

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 605
Agriculture, Energy, and Environment Committee Substitute Adopted 5/4/21

Short Title: North Carolina Farm Act of 2021.

(Public)

Sponsors:

Referred to:

April 7, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS CONCERNING
3 AGRICULTURE AND FORESTRY.

4 The General Assembly of North Carolina enacts:

5
6 **VOLUNTARY AGRICULTURAL DISTRICT TECHNICAL CHANGES**

7 **SECTION 1.** Article 61 of Chapter 106 of the General Statutes reads as rewritten:

8 "Article 61.

9 "Agricultural Development and Preservation of Farmland.

10 ...

11 "Part 2. Voluntary Agricultural Districts.

12 **"§ 106-737. Qualifying farmland.**

13 In order for farmland to qualify for inclusion in a voluntary agricultural district or an
14 enhanced voluntary agricultural district under Part 1 or Part 2 of this Article, it must be real
15 property that:

- 16 (1) ~~Is engaged in agriculture as that word is defined in G.S. 106-581.1.~~ Is used for
17 bona fide farm purposes, as that term is defined in G.S. 106-743.4(a) and
18 G.S. 160D-903.
19 (2) Repealed by Session Laws 2005-390, s. 11 effective September 13, 2005.
20 (3) Is managed in accordance with the Soil Conservation Service defined erosion
21 control practices that are addressed to highly erodible land; and
22 (4) Is the subject of a conservation agreement, as defined in G.S. 121-35, between
23 the county-local government administering the voluntary agricultural district
24 program and the owner of such land that prohibits nonfarm use or
25 development of such land for a period of at least 10 years, except for the
26 creation of not more than three lots that meet applicable county and municipal
27 zoning and subdivision regulations. The form of the conservation agreement
28 shall be approved by the agricultural advisory board created under
29 G.S. 106-739.

30 **"§ 106-737.1. Revocation of conservation agreement.**

31 By written notice to the ~~county~~, local government administering the voluntary agricultural
32 district program, the landowner may revoke this conservation agreement. Such revocation shall
33 result in loss of qualifying farm status.

34 **"§ 106-738. Voluntary agricultural districts.**

- 35 (a) An ordinance adopted under this Part shall provide:



- 1 (1) For the establishment of voluntary agricultural districts ~~consisting initially of~~
2 ~~at least the number of contiguous acres of agricultural land, and forestland or~~
3 ~~horticultural land that is part of a qualifying farm or the number of qualifying~~
4 ~~farms deemed appropriate by the governing board of the county or city~~
5 ~~adopting the ordinance; upon the execution of a conservation agreement as~~
6 ~~provided in G.S. 106-737(4).~~
- 7 (2) ~~For the formation of such districts upon the execution by the owners of the~~
8 ~~requisite acreage of an agreement to sustain agriculture in the district;~~
- 9 (3) ~~That the form of this agreement must be reviewed and approved by an~~
10 ~~agricultural advisory board established under G.S. 106-739 or some other~~
11 ~~county board or official;~~
- 12 (4) ~~That each such district have a representative on the agricultural advisory board~~
13 ~~established under G.S. 106-739.~~
- 14 (5) The minimum size, including acreage; number of tracts; and appropriate
15 proximity of multiple tracts of agricultural land, forestland, or horticultural
16 land that may comprise a voluntary agricultural district.

17 (b) The purpose of such agricultural districts shall be to increase identity and pride in the
18 agricultural community and its way of life and to ~~increase protection from nuisance suits~~ decrease
19 the likelihood of legal disputes, such as nuisance actions between farm owners and their
20 neighbors, and other negative impacts on properly managed farms. The county or city that
21 adopted an ordinance under this Part may take such action as it deems appropriate to encourage
22 the formation of such districts and to further their purposes and objectives.

23 (c) A county ordinance adopted pursuant to this Part is effective within the
24 unincorporated areas of the county. A city ordinance adopted pursuant to this Part is effective
25 within the corporate limits of the city. A city may amend its ordinances in accordance with
26 G.S. 160A-383.2 with regard to agricultural districts within its planning jurisdiction.

27 **"§ 106-739. Agricultural advisory board.**

28 (a) An ordinance adopted under this Part or Part 3 of this Article shall provide for the
29 establishment of an agricultural advisory board, organized and appointed as ~~the county or city~~
30 ~~that adopted the ordinance shall deem appropriate.~~ by the board of county commissioners or the
31 city council adopting the ordinance. The county or city that adopted the ordinance may confer
32 upon this advisory board authority to:

- 33 (1) Review and make recommendations or decisions concerning the
34 establishment and modification of agricultural ~~districts;~~ districts. The board of
35 county commissioners or the city council may make decisions regarding the
36 establishment and modification of voluntary agricultural districts or may
37 delegate that authority to the agricultural advisory board. If the authority is
38 delegated to the agricultural advisory board, the agricultural advisory board's
39 decisions shall be appealable to the board of county commissioners or city
40 council by an owner of land that has been denied enrollment in a voluntary
41 agricultural district or has been removed from a voluntary agricultural district
42 by the agricultural advisory board.
- 43 (1a) Execute agreements with landowners necessary for enrollment of land in a
44 voluntary agricultural district.
- 45 (2) Review and make recommendations concerning any ordinance or amendment
46 adopted or proposed for adoption under this Part or Part 3 of this
47 Article; Article.
- 48 (3) Hold public hearings on public projects likely to have an impact on
49 agricultural operations, particularly if such projects involve condemnation of
50 all or part of any qualifying ~~farm;~~ farm.

1 (4) Advise the governing board of the county or city that adopted the ordinance
2 on projects, programs, or issues affecting the agricultural economy or way of
3 life within the ~~county;~~county.

4 (5) Perform other related tasks or duties assigned by the governing board of the
5 county or city that adopted the ordinance.

6 (b) The members of the agricultural advisory board shall be chosen to provide the
7 broadest possible representation of the geographical regions of the local government and to
8 represent, to the extent possible, all segments of agricultural production existing within the local
9 government. A majority of the members of the agricultural advisory board shall be actively
10 engaged in agriculture.

11 (c) The agricultural advisory board may, at the discretion of the board of county
12 commissioners or the city council, utilize an existing local government agency for the purpose
13 of administration, recordkeeping, and other related tasks or duties.

14 ...

15 **"§ 106-741. Record notice of proximity to farmlands.**

16 (a) All counties shall require that land records include some form of notice reasonably
17 calculated to alert a person researching the title of a particular tract that such tract is located
18 within one-half mile of a ~~poultry, swine, or dairy qualifying farm or within 600 feet of any other~~
19 ~~qualifying farm or within one-half mile of a voluntary agricultural district.~~the property line of
20 any tract of land enrolled in a voluntary agricultural district.

21 (b) In no event shall the county or any of its officers, employees, or agents be held liable
22 in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in
23 connection with the duties or obligations imposed by any ordinance adopted under subsection
24 (a).

25 (c) ~~In no event shall any cause of action arise out of the failure of a person researching~~
26 ~~the title of a particular tract to report to any person the proximity of the tract to a qualifying farm~~
27 ~~or voluntary agricultural district as defined in this Article.~~

28 (d) ~~In no event shall any cause of action arise out of the failure of a person licensed under~~
29 ~~Chapters 93A or 93E of the General Statutes for failure to report to any person the proximity of~~
30 ~~a tract to a qualifying farm or voluntary agricultural district as defined in this Article.~~

31 ...

32 **"§ 106-743. Local ordinances.**

33 A county or a city adopting an ordinance under this Part or Part 3 of this Article may consult
34 with the North Carolina Commissioner of Agriculture or ~~his~~the Commissioner's staff before
35 adoption, and shall record the ordinance with the Commissioner's office after adoption.
36 Thereafter, the county or city shall submit to the Commissioner at least once a year, a written
37 report including the status, ~~progress~~progress, number of enrolled farms and acres, and activities
38 of its farmland preservation program under this Part or Part 3 of this Article.

39 "Part 3. Enhanced Voluntary Agricultural Districts.

40 **"§ 106-743.1. Enhanced voluntary agricultural districts.**

41 (a) A county or a municipality may adopt an ordinance establishing an enhanced
42 voluntary agricultural district. An ordinance adopted pursuant to this Part shall provide:

43 (1) For the establishment of an enhanced voluntary agricultural district that
44 initially consists of at least the number of contiguous acres of agricultural land,
45 and forestland and horticultural land that is part of a qualifying farm under
46 G.S. 106-737 or the number of qualifying farms deemed appropriate by the
47 governing board of the county or city adopting the ordinance.

48 (2) For the formation of the enhanced voluntary agricultural district upon the
49 execution of a conservation agreement, as defined in G.S. 121-35, that meets
50 the condition set forth in G.S. 106-743.2 by the landowners of the requisite
51 acreage to sustain agriculture in the enhanced voluntary agricultural district.

1 (3) That the form of the agreement under subdivision (2) of this subsection be
2 reviewed and approved by an agricultural advisory board established under
3 G.S. 106-739, or other governing board of the county or city that adopted the
4 ordinance.

5 (4) ~~That each enhanced voluntary agricultural district have a representative on the~~
6 ~~agricultural advisory board established under G.S. 106-739.~~

7 (b) The purpose of establishing an enhanced voluntary agricultural district is to allow a
8 county or a city to provide additional benefits to farmland beyond that available in a voluntary
9 agricultural district established under Part 2 of this Article, when the owner of the farmland
10 agrees to the condition imposed under G.S. 106-743.2. The county or city that adopted the
11 ordinance may take any action it deems appropriate to encourage the formation of these districts
12 and to further their purposes and objectives.

13 (c) A county ordinance adopted pursuant to this Part is effective within the
14 unincorporated areas of the county. A city ordinance adopted pursuant to this Part is effective
15 within the corporate limits of the city. A city may amend its ordinances in accordance with
16 G.S. 160A-383.2 with regard to agricultural districts within its planning jurisdiction.

17 (d) A county or city ordinance adopted pursuant to this Part may be adopted
18 simultaneously with the creation of a voluntary agricultural district pursuant to G.S. 106-738.

19"

20 21 **ALLOW MAGISTRATES TO WAIVE TRIALS FOR STATE FOREST RULE** 22 **OFFENSES**

23 **SECTION 2.(a)** G.S. 7A-273 reads as rewritten:

24 "**§ 7A-273. Powers of magistrates in infractions or criminal actions.**

25 In criminal actions or infractions, any magistrate has power:

26 ...

27 (2) In misdemeanor or infraction cases involving alcohol offenses under Chapter
28 18B of the General Statutes, traffic offenses, hunting, fishing, State park and
29 recreation area rule offenses under Chapters 113 and 143B of the General
30 Statutes, State forest rule offenses under Articles 74 and 75 of Chapter 106 of
31 the General Statutes, boating offenses under Chapter 75A of the General
32 Statutes, open burning offenses under Article 78 of Chapter 106 of the General
33 Statutes, and littering offenses under G.S. 14-399(c) and G.S. 14-399(c1), to
34 accept written appearances, waivers of trial or hearing and pleas of guilty or
35 admissions of responsibility, in accordance with the schedule of offenses and
36 fines or penalties promulgated by the Conference of Chief District Judges
37 pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the
38 fines or penalties and costs;

39"

40 **SECTION 2.(b)** This section becomes effective December 1, 2021, and applies to
41 offenses committed on or after that date.

42 43 **EXEMPT CERTAIN FIRES FROM OPEN BURNING LAWS**

44 **SECTION 3.(a)** G.S. 106-950 is amended by adding a new subsection to read:

45 "(a2) Except in cases where the Commissioner has prohibited all open burning during
46 periods of hazardous forest fire conditions or during air pollution episodes declared pursuant to
47 Article 21B of Chapter 143 of the General Statutes, this Article does not apply to any fires started,
48 or caused to be started, for cooking, warming, or ceremonial events, if the fire is confined (i)
49 within an enclosure from which burning material may not escape or (ii) within a protected area
50 upon which a watch is being maintained and which is provided with adequate fire protection
51 equipment."

1 **SECTION 3.(b)** This section becomes effective December 1, 2021, and applies to
2 offenses committed on or after that date.

3 4 **FOREST SERVICE OVERTIME MODIFICATION**

5 **SECTION 4.(a)** G.S. 106-903 reads as rewritten:

6 "**§ 106-903. Overtime compensation for forest fire fighting.**

7 The Department shall, within funds appropriated to the Department, provide either monetary
8 overtime compensation or compensatory leave at an hour-for-hour rate, at its discretion, to the
9 professional-employees of the North Carolina Forest Service who are exempt from the Fair Labor
10 Standards Act and involved in fighting forest fires. fires for overtime earned while conducting
11 fire suppression duties as defined in G.S. 106-955. If the Department provides compensatory
12 leave for overtime earned, it shall be provided in a manner consistent with the State's general
13 compensatory time policy for exempt employees established by the Office of State Human
14 Resources."

15 **SECTION 4.(b)** This section is effective when it becomes law and applies to
16 overtime earned on or after that date.

17 18 **INCREASE PUNISHMENT FOR TIMBER LARCENY AND INCREASE CIVIL** 19 **PENALTIES FOR DAMAGING TIMBER OR AGRICULTURAL COMMODITIES**

20 **SECTION 5.(a)** G.S. 14-135 reads as rewritten:

21 "**§ 14-135. ~~Cutting, injuring, or removing another's~~ Larceny of timber.**

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

- 24 (1) ~~If any person not being the bona fide owner thereof, shall knowingly and~~
25 ~~willfully cut down, injure or remove any standing, growing or fallen tree or~~
26 ~~log off the property of another, the person shall be punished the same as in~~
27 ~~G.S. 14-72.~~ Knowingly and willfully cuts down, injures, or removes any
28 timber owned by another person, without the consent of the owner of the land
29 or the owner of the timber, or without a lawful easement running with the land.
30 (2) Buys timber directly from the owner of the timber and fails to make payment
31 in full to the owner by (i) the date specified in the written timber sales
32 agreement or (ii) if there is no such agreement, 60 days from the date that the
33 buyer removes the timber from the property.

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

- 36 (1) A person is not guilty of an offense under subdivision (1) of subsection (a) of
37 this section if the person is an employee or agent of an electric power supplier,
38 as defined in G.S. 62-133.8, and either of the following conditions is met:
39 a. The person believed in good faith that consent of the owner had been
40 obtained prior to cutting down, injuring, or removing the timber.
41 b. The person believed in good faith that the cutting down, injuring, or
42 removing of the timber was permitted by a utility easement or was
43 necessary to remove a tree hazard. For purposes of this
44 sub-subdivision, the term "tree hazard" includes a dead or dying tree,
45 dead parts of a living tree, or an unstable living tree that is within
46 striking distance of an electric transmission line, electric distribution
47 line, or electric equipment and constitutes a hazard to the line or
48 equipment in the event of a tree failure.
49 (2) A person is not guilty of an offense under subdivision (2) of subsection (a) of
50 this section if either of the following conditions is met:

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

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

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

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

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

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

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

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

26 **SECTION 5.(b)** G.S. 1-539.1 reads as rewritten:

27 **"§ 1-539.1. Damages for unlawful cutting, removal or burning of timber; misrepresentation**
28 **of property lines.**

29 (a) Any person, firm or corporation not being the bona fide owner thereof or agent of the
30 owner who shall without the consent and permission of the bona fide owner enter upon the land
31 of another and injure, cut or remove any valuable wood, timber, shrub or tree therefrom, shall be
32 liable to the owner of said land for ~~double~~triple the value of such wood, timber, shrubs or trees
33 so injured, cut or removed.

34 (b) If any person, firm or corporation shall willfully and intentionally set on fire, or cause
35 to be set on fire, in any manner whatever, any valuable wood, timber or trees on the lands of
36 another, such person, firm or corporation shall be liable to the owner of said lands for ~~double~~
37 triple the value of such wood, timber or trees damaged or destroyed thereby.

38 "

39 **SECTION 5.(c)** G.S. 1-539.2B reads as rewritten:

40 **"§ 1-539.2B. ~~Double~~Triple damages for injury to agricultural commodities or production**
41 **systems; define value of agricultural commodities grown for educational, testing,**
42 **or research purposes.**

43 (a) Any person who unlawfully and willfully injures or destroys any other person's
44 agricultural commodities or production system is liable to the owner for ~~double~~triple the value
45 of the commodities or production system injured or destroyed.

46 "

47 **SECTION 5.(d)** Subsection (a) of this section becomes effective December 1, 2021,
48 and applies to offenses committed on or after that date. Subsections (b) and (c) of this section
49 become effective December 1, 2021, and apply to civil actions filed on or after that date.

50

1 **REQUIRE TIMBER BUYERS AND TIMBER OPERATORS TO PROVIDE A WOOD**
2 **LOAD TICKET TO PURCHASERS OF CERTAIN WOOD PRODUCTS**

3 **SECTION 6.(a)** Article 22 of Chapter 14 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 14-135.1. Wood load tickets required for certain wood product sales; exceptions;**
6 **penalties.**

7 (a) Definition. – For purposes of this section, the term "wood product" means trees,
8 timber, wood, or any combination thereof.

9 (b) Requirement. – Except as provided in this section, whenever a timber buyer or timber
10 operator purchases wood product by the load directly from a timber grower or seller and the load
11 is sold by weight, cord, or measure of board feet, the timber buyer or operator shall furnish the
12 timber grower or seller, within 30 days of the completion of the wood product harvest, a separate,
13 true, and accurate wood load ticket for each load of wood product removed from the timber
14 grower's or seller's property. At a minimum, each wood load ticket shall include all of the
15 following information provided by the timber grower or seller who sold the wood product:

16 (1) The name of the timber grower or seller.

17 (2) The county from which the wood product was severed.

18 (3) The amount of wood product severed.

19 (4) The date the wood product was delivered to the timber buyer or timber
20 operator.

21 (c) Applicability. – The provisions of this section do not apply to the following:

22 (1) The sale of wood for firewood only.

23 (2) A landowner harvesting and processing their own timber.

24 (3) Bulk or lump-sum sales for an agreed total price for all timber purchased and
25 sold in one transaction.

26 (d) Punishment. – Any person who violates this section is guilty of a Class 2
27 misdemeanor."

28 **SECTION 6.(b)** This section becomes effective December 1, 2021, and applies to
29 offenses committed on or after that date.

30
31 **EXPAND THE LAWS ENFORCED BY DEPARTMENT OF AGRICULTURE AND**
32 **CONSUMER SERVICES LAW ENFORCEMENT OFFICERS**

33 **SECTION 7.(a)** G.S. 106-897 reads as rewritten:

34 **"§ 106-897. Forest laws defined.**

35 The forest laws consist ~~of~~ of all of the following:

36 (1) ~~G.S. 14-136 to G.S. 14-140;~~ G.S. 14-135 to G.S. 14-140.1.

37 (2) Articles 74 through 84 of this ~~Chapter;~~ Chapter.

38 (3) G.S. 77-13 and ~~G.S. 77-14;~~ G.S. 77-14.

39 (4) Other statutes enacted for the protection of forests and woodlands from fire,
40 insects, or disease and concerning obstruction of streams and ditches in forests
41 and ~~woodlands;~~ and woodlands.

42 (5) Regulations and ordinances adopted under the authority of the above statutes."

43 **SECTION 7.(b)** This section becomes effective December 1, 2021, and applies to
44 offenses committed on or after that date.

45
46 **REQUIRE PRODUCTION OF ELECTRONIC RECORDS FOR DEPARTMENT OF**
47 **AGRICULTURE AND CONSUMER SERVICES RECORD AUDITS**

48 **SECTION 8.(a)** G.S. 106-92.8 reads as rewritten:

49 **"§ 106-92.8. Tonnage fees: reporting system.**

50 For the purpose of defraying expenses connected with the registration, inspection and
51 analysis of the materials coming under this Article, each manufacturer or registrant shall pay to

1 the Department of Agriculture and Consumer Services tonnage fees in addition to registration
2 fees as follows: for agricultural liming material, fifty cents (50¢) per ton; for landplaster, fifty
3 cents (50¢) per ton; excepting that these fees shall not apply to materials which are sold to
4 fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials
5 when sold in packages of 10 pounds or less.

6 Any manufacturer, importer, jobber, firm, corporation or person who distributes materials
7 coming under this Article in this State shall make application for a permit to report the materials
8 sold and pay the tonnage fees as set forth in this section.

9 The Commissioner of Agriculture shall grant such permits on the following conditions: The
10 applicant's agreement ~~that he will to~~ keep such records as may be necessary to indicate accurately
11 the tonnage of liming materials, etc., sold in the State and ~~his~~ the applicant's agreement for the
12 Commissioner or ~~this~~ the Commissioner's authorized representative to examine such records to
13 verify the tonnage statement. If the records are available electronically, the electronic records
14 shall be made available to the Commissioner or the Commissioner's authorized representative.
15 The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before
16 the tenth day of October, January, April, and July of each year. The report and payment shall
17 cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be
18 on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by
19 the last day of the month in which it is due, or if the report be false, the amount due shall bear a
20 penalty of ten percent (10%) which shall be added to the tonnage fees due. If the report is not
21 filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false,
22 the Commissioner may revoke the permit and cancel the registration."

23 **SECTION 8.(b)** G.S. 106-277.12 reads as rewritten:

24 "**§ 106-277.12. Records.**

25 All persons transporting or delivering for transportation, selling, offering or exposing for sale
26 agricultural or vegetable seeds if their name appears on the label shall keep for a period of two
27 years a file sample and a complete record of such seed, including invoices showing lot number,
28 kind and variety, origin, germination, purity, treatment, and the labeling of each lot. The
29 Commissioner or ~~his~~ the Commissioner's duly authorized agents shall have the right to inspect
30 such records in connection with the administration of this Article at any time during customary
31 business hours. If the records are available electronically, the electronic records shall be made
32 available to the Commissioner or the Commissioner's authorized representative."

33 **SECTION 8.(c)** G.S. 106-284.40(c)(2) reads as rewritten:

34 "(2) Keep such records as may be necessary or required by the Commissioner to
35 indicate accurately the tonnage of commercial feed distributed in this State,
36 and the Commissioner or ~~his~~ the Commissioner's duly designated agent shall
37 have the right to examine such records during normal business hours, to verify
38 statements of tonnage. If the records are available electronically, the electronic
39 records shall be made available to the Commissioner or the Commissioner's
40 authorized representative. Failure to make an accurate statement of tonnage
41 or to pay the inspection fee or comply as provided herein shall constitute
42 sufficient cause for the cancellation of all registrations on file for the
43 distributor."

44 **SECTION 8.(d)** G.S. 106-671(b) reads as rewritten:

45 "(b) Reporting System. – Each manufacturer, importer, jobber, firm, corporation or person
46 who distributes commercial fertilizers in this State shall make application to the Commissioner
47 for a permit to report the tonnage of commercial fertilizer sold and shall pay to the North Carolina
48 Department of Agriculture and Consumer Services an inspection fee of fifty cents (50¢) per ton.
49 The Commissioner is authorized to require each such distributor to keep such records as may be
50 necessary to indicate accurately the tonnage of commercial fertilizers sold in the State, and as are
51 satisfactory to the Commissioner. Such records shall be available to the Commissioner, or ~~his~~ the

1 Commissioner's duly authorized representative, at any and all reasonable hours for the purpose
2 of making such examination as is necessary to verify the tonnage statement and the inspection
3 fees paid. If the records are available electronically, the electronic records shall be made available
4 to the Commissioner or the Commissioner's authorized representative. Each registrant shall
5 report monthly the tonnage sold to non-registrants on forms furnished by the Commissioner.
6 Such reports shall be made and inspection fees shall be due and payable monthly on the fifteenth
7 of each month covering the tonnage and kind of commercial fertilizers sold during the past
8 month. If the report is not filed and the inspection fee paid by the last day of the month it is due,
9 the amount due shall bear a penalty of ten percent (10%), which shall be added to the inspection
10 fee due. If the report is not filed and the inspection fee paid within 60 days of the date due, or if
11 the report or tonnage be false, the Commissioner may revoke the permit."
12

13 **TOBACCO TRUST FUND COMMISSION ADMIN EXPENSES**

14 **SECTION 9.** G.S. 143-717(i) reads as rewritten:

15 "(i) Limit on Operating and Administrative Expenses. – All administrative expenses of
16 the Commission shall be paid from the Fund. No more than ~~three hundred fifty thousand dollars~~
17 (\$350,000)-three hundred seventy-five thousand dollars (\$375,000) may be used each fiscal year
18 for administrative and operating expenses of the Commission and its staff, provided that the
19 Commission may annually adjust the administrative expense cap imposed by this subsection, so
20 long as that any cap increase does not exceed the amount necessary to provide for statewide
21 salary and benefit adjustments enacted by the General Assembly."
22

23 **WORKERS' COMPENSATION DEFINITION CLARIFICATION**

24 **SECTION 10.** G.S. 97-2 reads as rewritten:

25 **"§ 97-2. Definitions.**

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

- 27 (1) Employment. – The term "employment" includes employment by the State
28 and all political subdivisions thereof, and all public and quasi-public
29 corporations therein and all private employments in which three or more
30 employees are regularly employed in the same business or establishment or in
31 which one or more employees are employed in activities which involve the
32 use or presence of radiation, except agriculture and domestic services, unless
33 10 or more full-time nonseasonal agricultural workers are regularly employed
34 by the employer and an individual sawmill and logging operator with less than
35 10 employees, who saws and logs less than 60 days in any six consecutive
36 months and whose principal business is unrelated to sawmilling or logging.
37 For purposes of this section, "agriculture" has the same meaning as in
38 G.S. 106-581.1.

39"
40

41 **CREATE A NEW GENERAL PERMIT FOR FARMS WITH FARM DIGESTER** 42 **SYSTEMS**

43 **SECTION 11.(a)** G.S. 143-213 reads as rewritten:

44 **"§ 143-213. Definitions.**

45 Unless the context otherwise requires, the following terms as used in this Article and Articles
46 21A of this Chapter are defined as follows:

47 ...

- 48 (5a) The terms "animal waste" and "animal waste management system" have the
49 same meaning as in G.S. 143-215.10B.

50 ...

1 (12a) The term "farm digester system" means a system, including all associated
2 equipment and lagoon covers, by which gases are collected and processed
3 from an animal waste management system for the digestion of animal biomass
4 for use as a renewable energy resource. A farm digester system shall be
5 considered an agricultural feedlot activity within the meaning of "animal
6 operation" and shall also be considered a part of an "animal waste
7 management system" as those terms are defined in G.S. 143-215.10B.

8 (12b) The term "lagoon cover" means a structure or material that covers a lagoon
9 receiving animal waste as part of an animal waste management system. For
10 purposes of this subdivision, the term "lagoon" includes a lagoon as defined
11 in G.S. 106-802(1) or a storage pond.

12 ...

13 (14a) The term "renewable animal biomass energy resource" means any renewable
14 energy resource, as defined in G.S. 62-133.8(a)(8), that utilizes animal waste
15 as a biomass resource, including a farm digester system.

16 "

17 **SECTION 11.(b)** G.S. 143-215.10C reads as rewritten:

18 **"§ 143-215.10C. Applications and permits.**

19 (a) No person shall construct or operate an animal waste management system for an
20 animal operation or operate an animal waste management system for a dry litter poultry facility
21 that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73
22 Federal Register 70418 (November 20, 2008), without first obtaining an individual permit or a
23 general permit under this Article. The Commission shall develop a system of individual and
24 general permits for animal operations and dry litter poultry facilities based on species, number
25 of animals, and other relevant factors. The Commission shall develop a general permit for animal
26 operations that includes authorization for the permittee to construct and operate a farm digester
27 system. It is the intent of the General Assembly that most animal waste management systems be
28 permitted under a general permit. The Commission, in its discretion, may require that an animal
29 waste management system-system, including an animal waste management system that utilizes a
30 farm digester system, be permitted under an individual permit if the Commission determines that
31 an individual permit is necessary to protect water quality, public health, or the environment. After
32 the general permit for animal operations that includes authorization for the permittee to construct
33 and operate a farm digester system has been issued, the decision to require an individual permit
34 shall not be based solely on the fact that the animal waste management system utilizes a farm
35 digester system. The owner or operator of an animal operation shall submit an application for a
36 permit at least 180 days prior to construction of a new animal waste management system or
37 expansion of an existing animal waste management system and shall obtain the permit prior to
38 commencement of the construction or expansion. The owner or operator of a dry litter poultry
39 facility that is required to be permitted under 40 Code of Federal Regulations § 122, as amended
40 at 73 Federal Register 70418 (November 20, 2008), shall submit an application for a permit at
41 least 180 days prior to operation of a new animal waste management system.

42 (c) The Commission shall act on a permit application as quickly as possible and may
43 conduct any inquiry or investigation it considers necessary before acting on an application.

44 (c1) Failure of the Commission to make a final permitting decision involving a notice of
45 intent for a certificate of coverage under a general permit for animal operations that includes
46 authorization for the permittee to construct and operate a farm digester system within 90 days of
47 the Commission's receipt of a completed notice of intent shall result in the deemed approval of
48 coverage under the permit. If the Commission fails to act within 90 days of the Commission's
49 receipt of a completed notice of intent, the permittee may request that the Commission provide
50 written confirmation that the notice of intent is deemed approved. Failure to provide this written
51 confirmation within 10 days of the request shall serve as a basis to seek a contested case hearing

1 pursuant to Article 3 of Chapter 150B of the General Statutes. Unless all parties to the case agree
2 otherwise in writing, the administrative law judge shall issue a final decision or order in the
3 contested case no later than 120 days after its commencement pursuant to G.S. 150B-23;
4 provided that, upon written request of the administrative law judge or any party to the hearing,
5 the Chief Administrative Law Judge may extend this deadline for good cause shown, no more
6 than two times, for not more than 30 days per extension. Upon review of a failure to act on a
7 notice of intent, the administrative law judge may either (i) direct the Commission to issue a
8 written certificate of coverage under the general permit or (ii) deny the petition.

9"

10 **SECTION 11.(c)** For purposes of this section, the following definitions apply:

- 11 (1) "Certificate of coverage" means an approval granted to a person who meets
12 the requirements of coverage under a general permit as provided in 15A
13 NCAC 02T .0111 (Conditions for Issuing General Permits).
14 (2) "Commission" means the Environmental Management Commission.
15 (3) "Notice of intent" means a request for coverage under a general permit using
16 forms approved by the Division of Water Resources of the Department of
17 Environmental Quality.

18 **SECTION 11.(d)** The Commission shall immediately initiate the process of
19 developing and issuing a general permit for animal operations that includes authorization for the
20 permittee to construct and operate a farm digester system. In addition to conditions required to
21 describe and authorize the construction, monitoring, and proper operation of farm digester
22 systems, the general permit shall contain the same conditions that are included in the currently
23 existing general permits for animal operations. The general permit shall become effective no later
24 than 12 months after the effective date of this section and shall expire on the later of September
25 30, 2024, or the effective date of the next version of the currently existing general permit for
26 animal operations.

27 **SECTION 11.(e)** Until the general permit issued under subsection (d) of this section
28 becomes effective, any animal operation that holds a general or individual permit that (i) is in
29 effect on the effective date of this section and (ii) authorizes the construction and operation of a
30 farm digester system may construct and continue to operate the farm digester system as
31 authorized by that permit. For any animal operation that holds a general or individual permit that
32 is in effect on the effective date of this section, but that does not authorize the construction and
33 operation of a farm digester system, an operator may submit a notice of intent to be covered under
34 the general permit to be developed under subsection (d) of this section. If the submitted notice of
35 intent is incomplete, the Commission shall notify the applicant of the deficiency in the notice of
36 intent. When an operator submits a completed notice of intent, the Commission shall, within 90
37 days of receipt of the completed notice of intent, either issue a certificate of coverage allowing
38 the operator to construct and operate the farm digester system or notify the operator of the basis
39 for the denial of the certificate of coverage. If the Commission fails to take action on the notice
40 of intent within 90 days, authorization to construct and operate a farm digester system under the
41 existing general permit shall be deemed approved.

42 **SECTION 11.(f)** Nothing in this section shall apply to permits for facilities that are
43 required to be permitted under 40 C.F.R. § 122, as amended at 73 Federal Register 70418
44 (November 20, 2008).

45 **SECTION 11.(g)** G.S. 106-806 reads as rewritten:

46 **"§ 106-806. Construction or renovation of swine houses at preexisting swine farms.**

47 (a) As used in this section, the following definitions apply:

- 48 (1) "Farm digester system" means a farm digester system as defined in
49 G.S. 143-213(12a).
50 (2) "New swine farm" means any swine farm the operations of which were sited
51 on or after October 1, 1995. "New swine farm" does not include any

preexisting swine farm, even if a subsequent site evaluation is performed on or after October 1, 1995, at the preexisting swine farm.

~~(2)~~(3) "Preexisting swine farm" means any swine farm either the operations of which were begun prior to October 1, 1995, or the site evaluation of which was approved prior to October 1, 1995, by the Department of Environmental Quality under Part 1A of Article 21 of Chapter 143 of the General Statutes.

~~(3)~~(4) "Renovation or construction," "renovated or constructed," and any similar phrase mean any activity to renovate, construct, reconstruct, rebuild, modify, alter, change, restructure, upgrade, improve, enlarge, reduce, move, or otherwise perform construction work on a swine house that is a component of a swine farm.

...

(e) Notwithstanding any other provision of this Article, a farm digester system that is a component of a preexisting swine farm may be constructed or renovated if the construction or renovation of the farm digester system satisfies all of the following requirements:

(1) The construction or renovation of the farm digester system does not result in an increase in the permitted capacity of the swine farm, as measured by the annual steady state live weight capacity of the swine farm.

(2) The construction or renovation of the farm digester system does not result in requiring an increase in the total permitted capacity of the animal waste management system or systems located at the swine farm.

(3) The construction or renovation of the farm digester system shall comply with the siting requirements set out in G.S. 106-803 to the maximum extent practicable. Except as provided in subsection (c) of this section, construction or renovation of the farm digester system shall not result in any portion of the constructed or renovated farm digester system being located closer to the building, property, or well that is the object of the siting requirement than any existing component of the animal waste management system that fails to meet the siting requirements of G.S. 106-803.

(4) Renovation or construction of a farm digester system shall not be allowed in the 100-year floodplain."

SECTION 11.(h) G.S. 105-275(8) is amended by adding a new sub-subdivision to

read:

"a2. Notwithstanding sub-subdivision a1. of this subdivision, sub-subdivision a. of this subdivision applies to a farm digester system as defined in G.S. 143-213(12a)."

SECTION 11.(i) This section is effective when it becomes law.

CLARIFY THE DURATION OF DRIVERS LICENSES FOR H-2A WORKERS

SECTION 12.(a) G.S. 20-7(f)(3) reads as rewritten:

"(3) Duration of license for certain other drivers. – The durations listed in subdivisions (1), (2) and (2a) of this subsection are valid unless the Division determines that a license of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States. A drivers license issued to an H-2A worker expires three years after the date of issuance of the H-2A worker's visa; provided, if at any time during that three-year period an H-2A worker's visa duration is not extended by United States Citizenship and Immigration

1 Services, the license expires on the date the H-2A worker's visa expires. For
2 purposes of this subdivision, the term "H-2A worker" means a foreign worker
3 who holds a valid H-2A visa pursuant to the Immigration and Nationality Act
4 (8 U.S.C. § 1101(a)(15)(H)(ii)(a)) and who is legally residing in this State."

5 **SECTION 12.(b)** This section is effective when it becomes law.
6

7 **RETALIATORY EMPLOYMENT DISCRIMINATION ACT AMENDMENT**

8 **SECTION 13.** G.S. 95-242(a) reads as rewritten:

9 "(a) An employee allegedly aggrieved by a violation of G.S. 95-241 may file a written
10 complaint with the Commissioner of Labor alleging the violation. The complaint shall be filed
11 within 180 days of the alleged violation. Within 20 days following receipt of the complaint, the
12 Commissioner shall forward a copy of the complaint to the person alleged to have committed the
13 violation and shall initiate an investigation. If the Commissioner determines after the
14 investigation that there is not reasonable cause to believe that the allegation is true, the
15 Commissioner shall dismiss the ~~complaint,~~ complaint and promptly notify the employee and the
16 ~~respondent, and issue a right to sue letter to the employee that will enable the employee to bring~~
17 ~~a civil action pursuant to G.S. 95-243.~~ respondent. If the Commissioner determines after
18 investigation that there is reasonable cause to believe that the allegation is true, the Commissioner
19 shall attempt to eliminate the alleged violation by informal methods which may consist of
20 conference, conciliation, and persuasion. The Commissioner shall make a determination as soon
21 as possible and, in any event, not later than 90 days after the filing of the complaint."
22

23 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

24 **SECTION 14.(a)** If any provision of this act or the application thereof to any person
25 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
26 of this act that can be given effect without the invalid provision or application, and, to this end,
27 the provisions of this act are declared to be severable.

28 **SECTION 14.(b)** Except as otherwise provided, this act is effective when it becomes
29 law.