, a copy of regulations pertinent to
16 said Article, and an application form for registration.

- 17 (2) to (4) Repealed by Session Laws 1983, c. 111, s. 2, effective July 1,
18 1983.

- 19 (5) Obtained a registration card or certificate from the Commissioner or his
20 authorized agent and a model form of service certificate.

- 21 (6) Obtained from the Department an annual certification of the standards
22 of weight which will be used by the scale technician.

23 The provisions of this Article shall not apply to a full-time employee who renders
24 service only on a scale or weighing device, or on scales or weighing devices, owned
25 solely by his or her employer unless additional pay or compensation is received for such
26 service."

27 Section 11. G.S. 90-187.10(10) reads as rewritten:

- 28 "(10) Any person employed by the North Carolina Department of
29 Agriculture and Consumer Services as a livestock inspector or by the
30 U.S. Department of Agriculture as an animal health technician from
31 performing regular duties assigned to him or her during the course
32 and scope of that person's employment."

33 Section 12. G.S. 105-130.37(b)(2) reads as rewritten:

- 34 "(2) 'Market price' means the season average price of the crop as
35 determined by the North Carolina Crop and Livestock Reporting
36 Service in the Department of ~~Agriculture, Agriculture and Consumer~~
37 Services, or the average price of the crop in the nearest local market
38 for the month in which the crop is gleaned if the Crop and Livestock
39 Reporting Service does not determine the season average price for
40 that crop; and"

41 Section 13. G.S. 105-151.14(b)(2) reads as rewritten:

- 42 "(2) 'Market price' means the season average price of the crop as
43 determined by the North Carolina Crop and Livestock Reporting

1 Service in the Department of ~~Agriculture~~, Agriculture and Consumer
2 Services, or the average price of the crop in the nearest local market
3 for the month in which the crop is gleaned if the Crop and Livestock
4 Reporting Service does not determine the season average price for
5 that crop; and".

6 Section 14. G.S. 105-259(b)(14) reads as rewritten:

7 "(14) To exchange information concerning a tax imposed by Subchapter V
8 of this Chapter with the Standards Division of the Department of
9 Agriculture and Consumer Services when the information is needed
10 to administer the Gasoline and Oil Inspection Act, Article 3 of
11 Chapter 119 of the General Statutes."

12 Section 15. The Title to Article 1 of Chapter 106 reads as rewritten:

13 **"ARTICLE 1.**

14 **DEPARTMENT OF AGRICULTURE-AGRICULTURE AND CONSUMER**
15 **SERVICES."**

16 Section 16. G.S. 106-2 reads as rewritten:

17 **"§ 106-2. Department of Agriculture and Consumer Services established; Board of**
18 **Agriculture, membership, terms of office, etc.**

19 The Department of Agriculture and Consumer Services is created and established and
20 shall be under the control of the Commissioner of Agriculture, with the consent and
21 advice of a board to be styled "The Board of Agriculture."The Board of Agriculture shall
22 consist of the Commissioner of Agriculture, who shall be ex officio a member and
23 chairman thereof and shall preside at all meetings, and of 10 other members from the
24 State at large, so distributed as to reasonably represent the different sections and
25 agriculture of the State. In the appointment of the members of the Board the Governor
26 shall also take into consideration the different agricultural interests of the State, and shall
27 appoint one member who shall be a practical tobacco farmer to represent the tobacco
28 farming interest, one who shall be a practical cotton grower to represent the cotton
29 interest, one who shall be a practical truck farmer or general farmer to represent the truck
30 and general farming interest, one who shall be a practical dairy farmer to represent the
31 dairy and livestock interest of the State, one who shall be a practical poultryman to
32 represent the poultry interest of the State, one who shall be a practical peanut grower to
33 represent the peanut interests, one who shall be experienced in marketing to represent the
34 marketing of products of the State. The members of such Board shall be appointed by the
35 Governor by and with the consent of the Senate, when the terms of the incumbents
36 respectively expire. The term of office of such members shall be six years and until their
37 successors are duly appointed and qualified. The terms of office of the five members
38 constituting the present Board of Agriculture shall continue for the time for which they
39 were appointed. In making appointments for the enlarged Board of Agriculture, the
40 Governor shall make the appointments so that the term of three members will be for two
41 years, three for four and four for six years. Thereafter the appointments shall be made for
42 six years. Vacancies in such Board shall be filled by the Governor for the unexpired term.

1 The Commissioner of Agriculture and the members of the Board of Agriculture shall be
2 practical farmers engaged in their profession."

3 Section 17. G.S. 106-17 reads as rewritten:

4 **"§ 106-17. Acquisition of research farm.**

5 The Department of Agriculture and Consumer Services is hereby authorized and
6 empowered to acquire by purchase, gift, donation, or lease, a tract or boundary of land of
7 not less than 100 acres in the sandhill section of North Carolina, and in northeastern
8 North Carolina composed of the Counties of Camden, Chowan, Currituck, Gates,
9 Pasquotank and Perquimans, to be developed and used as a 'research farm' for the
10 purposes of work in investigation in agriculture.

11 Such 'research farm' when acquired and established shall be operated, managed and
12 controlled as other 'research farms' in the State."

13 Section 18. G.S. 106-18 reads as rewritten:

14 **"§ 106-18. Peanut research farm.**

15 The Department of Agriculture and Consumer Services is hereby authorized and
16 directed to purchase, establish and operate a research farm in some suitable place in the
17 peanut section of eastern North Carolina for the purpose of studying the growing of
18 peanuts, looking toward the improvement of seed, fertilizer, the control of disease,
19 through experiments, and such other matters pertaining to the growth and improvement
20 of the quality of peanuts. The said research farm to be purchased and established in time
21 for operation not later than January 1, 1938. In doing this work the Department of
22 Agriculture is authorized to make such reasonable expenditures for establishing and
23 operating such peanut research farm as may be necessary for its proper conduct and in the
24 same way as is now being done for the other research farms in the State. The research
25 farm shall be established, operated and controlled by the Department of Agriculture as
26 the other research farms for the study of other farm crops."

27 Section 19. G.S. 106-19 reads as rewritten:

28 **"§ 106-19. State Chemist; duties of office.**

29 The Department of Agriculture and Consumer Services shall employ an analyst or
30 State Chemist skilled in agricultural chemistry, and such assistants as may be necessary.
31 It shall be the duty of the State Chemist to analyze such fertilizers and products as may be
32 required by this Department, and to aid as far as practicable in suppressing fraud in the
33 sale of commercial fertilizers. He shall also, under the direction of the Department,
34 analyze for citizens of the State such samples of ores, minerals, mineral and potable
35 waters, soils, marls and phosphates as may be deemed by the Department of benefit to the
36 development of the material interest of the State, when such samples are supplied under
37 rules by the Department, and he shall carry on such other investigations as the
38 Department may direct. He shall make regular reports to the Department of all analyses,
39 assays, and experiments made, which shall be furnished when deemed needful to such
40 newspapers as will publish the same." Section 20. G.S. 106-21 reads as rewritten:

41 **"§ 106-21. Timber conditions to be investigated and reported.**

1 The Department of Agriculture and Consumer Services shall investigate and report
2 upon the conditions of the timber in North Carolina, and recommend such legislation as
3 will promote the growth thereof and preserve the same."

4 Section 21. G.S. 106-21.1 reads as rewritten:

5 **"§ 106-21.1. Feed Advisory Service; fee.**

6 The Department of Agriculture and Consumer Services shall operate a Feed Advisory
7 Service for the analysis of animal feeds in order to provide a feeding management service
8 to all animal producers in North Carolina. A fee of ten dollars (\$10.00) shall accompany
9 each feed sample sent to the Department for testing. A fee of seventy-five dollars
10 (\$75.00) shall accompany each feed sample which is to be tested for the presence of
11 fumonisin."

12 Section 22. G.S. 106-21.2 reads as rewritten:

13 **"§ 106-21.2. Food Bank information and referral service.**

14 The Department of Agriculture and Consumer Services may maintain an information
15 and referral service for persons and organizations that have notified the department of
16 their desire to donate food to a nonprofit organization or a nonprofit corporation."

17 Section 23. G.S. 106-22.1 reads as rewritten:

18 **"§ 106-22.1. State farms. State-owned farmland, including timberland, allocated to
19 the Department of Agriculture and Consumer Services for the State Farm
20 Program, shall be managed by the Department for research, teaching, and
21 demonstration in agriculture, forestry, and aquaculture. Research
22 projects on the State farms shall be approved by the Department. The
23 Department may sell surplus commodities produced on the farms."**

24 Section 24. G.S. 106-22.2 reads as rewritten:

25 **"§ 106-22.2. Museum of Natural Sciences; Maritime Museum; disposition of
26 objects.**

27 Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4),
28 or any other law pertaining to surplus State property, the Department of Agriculture and
29 Consumer Services may sell or exchange any object from the collections of the Museum
30 of Natural Sciences and the Maritime Museum when it would be in the best interests of
31 the Museums to do so. Sales or exchanges shall be conducted in accordance with
32 generally accepted practices for accredited museums. If an object is sold, the net proceeds
33 of the sale shall be deposited in the State treasury to the credit of a special fund to be used
34 for the improvement of the Museums' collections or exhibits."

35 Section 25. G.S. 106-24 reads as rewritten:

36 **"§ 106-24. Collection and publication of information relating to agriculture;
37 cooperation.**

38 The Department of Agriculture and Consumer Services shall collect, compile,
39 systematize, tabulate, and publish statistical information relating to agriculture. The
40 Department is authorized to use sample surveys to collect primary data relating to
41 agriculture. The Department is authorized to cooperate with the United States
42 Department of Agriculture and the several boards of county commissioners of the State,
43 to accomplish the purpose of this Part."

1 Section 26. G.S. 106-24.1 reads as rewritten:

2 **"§ 106-24.1. Confidentiality of information collected and published.**

3 All information published by the Department of Agriculture and Consumer Services
4 pursuant to this Part shall be classified so as to prevent the identification of information
5 received from individual farm operators. All information received pursuant to this Part
6 from individual farm operators shall be held confidential by the Department and its
7 employees. Information collected by the Department from individual farm operators for
8 the purposes of its animal health programs may be disclosed by the State Veterinarian
9 when, in his judgment, the disclosure will assist in the implementation of these
10 programs."

11 Section 27. G.S. 106-65.23 reads as rewritten:

12 **"§ 106-65.23. Structural Pest Control Division of Department of Agriculture and
13 Consumer Services recreated; Director; Structural Pest Control
14 Committee created; appointment; terms; quorum.**

15 There is hereby recreated, within the North Carolina Department of Agriculture,
16 Agriculture and Consumer Services, a Division thereof, to be known as the Structural
17 Pest Control Division of said Department. The Commissioner of Agriculture is hereby
18 authorized to appoint a Director of said Division whose duties and authority shall be
19 determined by the Commissioner. Said Director shall act as secretary to the Structural
20 Pest Control Committee herein created.

21 There is hereby created a Structural Pest Control Committee to be composed of the
22 following members. The Commissioner shall appoint one member of the Committee
23 who is not in the structural pest control business for a four-year term. The Commissioner
24 of Agriculture shall designate an employee of the Department of Agriculture and
25 Consumer Services to serve on said Committee at the pleasure of the Commissioner. The
26 dean of the School of Agriculture of North Carolina State University at Raleigh shall
27 appoint one member of the Committee who shall serve for one term of two years and who
28 shall be a member of the entomology faculty of said University. The vacancy occurring
29 on the Committee by the expired term of the member from the entomology faculty of said
30 University shall be filled by the dean of the School of Agriculture of North Carolina State
31 University at Raleigh who shall designate any person of his choice from the entomology
32 faculty of said University to serve on said Committee at the pleasure of the dean. The
33 Secretary of Environment, Health, and Natural Resources shall appoint one member of
34 the Committee who shall be an epidemiologist in the Division of Health Services and
35 who shall serve at the pleasure of the Secretary. The Governor shall appoint two
36 members of said Committee who are actively engaged in the pest control industry, who
37 are licensed in at least two phases of structural pest control as provided under G.S. 106-
38 65.25(a), and who are residents of the State of North Carolina but not affiliates of the
39 same company. The initial Committee members from the pest control industry shall be
40 appointed as follows: one for a two-year term and one for a three-year term. The
41 Governor shall appoint one member of the Committee who is a public member and who
42 is unaffiliated with the structural pest control industry, the pesticide industry, the
43 Department of ~~Agriculture~~, Agriculture and Consumer Services, the Department of

1 Environment, Health, and Natural Resources and the School of Agriculture at North
2 Carolina State University at Raleigh. The initial public member shall be appointed for a
3 term of two years, commencing July 1, 1991. After the initial appointments by the
4 Governor, all ensuing appointments by the Governor shall be for terms of four years.
5 Any vacancy occurring on the Committee by reason of death, resignation, or otherwise
6 shall be filled by the Governor or the Commissioner of Agriculture, as the case may be,
7 for the unexpired term of the member whose seat is vacant. A member of the Committee
8 appointed by the Governor shall not succeed himself.

9 The Committee shall make final decisions under this Article concerning licenses,
10 certified applicator cards, and identification cards. The Committee shall report annually
11 to the Board of Agriculture the action taken in the Committee's final decisions and the
12 financial status of the Structural Pest Control Division.

13 The Director shall be responsible for and answerable to the Commissioner of
14 Agriculture as to the operation and conduct of the Structural Pest Control Division.

15 Each member of the Committee who is not an employee of the State shall receive as
16 compensation for services per diem and necessary travel expenses and registration fees in
17 accordance with the provisions as outlined for members of occupational licensing boards
18 and currently provided for in G.S. 93B-5. Such per diem and necessary travel expenses
19 and registration fees shall apply to the same effect that G.S. 93B-5 might hereafter be
20 amended.

21 Four members of the Committee shall constitute a quorum but no action at any
22 meeting of the Committee shall be taken without four votes in accord. The chairman
23 shall be entitled to vote at all times.

24 The Committee shall meet at such times and such places in North Carolina as the
25 chairman shall direct; provided, however, that four members of the Committee may call a
26 special meeting of the Committee on five days' notice to the other members thereof.

27 Except as otherwise provided herein, all members of the Committee shall be
28 appointed or designated, as the case may be, prior to and shall commence their respective
29 terms on July 1, 1967.

30 At the first meeting of the Committee they shall elect a chairman who shall serve as
31 such at the pleasure of the Committee."

32 Section 28. G.S. 106-65.24(8a) reads as rewritten:

33 "(8a) 'Director' means the Director of the Structural Pest Control Division
34 of the Department of ~~Agriculture~~. Agriculture and Consumer
35 Services."

36 Section 29. G.S. 106-65.24(9a) reads as rewritten:

37 "(9a) 'Enforcement agency' means the Structural Pest Control Division of
38 the Department of ~~Agriculture~~. Agriculture and Consumer Services."

39 Section 30. G.S. 106-65.44(4) reads as rewritten:

40 "(4) The term 'Division of Entomology' means the Division of the
41 Department of Agriculture ~~so named~~ and Consumer Services."

42 Section 31. G.S. 106-65.69(3) reads as rewritten:

1 "(3) Commissioner. – The Commissioner of the ~~Department~~ of
2 Agriculture of this State or any officer or employee of ~~said the~~
3 Department of Agriculture and Consumer Services or designated
4 cooperator to whom authority to act in his stead has been or
5 hereafter may be delegated."

6 Section 32. G.S. 106-121(2) reads as rewritten:

7 "(2) The term 'Commissioner' means the Commissioner of Agriculture;
8 the term 'Department' means the Department of ~~Agriculture,~~
9 Agriculture and Consumer Services, and the term 'Board' means the
10 Board of Agriculture."

11 Section 33. G.S. 106-134(8) reads as rewritten:

12 "(8) If it has been found by the Department of Agriculture and Consumer
13 Services to be a drug liable to deterioration, unless it is packaged in
14 such form and manner, and its label bears a statement of such
15 precautions, as the Board of Agriculture shall by regulations require
16 as necessary for the protection of public health. No such regulation
17 shall be established for any drug recognized in an official
18 compendium until the Commissioner of Agriculture shall have
19 informed the appropriate body charged with the revision of such
20 compendium of the need for such packaging or labeling
21 requirements and such body shall have failed within a reasonable
22 time to prescribe such requirements."

23 Section 34. G.S. 106-141.1 reads as rewritten:

24 "§ 106-141.1. Inspections of donated food. **(a) The Department of Agriculture and**
25 **Consumer Services is authorized to inspect for compliance with the**
26 **provisions of Article 12 of Chapter 106 of the North Carolina General**
27 **Statutes, food items donated for use or distribution by nonprofit**
28 **organizations or nonprofit corporations, and may establish procedures for**
29 **the handling of the food items, including reporting procedures concerning**
30 **the donation of food.**

31 (b) The Department of Agriculture and Consumer Services may apply to Superior
32 Court for injunctive relief restraining the violation of this section.

33 (c) Nothing in this section shall limit the duties or responsibilities of the
34 Commission for Health Services or the local boards of health."

35 Section 35. G.S. 106-145.2(5) reads as rewritten:

36 "(5) Department. – The Department of ~~Agriculture.~~ Agriculture and
37 Consumer Services."

38 Section 36. G.S. 106-185(a) reads as rewritten:

39 "(a) Scope. – This Article gives the Department of Agriculture and Consumer
40 Services the authority to investigate marketing conditions for and establish and maintain
41 standard grades, packages, and State brands for farm products. As used in this Article,
42 the term 'farm products' means farm crops, horticultural crops, and animal products."

43 Section 37. G.S. 106-202.14(a) reads as rewritten:

1 "(a) The North Carolina Plant Conservation Board is created within the Department
2 of ~~Agriculture~~ Agriculture and Consumer Services."

3 Section 38. G.S. 106-202.14(b)(6) reads as rewritten:

4 "(6) The Department of ~~Agriculture~~;—Agriculture and Consumer
5 Services;"

6 Section 39. G.S. 106-202.15(12) reads as rewritten:

7 "(12) To promulgate regulations under which the Department of
8 Agriculture and Consumer Services may issue permits to licensed
9 nurserymen, commercial growers, scientific supply houses and
10 botanical gardens for the sale or distribution of plants on the
11 protected list provided that the plants are nursery propagated and
12 grown horticulturally from seeds or by vegetative propagation of
13 cuttings, meristems or other similar materials and that the plants bear
14 the grower's permit number."

15 Section 40. G.S. 106-202.19(a)(7) reads as rewritten:

16 "(7) To fail to keep records as required under this Article, to refuse to
17 make records available for inspection by the Board or its agent, or to
18 use forms other than those provided for the current year or harvest
19 season by the Department of ~~Agriculture~~;—Agriculture and Consumer
20 Services;"

21 Section 41. G.S. 106-202.19(b) reads as rewritten:

22 "(b) The Commissioner or any employee of the Department of Agriculture and
23 Consumer Services designated by the Commissioner to enforce the provisions of this
24 Article, may enter any place within the State at all reasonable times where plant materials
25 are being grown, transported or offered for sale and require the presentation for
26 inspection of all pertinent papers and records relative to the provisions of this Article,
27 after giving notice in writing to the owner or custodian of the premises to be entered. If
28 he refuses to consent to the entry, the Commissioner may apply to any district court judge
29 and the judge may order, without notice, that the owner or custodian of the place permit
30 the Commissioner to enter the place for the purposes herein stated and failure by any
31 person to obey the order may be punished as for contempt."

32 Section 42. G.S. 106-245.14(12) reads as rewritten:

33 "(12) 'Lots' means a physical grouping of eggs or containers with eggs
34 therein, as determined by the North Carolina Department of
35 ~~Agriculture~~—Agriculture and Consumer Services."

36 Section 43. G.S. 106-245.31(3) reads as rewritten:

37 "(3) 'Department' means the North Carolina Department of ~~Agriculture~~—
38 Agriculture and Consumer Services."

39 Section 44. G.S. 106-251 reads as rewritten:

40 "**§ 106-251. Department of Agriculture and Consumer Services to enforce law;**
41 **examinations.**

42 It shall be the duty of the Department of Agriculture and Consumer Services to
43 enforce this Article, and the Board of Agriculture shall cause to be made by the experts of

1 the Department such examinations of plants and products named herein as are necessary
2 to insure the compliance with the provisions of this Article. For the purpose of inspection,
3 the authorized experts of the Department shall have authority, during business hours, to
4 enter all plants or storage rooms where cream, ice cream, butter, or cheese or ingredients
5 used in the same are made, stored, or kept, and any person who shall hinder, prevent, or
6 attempt to prevent any duly authorized expert of the Department in the performance of
7 his duty in connection with this Article shall be guilty of a violation of this Article."

8 Section 45. G.S. 106-266.6(5) reads as rewritten:

9 "(5) 'Health authorities' includes the Department of Environment, Health,
10 and Natural Resources, the ~~State~~North Carolina Department of
11 ~~Agriculture~~, Agriculture and Consumer Services, the Commissioner
12 of Agriculture, and the local health authorities."

13 Section 46. G.S. 106-268 reads as rewritten:

14 **"§ 106-268. Definitions; enforcement of Article.**

15 The definitions set forth in this section shall apply to milk, dairy products, ice cream,
16 frozen desserts, frozen confections or any other products which purport to be milk, dairy
17 products or frozen desserts for which a definition and standard of identity has been
18 established and when any of such products heretofore enumerated shall be sold, offered
19 for sale or held with intent to sell by a milk producer, manufacturer or distributor, and
20 insofar as practicable and applicable, the definitions contained in Article 12 of Chapter
21 106 of the General Statutes, as amended, shall be effective as to the products enumerated
22 in this Article and section.

23 The term 'adulteration' means:

- 24 (1) Failure to meet definitions and standards as established by the Board
25 of Agriculture.
26 (2) If any valuable constituent has been in whole or in part omitted or
27 abstracted therefrom.
28 (3) If any substance has been substituted wholly or in part thereof.
29 (4) If it is adjudged to be unfit for human consumption.

30 The term 'misbranded' means:

- 31 (1) If its labeling is false or misleading in any particular.
32 (2) If it is offered for sale under the name of another dairy product or
33 frozen dessert.
34 (3) If it is sold in package form unless it bears a prominent label
35 containing the name of the defined product, name and address of the
36 producer, processor or distributor and carries an accurate statement
37 of the quantity of contents in terms of weight or measure.

38 The Department of ~~Agriculture~~, Agriculture and Consumer Services, through its agents
39 or inspectors, shall have free access during business hours to all places of business,
40 buildings, vehicles, cars, storage places, containers and vessels used in the production,
41 testing, processing and distribution of milk, cream, butter, cheese, ice cream, frozen
42 dessert or any dairy product for which standards of purity and of identity have been
43 established, as well as any substance which purports to be milk, dairy products, frozen

1 dessert or confection for which a definition and standard of purity has been established;
2 the Department of ~~Agriculture~~, acting through its duly authorized agents and inspectors,
3 may open any box, carton, parcel, package or container holding or containing, or
4 supposed to hold or contain any of the above-enumerated dairy products, as well as
5 related products, and may take therefrom samples for analysis, test or inspection. If it
6 appears that any of the provisions of this Article or of this section have been violated, or
7 whenever a duly authorized agent of the Department of ~~Agriculture~~ has cause to believe
8 that any milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for
9 which standards of purity and of identity have been established or any substance which
10 purports to be milk, a dairy product or a frozen dessert for which a definition and
11 standard of identity has been established, is adulterated or misbranded or by reason of
12 contamination with microorganisms has become deleterious to health during production,
13 processing or distribution, and such products, or any of them, are in a stage of production,
14 or are being exposed for sale, or are being held for processing or distribution or such
15 products are being held with intent to sell the same, such agent or inspector is hereby
16 authorized to issue a 'stop-sale' order which shall prohibit further sale of any of the
17 products above enumerated or which shall prohibit further processing, production or
18 distribution of any of the products above enumerated. The agent or inspector shall affix to
19 such product a tag or other appropriate marking giving notice that such product is, or is
20 suspected of, being adulterated, misbranded or contaminated and that the same has been
21 detained or embargoed, and warning all persons not to remove or dispose of such
22 product, by sale or otherwise, until permission for removal or disposal is given by such
23 agent or inspector, until the law or regulation has been complied with or said violation
24 has otherwise been legally disposed of. It shall be unlawful for any person to remove or
25 dispose of any embargoed product, by sale or otherwise, without such permission:
26 Provided, that if such adulteration or misbranding can be corrected by proper labeling or
27 processing of the products so that the products meet the definitions and standards of
28 purity and identity, then with the approval of such agent or inspector, sale and removal
29 may be made. Any milk, dairy products or any of the products enumerated in this Article
30 or section not in compliance with this Article or section shall be subject to seizure upon
31 complaint of the Commissioner of Agriculture, or any of the agents or inspectors of the
32 Department of ~~Agriculture~~, Agriculture and Consumer Services, to a court of competent
33 jurisdiction in the area in which said products are located. In the event the court finds said
34 products, or any of them, to be in violation of this Article or of this section, the court may
35 order the condemnation of said products, and the same shall be disposed of in any manner
36 consistent with the rules and regulations of the Board of Agriculture and the laws of the
37 State and in such a manner as to minimize any loss or damage as far as possible:
38 Provided, that in no instance shall the disposition of said products be ordered by the court
39 without first giving the claimant or owner of same an opportunity to apply to the court for
40 the release of said products or for permission to again process or relabel the same so as to
41 bring the product in compliance with this Article or section. In the event any 'stop-sale'
42 order shall be issued under the provisions of this Article or section, the agents, inspectors
43 or representatives of the Department of Agriculture and Consumer Services shall release

1 the products, or any of them, so withdrawn from sale when the requirements of the
2 provisions of this Article and section have been complied with and upon payment of all
3 costs and expenses incurred in connection with the withdrawal."

4 Section 47. G.S. 106-277.9(7) reads as rewritten:

5 "(7) To use the name of the Department of Agriculture and Consumer
6 Services or the results of tests and inspections made by the
7 Department for advertising purposes."

8 Section 48. G.S. 106-277.28(3) reads as rewritten:

9 "(3) Each seed dealer or grower who has seed, whether originated or
10 labeled by the dealer or grower, that is offered for sale in this State
11 shall report the quantity of seed offered for sale and pay an
12 inspection fee of two cents (2¢) for each container of seeds weighing
13 10 pounds or more. Seed shall be subject to the inspection fee and
14 reporting requirements only once in any 12-month period. This fee
15 does not apply to seed grown by a farmer and offered for sale by the
16 farmer at the farm where the seed was grown.

17 Each seed dealer or grower shall keep accurate records of the
18 quantity of seeds and container weights offered for sale from each
19 distribution point in the State. These records shall be available to the
20 Commissioner or an authorized representative of the Commissioner at
21 any and all reasonable hours for the purpose of verifying the quantity of
22 seed offered for sale and the fees paid. Each seed dealer or grower shall
23 report quarterly on forms furnished by the Commissioner the quantity
24 and container weight of seeds first offered for sale that quarter. The
25 reports shall be made on the first day of January, April, July, and
26 October, or within 10 days thereafter. Inspection fees shall be due and
27 paid with the next quarterly report filed after the seed is first offered for
28 sale. If the report is not filed and the inspection fees paid to the
29 Department of Agriculture and Consumer Services by the tenth day
30 following the date due, or if the report of the quantity or container
31 weights is false, the Commissioner may issue a stop-sale order for all
32 seed offered for sale by the dealer or grower. If the inspection fees are
33 unpaid more than 15 days after the due date, the amount due shall bear a
34 penalty of ten percent (10%) which shall be added to the inspection fees
35 due."

36 Section 49. G.S. 106-307.1 reads as rewritten:

37 "**§ 106-307.1. Serums, vaccines, etc., for control of animal diseases.**

38 The North Carolina Department of Agriculture and Consumer Services is authorized
39 and empowered to purchase for resale serums, viruses, vaccines, biologics, and other
40 products for the control of animal and poultry diseases. The resale of said serums,
41 viruses, vaccines, biologics and other products shall be at a reasonable price to be
42 determined by the Commissioner of Agriculture."

43 Section 50. G.S. 106-313 reads as rewritten:

1 **"§ 106-313. Price of serum to be fixed.**

2 The Department of Agriculture and Consumer Services shall fix the price of anti-hog-
3 cholera serum at such an amount as will cover the cost of production."

4 Section 51. G.S. 106-322.3(10) reads as rewritten:

5 "(10) Where the owner has failed to submit the reports required by the
6 United States Department of Agriculture and the North Carolina
7 ~~Departments~~Department of Agriculture and Consumer Services for
8 animals on which indemnity is paid under Article 34."

9 Section 52. G.S. 106-418.10 reads as rewritten:

10 **"§ 106-418.10. Prohibited conduct.**

11 It shall be unlawful for any person to:

12 (1) Carry on or conduct the business of a livestock dealer without a
13 current valid license issued by the North Carolina Department of
14 Agriculture and Consumer Services under the provisions of this
15 Article;

16 (2) Fail to keep the records required by G.S. 106-418.13."

17 Section 53. G.S. 106-426 reads as rewritten:

18 **"§ 106-426. Expert graders to be employed; cooperation with United States
19 Department of Agriculture.**

20 The North Carolina Department of Agriculture and Consumer Services shall have
21 authority to employ expert cotton graders to grade cotton in this State under such rules
22 and regulations as it may adopt. The ~~North Carolina~~ Department of ~~Agriculture~~ may seek
23 the aid of the United States Department of Agriculture in the prosecution of this work,
24 and shall have authority to enter into such contracts or arrangements as shall be mutually
25 agreeable in furtherance of the object and purpose of this Article."

26 Section 54. G.S. 106-451.7(7) reads as rewritten:

27 "(7) 'Warehouseman' means a person licensed by North Carolina
28 Department of Agriculture and Consumer Services to engage in the
29 business of storing cotton for hire."

30 Section 55. G.S. 106-451.9(2) and (3) read as rewritten:

31 "(2) To assign and reassign the administrative and enforcement duties
32 and functions assigned to him in this Article to one or more divisions
33 within the Department of ~~Agriculture~~ Agriculture and Consumer
34 Services.

35 (3) To delegate to any division head and other officer or employee of
36 the Department of ~~Agriculture~~ Agriculture and Consumer Services
37 any of the powers and duties given to the Department by statute or
38 by rules promulgated pursuant to this Article."

39 Section 56. G.S. 106-542 reads as rewritten:

40 **"§ 106-542. Hatcheries, chick dealers and others to obtain license to operate.**

41 (a) It shall be unlawful for any person, firm or corporation to operate a hatchery
42 within this State without first obtaining a hatchery license from the Department of
43 Agriculture and Consumer Services for a fee of twenty-five dollars (\$25.00) per year.

1 (b) It shall be unlawful for any person, firm or corporation to operate as a hatching
2 egg dealer, chick dealer or jobber within this State without first obtaining a license from
3 the Department of Agriculture and Consumer Services for a fee of ten dollars (\$10.00)
4 per year.

5 (c) The Department of Agriculture and Consumer Services may deny, suspend,
6 revoke or refuse to renew the license of any person, firm or corporation for violation of
7 this Article or any rule or regulation promulgated thereunder."

8 Section 57. G.S. 106-549.01 reads as rewritten:

9 **"§ 106-549.01. Civil penalties.**

10 The Department of Agriculture and Consumer Services may assess a civil penalty of
11 not more than five thousand dollars (\$5,000) against any person who violates a provision
12 of this Article or any rule promulgated thereunder. In determining the amount of the
13 penalty, the Department shall consider the degree and extent of harm caused by the
14 violation."

15 Section 58. G.S. 106-549.15(3) reads as rewritten:

16 "(3) 'Authorized representative' means the Director of the Meat and
17 Poultry Inspection Service of the North Carolina Department of
18 ~~Agriculture~~ Agriculture and Consumer Services."

19 Section 59. G.S. 106-549.29 reads as rewritten:

20 **"§ 106-549.29. North Carolina Department of Agriculture and Consumer Services**
21 **responsible for cooperation.**

22 (a) The North Carolina Department of Agriculture and Consumer Services is
23 hereby designated as the State agency which shall be responsible for cooperating with the
24 Secretary of Agriculture of the United States under the provisions of section 301 of the
25 Federal Meat Inspection Act and such agency is directed to cooperate with the Secretary
26 of Agriculture of the United States in developing and administering the meat inspection
27 program of this State under this and the previous Article in such a manner as will
28 effectuate the purposes of this and the previous Article.

29 (b) In such cooperative efforts, the North Carolina Department of Agriculture and
30 Consumer Services is authorized to accept from said Secretary advisory assistance in
31 planning and otherwise developing the State program, technical and laboratory assistance
32 and training (including necessary curricular and instructional materials and equipment),
33 and financial and other aid for administration of such a program.

34 (c) The North Carolina Department of Agriculture and Consumer Services is
35 further authorized to recommend to the said Secretary of Agriculture such officials or
36 employees of this State as the Commissioner shall designate, for appointment to the
37 advisory committees provided for in Section 301 of the Federal Meat Inspection Act; and
38 the Commissioner or his authorized representative shall serve as the representative of the
39 Governor for consultation with said Secretary under paragraph (c) of Section 301 of said
40 act."

41 Section 60. G.S. 106-549.38 reads as rewritten:

42 **"§ 106-549.38. Rules and regulations of State Department of ~~Agriculture~~.**
43 **Agriculture and Consumer Services.**

1 All rules and regulations of the ~~North Carolina~~ Department of Agriculture and
2 Consumer Services not inconsistent with the provisions of this Article shall remain in full
3 force and effect until amended or repealed by the Board.”

4 Section 61. G.S. 106-549.51(12) and (13) read as rewritten:

5 "(12) 'Inspection service' means the official government service within ~~this~~
6 ~~State~~ the Department of Agriculture and Consumer Services
7 designated by the Commissioner as having the responsibility for
8 carrying out the provisions of this Article.

9 (13) 'Inspector' means an employee or official of the ~~State~~ Department of
10 Agriculture and Consumer Services authorized by the Commissioner
11 to inspect poultry and poultry products under the authority of this
12 Article, or any employee or official of the government of any county
13 or other governmental subdivision of this State authorized by the
14 Commissioner to inspect poultry and poultry products under
15 authority of this Article, under an agreement entered into between
16 the Department of ~~Agriculture~~ and such governmental subdivision."

17 Section 62. G.S. 106-549.52 reads as rewritten:

18 "(a) The Department of Agriculture and Consumer Services is hereby designated as
19 the State agency which shall be responsible for cooperating with the Secretary of
20 Agriculture of the United States under the provisions of section 5 of the Federal Poultry
21 Products Inspection Act and such agency is directed to cooperate with the Secretary of
22 Agriculture of the United States in developing and administering the poultry products
23 inspection program of this State under this Article and in developing and administering
24 the program of this State under G.S. 106-549.58 in such a manner as will effectuate the
25 purposes of this Article and said federal act.

26 (b) In such cooperative efforts, the Department of ~~Agriculture~~ is authorized to
27 accept from said Secretary advisory assistance in planning and otherwise developing the
28 State program, technical and laboratory assistance and training (including necessary
29 curricular and instructional materials and equipment), and financial and other aid for
30 administration of such a program.

31 (c) The Department of ~~Agriculture~~ is further authorized to recommend to the
32 Secretary of Agriculture such officials or employees of this State as the Commissioner
33 shall designate, for appointment to the advisory committees provided for in section 5 of
34 the Federal Poultry Products Inspection Act; and the Commissioner shall serve as the
35 representative of the Governor for consultation with said Secretary under subsection (c)
36 of section 5 of said act."

37 Section 63. G.S. 106-549.94 reads as rewritten:

38 "**§ 106-549.94. Regulation of pen-raised quail by Department of ~~Agriculture~~; and**
39 **Consumer Services; certain authority of North Carolina Wildlife**
40 **Resources Commission not affected.**

41 (a) The ~~North Carolina~~ Department of Agriculture and Consumer Services is given
42 exclusive authority to regulate the production and sale of pen-raised quail for food
43 purposes. The Board of Agriculture shall promulgate rules and regulations for the

1 production and sale of pen-raised quail for food purposes in such a manner as to provide
2 for close supervision of any person, firm, or corporation producing and selling pen-raised
3 quail for food purposes.

4 (b) The North Carolina Wildlife Resources Commission shall retain its authority to
5 regulate the possession and transportation of live pen-raised quail."

6 Section 64. G.S. 106-549.97 reads as rewritten:

7 "**§ 106-549.97. Regulation of fallow deer by Department of ~~Agriculture~~; Agriculture
8 and Consumer Services; certain authority of North Carolina Wildlife
9 Resources Commission not affected.**

10 (a) The Department of Agriculture and Consumer Services shall regulate the
11 production and sale of fallow deer for food purposes. The Board of Agriculture shall
12 adopt rules for the production and sale of fallow deer for food purposes in such a manner
13 as to provide for close supervision of any person, firm, or corporation producing and
14 selling fallow deer for food purposes.

15 As used in this section, 'fallow deer' (*Dama dama* spp.) means a small European deer
16 raised commercially for production and sale for food purposes.

17 (b) The North Carolina Wildlife Resources Commission shall regulate the
18 possession and transportation of live fallow deer and may adopt rules to prevent the
19 release or escape of fallow deer upon finding that it is necessary to protect live fallow
20 deer or to prevent damage to the native deer population or its habitat."

21 Section 65. G.S. 106-621(1) reads as rewritten:

22 "(1) Adulterated grain: Grain which contains any substance, such as, but
23 not limited to, Captan, carbon tetrachloride, Malathion, Parathion,
24 DDT, Dieldrin, Thiram, Endrin, Heptachlor, Maneb, Methoxychlor,
25 2, 6-dichloro, 4-nitroaniline, pentachloronitrobenzene,
26 hexachlorobenzene, Demeton, Phorate, Carbophenothion, in excess
27 of the tolerance for human or animal consumption established for
28 such substances by the laws of the State or the regulations of the
29 ~~North Carolina Department of Agriculture~~, Agriculture and Consumer
30 Services or both the State and the Department."

31 Section 66. G.S. 106-627 reads as rewritten:

32 "**§ 106-627. Determination of adulteration.**

33 For purposes of evidence under this Article, the grain dealer or his agent, upon receipt
34 or pending receipt of suspected adulterated grain, may, at his discretion, call any law-
35 enforcement officer to verify the sampling technique, [and] origin of sampled grain and
36 subsequently send or request the law-enforcement officer to send the sample of grain in a
37 sealed package to the Department of Agriculture and Consumer Services for inspection
38 and analysis in order to protect only the chain of evidence.

39 Upon [a] finding by the Department of ~~Agriculture~~ that said sample is adulterated
40 grain, the Department shall notify the grain dealer of the results and return the sample to
41 the original sender in a sealed package."

42 Section 67. G.S. 106-635(10) reads as rewritten:

1 "(10) The term 'Department' means the North Carolina Department of
2 ~~Agriculture~~ Agriculture and Consumer Services."

3 Section 68. G.S. 106-662(b)(6) reads as rewritten:

4 "(6) In the trial of any suit or action wherein there is called in question
5 the value or composition of any lot of commercial fertilizer, a
6 certificate signed by the fertilizer chemist and attested with the seal
7 of the Department of ~~Agriculture~~ Agriculture and Consumer
8 Services, setting forth the analysis made by the chemist of the
9 Department of ~~Agriculture~~ Agriculture and Consumer
10 Services, drawn under the provisions of this section and analyzed by
11 them under the provisions of the same, shall be prima facie proof
12 that the lot of fertilizer represented by the sample was of the value
13 and constituency shown by said analysis. And the said certificate of
14 the chemist shall be admissible in evidence."

15 Section 69. G.S. 106-662(e)(2) reads as rewritten:

16 "(2) The sample shall be drawn in the presence of the manufacturer,
17 seller, or representative designated by either party together with two
18 disinterested adult persons; or in case the manufacturer, seller, or
19 representative of either refuses or is unable to witness the drawing of
20 such a sample, a sample may be drawn in the presence of three
21 disinterested adult persons; provided, any such sample shall be taken
22 with the same type of sampler as used by the inspector of the
23 Department of Agriculture and Consumer Services in taking samples
24 and shall be drawn, mixed, and divided, as directed in subdivisions
25 (1), (2), (3), and (4) of subsection (b) of this section, except that the
26 sample shall be divided into two parts each to consist of at least one
27 pound. Each of these is to be placed into a separate, tight container,
28 securely sealed, properly labeled, and one sent to the Commissioner
29 for analysis and the other to the manufacturer. A certificate
30 statement in a form which will be prescribed and supplied by the
31 Commissioner must be signed by the parties taking and witnessing
32 the taking of the sample. Such certificate is to be made and signed in
33 duplicate and one copy sent to the Commissioner and the other to the
34 manufacturer or seller of the brand sampled. The witnesses of the
35 taking of any sample, as provided for in this section, shall be
36 required to certify that such sample has been continuously under
37 their observation from the taking of the sample up to and including
38 the delivery of it to an express agency, a post office or to the office
39 of the Commissioner."

40 Section 70. G.S. 106-708(5) reads as rewritten:

41 "(5) 'Department' means the Department of ~~Agriculture~~ Agriculture and
42 Consumer Services."

43 Section 71. G.S. 106-758(5) reads as rewritten:

1 "(5) 'Department' means the North Carolina Department of ~~Agriculture.~~
2 Agriculture and Consumer Services."

3 Section 72. G.S. 106-760(a) and (b) read as rewritten:

4 "(a) There is created within the Department of Agriculture and Consumer Services
5 the Aquaculture Advisory Board, to consist of the following persons:

6 (1) The Commissioner of Agriculture, or his designee;

7 (2) The Secretary of Commerce, or his designee;

8 (3) The Secretary of Environment, Health, and Natural Resources, or his
9 designee;

10 (4) The President of the North Carolina Biotechnology Center, or his
11 designee;

12 (5) The President of the University of North Carolina, or his designee;

13 (6) One Senator designated by the President Pro Tempore of the Senate;
14 and

15 (7) One Representative designated by the Speaker of the House of
16 Representatives.

17 (b) The Commissioner of Agriculture or his designee shall serve as Chairman of
18 the Board. A majority of the Board shall constitute a quorum for the transaction of
19 business. Clerical and other assistance shall be provided by the Department of ~~Agriculture.~~
20 Agriculture and Consumer Services. The Commissioner may appoint advisory
21 committees, pursuant to G.S. 143B-10(d), to assist the Board in carrying out its duties."

22 Section 73. G.S. 106-761(a) reads as rewritten:

23 "(a) Authority. The North Carolina Department of Agriculture and Consumer
24 Services shall regulate the production and sale of commercially raised freshwater fish and
25 freshwater crustacean species. The Board of Agriculture shall promulgate rules for the
26 registration of facilities for the production and sale of freshwater aquaculturally raised
27 species. The Board may prescribe standards under which commercially reared fish may
28 be transported, possessed, bought, and sold. The Department of ~~Agriculture~~ and Board of
29 Agriculture authority shall be limited to commercially reared fish and shall not include
30 authority over the wild fishery resource which is managed under the authority of the
31 North Carolina Wildlife Resources Commission. The authority granted herein to regulate
32 facilities licensed pursuant to this section does not authorize the Department of
33 Agriculture or the Board of Agriculture to promulgate rules that (i) are inconsistent with
34 rules adopted by any other State agency; or (ii) exempt such facilities from the rules
35 adopted by any other State agency."

36 Section 74. G.S. 106-761(d) reads as rewritten:

37 "(d) Aquaculture Propagation and Production Facility License. The Board of
38 Agriculture may, by rule, authorize and license the operation of fish hatcheries and
39 production facilities for species of fish listed in subsection (b) of this section. The Board
40 may prescribe standards of operation, qualifications of operators, and the conditions
41 under which fish may be commercially reared, transported, possessed, bought, and sold.
42 Aquaculture Propagation and Production Licenses issued by the ~~North Carolina~~
43 Department of ~~Agriculture~~ shall be valid for a period of five years."

1 Section 75. G.S. 106-761(e)(1) reads as rewritten:

2 "(1) Commercial catchout facilities must be stocked exclusively with
3 hatchery reared fish obtained from hatcheries approved by the
4 Department of ~~Agriculture~~ to prevent the introduction of diseases.
5 The Board of Agriculture may, by rule, prescribe standards of
6 operation and conditions under which fish from such ponds may be
7 taken, transported, possessed, bought, and sold."

8 Section 76. G.S. 106-761(g) reads as rewritten:

9 "(g) Possession of species other than those listed in subsection (b) of this section or
10 as authorized in writing by the Wildlife Resources Commission shall be a violation which
11 shall result in the revocation of the Aquaculture Propagation and Production Facility or
12 Commercial Catchout Facility License until such time that proper authorization is
13 received from the Wildlife Resources Commission or the unauthorized species is
14 removed from the facility. In the event of possession of unauthorized fish species, the
15 Wildlife Resources Commission may take further regulatory action. The Department of ~~of~~
16 ~~Agriculture~~ and the Wildlife Resources Commission shall have authority to enter the
17 premises of such facilities to inspect for the possession of a species other than those
18 authorized in subsection (b) of this section or authorized by written permission of the
19 Wildlife Resources Commission."

20 Section 77. G.S. 106-762(a) reads as rewritten:

21 "(a) The North Carolina Department of Agriculture and Consumer Services shall,
22 with the assistance of the Wildlife Resources Commission, develop and implement a fish
23 disease management plan to prevent the introduction of fish diseases through aquaculture
24 facilities subject to the provisions and duly adopted rules of this section into the State."

25 Section 78. G.S. 106-783(3) reads as rewritten:

26 "(3) 'Department' means the North Carolina Department of ~~Agriculture~~.
27 Agriculture and Consumer Services."

28 Section 79. G.S. 106-792(3) reads as rewritten:

29 "(3) Department. – The North Carolina Department of ~~Agriculture~~.
30 Agriculture and Consumer Services."

31 Section 80. G.S. 113-129(16) reads as rewritten:

32 "(16) Wildlife. – Wild animals; wild birds; all fish found in inland fishing
33 waters; and inland game fish. Unless the context clearly requires
34 otherwise, the definitions of wildlife, wildlife resources, wild
35 animals, wild birds, fish, and the like are deemed to include species
36 normally wild, or indistinguishable from wild species, which are
37 raised or kept in captivity. Nothing in this definition is intended to
38 abrogate the exclusive authority given the Department of Agriculture
39 and Consumer Services to regulate the production and sale of pen-
40 raised quail for food purposes."

41 Section 81. G.S. 113-273(h) reads as rewritten:

42 "(h) Game Bird Propagation License. – No person may propagate game birds in
43 captivity or possess game birds for propagation without first procuring a license under

1 this subsection. The Wildlife Resources Commission may by rule prescribe the activities
2 to be covered by the propagation license, which species of game birds may be
3 propagated, and the manner of keeping and raising the birds, in accordance with the
4 overall objectives of conservation of wildlife resources. Except as limited by this
5 subsection, propagated game birds may be raised and sold for purposes of propagation,
6 stocking, food, or taking in connection with dog training as authorized in G.S. 113-
7 291.1(d). Migratory game bird operations authorized under this subsection must also
8 comply with any applicable provisions of federal law and rules. The Wildlife Resources
9 Commission may impose requirements as to shipping, marking packages, banding,
10 tagging, or wrapping the propagated birds and other restrictions designed to reduce the
11 change of illicit game birds being disposed of under the cover of licensed operations.
12 The Wildlife Resources Commission may make a reasonable charge for any bands, tags,
13 or wrappers furnished propagators. The game bird propagation license is issued by the
14 Wildlife Resources Commission upon payment of a fee of five dollars (\$5.00). It
15 authorizes a person or individual to propagate and sell game birds designated in the
16 license, in accordance with the rules of the Wildlife Resources Commission, except:

17 (1) Wild turkey and ruffed grouse may not be sold for food.

18 (2) Production and sale of pen-raised quail for food purposes is under
19 the exclusive control of the Department of ~~Agriculture~~ Agriculture
20 and Consumer Services. The Wildlife Resources Commission,
21 however, may regulate the possession, propagation, and
22 transportation of live pen-raised quail.

23 Wild turkey acquired or raised under a game bird propagation license shall be confined in
24 a cage or pen approved by the Wildlife Resources Commission and no such wild turkey
25 shall be released for any purpose or allowed to range free. It is a Class 3 misdemeanor to
26 sell wild turkey or ruffed grouse for food purposes, to sell quail other than lawfully
27 acquired pen-raised quail for food purposes, or to release or allow wild turkey to range
28 free."

29 Section 82. G.S. 113A-164.4(3) reads as rewritten:

30 "(3) Maintain a Natural Heritage Program to provide assistance in the
31 selection and nomination for registration or dedication of natural
32 areas. The Program shall include classification of natural heritage
33 resources, an inventory of their locations, and a data bank for that
34 information. The Program shall cooperate with the Department of
35 Agriculture and Consumer Services in the selection and nomination
36 of areas that contain habitats for endangered and rare plant species,
37 and shall cooperate with the Wildlife Resources Commission in the
38 selection and nomination of areas that contain habitats for
39 endangered and rare animal species. Information from the natural
40 heritage data bank may be made available to public agencies and
41 private persons for environmental assessment and land management
42 purposes. Use of the inventory data for any purpose inconsistent
43 with the Natural Heritage Program may not be authorized. The

1 Program shall include other functions as may be assigned for
2 registration, dedication, and protection of natural areas and nature
3 preserves."

4 Section 83. G.S. 119-26.1 reads as rewritten:

5 **"§ 119-26.1. Oxygen content standards and reformulated gasoline.**

6 (a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the oxygen
7 content of gasoline or to require the use of reformulated gasoline shall be implemented by
8 the Department of Agriculture and Consumer Services and the Gasoline and Oil
9 Inspection Board. Such rules shall be implemented within any area specified by the
10 Environmental Management Commission when the Commission certifies to the
11 Commissioner of Agriculture that implementation:

12 (1) Will improve the ambient air quality within the specified county or
13 counties;

14 (2) Is necessary to achieve attainment or preclude violations of the
15 National Ambient Air Quality Standards; or

16 (3) Is otherwise necessary to meet federal requirements.

17 (b) The Department of Agriculture and Consumer Services and the Gasoline and
18 Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent
19 with the implementation schedule and rules adopted by the Environmental Management
20 Commission.

21 (c) The Commissioner of Agriculture may assess and collect civil penalties for
22 violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance
23 with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action
24 for injunctive relief to restrain, abate, or prevent a violation or threatened violation of
25 rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-
26 215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or
27 institution of a civil action under G.S. 143-215.114C and this section shall not relieve any
28 person from any other penalty or remedy authorized under this Article.

29 (d) The Commissioner of Agriculture may delegate his powers and duties under
30 this subsection to the Director of the Standards Division of the Department of ~~Agriculture.~~
31 Agriculture and Consumer Services."

32 Section 84. G.S. 119-27.1(b) reads as rewritten:

33 "(b) The North Carolina Department of Agriculture and Consumer Services shall
34 have the responsibility for the enforcement of this section."

35 Section 85. G.S. 122D-3(6) reads as rewritten:

36 "(6) 'Department' means the North Carolina Department of ~~Agriculture.~~
37 Agriculture and Consumer Services."

38 Section 86. G.S. 130A-250(9) reads as rewritten:

39 "(9) Markets where meat food products or poultry products are prepared
40 and sold and which are under the continuous inspection by the North
41 Carolina Department of Agriculture and Consumer Services or the
42 United States Department of Agriculture."

43 Section 87. G.S. 130A-278 reads as rewritten:

1 **"§ 130A-278. Certain authorities of Department of Agriculture and Consumer**
2 **Services not replaced.**

3 This Part shall not repeal or limit the Department of ~~Agriculture's~~ Agriculture and
4 Consumer Services' authority to carry out labeling requirements, required butterfat
5 testing, aflatoxin testing, pesticide testing, other testing performed by the Department of
6 Agriculture and Consumer Services any other function of the Department of Agriculture
7 and Consumer Services concerning Grade 'A' milk which is not inconsistent with this
8 Article."

9 Section 88. G.S. 136-18.2 reads as rewritten:

10 **"§ 136-18.2. Seed planted by Department of Transportation to be approved by**
11 **Department of Agriculture.**

12 The Department of Transportation shall not cause any seed to be planted on or along
13 any highway or road right-of-way unless and until such seed has been approved by the
14 ~~State~~ Department of Agriculture and Consumer Services as provided for in the rules and
15 regulations of the Department of Agriculture and Consumer Services for such seed."

16 Section 89. G.S. 143-64.5 reads as rewritten:

17 **"§ 143-64.5. Department of Agriculture and Consumer Services exempted from**
18 **application of Article.**

19 Notwithstanding any provisions or limitations of Part 2 of this Article, the North
20 Carolina Department of Agriculture and Consumer Services is authorized and
21 empowered to distribute food, surplus commodities and agricultural products under
22 contracts and agreements with the federal government or any of its departments or
23 agencies, and ~~the North Carolina Department of Agriculture~~ is authorized and empowered to
24 adopt rules in order to conform with federal requirements and standards for such
25 distribution and also for the proper distribution of such food, commodities and
26 agricultural products. To the extent set forth above and in this section, the provisions of
27 Part 2 of this Article shall not apply to the North Carolina Department of ~~Agriculture~~.
28 Agriculture and Consumer Services."

29 Section 90. G.S. 143-436(b)(1) reads as rewritten:

- 30 "(1) One member each representing the North Carolina Department of
31 Agriculture and Consumer Services and two members representing
32 the North Carolina Department of Environment, Health, and Natural
33 Resources, one of whom shall be the State Health Director or his
34 designee and one of whom shall represent an environmental
35 protection agency. The persons so selected may be either members
36 of a policy board or departmental officials or employees."

37 Section 91. G.S. 143-438 reads as rewritten:

38 **"§ 143-438. Commissioner of Agriculture to administer and enforce Article.**

39 The Commissioner of Agriculture shall have the following powers and duties under
40 this Article:

- 41 (1) To administer and enforce the provisions of this Article.
42 (2) To attend all meetings of the Pesticide Board, but without power to
43 vote (unless he be designated as the ex officio member of the Board

1 from the Department of ~~Agriculture~~). Agriculture and Consumer
2 Services).

3 (3) To keep an accurate and complete record of all Board meetings and
4 hearings, and to have legal custody of all books, papers, documents
5 and other records of the Board.

6 (4) To assign and reassign the administrative and enforcement duties
7 and functions assigned to him in this Article to one or more of the
8 divisions and other units within the Department of ~~Agriculture~~.
9 Agriculture and Consumer Services."

10 (5) To direct the work of the personnel employed by the Board and of
11 the personnel of the Department of Agriculture and Consumer
12 Services who have responsibilities concerning the programs set forth
13 in this Article.

14 (6) To delegate to any division head or other officer or employee of the
15 Department of Agriculture and Consumer Services any of the
16 powers and duties given to the Department by statute or by the rules,
17 regulations and procedures established pursuant to this Article.

18 (7) To perform such other duties as the Board may from time to time
19 direct."

20 Section 92. G.S. 143-468 reads as rewritten:

21 "**§ 143-468. Disposition of fees and charges.**

22 (a) Except as provided in subsection (b), all fees and charges received by the
23 Board under this Article shall be credited to the Department of Agriculture and Consumer
24 Services for the purpose of administration and enforcement of this Article.

25 (b) The Pesticide Environmental Trust Fund is established as a nonreverting
26 account within the Department of ~~Agriculture~~. Agriculture and Consumer Services. The
27 Department of Agriculture and Consumer Services shall administer the Fund. The
28 additional assessment imposed by G.S. 143-442(b) on the registration of a brand or grade
29 of pesticide shall be credited to the Fund. The Department shall distribute money in the
30 Fund as follows:

31 (1) Two and one-half percent (2.5%) to North Carolina State University
32 Cooperative Extension Service to enhance its agromedicine efforts
33 in cooperation with East Carolina University School of Medicine.

34 (2) Two and one-half percent (2.5%) to East Carolina University School
35 of Medicine to enhance its agromedicine efforts in cooperation with
36 North Carolina State University Cooperative Extension Service.

37 (3) Twenty percent (20%) to North Carolina State University,
38 Department of Toxicology, to establish and maintain an extension
39 agromedicine specialist position.

40 (4) Seventy-five percent (75%) to the Department of Agriculture and
41 Consumer Services for its environmental programs, as directed by
42 the Board, including establishing a pesticide container management

1 program to enhance its pesticide disposal program and its water
2 quality initiatives.”

3 Section 93. G.S. 143A-11(8) reads as rewritten:

4 "(8) Department of ~~Agriculture~~-Agriculture and Consumer Services."

5 Section 94. The title to Article 7 of Chapter 143A of the General Statutes
6 reads as rewritten:

7 **"ARTICLE 7.**

8 **DEPARTMENT OF ~~AGRICULTURE~~-AGRICULTURE AND CONSUMER**
9 **SERVICES."**

10 Section 95. G.S. 143A-56 reads as rewritten:

11 **"§ 143A-56. Creation.**

12 There is hereby created a Department of ~~Agriculture~~-Agriculture and Consumer
13 Services. The head of the Department of ~~Agriculture~~-Agriculture and Consumer

14 Section 96. G.S. 143A-58 reads as rewritten:

15 **"§ 143A-58. Commissioner of Agriculture; transfer of powers and duties to**
16 **Department.**

17 Except as otherwise provided in the Constitution or in this Chapter, all powers, duties
18 and functions vested by law in the Commissioner of Agriculture are transferred by a Type
19 I transfer to the Department of ~~Agriculture~~-Agriculture and Consumer Services."

20 Section 97. G.S. 143A-59 reads as rewritten:

21 **"§ 143A-59. Board of Agriculture; transfer.**

22 The Board of Agriculture, as contained in Article 1 of Chapter 106 of the General
23 Statutes and the laws of this State, is hereby transferred by a Type II transfer to the
24 Department of ~~Agriculture~~-Agriculture and Consumer Services."

25 Section 98. G.S. 143A-60 reads as rewritten:

26 **"§ 143A-60. Structural Pest Control Division; transfer.**

27 The Structural Pest Control Division of the Department of Agriculture, as contained
28 in Article 4C of Chapter 106 of the General Statutes and the laws of this State, is hereby
29 transferred by a Type II transfer to the Department of ~~Agriculture~~-Agriculture and
30 Consumer Services."

31 Section 99. G.S. 143A-61 reads as rewritten:

32 **"§ 143A-61. The North Carolina Agricultural Hall of Fame; transfer.**

33 The North Carolina Agricultural Hall of Fame, as contained in Article 50B of Chapter
34 106 of the General Statutes and the laws of this State, is hereby transferred by a Type I
35 transfer to the Department of ~~Agriculture~~-Agriculture and Consumer Services."

36 Section 100. G.S. 143A-62 reads as rewritten:

37 **"§ 143A-62. Gasoline and Oil Inspection Board; transfer.**

38 The Gasoline and Oil Inspection Board, as contained in Article 3 of Chapter 119 of
39 the General Statutes and the laws of this State, is hereby transferred by a Type II transfer
40 to the Department of ~~Agriculture~~-Agriculture and Consumer Services."

41 Section 101. G.S. 143A-63 reads as rewritten:

42 **"§ 143A-63. North Carolina Rural Rehabilitation Corporation; transfer.**

1 The North Carolina Rural Rehabilitation Corporation, and board of directors, as
2 contained in Chapter 137 of the General Statutes and the laws of this State, is hereby
3 transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and
4 Consumer Services."

5 Section 102. G.S. 143A-64 reads as rewritten:

6 **"§ 143A-64. North Carolina Board of Crop Seed Improvement; transfer.**

7 The North Carolina Board of Crop Seed Improvement, as contained in Article 30 of
8 Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a
9 Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

10 Section 103. G.S. 143A-65 reads as rewritten:

11 **"§ 143A-65. North Carolina Public Livestock Market Advisory Board; transfer.**

12 The North Carolina Public Livestock Market Advisory Board, as contained in Article
13 35 of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred
14 by a Type I transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer
15 Services."

16 Section 104. G.S. 143B-417(1)q. reads as rewritten:

17 "q. Department of Agriculture and Consumer Services."

18 Section 105. G.S. 143B-434(c)(2) reads as rewritten:

19 "(2) The Department of ~~Agriculture.~~ Agriculture and Consumer Services."

20 Section 106. G.S. 148-66 reads as rewritten:

21 **"§ 148-66. Cities and towns and Department of Agriculture and Consumer Services**
22 **may contract for prison labor.**

23 The corporate authorities of any city or town may contract in writing with the State
24 Department of Correction for the employment of convicts upon the highways or streets of
25 such city or town, and such contracts when so exercised shall be valid and enforceable
26 against such city or town, and the Attorney General may prosecute an action in the
27 Superior Court of Wake County in the name of the State for their enforcement.

28 The Department of Agriculture and Consumer Services ~~of the State of North Carolina~~ is
29 hereby authorized and empowered to contract, in writing, with the State Department of
30 Correction for the employment and use of convicts under its supervision to be worked on
31 the State test farms and/or State experimental stations."

32 Section 107. G.S. 148-67 reads as rewritten:

33 **"§ 148-67. Hiring to cities and towns and State Department of ~~Agriculture.~~**
34 **Agriculture and Consumer Services.**

35 The State Department of Correction shall in their discretion, upon application to them,
36 hire to the corporate authorities of any city or town for the purposes specified in G.S.
37 148-66, such convicts as are mentally and physically capable of performing the work or
38 labor contemplated and are not at the time of such application hired or otherwise engaged
39 in labor under the direction of the Department; but the convicts so hired for services shall
40 be fed, clothed and quartered while so employed by the Department.

41 Upon application to it, it shall be the duty of the State Department of Correction, in its
42 discretion, to hire to the Department of Agriculture and Consumer Services ~~of the State of~~
43 ~~North Carolina~~ for the purposes of working on the State test farms and/or State

1 experimental stations, such convicts as may be mentally and physically capable of
2 performing the work or labor contemplated; but the convicts so hired for services under
3 this paragraph shall be fed, clothed and quartered while so employed by the State
4 Department of Correction."

5 Section 108. G.S. 166A-26(a)(6) reads as rewritten:

6 "(6) The Department of ~~Agriculture~~;—Agriculture and Consumer
7 Services;"

8 Section 109. The Revisor of Statutes shall change all references in the
9 General Statutes from the Department of Agriculture to the Department of Agriculture
10 and Consumer Services.

11 Section 110. This act is effective when it becomes law.