

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 770*
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Judiciary II Committee Substitute Adopted 5/26/16
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Short Title: NC Farm Act of 2016.

(Public)

Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE AGRICULTURAL
COMMUNITY.

The General Assembly of North Carolina enacts:

**PROVIDE THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
WITH ENFORCEMENT AUTHORITY FOR THE PROGRAM GOVERNING BEDDING
IMPROPERLY MADE, SANITIZED, OR TAGGED**

SECTION 1.(a) Article 4H of Chapter 106 of the General Statutes is amended by
adding five new sections to read:

**"§ 106-65.105A. Detention or embargo of product or item suspected of being adulterated or
misbranded.**

(a) If an authorized agent of the Department of Agriculture and Consumer Services finds
or has probable cause to believe that any bedding, secondhand bedding, material, or other item
regulated under this Article is unsanitary, mislabeled, unsafe for its intended use, a danger to the
public, or is otherwise in violation of the requirements of this Article, the agent may affix to the
item a tag or other appropriate marking giving notice that the item has been detained or embargoed
with information identifying the violation(s). It shall be a violation of this Article for any person to
remove or alter a tag authorized by this subsection, or to remove or dispose of a detained or
embargoed item by sale or otherwise, without such permission, and the tag or marking shall
include a warning to that effect.

(b) When an item is detained or embargoed under subsection (a) of this section, an
authorized agent of the Department of Agriculture and Consumer Services may petition a judge of
the district or superior court in whose jurisdiction the item is detained or embargoed for an order
for condemnation of the item. When an authorized agent has found that an item detained or
embargoed is not unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or
otherwise in violation of the requirements of this Article, the agent shall remove the tag or other
marking.

(c) If the court finds that a detained or embargoed item is unsanitary, mislabeled, or
contains toxic materials, the item shall, after entry of the decree, be destroyed at the expense of the
item's claimant, under the supervision of an authorized agent of the Department of Agriculture and
Consumer Services; and all court costs and fees, storage, and other proper expenses shall be levied
against the claimant of the item or the claimant's agent; provided, that when the unsanitary



1 condition, mislabeling, safety concerns, or other violation can be corrected by proper labeling or
2 processing of the item, the court, after entry of the decree and after costs, fees, and expenses have
3 been paid and a good and sufficient bond, conditioned that the item shall be properly labeled or
4 processed, has been executed, may by order direct that the item be delivered to the item's claimant
5 for proper labeling or processing under the supervision of an agent of the Department of
6 Agriculture and Consumer Services. The expense of the Department's supervision shall be paid by
7 the claimant. The amount of any bond paid shall be returned to the claimant of the item on
8 representation to the court by the Department of Agriculture and Consumer Services that the item
9 is no longer in violation of this Article and that the expenses of the Department's supervision have
10 been paid.

11 **"§ 106-65.105B. Injunctions restraining violations.**

12 In addition to any other remedies provided by this Article, the Commissioner is authorized to
13 apply to the superior court for, and the court shall have jurisdiction upon hearing and for cause
14 shown to grant, a temporary or permanent injunction restraining any person from violating any
15 provision of this Article or any rule promulgated thereunder, irrespective of whether or not there
16 exists an adequate remedy at law.

17 **"§ 106-65.105C. Civil penalties.**

18 (a) The Commissioner may assess a civil penalty of not more than two thousand five
19 hundred dollars (\$2,500) per violation against any person, firm, or corporation that violates or
20 directly causes a violation of any provision of this Article, rules, regulations, or standards
21 promulgated thereunder, or lawful order of the Commissioner. In addition, if any person continues
22 to violate or further violates any provision of this Article after written notice from the
23 Commissioner, the Commissioner may determine that each day during which the violation
24 continued or is repeated constitutes a separate violation subject to additional civil penalties. In
25 determining the amount of the penalty, the Commissioner shall consider the degree and extent of
26 harm caused or potentially caused by the violation.

27 (b) Prior to assessing a civil penalty, the Commissioner shall give the person written notice
28 of the violation and a reasonable period of time in which to correct the violation. However, the
29 Commissioner shall not be required to give a person time to correct a violation before assessing a
30 penalty if the Commissioner determines the violation has the potential to cause physical injury or
31 illness.

32 (c) The Commissioner may consider the training and management practices implemented
33 by the person, firm, or corporation for the purpose of complying with this Article as a mitigating
34 factor when determining the amount of the civil penalty.

35 (d) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to
36 this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

37 **"§ 106-65.105D. Violation a misdemeanor.**

38 (a) Except as otherwise provided, any person, firm, or corporation that violates any of the
39 provisions of this Article, or any of the rules, regulations, or standards promulgated hereunder,
40 shall be deemed guilty of a Class 2 misdemeanor.

41 (b) Any person, firm, or corporation that provides the Commissioner or a duly authorized
42 agent of the Commissioner with false or misleading information in relation to a license application
43 or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class
44 2 misdemeanor.

45 (c) Any person, firm, or corporation that alters or removes a tag indicating that an item has
46 been detained or embargoed pursuant to G.S. 106-65.105A(a) without first receiving permission
47 from the court or a duly authorized agent under this Article shall be deemed guilty of a Class 2
48 misdemeanor.

49 (d) Any person, firm, or corporation that removes or disposes of any item detained or
50 embargoed under G.S. 106-65.105A(a) without first receiving permission from the court or a duly
51 authorized agent under this Article shall be deemed guilty of a Class 2 misdemeanor.

1 When the Commissioner determines, in consultation with the Governor, that there is an
2 imminent threat of an agricultural emergency or that an agricultural emergency exists within the
3 State that threatens to cause damage to or has caused damage to agricultural lands, facilities, and
4 operations, the Commissioner is authorized to deploy Agricultural Emergency Response Teams to
5 aid in prevention measures and recovery efforts on the premises of agricultural landowners
6 throughout the State, wherever located.

7 **"§ 106-1037. Immunity and liability.**

8 All functions authorized by this Article and all other activities relating to agricultural
9 emergencies are hereby declared to be governmental functions. Neither the State nor any political
10 subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any
11 Agricultural Emergency Response Team worker, firm, partnership, association, or corporation
12 complying with or reasonably attempting to comply with this Article or any order, rule, or
13 regulation promulgated pursuant to the provisions of this Article, shall be liable for the death of or
14 injury to persons or for damage to property as a result of any such activity.

15 **"§ 106-1038. No private liability.**

16 Any person, firm, or corporation, together with any successors in interest, if any, owning or
17 controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly,
18 with or without compensation, grants a license or privilege or otherwise permits or allows the
19 designation or use of the whole or any part or parts of such real or personal property for the
20 purpose of activities or functions relating to agricultural emergency response as provided for in
21 this Article or elsewhere in the General Statutes shall not be civilly liable for the death of or injury
22 to any person or the loss of or damage to the property of any persons where such death, injury,
23 loss, or damage resulted from, through, or because of the use of the said real or personal property
24 for any of the above purposes, provided that the use of said property is subject to the order or
25 control of or pursuant to a request under the authority of this Article.

26 **"§ 106-1039. Funding for agricultural emergency response.**

27 In order to fully execute the authorities prescribed in this Article, the North Carolina
28 Department of Agriculture may, at the discretion of the Commissioner, use any funds available to
29 the Department which have been allocated by the General Assembly from the General Fund of the
30 State, use of which is not otherwise restricted by law.

31 **"§ 106-1040. Nondiscrimination in agricultural emergency response.**

32 State and local governmental bodies and other organizations and personnel who carry out
33 functions under the provisions of this Article shall do so in an equitable and impartial manner.
34 Such State and local governmental bodies, organizations, and personnel shall not discriminate on
35 the grounds of race, color, religion, nationality, sex, age, or economic status in the relief and
36 assistance activities."

37 **SECTION 2.(b)** Article 1 of Chapter 166A of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 166A-19.77A. Agricultural Emergency Response Teams authorized.**

40 The Department of Agriculture and Consumer Services is designated as an emergency
41 response agency for purposes of the following:

- 42 (1) Deploying Agricultural Emergency Response Teams, as that term is defined in
43 G.S. 106-1035, to respond to agriculture-related incidents.
- 44 (2) Receipt of any applicable State or federal funding.
- 45 (3) Training of other State and local agencies in agricultural emergency response.
- 46 (4) Any other emergency response roles for which Agricultural Emergency
47 Response Teams have special training or qualifications."

48 **SECTION 2.(c)** This section is effective when it becomes law.

49
50 **ALLOW WILDLIFE MANAGEMENT AGENCIES TO CULL FERAL SWINE FROM**
51 **AIRCRAFT**

1 **SECTION 3.** Article 22 of Chapter 113 of the General Statutes is amended by adding
2 a new section to read:

3 **"§ 113-299. Aerial management of feral swine.**

4 Notwithstanding G.S. 113-291.1(b)(1), employees of the Wildlife Resources Commission and
5 employees of federal agencies whose responsibilities include fisheries and wildlife management,
6 in the performance of such employees' official duties, may cull feral swine from aircraft, with the
7 written permission of the landowner. However, no such activity shall occur in coastal counties, as
8 defined in G.S. 113A-103(2) during waterfowl season."

9
10 **DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO**
11 **INSPECT RENDERING PLANTS**

12 **SECTION 4.(a)** G.S. 106-168.5 is repealed.

13 **SECTION 4.(b)** G.S. 106-168.6 reads as rewritten:

14 **"§ 106-168.6. ~~Inspection by committee;~~Inspection; certificate of specific findings.**

15 ~~The committee upon notification by~~ Upon receipt of an application for license, the
16 Commissioner or the Commissioner's designee shall promptly inspect the plans, specifications,
17 and selected site in the case of proposed rendering plants and shall inspect the buildings, grounds,
18 and equipment of established rendering plants. If the ~~committee~~ Commissioner or the
19 Commissioner's designee finds that the plans, specifications, and selected site in the case of
20 proposed plants, or the buildings, grounds, and equipment in the case of established plants,
21 comply with the requirements of this Article and the rules and regulations promulgated by the
22 Commissioner not inconsistent therewith, it under the authority of this Article, the Commissioner
23 shall certify its the findings in writing and forward same to the Commissioner writing. If there is a
24 failure in any respect to meet such requirements, the ~~committee~~ Commissioner or the
25 Commissioner's designee shall notify the applicant in writing of such deficiencies and the
26 ~~committee shall~~ shall, within a reasonable time to be determined by the Commissioner
27 Commissioner, make a second inspection. If the specified defects are remedied, the ~~committee~~
28 Commissioner or the Commissioner's designee shall thereupon certify its the findings in writing to
29 the Commissioner writing. Not more than two inspections shall be required of the committee
30 under any one application."

31 **SECTION 4.(c)** G.S. 106-168.7 reads as rewritten:

32 **"§ 106-168.7. Issuance of license.**

33 ~~Upon receipt of the certificate of compliance from the committee,~~ certification in accordance
34 with G.S. 105-168.6, the Commissioner shall issue a license to the applicant to conduct rendering
35 operations as specified in the application. A license shall be valid until revoked for cause as
36 hereinafter provided."

37 **SECTION 4.(d)** G.S. 106-168.12 reads as rewritten:

38 **"§ 106-168.12. Commissioner authorized to adopt rules and regulations.**

39 The Commissioner of Agriculture is hereby authorized to make and establish reasonable rules
40 and regulations, ~~not inconsistent~~ consistent with the provisions of this Article, ~~after consulting the~~
41 ~~committee,~~ for the proper administration and enforcement thereof."

42 **SECTION 4.(e)** G.S. 106-168.13 reads as rewritten:

43 **"§ 106-168.13. Effect of failure to comply.**

44 Failure to comply with the provisions of this Article or rules and regulations ~~not inconsistent~~
45 ~~therewith~~ adopted pursuant to this Article shall be cause of revocation of license, if such failure
46 shall not be remedied within a reasonable time after notice to the licensee. Any person whose
47 license is revoked may reapply for a license in the manner provided in this Article for an initial
48 application, except that the Commissioner shall not be required to cause the rendering plant and
49 equipment of the applicant to be inspected ~~by the committee~~ until the expiration of 30 days from
50 the date of revocation."

1 **REQUIRE TRAINING FOR APPOINTED AND ELECTED SOIL AND WATER**
2 **DISTRICT SUPERVISORS**

3 **SECTION 5.(a)** G.S. 139-4(d) reads as rewritten:

4 "(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water
5 Conservation Commission, it shall have the following duties and powers:

6 ...

7 (13) To establish a training program required for all district supervisors."

8 **SECTION 5.(b)** Article 1 of Chapter 139 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 139-7.2. Training of elective and appointive district supervisors.**

11 (a) All district supervisors, whether elected or appointed, shall complete a minimum of six
12 clock hours of training annually.

13 (b) The training shall include soil, water, and natural resources conservation and the duties
14 and responsibilities of district supervisors.

15 (c) The training may be provided by the School of Government at the University of North
16 Carolina at Chapel Hill, or other qualified sources as approved by the Soil and Water
17 Conservation Commission."

18
19 **BOARD OF AGRICULTURE RULE-MAKING AUTHORITY FOR ANIMAL SHELTER**
20 **SUPPORT FUND**

21 **SECTION 6.(a)** G.S. 19A-67 reads as rewritten:

22 **"§ 19A-67. Animal Shelter Support Fund.**

23 (a) Creation. – The Animal Shelter Support Fund is established as a special fund in the
24 Department of Agriculture and Consumer Services. The Fund consists of appropriations by the
25 General Assembly or contributions and grants from public or private sources.

26 (b) Use. – The Fund shall be used by the Animal Welfare Section of the Department of
27 Agriculture and Consumer Services to reimburse local governments for expenses related to their
28 operation of a registered animal shelter due to any of the following:

29 (1) The denial, suspension, or revocation of the shelter's registration.

30 (2) An unforeseen catastrophic disaster at an animal shelter.

31 (c) Rules. – ~~The Animal Welfare Section~~ Board of Agriculture shall issue rules detailing
32 eligible expenses and application guidelines that comply with the requirements of this Article.

33 (d) Reversion. – Any appropriated and unencumbered funds remaining at the end of each
34 fiscal year in excess of two hundred fifty thousand dollars (\$250,000) shall revert to the General
35 Fund."

36 **SECTION 6.(b)** The Board of Agriculture may adopt temporary rules to administer
37 the Animal Shelter Support Fund in accordance with subsection (a) of this section.

38
39 **RULE-MAKING EXEMPTION FOR FOREST MANAGEMENT PLANS**

40 **SECTION 7.(a)** G.S. 150B-1(d) reads as rewritten:

41 **"§ 150B-1. Policy and scope.**

42 ...

43 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
44 following:

45 ...

46 (26) The Board of Agriculture in the Department of Agriculture and Consumer
47 Services with respect to the following:

48 a. Annual admission fees for the State Fair.

49 b. Operating hours, admission fees, or related activity fees at State forests.

50 The Board shall annually post the admission fee and operating hours schedule
51 on its Web site and provide notice of the schedule, along with a citation to this

1 section, to all persons named on the mailing list maintained pursuant to
 2 G.S. 150B-21.2(d).

3 c. Fee schedules for the preparation of forest management plans developed
 4 pursuant to G.S. 106-1004.

5"

6 **SECTION 7.(b)** G.S. 106-1004 reads as rewritten:

7 **"§ 106-1004. Fees for forest management plans.**

8 The Board of Agriculture shall establish ~~by rule~~ a schedule of fees for the preparation of forest
 9 management plans developed pursuant to this Chapter. The fees established by the Board shall not
 10 exceed the amount necessary to offset the costs of the Department of Agriculture and Consumer
 11 Services to prepare forest management plans."

12
 13 **ALLOW LOCAL PREFERENCE FOR SCHOOL FOOD PROCUREMENT**

14 **SECTION 8.** Part 2 of Article 17 of Chapter 115C of the General Statutes is amended
 15 by adding a new section to read:

16 **"§ 115C-264.4. Local preference for produce in schools.**

17 A local school board may develop and implement policies and procedures to facilitate and
 18 maximize to the extent practicable, purchases of food grown or raised in North Carolina,
 19 including, but not limited to, policies that permit a percentage price preference for the purpose of
 20 procuring food grown or raised within the State. As used in this section, "price percentage
 21 preference" means the percent by which a responsive bid from a responsible bidder whose product
 22 is grown or raised in North Carolina may exceed the lowest responsive bid submitted by a
 23 responsible bidder whose product is not grown or raised in North Carolina."

24
 25 **ALLOW CHORIONIC GONADOTROPIN INJECTIONS FOR VETERINARY USE**

26 **SECTION 9.** G.S. 90-91 reads as rewritten:

27 **"§ 90-91. Schedule III controlled substances.**

28 This schedule includes the controlled substances listed or to be listed by whatever official
 29 name, common or usual name, chemical name, or trade name designated. In determining that a
 30 substance comes within this schedule, the Commission shall find: a potential for abuse less than
 31 the substances listed in Schedules I and II; currently accepted medical use in the United States;
 32 and abuse may lead to moderate or low physical dependence or high psychological dependence.
 33 The following controlled substances are included in this schedule:

34 ...

35 (k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance,
 36 chemically and pharmacologically related to testosterone (other than estrogens, progestins, and
 37 corticosteroids) that promotes muscle growth, including, but not limited to, the following:

- 38 1. Methandrostenolone,
- 39 2. Stanozolol,
- 40 3. Ethylestrenol,
- 41 4. Nandrolone phenpropionate,
- 42 5. Nandrolone decanoate,
- 43 6. Testosterone propionate,
- 44 7. Chorionic gonadotropin,
- 45 8. Boldenone,
- 46 9. Chlorotestosterone (4-chlorotestosterone),
- 47 10. Clostebol,
- 48 11. Dehydrochlormethyltestosterone,
- 49 12. Dibydrotestosterone (4-dihydrotestosterone),
- 50 13. Drostanolone,
- 51 14. Fluoxymesterone,

- 1 15. Formebolone (formebolone),
 2 16. Mesterolene,
 3 17. Methandienone,
 4 18. Methandranone,
 5 19. Methandriol,
 6 20. Methenolene,
 7 21. Methyltestosterone,
 8 22. Mibolerone,
 9 23. Nandrolene,
 10 24. Norethandrolene,
 11 25. Oxandrolone,
 12 26. Oxymesterone,
 13 27. Oxymetholone,
 14 28. Stanolone,
 15 29. Testolactone,
 16 30. Testosterone,
 17 31. Trenbolone, and
 18 32. Any salt, ester, or isomer of a drug or substance described or listed in this
 19 subsection, if that salt, ester, or isomer promotes muscle growth. Except such
 20 term does not include (i) an anabolic steroid which is expressly intended for
 21 administration through implants to cattle or other nonhuman species and which
 22 has been approved by the Secretary of Health and Human Services for such
 23 ~~administration~~ administration or (ii) chorionic gonadotropin when administered
 24 by injection for veterinary use by a licensed veterinarian or the veterinarian's
 25 designated agent. If any person prescribes, dispenses, or distributes such steroid
 26 for human use, such person shall be considered to have prescribed, dispensed,
 27 or distributed an anabolic steroid within the meaning of this subsection.

28 "

29
 30 **EXTEND SUNSET FOR CONSTRUCTING CERTAIN RENEWABLE FUEL**
 31 **FACILITIES**

32 **SECTION 10.** G.S. 105-129.16D(b) reads as rewritten:

33 "**§ 105-129.16D. Credit for constructing renewable fuel facilities.**

34 ...

35 (b) Production Credit. – A taxpayer that constructs and places in service in this State a
 36 commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent
 37 (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may
 38 not be taken for the taxable year in which the facility is placed in service but must be taken in
 39 seven equal annual installments beginning with the taxable year in which the facility is placed in
 40 service. If, in one of the years in which the installment of a credit accrues, the facility with respect
 41 to which the credit was claimed is disposed of or taken out of service, the credit expires and the
 42 taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take
 43 the portion of an installment that accrued in a previous year and was carried forward to the extent
 44 permitted under G.S. 105-129.17.

45 Notwithstanding subsection (d) of this section, this section is repealed effective for facilities
 46 placed in service on or after January 1, ~~2017,2020~~, in the case of a taxpayer that meets both of the
 47 following conditions:

- 48 (1) Signs a letter of commitment with the Department of Commerce on or before
 49 September 1, 2013, stating the taxpayer's intent to construct and place into
 50 service in this State a commercial facility for processing renewable fuel.
 51 (2) Begins construction of the facility on or before December 31, 2013."

ESTABLISH VOLUNTARY ASSESSMENT ON DEER FEED

SECTION 11. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 86.

"Farmed Cervid Industry Promotion Act.

"§ 106-1041. Title.

This Article shall be known as the Farmed Cervid Industry Promotion Act.

"§ 106-1042. Definitions.

As used in this Article:

- (1) "Association" means the North Carolina Deer and Elk Farmers Association.
- (2) "Cervid farmer" means a person who (i) is a North Carolina resident and (ii) holds at least one cervid in captivity subject to a captivity license issued by the Department.
- (3) "Department" means the Department of Agriculture and Consumer Services.
- (4) "Farmed cervid" means any member of the Cervidae family that is held in captivity and produced, bought, or sold for commercial purposes.
- (5) "Farmed cervid feed" means any commercial feed, as defined in G.S. 106-284.33, labeled or marketed for farmed cervid use.

"§ 106-1043. Referendum.

(a) The Association may conduct a referendum among cervid farmers upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Association shall determine all of the following:

- (1) The amount of the proposed assessment, not to exceed four dollars (\$4.00) per ton of farmed cervid feed.
- (2) The period for which the assessment shall be levied, not to exceed 10 years.
- (3) The time and place of the referendum.
- (4) Procedures for conducting the referendum and counting votes.
- (5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot.

(d) All cervid farmers are eligible to vote in the referendum. The Association shall send press releases about the referendum to at least 10 daily and 10 weekly or biweekly newspapers having general circulation in a county in the State and to any trade journals deemed appropriate by the Association. Notice of the referendum also shall be posted in every place the Association identifies as selling farmed cervid feed. Any questions concerning eligibility to vote shall be resolved by the board of directors of the Association.

"§ 106-1044. Majority vote required; collection of assessment.

(a) The assessment shall not be collected unless a majority of the votes cast in the referendum are in favor of the assessment. If a majority of the votes cast in the referendum are in favor of the assessment, the Department shall notify all farmed cervid feed manufacturers and distributors of the assessment. The assessment shall apply to all farmed cervid feed subject to the provisions of G.S. 106-284.40(b), and the assessment shall be remitted to the Department with the inspection fee imposed by G.S. 106-284.40. The Department shall provide forms for reporting the assessment. Persons who purchase farmed cervid feed on which the assessment has not been paid shall report these purchases and pay the assessment to the Department.

(b) The Association may bring an action to collect unpaid assessments against any feed manufacturer or distributor who fails to pay the assessment.

"§ 106-1045. Use of funds; refunds.

(a) The Department shall remit all funds collected under this Article to the Association at least quarterly. The Association shall use these funds to promote the interests of the farmed cervid

1 industry and may use these funds for those administrative expenses that are reasonably necessary
2 to carry out this function.

3 (b) Any person who purchases farmed cervid feed upon which the assessment has been
4 paid shall have the right to receive a refund of the assessment by making a demand in writing to
5 the Association within one year of purchase of the feed. This demand shall be accompanied by
6 proof of purchase satisfactory to the Association."

7
8 **EXEMPT AGRICULTURE FROM CAPACITY USE AREA WITHDRAWAL**
9 **PERMITTING REQUIREMENTS**

10 **SECTION 12.(a)** G.S. 143-215.15 is amended by adding a new subsection to read:

11 "**§ 143-215.15. Permits for water use within capacity use areas – Procedures.**

12 (a) In areas declared by the Commission to be capacity use areas no person shall (after the
13 expiration of such period, not in excess of six months, as the Commission may designate)
14 withdraw, obtain, or utilize surface waters or groundwaters or both, as the case may be, in excess
15 of 100,000 gallons per day for any purpose unless such person shall first obtain a permit therefor
16 from the Commission.

17 (a1) This section, and rules adopted pursuant to this Part, shall not apply to water uses for
18 agricultural purposes on a bona fide farm, as defined in G.S. 153A-340, or a silviculture operation.

19 (b) When sufficient evidence is provided by the applicant that the water withdrawn or used
20 from a stream or the ground is not consumptively used, a permit therefor shall be issued by the
21 Commission without a hearing and without the conditions provided in subsection (c) of this
22 section. Applications for such permits shall set forth such facts as the Commission shall deem
23 necessary to enable it to establish and maintain adequate records of all water uses within the
24 capacity use area.

25"

26 **SECTION 12.(b)** The Environmental Management Commission shall revise its rules
27 consistent with subsection (a) of this section.

28
29 **EXCLUDE CERTAIN MINOR REPAIRS FROM BUILDING PERMIT REQUIREMENTS**

30 **SECTION 13.(a)** G.S. 143-138 reads as rewritten:

31 "**§ 143-138. North Carolina State Building Code.**

32 ...

33 (b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No
34 ~~building~~ permit shall be required under the Code or any local variance thereof approved under
35 subsection (e) for any construction, installation, repair, replacement, or alteration performed in
36 accordance with the current edition of the North Carolina State Building Code and costing fifteen
37 thousand dollars (\$15,000) or less in any single family residence or farm building unless the work
38 involves: the involves any of the following:

39 (1) The addition, repair, or replacement of load bearing structures; the structures.
40 However, no permit is required for replacements of windows, doors, exterior
41 siding, or the pickets, railings, stair treads, and decking of porches and exterior
42 decks that otherwise meet the requirements of this subsection.

43 (2) The addition (excluding replacement of same capacity) or change in the design
44 of plumbing; the plumbing. However, no permit is required for replacements
45 otherwise meeting the requirements of this subsection that do not change size or
46 capacity.

47 (3) The addition, replacement or change in the design of heating, air conditioning,
48 or electrical wiring, devices, fixtures (excluding repair or replacement of
49 electrical lighting devices and fixtures of the same type), appliances (excluding
50 replacement of water heaters, provided that the energy use rate or thermal input
51 is not greater than that of the water heater which is being replaced, and there is

no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), appliances, or equipment, the equipment.

(4) The use of materials not permitted by the North Carolina Uniform Residential Building Code; or the Residential Code for One- and Two-Family Dwellings.

(5) The addition (excluding replacement of like grade of fire resistance) of roofing.

~~The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21.~~

(b6) ~~No State Agency Permit.~~ – No building permit shall be required under such the Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

...

(b10) Replacement Water Heaters. –

(1) Exclusion. – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for replacement of water heaters in one- or two-family dwellings, provided (i) the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, (ii) the work is performed by a person or employee of a company licensed under G.S. 87-21 or pursuant to G.S. 87-21(i), and (iii) the replacement is installed in accordance with the current edition of the North Carolina State Building Code.

(2) Energy efficiency. – The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

...

(b14) ~~Exclusion for Routine Maintenance.~~ Exclusion for Routine Maintenance of Pumps and Dispensers. – No building permit shall be required under the Code or any local variant approved under subsection (e) of this section for routine maintenance on fuel dispensing pumps and other dispensing devices. For purposes of this subsection, "routine maintenance" includes repair or replacement of hoses, O-rings, nozzles, or emergency breakaways.

...

(b16) Exclusion for Electrical Devices and Lighting Fixtures. – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for the repair or replacement of dishwashers, disposals, water heaters, electrical devices, or lighting fixtures in residential or commercial structures, provided that all of the following apply:

(1) The repair or replacement does not require the addition or relocation of electrical wiring.

(2) The work is performed by a person or employee of a company licensed under G.S. 87-43.

(3) The repair or replacement is performed in accordance with the current edition of the North Carolina State Building Code.

...."

SECTION 13.(b) G.S. 153A-357 reads as rewritten:

"§ 153A-357. Permits.

...

1 (a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any
 2 construction, installation, repair, replacement, or alteration performed in accordance with the
 3 current edition of the North Carolina State Building Code and costing fifteen thousand dollars
 4 (\$15,000) or less in any single-family residence or farm building unless the work involves: the
 5 involves any of the following:

6 (1) The addition, repair or replacement of load bearing structures; the structures.
 7 However, no permit is required for replacements of windows, doors, exterior
 8 siding, or the pickets, railings, stair treads, and decking of porches and exterior
 9 decks.

10 (2) The addition (excluding replacement of same size and capacity) or change in
 11 the design of plumbing; the plumbing. However, no permit is required for
 12 replacements otherwise meeting the requirements of this subsection that do not
 13 change size or capacity.

14 (3) The addition, replacement or change in the design of heating, air conditioning,
 15 or electrical wiring, devices, appliances, or equipment; the equipment, other
 16 than like-kind replacement of electrical devices and lighting fixtures.

17 (4) The use of materials not permitted by the North Carolina Uniform Residential
 18 Building Code; or the Residential Code for One- and Two-Family Dwellings.

19 (5) The addition (excluding replacement of like grade of fire resistance) of roofing.

20 ~~Violation of this section constitutes a Class 1 misdemeanor.~~

21 ...

22 (g) Violation of this section constitutes a Class 1 misdemeanor."

23 **SECTION 13.(c)** G.S. 160A-417 reads as rewritten:

24 **"§ 160A-417. Permits.**

25 ...

26 (a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any
 27 construction, installation, repair, replacement, or alteration performed in accordance with the
 28 current edition of the North Carolina State Building Code and costing fifteen thousand dollars
 29 (\$15,000) or less in any single family residence or farm building unless the work involves: the
 30 involves any of the following:

31 (1) The addition, repair or replacement of load bearing structures; the structures.
 32 However, no permit is required for replacements of windows, doors, exterior
 33 siding, or the pickets, railings, stair treads, and decking of porches and exterior
 34 decks.

35 (2) The addition (excluding replacement of same size and capacity) or change in
 36 the design of plumbing; the plumbing. However, no permit is required for
 37 replacements otherwise meeting the requirements of this subsection that do not
 38 change size or capacity.

39 (3) The addition, replacement or change in the design of heating, air conditioning,
 40 or electrical wiring, devices, appliances, or equipment; the equipment, other
 41 than like-kind replacement of electrical devices and lighting fixtures.

42 (4) The use of materials not permitted by the North Carolina Uniform Residential
 43 Building Code; or the Residential Code for One- and Two-Family Dwellings.

44 (5) The addition (excluding replacement of like grade of fire resistance) of roofing.

45 ~~Violation of this section constitutes a Class 1 misdemeanor.~~

46 ...

47 (f) Violation of this section constitutes a Class 1 misdemeanor."

48 **SECTION 13.(d)** This section becomes effective October 1, 2016.

50 **EXEMPT HORTICULTURAL USES FROM THE SEDIMENTATION POLLUTION**
 51 **CONTROL ACT**

1 **SECTION 14.** G.S. 113A-52.01 reads as rewritten:

2 "**§ 113A-52.01. Applicability of this Article.**

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

- 4 (1) Activities, including the breeding and grazing of ~~livestock~~, livestock and any
5 activity that constitutes a bona fide farm use under G.S. 153A-340(b)(2),
6 undertaken on agricultural land for the production of plants and animals useful
7 to man, including, but not limited to:
- 8 a. Forages and sod crops, grains and feed crops, tobacco, cotton, and
 - 9 peanuts.
 - 10 b. Dairy animals and dairy products.
 - 11 c. Poultry and poultry products.
 - 12 d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies,
 - 13 mules, and goats.
 - 14 e. Bees and apiary products.
 - 15 f. Fur producing animals.
 - 16 g. Mulch, ornamental plants, sod, and other horticultural products. For
17 purposes of this section, "mulch" means substances composed primarily
18 of plant remains or mixtures of such substances.
- 19 (2) Activities undertaken on forestland for the production and harvesting of timber
20 and timber products and conducted in accordance with best management
21 practices set out in Forest Practice Guidelines Related to Water Quality, as
22 adopted by the Department.
- 23 (3) Activities for which a permit is required under the Mining Act of 1971, Article
24 7 of Chapter 74 of the General Statutes.
- 25 (4) For the duration of an emergency, activities essential to protect human life,
26 including activities specified in an executive order issued under
27 G.S. 166A-19.30(a)(5).
- 28 (5) Activities undertaken to restore the wetland functions of converted wetlands to
29 provide compensatory mitigation to offset impacts permitted under Section 404
30 of the Clean Water Act.
- 31 (6) Activities undertaken pursuant to Natural Resources Conservation Service
32 standards to restore the wetlands functions of converted wetlands as defined in
33 Title 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition)."

35 **CLARIFY ELIGIBILITY FOR EXPANDED GAS PRODUCTS SERVICE TO**
36 **AGRICULTURE FUND**

37 **SECTION 15.** G.S. 143B-437.020(a) reads as rewritten:

38 "**§ 143B-437.020. Natural gas and propane gas for agricultural projects.**

39 (a) Definitions. –

- 40 (1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or
41 off the farm.
- 42 (2) Repealed by Session Laws 2014-100, s. 15.13(a), effective July 1, 2014.
- 43 (3) Eligible project. – A discrete and specific economic development project ~~that~~
44 ~~would expand for an agricultural production operation or agricultural processing~~
45 ~~capabilities facility that requires new or expanded requests~~ natural gas or
46 propane gas service. A project intended for the purpose of commercial resale of
47 natural gas or propane gas shall not be an eligible project.
- 48 (4) Excess infrastructure costs. – Any project carrying costs incurred by a natural
49 gas local distribution company to provide new or expanded natural gas service
50 to an eligible project that exceed the income the infrastructure generates for the
51 local natural gas distribution company, including any standard rates, special

- 1 contract rates, minimum margin agreements, and contributions in aid of
 2 construction collected by the natural gas local distribution company.
- 3 (5) Project carrying costs. – All costs, including depreciation, taxes, operation and
 4 maintenance expenses, and, for a natural gas local distribution company, a
 5 return on investment equal to the rate of return approved by the Utilities
 6 Commission in the natural gas local distribution company's most recent general
 7 rate case under G.S. 62-133.
- 8 (6) Secretary. – The Secretary of Commerce."
 9

10 **REQUIRE WRITTEN NOTICE OF AUTOMATIC CONTRACT RENEWAL FIFTEEN**
 11 **TO THIRTY DAYS PRIOR TO THE AUTOMATIC RENEWAL**

12 SECTION 16.(a) G.S. 75-41 reads as rewritten:

13 **"§ 75-41. Contracts with automatic renewal clauses.**

14 (a) Any ~~person, firm, or corporation~~ person engaged in commerce that sells, leases, or
 15 offers to sell or lease, any products or services to a consumer pursuant to a contract, where the
 16 contract automatically renews unless the consumer cancels the contract, shall ~~disclose~~ do all of the
 17 following:

18 (1) Disclose the automatic renewal clause clearly and conspicuously in the contract
 19 or contract offer.

20 (b) ~~Any person, firm, or corporation engaged in commerce that sells, leases, or offers to~~
 21 ~~sell or lease, any products or services to a consumer pursuant to a contract, where the contract~~
 22 ~~automatically renews unless the consumer cancels the contract, shall disclose~~

23 (2) Disclose clearly and conspicuously how to cancel the contract in the initial
 24 contract, contract offer, or with delivery of products or services.

25 (3) For any automatic renewal exceeding 60 days, provide written notice to the
 26 consumer by personal delivery, electronic mail, or first-class mail, at least 15
 27 days but no earlier than 30 days before the date the contract is to be
 28 automatically renewed, stating the date on which the contract is scheduled to
 29 automatically renew and notifying the consumer that the contract will
 30 automatically renew unless it is cancelled by the consumer prior to that date.

31 (4) If the terms of the contract will change upon the automatic renewal of the
 32 contract, disclose the changing terms of the contract clearly and conspicuously
 33 on the notification in at least 12 point type and in bold print.

34 (c) A ~~person, firm, or corporation~~ person that fails to comply with the requirements of this
 35 section is in violation of this section unless the ~~person, firm, or corporation~~ person demonstrates
 36 that all of the following are its routine business practice:

37 (1) ~~It~~ The person has established and implemented written procedures to comply
 38 with this section and enforces compliance with the procedures.

39 (2) Any failure to comply with this section is the result of error.

40 (3) Where an error has caused the failure to comply with this section, ~~it~~ the person
 41 provides a full refund or credit for all amounts billed to or paid by the consumer
 42 from the date of the renewal until the date of the termination of the contract, or
 43 the date of the subsequent notice of renewal, whichever occurs first.

44 (d) This section does not apply to insurers licensed under Chapter 58 of the General
 45 Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit
 46 unions licensed or organized under the laws of any state or the United States, or any foreign bank
 47 maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or
 48 affiliate ~~thereof~~ thereof, nor does this section apply to any entity subject to regulation by the
 49 Federal Communications Commission under Title 47 of the United States Code or by the North
 50 Carolina Utilities Commission under Chapter 62 of the General Statutes, or to any entity doing

1 business directly or through an affiliate pursuant to a franchise, license, certificate, or other
2 authorization issued by a political subdivision of the State or an agency thereof.

3 (e) A violation of this section renders the automatic renewal clause void and
4 unenforceable."

5 **SECTION 16.(b)** This section is effective when it becomes law and applies to
6 contracts entered into on or after that date.

7
8 **AUTHORIZE CERTIFIED WELL DRILLERS TO INSTALL CERTAIN WATER PIPES**
9 **AND ELECTRICAL WIRING IN A SINGLE DITCH**

10 **SECTION 17.(a)** G.S. 87-97 reads as rewritten:

11 "**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

12 ...

13 (b1) Permit to Include Authorization for Piping and Electrical. – When a permit is issued
14 under this section, ~~that~~ the local health department shall be responsible for notifying the
15 appropriate building inspector of the issuance of the well permit. A permit issued under this
16 section shall also be deemed to include authorization for the for all of the following:

17 (1) The installation, construction, maintenance, or repair of electrical wiring,
18 devices, appliances, or equipment by a person certified as a well contractor
19 under Article 7A of this Chapter when running electrical wires from the well
20 pump to the pressure switch. ~~The local health department shall be responsible~~
21 for notifying the appropriate building inspector of the issuance of the well
22 permit.

23 (2) The installation, construction, maintenance, or repair of water pipes by a person
24 certified as a well contractor under Article 7A of this Chapter when running
25 water pipes from the well to the water tank.

26 (3) The installation of both water pipes and electrical wiring in a single ditch by a
27 person certified as a well contractor under Article 7A of this Chapter when
28 running electrical wires from the well pump to the pressure switch and water
29 pipes from the well to the water tank. The ditch shall be as deep as the
30 minimum cover requirements for either electrical wiring or water pipes,
31 whichever is greater.

32 This subsection shall not be interpreted to prohibit any person licensed by an independent
33 occupational licensing board from performing any authorized services within the scope of practice
34 of the person's license.

35"

36 **SECTION 17.(b)** The Building Code Council shall amend the State Electrical Code
37 and the State Plumbing Code consistent with this section.

38 **SECTION 17.(c)** This section becomes effective October 1, 2016.

39
40 **EFFECTIVE DATE AND SEVERABILITY CLAUSE**

41 **SECTION 18.(a)** If any provision of this act or its application is held invalid, the
42 invalidity does not affect other provisions or applications of this act that can be given effect
43 without the invalid provisions or application, and to this end, the provisions of this act are
44 severable.

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