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SENATE BILL DRS45211-TQf-9

Short Title: North Carolina Farm Act of 2021. (Public)

Sponsors: Senators B. Jackson, Sanderson, and Edwards (Primary Sponsors).

Referred to:

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19 (2) Repealed by Session Laws 2005-390, s. 11 effective September 13, 2005.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 erodable 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:



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- 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:

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

37"

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

40
41 **REQUIRE PRODUCTION OF ELECTRONIC RECORDS FOR DEPARTMENT OF**
42 **AGRICULTURE AND CONSUMER SERVICES RECORD AUDITS**

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

44 **"§ 106-92.8. Tonnage fees: reporting system.**

45 For the purpose of defraying expenses connected with the registration, inspection and
46 analysis of the materials coming under this Article, each manufacturer or registrant shall pay to
47 the Department of Agriculture and Consumer Services tonnage fees in addition to registration
48 fees as follows: for agricultural liming material, fifty cents (50¢) per ton; for landplaster, fifty
49 cents (50¢) per ton; excepting that these fees shall not apply to materials which are sold to
50 fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials
51 when sold in packages of 10 pounds or less.

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

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

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

19 "**§ 106-277.12. Records.**

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

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

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

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

40 "(b) Reporting System. – Each manufacturer, importer, jobber, firm, corporation or person
41 who distributes commercial fertilizers in this State shall make application to the Commissioner
42 for a permit to report the tonnage of commercial fertilizer sold and shall pay to the North Carolina
43 Department of Agriculture and Consumer Services an inspection fee of fifty cents (50¢) per ton.
44 The Commissioner is authorized to require each such distributor to keep such records as may be
45 necessary to indicate accurately the tonnage of commercial fertilizers sold in the State, and as are
46 satisfactory to the Commissioner. Such records shall be available to the Commissioner, or ~~his~~ the
47 Commissioner's duly authorized representative, at any and all reasonable hours for the purpose
48 of making such examination as is necessary to verify the tonnage statement and the inspection
49 fees paid. If the records are available electronically, the electronic records shall be made available
50 to the Commissioner or the Commissioner's authorized representative. Each registrant shall
51 report monthly the tonnage sold to non-registrants on forms furnished by the Commissioner.

1 Such reports shall be made and inspection fees shall be due and payable monthly on the fifteenth
2 of each month covering the tonnage and kind of commercial fertilizers sold during the past
3 month. If the report is not filed and the inspection fee paid by the last day of the month it is due,
4 the amount due shall bear a penalty of ten percent (10%), which shall be added to the inspection
5 fee due. If the report is not filed and the inspection fee paid within 60 days of the date due, or if
6 the report or tonnage be false, the Commissioner may revoke the permit."
7

8 **TOBACCO TRUST FUND COMMISSION ADMIN EXPENSES**

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

10 "(i) Limit on Operating and Administrative Expenses. – All administrative expenses of
11 the Commission shall be paid from the Fund. No more than ~~three hundred fifty thousand dollars~~
12 ~~(\$350,000)~~ three hundred seventy-five thousand dollars (\$375,000) may be used each fiscal year
13 for administrative and operating expenses of the Commission and its staff, provided that the
14 Commission may annually adjust the administrative expense cap imposed by this subsection, so
15 long as that any cap increase does not exceed the amount necessary to provide for statewide
16 salary and benefit adjustments enacted by the General Assembly."
17

18 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES RESPONSIBLE** 19 **FOR THE DESIGN, CONSTRUCTION, OR RENOVATION OF THE BUILDINGS,** 20 **UTILITIES, AND OTHER PROPERTY DEVELOPMENTS OF THE DEPARTMENT**

21 **SECTION 10.(a)** G.S. 143-135.26 reads as rewritten:

22 **"§ 143-135.26. Powers and duties of the Commission.**

23 The State Building Commission shall have the following powers and duties with regard to
24 the State's capital facilities development and management program:

- 25 (1) To adopt rules establishing standard procedures and criteria to assure that the
26 designer selected for each State capital improvement project, the consultant
27 selected for planning and studies of an architectural and engineering nature
28 associated with a capital improvement project or a future capital improvement
29 project and a construction manager at risk selected for each capital
30 improvement project has the qualifications and experience necessary for that
31 capital improvement project or the proposed planning or study project. The
32 rules shall provide that the State Building Commission, after consulting with
33 the funded agency, is responsible and accountable for the final selection of the
34 designer, consultant or construction manager at risk except when the
35 Department of Agriculture and Consumer Services, the General Assembly
36 Assembly, or The University of North Carolina is the funded agency. When
37 the Department of Agriculture and Consumer Services is the funded agency,
38 the Board of Agriculture is responsible and accountable for the final selection
39 of the designer, consultant, or the construction manager at risk. When the
40 General Assembly is the funded agency, the Legislative Services Commission
41 is responsible and accountable for the final selection of the designer,
42 consultant, or the construction manager at ~~risk and when risk.~~ When
43 the University of North Carolina is the funded agency, it shall be subject to the
44 rules adopted hereunder, except it is responsible and accountable for the final
45 selection of the designer, consultant, or construction manager at risk. All
46 designers and consultants shall be selected within 60 days of the date funds
47 are appropriated for a project by the General Assembly or the date of project
48 authorization by the Director of the Budget; provided, however, the State
49 Building Commission may grant an exception to this requirement upon
50 written request of the funded agency if (i) no site was selected for the project
51 before the funds were appropriated or (ii) funds were appropriated for advance

1 planning only; provided, further, the Director of the Budget, after consultation
2 with the State Construction Office, may waive the 60-day requirement for the
3 purpose of minimizing project costs through increased competition and
4 improvements in the market availability of qualified contractors to bid on
5 State capital improvement projects. The Director of the Budget also may, after
6 consultation with the State Construction Office, schedule the availability of
7 design and construction funds for capital improvement projects for the
8 purpose of minimizing project costs through increased competition and
9 improvements in the market availability of qualified contractors to bid on
10 State capital improvement projects.

11 The State Building Commission shall submit a written report to the Joint
12 Legislative Commission on Governmental Operations on the Commission's
13 selection of a designer for a project within 30 days of selecting the designer.

14"

15 **SECTION 10.(b)** Part 3 of Article 1 of Chapter 106 of the General Statutes is
16 amended by adding a new section to read:

17 **"§ 106-22.8. Powers of the Board regarding certain fee negotiations, contracts, and capital**
18 **improvements.**

19 (a) Notwithstanding G.S. 143-341(3), the Board of Agriculture shall, with respect to the
20 design, construction, or renovation of buildings, utilities, and other property developments of the
21 Department of Agriculture and Consumer Services requiring the estimated expenditure of public
22 funds of two million dollars (\$2,000,000) or less, do all of the following:

- 23 (1) Conduct the fee negotiations for all design contracts and supervise the letting
24 of all construction and design contracts.
- 25 (2) Develop procedures governing the responsibilities of the Department of
26 Agriculture and Consumer Services to perform the duties of the Department
27 of Administration and the Director or Office of State Construction under
28 G.S. 133-1.1(d) and G.S. 143-341(3).
- 29 (3) Develop procedures and reasonable limitations governing the use of open-end
30 design agreements, subject to G.S. 143-64.34 and the approval of the State
31 Building Commission.
- 32 (4) Use existing plans and specifications for construction projects, where feasible.
33 Prior to designing a project, the Board of Agriculture shall consult with the
34 Department of Administration on the availability of existing plans and
35 specifications and the feasibility of using them for a project.

36 (b) The Department of Agriculture and Consumer Services shall use the standard
37 contracts for design and construction currently in use for State capital improvement projects by
38 the Office of State Construction of the Department of Administration.

39 (c) A contract may not be divided for the purpose of evading the monetary limit under
40 this section.

41 (d) The Board of Agriculture shall annually report to the State Building Commission the
42 following:

- 43 (1) A list of projects governed by this section.
- 44 (2) The estimated cost of each project along with the actual cost.
- 45 (3) The name of each person awarded a contract under this section.
- 46 (4) Whether the person or business awarded a contract under this section meets
47 the definition of "minority business" or "minority person" as defined in
48 G.S. 143-128.2(g)."

49 **SECTION 10.(c)** This section becomes effective July 1, 2021, and applies to
50 contracts executed on or after that date.

1 **CREATE A NEW GENERAL PERMIT FOR FARMS WITH FARM DIGESTER**
2 **SYSTEMS**

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

4 **"§ 143-213. Definitions.**

5 Unless the context otherwise requires, the following terms as used in this Article and Articles
6 21A and 21B of this Chapter are defined as follows:

7 ...

8 (5a) The term "animal biomass gas facility" means a facility that receives the gases
9 collected from one or more farm digester systems, for collection, cleaning, or
10 other preparation of those gases prior to their introduction into a system for
11 the collection and transport of natural gas or other similar energy resources.

12 (5b) The terms "animal waste" and "animal waste management system" have the
13 same meaning as in G.S. 143-215.10B.

14 ...

15 (12a) The term "farm digester system" means a system, including all associated
16 equipment, by which gases are collected and processed from an animal waste
17 management system for the digestion of animal biomass for use as a
18 renewable energy resource. The term may also refer to a part of the farm
19 digester system, including lagoon covers, digester equipment, associated
20 safety equipment, emergency flares, or any piping or other equipment or
21 means for the collection, handling, processing, or transport of collected gases
22 to or from an animal biomass gas facility. A farm digester system shall be
23 considered an agricultural feedlot activity within the meaning of "animal
24 operation" as that term is defined in G.S. 143-215.10B.

25 (12b) The term "lagoon cover" means a structure or material that covers a lagoon
26 receiving animal waste as part of an animal waste management system. For
27 purposes of this subdivision, the term "lagoon" includes a lagoon as defined
28 in G.S. 106-802(1) or a storage pond.

29 ...

30 (14a) The term "renewable animal biomass energy resource" means any renewable
31 energy resource, as defined in G.S. 62-133.8(a)(8), that utilizes animal waste
32 as a biomass resource, including a farm digester system and an animal biomass
33 gas facility.

34"

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

36 **"§ 143-215.10C. Applications and permits.**

37 (a) No person shall construct or operate an animal waste management system for an
38 animal operation or operate an animal waste management system for a dry litter poultry facility
39 that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73
40 Federal Register 70418 (November 20, 2008), without first obtaining an individual permit or a
41 general permit under this Article. The Commission shall develop a system of individual and
42 general permits for animal operations and dry litter poultry facilities based on species, number
43 of animals, and other relevant factors. The Commission shall develop a general permit for animal
44 operations that includes authorization for the permittee to construct and operate a farm digester
45 system. It is the intent of the General Assembly that most animal waste management systems be
46 permitted under a general permit. The Commission, in its discretion, may require that an animal
47 waste management system be permitted under an individual permit if the Commission determines
48 that an individual permit is necessary to protect water quality, public health, or the environment.
49 The owner or operator of an animal operation shall submit an application for a permit at least
50 180 days prior to construction of a new animal waste management system or expansion of an
51 existing animal waste management system and shall obtain the permit prior to commencement

1 of the construction or expansion. The owner or operator of a dry litter poultry facility that is
2 required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal
3 Register 70418 (November 20, 2008), shall submit an application for a permit at least 180 days
4 prior to operation of a new animal waste management system.

5"

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

- 7 (1) "Certificate of coverage" means an approval granted to a person who meets
8 the requirements of coverage under a general permit as provided in 15A
9 NCAC 02H .0127 (General Permits).
10 (2) "Commission" means the Environmental Management Commission.
11 (3) "Notice of intent" means a request for coverage under a general permit as
12 provided in 15A NCAC 02H .0127 (General Permits).

13 **SECTION 11.(d)** The Commission shall immediately initiate the process of
14 developing and issuing a general permit for animal operations that includes authorization for the
15 permittee to construct and operate a farm digester system. In addition to conditions required to
16 describe and authorize the construction of farm digester systems, the general permit shall contain
17 the same conditions that are included in the currently existing general permits for animal
18 operations, except for conditions relating to phosphorus loss assessment tests, groundwater
19 monitoring, and the filing of annual reports. The general permit shall become effective no later
20 than six months after the effective date of this section.

21 **SECTION 11.(e)** Until the general permit issued under subsection (d) of this section
22 becomes effective, any animal operation that holds a general or individual permit that (i) is in
23 effect on the effective date of this section and (ii) authorizes the construction and operation of a
24 farm digester system, may construct and continue to operate the farm digester system as
25 authorized by that permit. For any animal operation that holds a general or individual permit that
26 is in effect on the effective date of this section, but that does not authorize the construction and
27 operation of a farm digester system, an operator may submit a notice of intent to be covered under
28 the general permit to be developed under subsection (d) of this section. When an operator submits
29 a notice of intent, the Commission shall, within 90 days of receipt of the notice of intent, either
30 issue a certificate of coverage allowing the operator to construct and operate the farm digester
31 system or notify the operator of the basis for the denial of the certificate of coverage and give the
32 operator an opportunity to respond to the denial, provided that the denial must be based on a
33 substantial deviation from the applicable requirements to receive the certificate of coverage. If
34 the Commission fails to take action on the notice of intent within 90 days, authorization to
35 construct and operate a farm digester system under the existing general permit shall be deemed
36 approved, and the Commission shall, within 10 days following the expiration of the 90-day time
37 period, issue a written confirmation that the animal operation is covered by the then-existing
38 general permit and that the applicant may continue to operate an existing farm digester system,
39 or may construct and operate a new farm digester system.

40 **SECTION 11.(f)** In acting on a notice of intent for all or part of a farm digester
41 system, the Commission may solicit public comment but shall not hold or require a public
42 hearing.

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

44 "**§ 106-806. Construction or renovation of swine houses at preexisting swine farms.**

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

- 46 (1) "Farm digester system" means a farm digester system as defined in
47 G.S. 143-213(12a).
48 (2) "New swine farm" means any swine farm the operations of which were sited
49 on or after October 1, 1995. "New swine farm" does not include any
50 preexisting swine farm, even if a subsequent site evaluation is performed on
51 or after October 1, 1995, at the preexisting swine farm.

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

5 ~~(3)~~(4) "Renovation or construction," "renovated or constructed," and any similar
6 phrase mean any activity to renovate, construct, reconstruct, rebuild, modify,
7 alter, change, restructure, upgrade, improve, enlarge, reduce, move, or
8 otherwise perform construction work on a swine house that is a component of
9 a swine farm.

10 ...

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

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

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

20 (3) Except as provided in subsection (c) of this section, for any portion of a farm
21 digester system that fails to meet any siting requirement for a lagoon under
22 G.S. 106-803, the construction or renovation of the farm digester system does
23 not result in any portion of the constructed or renovated farm digester system
24 being located any closer to the building, property, or well that is the object of
25 the siting requirement that the farm digester system fails to meet.

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

28 **SECTION 11.(h)** G.S. 150B-34 is amended by adding a new subsection to read:

29 "(f) In any contested case involving a permitting action for a general permit for animal
30 operations that includes authorization for the permittee to construct and operate a farm digester
31 system, unless all parties to the case agree otherwise in writing, the administrative law judge shall
32 conduct the hearing and make a final decision or order no later than 90 days after the
33 commencement of the contested case pursuant to G.S. 150B-23. Upon written request of the
34 administrative law judge or any party to the hearing, the Chief Administrative Law Judge may
35 extend this deadline for good cause shown, no more than two times, for not more than 30 days
36 per extension."

37 **SECTION 11.(i)** G.S. 150B-44 reads as rewritten:

38 "**§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.**

39 (a) Failure of an administrative law judge subject to Article 3 of this Chapter or failure
40 of an agency subject to Article 3A of this Chapter to make a final decision within 120 days of the
41 close of the contested case hearing is justification for a person whose rights, duties, or privileges
42 are adversely affected by the delay to seek a court order compelling action by the agency or by
43 the administrative law judge.

44 (b) Failure of an agency to make a final permitting decision involving a general permit
45 for animal operations that includes authorization for the permittee to construct and operate a farm
46 digester system, within 90 days of the agency's receipt of a notice of intent, is justification for a
47 person whose rights, duties, or privileges are adversely affected by the delay to seek a court order
48 compelling action by the agency. It shall not be necessary to file a petition for a contested case
49 hearing pursuant to Article 3 of this Chapter to seek judicial relief. Any judicial review pursuant
50 to this subsection involving allegations of failure to act within 90 days, or involving a claim of

1 delay in the issuance of any order under G.S. 150B-34(f), shall be given expedited judicial
 2 review."

3 **SECTION 11.(j)** G.S. 105-275 reads as rewritten:

4 **"§ 105-275. Property classified and excluded from the tax base.**

5 The following classes of property are designated special classes under Article V, Sec. 2(2),
 6 of the North Carolina Constitution and are excluded from tax:

7 ...

8 (8) a. Real and personal property that is used or, if under construction, is to
 9 be used exclusively for air cleaning or waste disposal or to abate,
 10 reduce, or prevent the pollution of air or water (including, but not
 11 limited to, waste lagoons and facilities owned by public or private
 12 utilities built and installed primarily for the purpose of providing sewer
 13 service to areas that are predominantly residential in character or areas
 14 that lie outside territory already having sewer service), if the
 15 Department of Environmental Quality or a local air pollution control
 16 program for air-cleaning devices located in an area where the
 17 Environmental Management Commission has certified a local air
 18 pollution control program pursuant to G.S. 143-215.112 furnishes a
 19 certificate to the tax supervisor of the county in which the property is
 20 situated or to be situated stating that the Environmental Management
 21 Commission or local air pollution control program has found that the
 22 described property:

- 23 1. Has been or will be constructed or installed;
- 24 2. Complies with or that plans therefor which have been
 25 submitted to the Environmental Management Commission or
 26 local air pollution control program indicate that it will comply
 27 with the requirements of the Environmental Management
 28 Commission or local air pollution control program;
- 29 3. Is being effectively operated or will, when completed, be
 30 required to operate in accordance with the terms and conditions
 31 of the permit, certificate of approval, or other document of
 32 approval issued by the Environmental Management
 33 Commission or local air pollution control program; and
- 34 4. Has or, when completed, will have as its primary rather than
 35 incidental purpose the reduction of water pollution resulting
 36 from the discharge of sewage and waste or the reduction of air
 37 pollution resulting from the emission of air contaminants.

38 ~~a1. Sub-subdivision a. of this subdivision shall not apply to an animal~~
 39 ~~waste management system, as defined in G.S. 143-215.10B, unless the~~
 40 ~~Environmental Management Commission determines that the animal~~
 41 ~~waste management system will accomplish all of the following:~~

- 42 1. ~~Eliminate the discharge of animal waste to surface waters and~~
 43 ~~groundwater through direct discharge, seepage, or runoff.~~
- 44 2. ~~Substantially eliminate atmospheric emissions of ammonia.~~
- 45 3. ~~Substantially eliminate the emission of odor that is detectable~~
 46 ~~beyond the boundaries of the parcel or tract of land on which~~
 47 ~~the farm is located.~~
- 48 4. ~~Substantially eliminate the release of disease transmitting~~
 49 ~~vectors and airborne pathogens.~~
- 50 5. ~~Substantially eliminate nutrient and heavy metal~~
 51 ~~contamination of soil and groundwater.~~

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...."

SECTION 11.(k) Subsection (h) of this section becomes effective on the date that the general permit required to be issued by the Environmental Management Commission under subsection (d) of this section becomes effective. The remainder of 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 Services, the license expires on the date the H-2A worker's visa expires. For purposes of this subdivision, the term "H-2A worker" means a foreign worker who holds a valid H-2A visa pursuant to the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)(H)(ii)(a)) and who is legally residing in this State."

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

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 13.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

SECTION 13.(b) Except as otherwise provided, this act is effective when it becomes law.