

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

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**SENATE BILL 638  
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/8/13  
House Committee Substitute Favorable 6/24/13  
House Committee Substitute #2 Favorable 6/26/13  
Fifth Edition Engrossed 6/27/13**

Short Title: NC Farm Act of 2013.

(Public)

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Sponsors:

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Referred to:

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April 4, 2013

A BILL TO BE ENTITLED

1 AN ACT TO ENACT THE NORTH CAROLINA FARM ACT OF 2013 TO (1) LIMIT THE  
2 LIABILITY OF NORTH CAROLINA COMMODITY PRODUCERS ARISING FROM  
3 FOOD SAFETY ISSUES RELATED TO THEIR PRODUCTS; (2) LIMIT THE  
4 LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS, FARM ANIMAL  
5 PROFESSIONALS, AND AGRITOURISM OPERATORS AND CLARIFY THAT  
6 EQUINE RECREATION WHERE THE LANDOWNER RECEIVES NO  
7 COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND NOT  
8 THE EQUINE ACTIVITY LIABILITY STATUTE; (3) ALLOW THE COMMISSIONER  
9 OF AGRICULTURE TO ASSESS NONMONETARY PENALTIES TO ADDRESS  
10 VIOLATIONS WHEN APPROPRIATE; (4) DECREASE THE FREQUENCY OF THE  
11 AGRICULTURAL WATER USE SURVEY; (5) LIMIT THE PERSONALLY  
12 IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE  
13 AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH  
14 PROGRAMS; (6) MAKE CONFORMING CHANGES TO THE NAME OF THE  
15 STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE  
16 RESPONSIBILITIES OF THE DIVISION; (7) AMEND CERTAIN EGG LABELING  
17 REQUIREMENTS; (8) REPEAL THE INTERSTATE PEST CONTROL COMPACT; (9)  
18 REPEAL CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES AND DAIRY  
19 FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC  
20 ACT; (10) CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE  
21 MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES; (11) REPEAL  
22 THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE; (12) EXEMPT  
23 FORESTRY AND SILVICULTURE OPERATIONS FROM TEMPORARY DRIVEWAY  
24 PERMITTING; (13) ALLOW A FARM BUILDING THAT IS USED FOR PUBLIC OR  
25 PRIVATE EVENTS TO MAINTAIN ITS FARM BUILDING STATUS FOR PURPOSES  
26 OF THE STATE BUILDING CODE; (14) EXEMPT CERTAIN STRUCTURES FROM  
27 THE SPRINKLER SYSTEM REQUIREMENTS OF THE NORTH CAROLINA  
28 BUILDING CODE; (15) ALLOW RETAILERS TO DISPLAY MORE THAN FOUR  
29 HUNDRED SQUARE FEET OF NURSERY STOCK FOR SALE IN THEIR PARKING  
30 LOTS; (16) EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM  
31 SAFETY ACT; (17) ALLOW A LANDOWNER TO WITHDRAW WATER FOR  
32 AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER  
33



1 CERTAIN CONDITIONS; (18) DIRECT THE DEPARTMENT OF ENVIRONMENT  
2 AND NATURAL RESOURCES AND THE DEPARTMENT OF TRANSPORTATION  
3 TO JOINTLY PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES  
4 ARMY CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND  
5 OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION BEYOND  
6 THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL OCCUR; AND (19)  
7 ACCELERATE THE SUNSET DATE OF THE PETROLEUM DISPLACEMENT PLAN  
8 AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS  
9 TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM  
10 PRODUCTS.

11 The General Assembly of North Carolina enacts:

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13 **PART I. TITLE**

14 **SECTION 1.** This act shall be known and may be cited as the "North Carolina  
15 Farm Act of 2013."  
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17 **PART II. LIMIT THE LIABILITY OF NORTH CAROLINA COMMODITY**  
18 **PRODUCERS ARISING FROM FOOD SAFETY ISSUES RELATED TO THEIR**  
19 **PRODUCTS**

20 **SECTION 2.** Chapter 99B of the General Statutes is amended by adding a new  
21 section to read:

22 **"§ 99B-12. Burden of proof in certain cases.**

23 (a) A commodity producer shall be entitled to a rebuttable presumption that the  
24 commodity producer was not negligent when death or injury is proximately caused by the  
25 consumption of the producer's raw agricultural commodity if the producer (i) is certified by the  
26 United States Department of Agriculture Agricultural Marketing Service Good Agricultural  
27 Practices and Good Handling Practices Audit Verification Program or other third-party  
28 certification program designated by the Commissioner for purposes of this section; (ii) has a  
29 written food safety policy that complies with the certification program's standard and can  
30 provide evidence that the producer trains employees on the policy on an annual basis; (iii) has  
31 had no formal administrative findings or sanctions or legal judgments entered against the  
32 producer during the previous three years based on a claim that the commodity producer's  
33 negligence was the proximate cause of a plaintiff's death or injury; and (iv) has had no  
34 settlement agreements concluding litigation where the settlement exceeded twenty-five  
35 thousand dollars (\$25,000), or in which the producer admitted liability, during the previous  
36 three years based on a claim that the commodity producer's negligence was the proximate cause  
37 of a plaintiff's death or injury. This presumption may be overcome only by clear and  
38 convincing evidence that the commodity producer's negligence was the proximate cause of the  
39 death or injury.

40 (b) As used in this section:

41 (1) Commodity producer means a producer of raw agricultural commodities.

42 (2) Raw agricultural commodity means any food in its raw or natural state,  
43 including all fruits that are washed, colored, or otherwise treated in their  
44 unpeeled natural form prior to marketing, and which is covered by the  
45 United States Department of Agriculture Agricultural Marketing Service  
46 Good Agricultural Practices and Good Handling Practices Audit Verification  
47 Program.  
48

49 **PART III. LIMIT THE LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS,**  
50 **FARM ANIMAL PROFESSIONALS, AND AGRITOURISM OPERATORS AND**  
51 **CLARIFY THAT EQUINE RECREATION WHERE THE LANDOWNER RECEIVES**

1 **NO COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND**  
2 **NOT THE EQUINE ACTIVITY LIABILITY STATUTE**

3 **SECTION 3.1.** G.S. 38A-2(5) reads as rewritten:

4 **"§ 38A-2. Definitions.**

5 The following definitions shall apply throughout this Chapter, unless otherwise specified:

- 6 ...
- 7 (5) "Recreational purpose" means any activity undertaken for recreation,  
8 exercise, education, relaxation, refreshment, diversion, or ~~pleasure~~pleasure  
9 or sport, including equestrian recreation as defined in G.S. 99E-1."

10 **SECTION 3.2.** Article 1 of Chapter 99E of the General Statutes reads as rewritten:

11 "Article 1.

12 "Equine and Farm Animal Activity Liability.

13 "Part 1. Equine Activity Liability.

14 **"§ 99E-1. Definitions.**

15 As used in this ~~Article~~Part, the term:

- 16 (1) "Engage in an equine activity" means participate in an equine activity, assist  
17 a participant in an equine activity, or assist an equine activity sponsor or  
18 equine professional. The term "engage in an equine activity" does not  
19 include being a spectator at an equine activity, except in cases in which the  
20 spectator places himself in an unauthorized area and in immediate proximity  
21 to the equine activity.
- 22 (2) "Equine" means a horse, pony, mule, donkey, or hinny.
- 23 (3) "Equine activity" means any activity involving an equine. Actions to  
24 preserve, maintain, or regulate the use of land for equestrian recreation shall  
25 not be considered an equine activity.
- 26 (4) "Equine activity sponsor" means an individual, group, club, partnership, or  
27 corporation, whether the sponsor is operating for profit or nonprofit, which  
28 sponsors, organizes, or provides the facilities for an equine activity. The  
29 term includes operators and promoters of equine facilities. A landowner who  
30 allows equine recreation on the landowner's property shall not be considered  
31 an equine activity sponsor.
- 32 (5) "Equine professional" means a person engaged for compensation in any one  
33 or more of the following:  
34 a. Instructing a participant.  
35 b. Renting an equine to a participant for the purpose of riding, driving,  
36 or being a passenger upon the equine.  
37 c. Renting equipment or tack to a participant.  
38 d. Examining or administering medical treatment to an equine.  
39 e. Hooftrimming or placing or replacing horseshoes on an equine.
- 40 (5a) "Equine recreation" means use of a landowner's property for an equine  
41 activity (i) where the landowner is neither the equine activity sponsor nor the  
42 equine professional and (ii) when the landowner permits use of the property  
43 without charge. For purposes of this subdivision, "charge" has the meaning  
44 set forth in G.S. 38A-2 and G.S. 38A-3.
- 45 (6) "Inherent risks of equine activities" means those dangers or conditions that  
46 are an integral part of engaging in an equine activity, including any of the  
47 following:  
48 a. The possibility of an equine behaving in ways that may result in  
49 injury, harm, or death to persons on or around them.  
50 b. The unpredictability of an equine's reaction to such things as sounds,  
51 sudden movement, unfamiliar objects, persons, or other animals.

1 Inherent risks of equine activities does not include a collision or accident  
2 involving a motor vehicle.

- 3 (7) "Participant" means any person, whether amateur or professional, who  
4 engages in an equine activity, whether or not a fee is paid to participate in  
5 the equine activity.

6 **"§ 99E-2. Liability.**

7 (a) Except as provided in subsection (b) of this section, an equine activity sponsor, an  
8 equine professional, or any other person engaged in an equine activity, including a corporation  
9 or partnership, shall not be liable for an injury to or the death of a participant resulting from the  
10 inherent risks of equine activities and, except as provided in subsection (b) of this section, no  
11 participant or participant's representative shall maintain an action against or recover from an  
12 equine activity sponsor, an equine professional, or any other person engaged in an equine  
13 activity for injury, loss, damage, or death of the participant resulting exclusively from any of  
14 the inherent risks of equine activities. In any action for damages against an equine activity  
15 sponsor or an equine professional for an equine activity, the equine activity sponsor or equine  
16 professional must plead the affirmative defense of assumption of the risk of the equine activity  
17 by the participant.

18 (b) Nothing in subsection (a) of this section shall prevent or limit the liability of an  
19 equine activity sponsor, an equine professional, or any other person engaged in an equine  
20 activity if the equine activity sponsor, equine professional, or person engaged in an equine  
21 activity does any one or more of the following:

- 22 (1) Provides the equipment or tack, and knew or should have known that the  
23 equipment or tack was faulty, and such faulty equipment or tack proximately  
24 caused the injury, damage, or death.  
25 (2) Provides the equine and failed to make reasonable and prudent efforts to  
26 determine the ability of the participant to engage safely in the equine activity  
27 or to safely manage the particular equine.  
28 (3) Commits an act or omission that constitutes willful or wanton disregard for  
29 the safety of the participant, and that act or omission proximately caused the  
30 injury, damage, or death.  
31 ~~(4) Commits any other act of negligence or omission that proximately caused~~  
32 ~~the injury, damage, or death.~~

33 (c) Nothing in subsection (a) of this section shall prevent or limit the liability of an  
34 equine activity sponsor, an equine professional, or any other person engaged in an equine  
35 activity under liability provisions as set forth in the products liability laws.

36 (d) Nothing in this section shall be construed to conflict with or render ineffectual a  
37 liability release, indemnification, assumption, or acknowledgment of risk agreement between a  
38 participant and an equine activity sponsor or an equine professional.

39 **"§ 99E-3. Warning required.**

40 (a) Every equine professional and every equine activity sponsor shall post and maintain  
41 signs which contain the warning notice specified in subsection (b) of this section. The signs  
42 required by this section shall be placed in a clearly visible location on or near stables, corrals,  
43 or arenas where the equine professional or the equine activity sponsor conducts equine  
44 activities. The warning notice specified in subsection (b) of this section shall be designed by the  
45 Department of Agriculture and Consumer Services and shall consist of a sign in black letters,  
46 with each letter to be a minimum of one inch in height. Every written contract entered into by  
47 an equine professional or by an equine activity sponsor for the providing of professional  
48 services, instruction, or the rental of equipment or tack or an equine to a participant, whether or  
49 not the contract involves equine activities on or off the location or site of the equine  
50 professional's or the equine activity sponsor's business, shall contain in clearly readable print  
51 the warning notice specified in subsection (b) of this section.

1 (b) The signs and contracts described in subsection (a) of this section shall contain the  
2 following warning notice:

3 **"WARNING**

4  
5 Under North Carolina law, an equine activity sponsor or equine professional is not liable  
6 for an injury to or the death of a participant in equine activities resulting exclusively from the  
7 inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

8 (c) Failure to comply with the requirements concerning warning signs and notices  
9 provided in this ~~Article~~Part shall prevent an equine activity sponsor or equine professional from  
10 invoking the privileges of immunity provided by this ~~Article~~Part."

11 **SECTION 3.3.** Article 1 of Chapter 99E of the General Statutes is amended by  
12 adding a new section to read:

13 **"§ 99E-4. Exception.**

14 The liability of a landowner for injury or death associated with participation in equine  
15 recreation shall be subject to the limitation set forth in G.S. 38A-4 and shall not be subject to  
16 this Part.

17 "Part 2. Farm Animal Activity Liability.

18 **"§ 99E-5. Definitions.**

19 As used in this Part, the term:

- 20 (1) "Engage in a farm animal activity" means participate in a farm animal  
21 activity, assist a participant in a farm animal activity, or assist a farm animal  
22 activity sponsor or farm animal activity professional. The term "engage in a  
23 farm animal activity" does not include being a spectator at a farm animal  
24 activity, except in cases in which the spectator voluntarily places himself or  
25 herself in an unauthorized area and in immediate proximity to the farm  
26 animal activity.
- 27 (2) "Equine" means a horse, pony, mule, donkey, or hinny.
- 28 (3) "Equine activity" means a farm animal activity involving only equines.
- 29 (4) "Farm animal" means one or more of the following domesticated animals:  
30 cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys,  
31 hinnies, llamas, alpacas, lagomorphs, ratites, and poultry.
- 32 (5) "Farm animal activity" means an activity in which participants engage with  
33 one or more farm animals, including, but not limited to, all of the following:
- 34 a. Shows, fairs, exhibits, competitions, performances, or parades that  
35 involve farm animals.
- 36 b. Training or teaching activities, or both, involving farm animals.
- 37 c. Boarding farm animals, including normal daily care.
- 38 d. Rides, trips, shows, clinics, hunts, parades, games, exhibitions, or  
39 other activities of any kind that are sponsored by a farm animal  
40 activity sponsor.
- 41 e. Testing, riding, inspecting, or evaluating a farm animal belonging to  
42 another, whether or not the owner has received some monetary  
43 consideration or other thing of value for the use of the farm animal or  
44 is permitting a prospective purchaser of the farm animal to ride,  
45 inspect, or evaluate the farm animal.
- 46 f. Placing or repairing horseshoes, trimming the hooves on a farm  
47 animal, or otherwise providing farrier services.
- 48 g. Examining or administering medical treatment to a farm animal by a  
49 veterinarian.
- 50 (6) "Farm animal activity sponsor" means an individual, group, club,  
51 partnership, corporation, educational organization, or other legally

1 constituted entity, whether the sponsor is operating for profit or nonprofit,  
2 which sponsors, organizes, allows, or provides the facilities for a farm  
3 animal activity, including, but not limited to, pony clubs; 4-H clubs; Future  
4 Farmers of America organizations; hunt clubs; riding clubs; polo clubs;  
5 school-and college-sponsored classes, programs, and activities; therapeutic  
6 riding programs; and operators, instructors, and promoters of farm animal  
7 facilities, including, but not limited to, stables, clubhouses, ponyride strings,  
8 fairs, exhibitions, and arenas at which the activity is held.

9 (7) "Farm animal facility" means any area used for any farm animal activity,  
10 including, but not limited to, farms, ranches, riding arenas, training stables or  
11 barns, pastures, riding trails, show rings, polo fields, petting zoos, and other  
12 areas or facilities used or provided by farm animal activity sponsors or  
13 where participants engage in farm animal activities.

14 (8) "Farm animal professional" means a person engaged for compensation in  
15 any of the following:

16 a. Instructing a participant.

17 b. Renting a farm animal to a participant for the purpose of riding,  
18 driving, or being a passenger upon the farm animal.

19 c. Providing daily care of farm animals boarded at a farm animal  
20 facility.

21 d. Renting equipment or tack to a participant.

22 e. Training a farm animal.

23 f. Examining or administering medical treatment to a farm animal.

24 g. Providing farrier services to a farm animal.

25 h. Hooftrimming or placing or replacing horseshoes on a farm animal.

26 (9) "Inherent risks of farm animal activities" means those dangers or conditions  
27 that are an integral part of engaging in a farm animal activity, including any  
28 of the following:

29 a. The possibility of a farm animal behaving in ways that may result in  
30 injury, harm, or death to persons on or around them.

31 b. The unpredictability of a farm animal's reaction to such things as  
32 sounds, sudden movement, unfamiliar objects, persons, or other  
33 animals.

34 c. The risk of contracting an illness due to coming into physical contact  
35 with animals, animal feed, animal waste, or surfaces that have been  
36 in contact with animal waste.

37 Inherent risks of farm animal activities does not include a collision or  
38 accident involving a motor vehicle.

39 (10) "Participant" means any person, whether amateur or professional, who  
40 engages in a farm animal activity, whether or not a fee is paid to participate  
41 in the farm animal activity.

42 **"§ 99E-6. Liability.**

43 (a) Except as provided in subsection (b) of this section, a farm animal activity sponsor,  
44 a farm animal professional, or any other person engaged in a farm animal activity, including a  
45 corporation or partnership, shall not be liable for an injury to or the death of a participant  
46 resulting from the inherent risks of farm animal activities, and, except as provided in subsection  
47 (b) of this section, no participant or participant's representative shall maintain an action against  
48 or recover from a farm animal sponsor, a farm animal professional, or any other person  
49 engaged in a farm animal activity for injury, loss, damage, or death of the participant resulting  
50 exclusively from any of the inherent risks of farm animal activities. In any action for damages  
51 against a farm animal activity sponsor or a farm animal professional for a farm animal activity,

1 the farm animal activity sponsor or farm animal professional must plead the affirmative defense  
2 of assumption of the risk of the farm animal activity by the participant.

3 (b) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm  
4 animal activity sponsor, a farm animal professional, or any other person engaged in a farm  
5 animal activity if the farm animal activity sponsor, professional, or person engaged in a farm  
6 animal activity does any one or more of the following:

7 (1) Provides the equipment or tack and knew or should have known that the  
8 equipment or tack was faulty, and such faulty equipment or tack proximately  
9 caused the injury, damage, or death.

10 (2) Provides the farm animal and failed to make reasonable and prudent efforts  
11 to determine the ability of the participant to engage safely in the farm animal  
12 activity or to safely manage the particular farm animal.

13 (3) Commits an act or omission that constitutes willful or wanton disregard for  
14 the safety of the participant, and that act or omission proximately caused the  
15 injury, damage, or death.

16 (c) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm  
17 animal activity sponsor, a farm animal professional, or any other person engaged in a farm  
18 animal activity under liability provisions as set forth in the products liability laws.

19 **"§ 99E-7. Warning required.**

20 (a) Every farm animal activity sponsor and every farm animal professional shall post  
21 and maintain signs which contain the warning notices specified in subsection (b) or (c) of this  
22 section. The signs required by this section shall be placed in a clearly visible location on or near  
23 stables, corrals, arenas, or other farm animal facilities where the farm animal professional or  
24 the farm animal activity sponsor conducts animal activities. The warning notices specified in  
25 subsections (b) and (c) of this section shall be designed by the Department of Agriculture and  
26 Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum  
27 of one inch in height. Every written contract entered into by a farm animal professional or by a  
28 farm animal activity sponsor for the providing of professional services, instruction, or the rental  
29 of equipment or tack or a farm animal to a participant, whether or not the contract involves  
30 farm animal activities on or off the location or site of the farm animal professional's or farm  
31 animal activity sponsor's business, shall contain in clearly readable print the warning notice  
32 specified in subsection (b) or (c) of this section.

33 (b) The signs and contracts described in subsection (a) of this section shall contain the  
34 following warning notice:

35 **"WARNING**

36  
37 Under North Carolina law, a farm animal activity sponsor or farm animal professional is  
38 not liable for an injury to or the death of a participant in farm animal activities resulting  
39 exclusively from the inherent risks of farm animal activities. Chapter 99E of the North Carolina  
40 General Statutes."

41 (c) If a farm animal activity sponsor or farm animal professional sponsors or engages in  
42 farm animal activities only involving equines, the signs and contracts described in subsection  
43 (a) of this section may contain the following warning notice:

44 **"WARNING**

45  
46 Under North Carolina law, an equine activity sponsor or equine professional is not liable  
47 for an injury to or the death of a participant in equine activities resulting exclusively from the  
48 inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

49 (d) Failure to comply with the requirements concerning warning signs and notices  
50 provided in this Part shall prevent a farm animal activity sponsor or farm animal professional  
51 from invoking the privileges of immunity provided by this Part."

1           **SECTION 3.4.** G.S. 38A-3 reads as rewritten:

2   "**§ 38A-3. Exclusions.**

3       For purposes of this Chapter, the term "charge" does not include:

- 4           (1)   Any contribution in kind, services or cash contributed by a person, legal  
5               entity, nonprofit organization, or governmental entity other than the owner,  
6               whether or not sanctioned or solicited by the owner, the purpose of which is  
7               to (i) remedy damage to land caused by educational or recreational use; ~~or~~  
8               (ii) provide warning of hazards on, or remove hazards from, land used for  
9               educational or recreational ~~purposes;~~ purposes; or (iii) pay expenses related  
10              to the use of land for a recreational or educational purpose.  
11           (2)   Unless otherwise agreed in writing or otherwise provided by the State or  
12               federal tax codes, any property tax abatement or relief received by the owner  
13               from the State or local taxing authority in exchange for the owner's  
14               agreement to open the land for educational or recreational purposes.  
15           (3)   Dues or fees charged by an individual, group, club, partnership, corporation,  
16               or governmental entity sponsoring the educational or recreational use when  
17               (i) the sponsor is operating as a nonprofit or in a nonprofit capacity and (ii)  
18               the dues or fees are used to pay expenses relating to the educational or  
19               recreational use or to raise funds to support the sponsor's mission."

20           **SECTION 3.5.** G.S. 38A-4 reads as rewritten:

21   "**§ 38A-4. Limitation of liability.**

22       (a)   Except as specifically recognized by or provided for in this Chapter, an owner of  
23       land who either directly or indirectly invites or permits without charge any person to use such  
24       land for educational or recreational purposes owes the person the same duty of care that he  
25       owes a trespasser, except nothing in this Chapter shall be construed to limit or nullify the  
26       doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual  
27       hazards of which the owner has actual knowledge. This section does not apply to an owner who  
28       invites or permits any person to use land for a purpose for which the land is regularly used and  
29       for which a price or fee is usually charged even if it is not charged in that instance, or to an  
30       owner whose purpose in extending an invitation or granting permission is to promote a  
31       commercial enterprise.

32       (b)   Nothing in this section shall be construed to conflict with or render ineffectual a  
33       liability release, indemnification, assumption, or acknowledgment of risk agreement between  
34       the landowner and a person who uses the land for educational or recreational purposes."

35           **SECTION 4.** G.S. 99E-31 reads as rewritten:

36   "**§ 99E-31. Liability.**

37       (a)   Except as provided in subsection (b) of this section, an agritourism professional is  
38       not liable for injury to or death of a participant resulting from the inherent risks of agritourism  
39       activities, so long as the warning contained in G.S. 99E-32 is posted as required and, except as  
40       provided in subsection (b) of this section, no participant or participant's representative can  
41       maintain an action against or recover from an agritourism professional for injury, loss, damage,  
42       or death of the participant resulting exclusively from any of the inherent risks of agritourism  
43       activities. In any action for damages against an agritourism professional for agritourism  
44       activity, the agritourism professional must plead the affirmative defense of assumption of the  
45       risk of agritourism activity by the participant.

46       (b)   Nothing in subsection (a) of this section prevents or limits the liability of an  
47       agritourism professional if the agritourism professional does any one or more of the following:

- 48           (1)   Commits an act or omission that constitutes ~~negligence or~~ willful or wanton  
49               disregard for the safety of the participant, and that act or omission  
50               proximately causes injury, damage, or death to the participant.



1 (2) Has actual knowledge or reasonably should have known of ~~an existing~~  
2 dangerous condition on the land, facilities, or equipment used in the activity  
3 or the dangerous propensity of a particular animal used in such activity and  
4 does not make the danger known to the participant, and the danger  
5 proximately causes injury, damage, or death to the participant.

6 (c) Nothing in subsection (a) of this section prevents or limits the liability of an  
7 agritourism professional under liability provisions as set forth in Chapter 99B of the General  
8 Statutes.

9 (d) Any limitation on legal liability afforded by this section to an agritourism  
10 professional is in addition to any other limitations of legal liability otherwise provided by law."  
11

#### 12 13 **PART IV. ALLOW THE COMMISSIONER OF AGRICULTURE TO ASSESS** 14 **NONMONETARY PENALTIES TO ADDRESS VIOLATIONS WHEN APPROPRIATE**

15 **SECTION 5.** Chapter 106 of the General Statutes is amended by adding a new  
16 section to read:

##### 17 **"§ 106-22.6. Exercise of enforcement powers.**

18 When any board, commission, or official within the North Carolina Department of  
19 Agriculture and Consumer Services has the authority to assess civil penalties, such authority  
20 shall not be construed to require the issuance of a monetary penalty when the board,  
21 commission, or official determines that nonmonetary sanctions, education, or training are  
22 sufficient to address the underlying violation."  
23

#### 24 **PART V. DECREASE THE FREQUENCY OF THE AGRICULTURAL WATER USE** 25 **SURVEY**

26 **SECTION 6.** G.S. 106-24 reads as rewritten:

##### 27 **"§ 106-24. Collection and publication of information relating to agriculture; cooperation.**

28 (a) The Department of Agriculture and Consumer Services shall collect, compile,  
29 systematize, tabulate, and publish statistical information relating to agriculture. The  
30 Department is authorized to use sample surveys to collect primary data relating to agriculture.  
31 The Department is authorized to cooperate with the United States Department of Agriculture  
32 and the several boards of county commissioners of the State, to accomplish the purpose of this  
33 Part.

34 (b) The Department of Agriculture and Consumer Services shall ~~annually~~biennially  
35 collect information on water use by persons who withdraw 10,000 gallons per day or more of  
36 water from the surface or groundwater sources of the State for activities directly related or  
37 incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy  
38 products, livestock, poultry, and other agricultural products. The information shall be collected  
39 by survey conducted pursuant to subsection (a) of this section and in accordance with Title 7  
40 United States Code Section 2276 (Confidential Information Protection and Statistical  
41 Efficiency Act). The Department shall develop the survey form in consultation with the  
42 Department of Environment and Natural Resources. The Department shall report the results of  
43 the water use survey to the Environmental Review Commission no later than July 1 of each  
44 year in which the survey was collected and shall provide a copy of the report to the Department  
45 of Environment and Natural Resources. The report shall include recommendations about  
46 modifications to the survey, including changes in the gallons per day threshold for water use  
47 data collection. The report shall provide agricultural water use data by county. If the county is  
48 located in more than one river basin, the report shall separate the county data to show  
49 agricultural water use by river basin within the county. If publication of county or watershed  
50 data would result in disclosure of an individual operation's water use, the data will be combined  
51 with data from another county or watershed."

1  
2 **PART VI. LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE**  
3 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE**  
4 **ABOUT ITS ANIMAL HEALTH PROGRAMS**

5 SECTION 7. G.S. 106-24.1 reads as rewritten:

6 "**§ 106-24.1. Confidentiality of information collected and published.**

7 All information published by the Department of Agriculture and Consumer Services  
8 pursuant to this Part shall be classified so as to prevent the identification of information  
9 received from individual farm operators. All information received pursuant to this Part from  
10 individual farm operators shall be held confidential by the Department and its employees.  
11 ~~Information~~All information collected by the Department from individual farm operators for the  
12 purposes of its animal health programs ~~may be disclosed by the State Veterinarian when, in his~~  
13 ~~judgment, the disclosure will assist in the implementation of these programs. Animal disease~~  
14 ~~diagnostic tests that identify the owner of the animal programs, including, but not limited to,~~  
15 certificates of veterinary inspection, animal medical records, laboratory reports, or other  
16 records that may be used to identify a person or private business entity subject to regulation by  
17 the Department shall not be disclosed without the permission of the owner unless the State  
18 Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease  
19 or to protect the public ~~health~~health, or the disclosure is necessary in the implementation of  
20 these animal health programs."

21  
22 **PART VII. MAKE CONFORMING CHANGES TO THE NAME OF THE**  
23 **STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE**  
24 **RESPONSIBILITIES OF THE DIVISION**

25 SECTION 8. G.S. 106-65.23 reads as rewritten:

26 "**§ 106-65.23. Structural Pest Control and Pesticides Division of Department of**  
27 **Agriculture and Consumer Services recreated; Director; powers and duties of**  
28 **Commissioner; Structural Pest Control Committee created; appointment;**  
29 **terms; powers and duties; quorum.**

30 (a) There is recreated, within the North Carolina Department of Agriculture and  
31 Consumer Services, a Division to be known as the Structural Pest Control and Pesticides  
32 Division. The Commissioner of Agriculture may appoint a Director of the Division, chosen  
33 from a list of nominees submitted to him or her by the Structural Pest Control Committee  
34 created in this section, whose duties and authority shall be determined by the Commissioner in  
35 consultation with the Committee. The Director shall be responsible for and answerable to the  
36 Commissioner of Agriculture and the Structural Pest Control Committee as to the operation and  
37 conduct of the Structural Pest Control and Pesticides Division. The Director shall act as  
38 secretary to the Structural Pest Control Committee.

39 (b) The Commissioner shall have the following powers and duties under this Article:

- 40 (1) To administer and enforce the provisions of this Article and the rules  
41 adopted thereunder by the Structural Pest Control Committee. In order to  
42 carry out these powers and duties, the Commissioner may delegate to the  
43 Director of the Structural Pest Control and Pesticides Division the powers  
44 and duties assigned to him or her under this Article.  
45 (2) To assign the administrative and enforcement duties assigned to him or her  
46 in this Article.  
47 (3) To direct, in consultation with the Structural Pest Control Committee, the  
48 work of the personnel employed by the Structural Pest Control Committee  
49 and the work of the personnel of the Department assigned to perform the  
50 administrative and enforcement functions of this Article.

- 1 (4) To develop, for the Structural Pest Control Committee's consideration for  
 2 adoption, proposed rules, policies, new programs, and revisions of existing  
 3 programs under this Article.  
 4 (5) To monitor existing enforcement programs and to provide evaluations of  
 5 these programs to the Structural Pest Control Committee.  
 6 (6) To attend all meetings of the Structural Pest Control Committee, but without  
 7 the power to vote unless the Commissioner attends as the designee on the  
 8 Committee from the Department of Agriculture and Consumer Services.  
 9 (7) To keep an accurate and complete record of all meetings of the Structural  
 10 Pest Control Committee and to have legal custody of all books, papers,  
 11 documents, and other records of the Committee.  
 12 (8) To perform such other duties as may be assigned to him or her by the  
 13 Structural Pest Control Committee.  
 14 ...  
 15 (d) The Structural Pest Control Committee shall have the following powers and duties:  
 16 (1) To adopt rules and make policies as provided in this Article.  
 17 (2) To issue, deny, suspend, revoke, modify, or restrict licenses, certified  
 18 applicator cards, and registered technician cards under the provisions of this  
 19 Article. In all matters affecting licensure, the decision of the Committee  
 20 shall constitute the final agency decision.  
 21 ~~(3) To report annually to the Board of Agriculture the action taken in the~~  
 22 ~~Committee's final decisions and the financial status of the Structural Pest~~  
 23 ~~Control Division.~~

24 ...."

25 **SECTION 9.** G.S. 106-65.24 reads as rewritten:

26 **"§ 106-65.24. Definitions.**

27 As used in this Article:

28 ...

29 (8a) "Director" means the Director of the Structural Pest Control and Pesticides  
 30 Division of the Department of Agriculture and Consumer Services.

31 ...

32 (9a) "Enforcement agency" means the Structural Pest Control and Pesticides  
 33 Division of the Department of Agriculture and Consumer Services.

34 ...

35 (19a) "Registered technician" means any individual who is required to be  
 36 registered with the Structural Pest Control and Pesticides Division under  
 37 G.S. 106-65.31.

38 ...."

39 **SECTION 10.** G.S. 106-65.30 reads as rewritten:

40 **"§ 106-65.30. Inspectors; inspections and reports of violations; designation of resident**  
 41 **agent.**

42 ...

43 (c) The Commissioner shall have authority to appoint personnel of the Structural Pest  
 44 Control and Pesticides Division as special inspectors and said special inspectors are hereby  
 45 vested with the authority to arrest with a warrant, or to arrest without a warrant when a  
 46 violation of this Article is being committed in their presence or they have reasonable grounds to  
 47 believe that a violation of this Article is being committed in their presence. Said special  
 48 inspectors shall take offenders before the several courts of this State for prosecution or other  
 49 proceedings. The provisions of this section do not apply to any person holding a valid structural  
 50 pest control license, or a certified applicator's identification card, or a registered technician's  
 51 identification card as issued under the provisions of this Article. Special inspectors shall not be

1 entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the  
2 benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in  
3 Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."  
4

5 **PART VIII. AMEND CERTAIN EGG LABELING REQUIREMENTS**

6 **SECTION 11.** G.S. 106-245.20 reads as rewritten:

7 "**§ 106-245.20. Advertisements.**

8 No person shall advertise eggs for sale at a given price unless the unabbreviated grade or  
9 quality and size-weight are conspicuously designated in block letters at least half as high as the  
10 tallest letter in the word "eggs" or the tallest figure in the price, whichever is larger. The  
11 provisions of this section shall not apply to retailers who (i) display egg prices in the same  
12 manner as other products sold by the retailer at the retail establishment, excluding any items on  
13 sale or subject to a promotion, and (ii) comply with G.S. 106-245.15."  
14

15 **PART IX. REPEAL THE INTERSTATE PEST CONTROL COMPACT AND**  
16 **CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES, AND DAIRY**  
17 **FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC**  
18 **ACT**

19 **SECTION 12.** Article 4E of Chapter 106 of the General Statutes is repealed.

20 **SECTION 13.** G.S. 106-246 is repealed.

21 **SECTION 14.** G.S. 106-248 is repealed.  
22

23 **PART X. CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE**  
24 **MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES**

25 **SECTION 15.** G.S. 106-942 reads as rewritten:

26 "**§ 106-942. High hazard counties; permits required; standards.**

27 ...

28 (c) It is unlawful for any person to willfully burn any debris, stumps, brush or other  
29 flammable materials resulting from ground clearing activities and involving more than five  
30 contiguous acres, regardless of the proximity of the burning to woodland and on which such  
31 materials are placed in piles or windrows without first having obtained a special permit from  
32 the Department. Areas less than five acres in size will require a regular permit in accordance  
33 with G.S. 106-942(b).

34 ...

35 (2) The location of the burning must be at least ~~4,000~~500 feet from any dwelling  
36 or structure located in a predominately residential area other than a dwelling  
37 or structure located on the property on which the burning is conducted unless  
38 permission is granted by the occupants.

39 ...

40 (6) Initial burning may be commenced only between the hours of ~~9:00~~8:00 A.M.  
41 and ~~3:00~~4:00 P.M. and no combustible material may be added to the fire  
42 between ~~3:00~~4:00 P.M. on one day and ~~9:00~~8:00 A.M. on the following day,  
43 except that when favorable meteorological conditions exist, any forest ranger  
44 authorized to issue the permit may authorize in writing a deviation from the  
45 restrictions."  
46

47 **PART XI. REPEAL THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE**

48 **SECTION 16.** G.S. 119-26.2 is repealed.  
49

50 **PART XII. EXEMPT FORESTRY AND SILVICULTURE OPERATIONS FROM**  
51 **TEMPORARY DRIVEWAY PERMITTING**

1           **SECTION 17.** Article 7 of Chapter 136 of the General Statutes is amended by  
2 adding a new section to read:

3 **"§ 136-92.1. Exemption from temporary driveway permitting for forestry operations.**

4       Forestry operations and silviculture operations, including the harvesting of timber, and  
5 other related management activities that require temporary ingress from a property to State  
6 roads shall be exempt from the temporary driveway permit process of the Department for State  
7 roads, except for controlled access facilities, if the operator of the temporary driveway has  
8 attended an educational course on timbering access and obtained a safety certification.  
9 Driveway access points covered by this section shall be temporary and shall be removed upon  
10 the earlier of six months or the end of forestry or silviculture operations on the property."

11  
12 **PART XIII. EXEMPT CERTAIN STRUCTURES FROM THE SPRINKLER SYSTEM**  
13 **REQUIREMENTS OF THE NORTH CAROLINA BUILDING CODE AND ALLOW**  
14 **FARM BUILDINGS THAT ARE USED FOR PUBLIC OR PRIVATE EVENTS TO**  
15 **MAINTAIN THEIR FARM BUILDING STATUS FOR PURPOSES OF THE STATE**  
16 **BUILDING CODE**

17           **SECTION 18.** G.S. 143-138, as amended by S.L. 2013-75, reads as rewritten:

18 **"§ 143-138. North Carolina State Building Code.**

19       ...  
20       (b)     Contents of the Code. – The North Carolina State Building Code, as adopted by the  
21 Building Code Council, may include reasonable and suitable classifications of buildings and  
22 structures, both as to use and occupancy; general building restrictions as to location, height, and  
23 floor areas; rules for the lighting and ventilation of buildings and structures; requirements  
24 concerning means of egress from buildings and structures; requirements concerning means of  
25 ingress in buildings and structures; rules governing construction and precautions to be taken  
26 during construction; rules as to permissible materials, loads, and stresses; rules governing  
27 chimneys, heating appliances, elevators, and other facilities connected with the buildings and  
28 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort  
29 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules  
30 pertaining to the construction of buildings and structures and the installation of particular  
31 facilities therein as may be found reasonably necessary for the protection of the occupants of  
32 the building or structure, its neighbors, and members of the public at large.

33       (b1) Fire Protection; Smoke Detectors. – The Code may regulate activities and  
34 conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related  
35 hazards. Such fire prevention code provisions shall be considered the minimum standards  
36 necessary to preserve and protect public health and safety, subject to approval by the Council of  
37 more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e).  
38 These provisions may include regulations requiring the installation of either battery-operated or  
39 electrical smoke detectors in every dwelling unit used as rental property, regardless of the date  
40 of construction of the rental property. For dwelling units used as rental property constructed  
41 prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other  
42 equivalent national testing laboratory approval, and shall be installed in accordance with either  
43 the standard of the National Fire Protection Association or the minimum protection designated  
44 in the manufacturer's instructions, which the property owner shall retain or provide as proof of  
45 compliance.

46       (b2) Carbon Monoxide Detectors. – The Code may contain provisions requiring the  
47 installation of either battery-operated or electrical carbon monoxide detectors in every dwelling  
48 unit having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having  
49 an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized  
50 testing laboratory that is OSHA-approved to test and certify to American National Standards  
51 Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be

1 installed in accordance with either the standard of the National Fire Protection Association or  
2 the minimum protection designated in the manufacturer's instructions, which the property  
3 owner shall retain or provide as proof of compliance. A carbon monoxide detector may be  
4 combined with smoke detectors if the combined detector does both of the following: (i)  
5 complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217  
6 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between  
7 detecting the presence of carbon monoxide and the presence of smoke.

8 (b3) Applicability of the Code. – Except as provided by subsections (b4) and (c1) of this  
9 section, the Code may contain provisions regulating every type of building or structure,  
10 wherever it might be situated in the State.

11 (b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm  
12 buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm  
13 buildings that are located inside the building-rules jurisdiction of any municipality if the farm  
14 buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the  
15 purposes of this subsection:

16 (1) A "farm building" shall include any structure used or associated with equine  
17 activities, including, but not limited to, the care, management, boarding, or  
18 training of horses and the instruction and training of riders. Structures that  
19 are associated with equine activities include, but are not limited to, free  
20 standing or attached sheds, barns, or other structures that are utilized to store  
21 any equipment, tools, commodities, or other items that are maintained or  
22 used in conjunction with equine activities. The specific types of equine  
23 activities, structures, and uses set forth in this subdivision are for illustrative  
24 purposes, and should not be construed to limit, in any manner, the types of  
25 activities, structures, or uses that may be considered under this subsection as  
26 exempted from building rules. A farm building that might otherwise qualify  
27 for exemption from building rules shall remain subject only to an annual  
28 safety inspection by the applicable city or county building inspection  
29 department of any grandstand, bleachers, or other spectator-seating  
30 structures in the farm building. An annual safety inspection shall include an  
31 evaluation of the overall safety of spectator-seating structures as well as  
32 ensuring the spectator-seating structure's compliance with any building  
33 codes related to the construction of spectator-seating structures in effect at  
34 the time of the construction of the spectator-seating.

35 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more  
36 glass or plastic walls, has an area over ninety-five percent (95%) of which is  
37 used to grow or cultivate plants, is built in accordance with the National  
38 Greenhouse Manufacturers Association Structural Design manual, and is not  
39 used for retail sales. Additional provisions addressing distinct life safety  
40 hazards shall be approved by the local building-rules jurisdiction.

41 (3) A "farm building" shall include any structure used for the display and sale of  
42 produce, no more than 1,000 square feet in size, open to the public for no  
43 more than 180 days per year, and certified by the Department of Agriculture  
44 and Consumer Services as a Certified Roadside Farm Market.

45 (4) A "primitive camp" shall include any structure primarily used or associated  
46 with outdoor camping activities, including structures used for educational,  
47 instructional, or recreational purposes for campers and for management  
48 training, that are (i) not greater than 4,000 square feet in size and (ii) are not  
49 intended to be occupied for more than 24 hours consecutively. "Structures  
50 primarily used or associated with outdoor camping activities" include, but  
51 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,

1 campfire shelters, picnic shelters, tents, teepees or other indigenous huts,  
2 support buildings used only for administrative functions and not for  
3 activities involving campers or program participants, and any other  
4 structures that are utilized to store any equipment, tools, commodities, or  
5 other items that are maintained or used in conjunction with outdoor camping  
6 activities such as hiking, fishing, hunting, or nature appreciation, regardless  
7 of material used for construction. The specific types of primitive camping  
8 activities, structures, and uses set forth in this subdivision are for illustrative  
9 purposes and should not be construed to limit, in any manner, the types of  
10 activities, structures, or uses that are exempted from building rules.

11 (5) A "primitive farm building" shall include any structure used for activities,  
12 instruction, training, or reenactment of traditional or heritage farming  
13 practices. "Primitive farm buildings" include, but are not limited to, sheds,  
14 barns, outhouses, doghouses, or other structures that are utilized to store any  
15 equipment, tools, commodities, livestock, or other items supporting farm  
16 management. These specific types of farming activities, structures, and uses  
17 set forth by this subdivision are for illustrative purposes and should not be  
18 construed to limit in any manner the types of activities, structures, or uses  
19 that are exempted from building rules.

20 (6) A "farm building" shall not lose its status as a farm building because it is  
21 used for public or private events, including, but not limited to, weddings,  
22 receptions, meetings, demonstrations of farm activities, meals, and other  
23 events that are taking place on the farm because of its farm or rural setting.

24 (b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No  
25 building permit shall be required under the Code or any local variance thereof approved under  
26 subsection (e) for any construction, installation, repair, replacement, or alteration costing five  
27 thousand dollars (\$5,000) or less in any single family residence or farm building unless the  
28 work involves: the addition, repair, or replacement of load bearing structures; the addition  
29 (excluding replacement of same capacity) or change in the design of plumbing; the addition,  
30 replacement or change in the design of heating, air conditioning, or electrical wiring, devices,  
31 fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same  
32 type), appliances (excluding replacement of water heaters, provided that the energy use rate or  
33 thermal input is not greater than that of the water heater which is being replaced, and there is no  
34 change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or  
35 equipment, the use of materials not permitted by the North Carolina Uniform Residential  
36 Building Code; or the addition (excluding replacement of like grade of fire resistance) of  
37 roofing. The exclusions from building permit requirements set forth in this paragraph for  
38 electrical lighting devices and fixtures and water heaters shall apply only to work performed on  
39 a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and  
40 fixtures and electric water heaters shall apply only to work performed by a person licensed  
41 under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person  
42 licensed under G.S. 87-21.

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

46 (b7) Appendices. – For the information of users thereof, the Code shall include as  
47 appendices the following:

48 (1) Any rules governing boilers adopted by the Board of Boiler and Pressure  
49 Vessels Rules,

50 (2) Any rules relating to the safe operation of elevators adopted by the  
51 Commissioner of Labor, and

1 (3) Any rules relating to sanitation adopted by the Commission for Public  
2 Health which the Building Code Council believes pertinent.

3 ~~(b7)~~ The Code may include references to such other rules of special types, such as those  
4 of the Medical Care Commission and the Department of Public Instruction as may be useful to  
5 persons using the Code. No rule issued by any agency other than the Building Code Council  
6 shall be construed as a part of the Code, nor supersede that Code, it being intended that they be  
7 presented with the Code for information only.

8 (b8) Exclusion for Certain Utilities. – Nothing in this Article shall extend to or be  
9 construed as being applicable to the regulation of the design, construction, location, installation,  
10 or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied  
11 petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for  
12 liquefied petroleum gas from the outlet of the first stage pressure regulator to and including  
13 each liquefied petroleum gas utilization device within a building or structure covered by the  
14 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in  
15 G.S. 62-3, or an electric or telephone membership corporation, including without limitation  
16 poles, towers, and other structures supporting electric or communication lines.

17 (b9) Exclusion for Industrial Machinery. – Nothing in this Article shall extend to or be  
18 construed as being applicable to the regulation of the design, construction, location, installation,  
19 or operation of industrial machinery. However, if during the building code inspection process,  
20 an electrical inspector has any concerns about the electrical safety of a piece of industrial  
21 machinery, the electrical inspector may refer that concern to the Occupational Safety and  
22 Health Division in the North Carolina Department of Labor but shall not withhold the  
23 certificate of occupancy nor mandate third-party testing of the industrial machinery based  
24 solely on this concern. For the purposes of this paragraph, "industrial machinery" means  
25 equipment and machinery used in a system of operations for the explicit purpose of producing a  
26 product or acquired by a State-supported center providing testing, research, and development  
27 services to manufacturing clients. The term does not include equipment that is permanently  
28 attached to or a component part of a building and related to general building services such as  
29 ventilation, heating and cooling, plumbing, fire suppression or prevention, and general  
30 electrical transmission.

31 (b10) Replacement Water Heaters. – The Code may contain rules concerning minimum  
32 efficiency requirements for replacement water heaters, which shall consider reasonable  
33 availability from manufacturers to meet installation space requirements and may contain rules  
34 concerning energy efficiency that require all hot water plumbing pipes that are larger than  
35 one-fourth of an inch to be insulated.

36 (b11) School Seclusion Rooms. – No State, county, or local building code or regulation  
37 shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools  
38 approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be  
39 constructed so that it will engage only when a key, knob, handle, button, or other similar device  
40 is being held in position by a person, and provided further that, if the mechanism is electrically  
41 or electronically controlled, it automatically disengages when the building's fire alarm is  
42 activated. Upon release of the locking mechanism by a supervising adult, the door must be able  
43 to be opened readily.

44 (b12) Cisterns. – The Code may include rules pertaining to the construction or renovation  
45 of residential or commercial buildings and structures that permit the use of cisterns to provide  
46 water for flushing toilets and for outdoor irrigation. No State, county, or local building code or  
47 regulation shall prohibit the use of cisterns to provide water for flushing toilets and for outdoor  
48 irrigation. As used in this subsection, "cistern" means a storage tank that is watertight; has  
49 smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as  
50 reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment



1 area; may be installed indoors or outdoors; and is located underground, at ground level, or on  
2 elevated stands.

3 (b13) Migrant Housing. – The Council shall provide for an exemption from any  
4 requirements in the fire prevention code for installation of an automatic sprinkler system  
5 applicable to buildings meeting all of the following:

6 (1) Has one floor.

7 (2) Meets all requirements of 29 C.F.R. § 1910.142, as amended.

8 (3) Meets all requirements of Article 19 of Chapter 95 of the General Statutes  
9 and rules implementing that Article.

10 For purposes of this subsection, "migrant housing" and "migrant" shall be defined as in  
11 G.S. 95-223.

12 ...."

13  
14 **PART XIV. ALLOW RETAILERS TO DISPLAY MORE THAN 400 SQUARE FEET**  
15 **OF NURSERY STOCK FOR SALE IN THEIR PARKING LOTS**

16 **SECTION 19.** G.S. 143-214.7(d1) is repealed.

17  
18 **PART XV. EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM**  
19 **SAFETY ACT**

20 **SECTION 20.** G.S. 143-215.25A reads as rewritten:

21 **"§ 143-215.25A. Exempt dams.**

22 (a) Except as otherwise provided in this Part, this Part does not apply to any dam:

23 (1) Constructed by the United States Army Corps of Engineers, the Tennessee  
24 Valley Authority, or another agency of the United States government, when  
25 the agency designed or approved plans for the dam and supervised its  
26 construction.

27 (2) Constructed with financial assistance from the United States ~~Soil~~Natural  
28 Resources Conservation Service, when that agency designed or approved  
29 plans for the dam and supervised its construction.

30 (3) Licensed by the Federal Energy Regulatory Commission, or for which a  
31 license application is pending with the Federal Energy Regulatory  
32 Commission.

33 (4) For use in connection with electric generating facilities regulated by the  
34 Nuclear Regulatory Commission.

35 (5) Under a single private ownership that provides protection only to land or  
36 other property under the same ownership and that does not pose a threat to  
37 human life or property below the dam.

38 (6) That is less than 25 feet in height or that has an impoundment capacity of  
39 less than 50 acre-feet, unless the Department determines that failure of the  
40 dam could result in loss of human life or significant damage to property  
41 below the dam.

42 (7) Constructed for and maintains the purpose of providing water for  
43 agricultural use, when a person who is licensed as a professional engineer or  
44 is employed by the Natural Resources Conservation Service, county, or local  
45 Soil and Water Conservation District, and has federal engineering job  
46 approval authority under Chapter 89C of the General Statutes designed or  
47 approved plans for the dam, supervised its construction, and registered the  
48 dam with the Division of Energy, Mineral, and Land Resources of the  
49 ~~Department.~~Department prior to construction of the dam. This exemption  
50 shall not apply to dams that are determined to be high-hazard by the  
51 Department.

1 ...."

2  
3 **PART XVI. ALLOW A LANDOWNER TO WITHDRAW WATER FOR**  
4 **AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER**  
5 **CERTAIN CONDITIONS**

6 **SECTION 21.** G.S. 143-355.3 reads as rewritten:

7 "**§ 143-355.3. Water shortage emergency powers.**

8 (a) Declaration of Water Shortage Emergency. – If, after consultation with the affected  
9 water system and the unit of local government with jurisdiction over the area served by the  
10 water system, the Secretary determines that the needs of human consumption, necessary  
11 sanitation, and public safety require emergency action, the Secretary shall provide the Governor  
12 with written findings setting out the basis for declaration of a water shortage emergency. The  
13 Governor shall have the authority to declare a water shortage emergency in the area affected by  
14 the water shortage emergency, which may include both the water system experiencing a water  
15 shortage emergency and the area served by a water system required under subdivision (1) of  
16 subsection (b) of this section to provide water in response to the water shortage emergency. No  
17 emergency period shall exceed 30 days, but the Governor may declare successive emergencies  
18 based upon the written findings of the Secretary.

19 ...  
20 (f) Nothing in this section shall limit a landowner from withdrawing water for use in  
21 agricultural activities, as described in G.S. 106-581.1, when the water is withdrawn from any of  
22 the following:

- 23 (1) Surface water sources located wholly on the landowner's property, including,  
24 but not limited to, impoundments constructed by or owned by the landowner  
25 and captured stormwater.  
26 (2) Groundwater sources, including, but not limited to, wells constructed on the  
27 landowner's property, springs, and artesian wells. This subsection shall not  
28 apply if the Governor determines that withdrawal of water from a  
29 groundwater source is causing negative impacts to groundwater sources not  
30 located on the landowner's property, including the diminution of water  
31 available from neighboring groundwater sources or saltwater intrusion into  
32 neighboring groundwater sources."

33  
34 **PART XVII. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL**  
35 **RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY**  
36 **PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY**  
37 **CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND**  
38 **OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION**  
39 **BEYOND THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL**  
40 **OCCUR**

41 **SECTION 22.1.** No later than October 1, 2013, the Department of Environment  
42 and Natural Resources and the Department of Transportation shall jointly petition the  
43 Wilmington District of the United States Army Corps of Engineers (Wilmington District) to  
44 allow for greater flexibility and opportunity to perform stream and wetlands mitigation outside  
45 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The  
46 Departments shall seek this greater flexibility and opportunity for mitigation for both public  
47 and private development. The Departments shall request that the Wilmington District review  
48 the flexibility and opportunities for mitigation allowed by other Districts of the United States  
49 Army Corps of Engineers.

1           **SECTION 22.2.** The Departments shall jointly report on their progress in  
2 petitioning the Wilmington District as required by Section 22.1 of this act to the Environmental  
3 Review Commission no later than January 1, 2014.  
4

5 **PART XVIII. ACCELERATE SUNSET DATE OF PETROLEUM DISPLACEMENT**  
6 **PLAN AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS**  
7 **TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM**  
8 **PRODUCTS**

9           **SECTION 23.** Section 19.5(a) of S.L. 2005-276, as amended by Section 14.14(a)  
10 of S.L. 2009-451 and Section 14.2B(a) of S.L. 2011-145, reads as rewritten:

11        "**SECTION 19.5.(a)** All State agencies, universities, and community colleges that have  
12 State-owned vehicle fleets shall continue to develop and implement petroleum displacement  
13 plans to improve the State's use of alternative fuels, synthetic lubricants, and efficient vehicles.  
14 The plans shall achieve a twenty percent (20%) reduction or displacement of the current  
15 petroleum products consumed by July 1, 2016. Before implementation of any plan, all affected  
16 agencies shall report their plan to the State Energy Office within the Department of Commerce.  
17 The State Energy Office shall compile a report on the plans submitted and report to the Joint  
18 Legislative Commission on Governmental Operations. Agencies shall implement their plans by  
19 January 1, 2006. Reductions may be met by petroleum or oils displaced through Such efforts  
20 shall include the use of biodiesel, ethanol, synthetic oils or lubricants, and other alternative  
21 fuels, ~~fuels~~; the use of hybrid electric ~~vehicles, vehicles~~ or other fuel-efficient or low-emission  
22 vehicles, or additional methods as may be approved by the State Energy Office, thereby  
23 reducing the amount of harmful emissions. The plan shall not impede mission fulfillment of the  
24 agency and shall specifically address a long-term cost-benefit analysis, allowances for changes  
25 in vehicle usage, total miles driven, and exceptions due to technology, budgetary limitations,  
26 and ~~emergencies, vehicles~~; and the use of advanced technology to manage and reduce the  
27 consumption of petroleum products. No State agency, university, or community college shall  
28 alter its petroleum displacement plan in a way that increases the amount of petroleum products  
29 consumed."  
30

31 **PART XIX. EFFECTIVE DATE**

32           **SECTION 24.** Sections 2, 3, and 4 of this act become effective August 1, 2013,  
33 and apply to claims arising on or after that date. The remainder of this act is effective when it  
34 becomes law.