

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-211
SENATE BILL 16**

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**REQUIRE AGENCIES AND THE OFFICE OF ADMINISTRATIVE HEARINGS TO
PROVIDE ADDITIONAL NOTICE OF PETITIONS FOR RULE MAKING**

SECTION 1.(a) G.S. 150B-20(a) reads as rewritten:

"(a) Petition. – A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition. An agency receiving a rule-making petition shall, within three business days of receipt of the petition, send the proposed text of the requested rule change and the statement of the effect of the requested rule change to the Office of Administrative Hearings. The Office of Administrative Hearings shall, within three business days of receipt of the proposed text of the requested rule change and the statement of the effect of the requested rule change, distribute the information via its mailing list and publish the information on its Web site."

SECTION 1.(b) This section becomes effective January 1, 2018.

WILDLIFE RESOURCES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 2. G.S. 143-254.5 reads as rewritten:

"§ 143-254.5. Disclosure of personal identifying information.

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, information subject to G.S. 106-24.1 transferred to the Commission from the Department of Agriculture and Consumer Services, and telephone number."

**PROVIDE FOR HEIGHTENED ENVIRONMENTAL MANAGEMENT COMMISSION
OVERSIGHT OF CERTAIN REPORTS**

SECTION 3. G.S. 143B-282(a)(1) is amended by adding a new sub-subdivision to read:

"w. To identify, review, and assess reports prepared by the Department of Environmental Quality that are required by an act of the General Assembly and that the Commission finds would have a significant public interest and to include that assessment in its report to the



Environmental Review Commission under subsection (b) of this section."

ALLOW OPTIONAL MEALS FOR BED AND BREAKFAST GUESTS

SECTION 4.(a) G.S. 130A-247(5a) reads as rewritten:

- "(5a) "Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:
- Does not serve food or drink to the general public for pay.
 - Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
 - Includes the price of ~~any meals served~~breakfast in the room rate. The price of additional meals served may be added to the room rate at the conclusion of the overnight guest's stay.
 - Is the permanent residence of the owner or the manager of the business."

SECTION 4.(b) G.S. 130A-247(6) reads as rewritten:

- "(6) "Bed and breakfast inn" means a business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations ~~to at least nine but not more than 23 persons per night~~ for a period of less than one week, and ~~that~~that meets all of the following requirements:
- Does not serve food or drink to the general public for ~~pay~~pay.
 - Serves ~~only~~ the breakfast meal, ~~and that meal is served~~the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the ~~business~~business.
 - Includes the price of breakfast in the room ~~rate~~rate; ~~and~~rate. The price of additional meals served may be added to the room rate at the conclusion of the overnight guest's stay.
 - Is the permanent residence of the owner or the manager of the business."

SECTION 4.(c) This section becomes effective January 1, 2018.

AMEND ALARM SYSTEM BUSINESS LICENSING STATUTES

SECTION 5.(a) G.S. 74D-2(c) reads as rewritten:

"(c) Qualifying Agent. – A business entity that engages in the alarm systems business is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Board. The requirements are:

- (1) The business entity shall employ a designated ~~resident~~ qualifying agent who meets the requirements for a license issued under and who is, in fact, licensed under the provisions of this Chapter, unless otherwise approved by the Board. ~~Provided, however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State.~~ Service upon the ~~registered~~ qualifying agent appointed by the business entity of any process, notice or demand required by or permitted by law to be served upon the business entity by the Alarm Systems Licensing Board shall be binding upon the licensed business entity and the licensee entity. Nothing herein contained shall limit or affect the right to serve any process, notice or demand required

or permitted by law to be served upon a business entity in any other manner or hereafter permitted by law.

- (2) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009.
- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the board in writing within 10 working days. The business entity must obtain a substitute qualifying agent within 90 days after the original qualifying agent ceases to serve as qualifying agent.
- (4) The license certificate shall list the name of the qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without the prior approval of the Board.
- (5) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009."

SECTION 5.(b) G.S. 74D-8 reads as rewritten:

"§ 74D-8. Registration of persons employed.

- (a) (1) ~~All licensees~~A licensee of an alarm systems business shall register with the Board within 30 days after the employment begins, all of the ~~licensee's following~~ employees that are within the State, unless in the discretion of the Director, the time period is extended for good ~~cause~~cause:
 - a. Any employee that has access to confidential information detailing the design, installation, or application of any location specific electronic security system or that has access to any code, number, or program that would allow the system to be modified, altered, or circumvented.
 - b. Any employee who installs or services an electronic security system in a personal residence.

Employees engaged only in sales or marketing that does not involve any of the above are not required to be registered.

- (2) To register an employee, a licensee shall submit to the Board as to the employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of acceptable quality for identification; and statements of any criminal records as deemed appropriate by the Board.
- ~~(2)~~(3) Except during the period allowed for registration in subdivision (a)(1) of this section, no alarm systems business may employ any employee unless the employee's registration has been approved by the Board as set forth in this section.

(b) The Director shall be notified in writing of the termination of any employee registered under this Chapter within 20 days after the termination.

(c) The Board shall issue a registration card to each employee of a licensee who is registered under this Chapter. The registration card shall expire two years after its date of issuance and shall be renewed before the expiration of the term of the registration. If a registered person changes employment to another licensee, the registration card may remain valid; however, persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).

(d) If all required documents, properly completed, have been submitted to the Board no later than 20 days after an employee begins employment, the employer of each applicant for registration shall give the applicant a copy of the complete application which the employee can use until a registration card issued by the Board is received."

ELIMINATE DUPLICATIVE AND UNNECESSARY ELECTRICAL EQUIPMENT AND APPLIANCE CERTIFICATION REQUIREMENTS

SECTION 6.(a) G.S. 66-25 reads as rewritten:

"§ 66-25. Acceptable listings as to safety of goods.

(a) All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. Except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section, this evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in institutional kitchens and manufacturing equipment used by Correction Enterprises are exempt from the evaluation requirement of subsection (a) of this section.

(c) The Department of Administration, Division of Purchase and Contract, shall not seek to enforce the provisions of subsection (a) of this section by any means, including requiring acceptance inspections or additional testing of electrical materials, devices, appliances, or equipment purchased by State departments, agencies, and institutions."

SECTION 6.(b) Upon the effective date of this section, the Department of Administration, Division of Purchase and Contract, shall publish a notice on its Web site indicating that acceptance inspections and additional testing are no longer required for the purchase of electrical materials, devices appliances, or equipment by State departments, agencies, and institutions.

AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS ORIGINATING OUTSIDE OF NORTH CAROLINA

SECTION 7. G.S. 40A-3(a)(1) reads as rewritten:

"(1) Corporations, bodies politic or persons have the power of eminent domain for the construction of railroads, power generating facilities, substations, switching stations, microwave towers, roads, alleys, access railroads, turnpikes, street railroads, plank roads, tramroads, canals, telegraphs, telephones, electric power lines, electric lights, public water supplies, public sewerage systems, flumes, bridges, and pipelines or mains ~~originating in North Carolina~~ for the transportation of petroleum products, coal, gas, limestone or minerals. Land condemned for any liquid pipelines shall:

- a. Not be less than 50 feet nor more than 100 feet in width; and
- b. Comply with the provisions of G.S. 62-190(b).

The width of land condemned for any natural gas pipelines shall not be more than 100 feet."

CLARIFY STORMWATER LAWS

SECTION 8. G.S. 143-214.7(b3) reads as rewritten:

"(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii)

redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment."

AMEND THE THRESHOLD FOR COASTAL STORMWATER REQUIREMENTS FOR RESIDENTIAL PROJECTS

SECTION 9.(a) Definitions. – "Coastal Stormwater Rule" means 15A NCAC 02H .1019 (Coastal Counties) for purposes of this section and its implementation.

SECTION 9.(b) Coastal Stormwater Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Coastal Stormwater Rule, as provided in subsection (c) of this section.

SECTION 9.(c) Implementation. – The Commission and the Department shall not require a State stormwater permit for a residential project unless the residential project would cumulatively add more than 10,000 square feet of built upon area.

SECTION 9.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Coastal Stormwater Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 9.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

STUDY ELECTRICAL SAFETY FOR SWIMMING POOLS

SECTION 10. The Building Code Council shall review electrical safety requirements for swimming pools to determine if the requirements should be amended in order to better protect public safety. No later than December 1, 2017, the Council shall report its findings and recommendations, including any actions the Council has taken related to electrical safety requirements for swimming pools, to the Joint Legislative Oversight Committee on Justice and Public Safety.

STUDY USE OF UNGRADED LUMBER IN CERTAIN CIRCUMSTANCES

SECTION 11. The Building Code Council shall study under what circumstances it would be appropriate to use lumber that has not been grade stamped under the authority of a lumber grading bureau in construction in North Carolina. The Council shall consider cost, durability, public safety, and any other factors the Council deems necessary. No later than December 1, 2017, the Council shall report its findings and recommendations to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources.

REQUIRE ORIGINAL EQUIPMENT BACKUP LAMPS TO BE OPERABLE AND STUDY DECREASING THE FREQUENCY OF VEHICLE INSPECTIONS

SECTION 12.(a) G.S. 20-129 is amended by adding a new subsection to read:

"(h) Backup Lamps. – Every motor vehicle originally equipped with white backup lamps shall have those lamps in operating condition."

SECTION 12.(b) The Department of Transportation and the Department of Environmental Quality shall jointly study whether the frequency of vehicle safety inspections and vehicle emissions inspections should be decreased. The Departments shall consider public

safety, air quality, savings to vehicle owners, impacts on State revenues, and any other factors the Departments deem necessary. No later than March 1, 2018, the Departments shall jointly report their findings and recommendations to the Joint Legislative Transportation Oversight Committee.

SECTION 12.(c) Subsection (a) of this section becomes effective March 1, 2018, and applies to offenses committed on or after that date.

STUDY EROSION AND SEDIMENTATION CONTROL PROGRAMS

SECTION 13. The Environmental Review Commission shall study the State sedimentation and erosion control program and locally delegated sedimentation and erosion control programs. The Commission shall specifically examine how the programs could be more efficient and streamlined. The Commission shall report the results of the study, including any findings and recommendations, to the 2018 Regular Session of the 2017 General Assembly.

DEPARTMENT OF LABOR TECHNICAL CHANGES

SECTION 14.(a) G.S. 95-25.5(a) reads as rewritten:

"(a) No youth under 18 years of age shall be employed by any employer in any occupation without a youth employment certificate unless specifically exempted. The Commissioner of Labor shall prescribe regulations for youths and employers concerning the issuance, maintenance and revocation of certificates. Certificates will be issued, ~~subject to review by the Department of Labor, by county directors of social services and such of their designees as are approved by the Commissioner; provided, the Commissioner may also issue certificates, issued by the Commissioner,~~ both directly and electronically."

SECTION 14.(b) G.S. 95-117 reads as rewritten:

"§ 95-117. Definitions.

Each word or term defined in this Article has the meaning indicated in this section, unless a different meaning is plainly required by the context.

- (1) Annual gross volume. – The gross receipts a person or passenger tramway receives from all types of sales made and business done during a 12-month period.
- ~~(1)~~(2) "Commissioner" means the Commissioner. – The Commissioner of Labor of the State of North Carolina.
- ~~(2)~~(3) "Industry" means activities Industry. – Activities of all those persons in the State who own, manage, or direct the operation of passenger tramways.
- ~~(3)~~(4) "Operator" means any Operator. – Any person, firm, corporation, or organization which owns, manages, or directs the operation of a passenger tramway. "Operator" may apply to the State or any political subdivision or instrumentality thereof.
- (5) Owner. – Any person or authorized agent of such person who owns a passenger tramway or, in the event the passenger tramway is leased, the lessee. The term owner shall also include the State of North Carolina or any political subdivision thereof or any unit of local government.
- ~~(4)~~(6) "Passenger tramway" means a Passenger tramway. – A device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans. "Passenger tramway" shall include The term includes any of the following devices:
 - a. "Chairlift," a Chairlift. – A type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar ~~devices;~~ devices.

- a1. ~~"Conveyor," a Conveyor.~~ – A type of transportation on which passengers are transported uphill on a flexible moving element (conveyor belt) that travels uphill on one path and generally returns underneath the uphill portion.
- a2. Funicular. – A system in which passengers are transported in or on carriers that are supported and guided by a level or inclined guideway and propelled by means of a haul rope or other flexible element that is driven by a power unit remaining essentially at a single location.
- a3. Gondola. – An enclosed cabin attached to a cable that mechanically transports people or cargo.
- b. ~~"J bar, T bar or platter pull, so-called and similar types of devices or means of transportation J bar, T bar, or platter pull.~~ – Devices which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans; spans.
- c. ~~"Multicar aerial passenger tramway," a Multicar aerial passenger tramway.~~ – A device used to transport passengers in several open or in closed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar device; device.
- d. ~~"Rope tow," a Rope tow.~~ – A type of transportation which pulls the skiers, riding on skis as the skier grasps the rope manually, or similar devices; device.
- e. ~~"Skimobile," a Skimobile.~~ – A device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar device; device.
- f. ~~"Two-car aerial passenger tramway," a Two-car aerial passenger tramway.~~ – A device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar device.

(7) Person. – Any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision thereof or any unit of local government."

SECTION 14.(c) Article 15 of Chapter 95 of the General Statutes is amended by adding the following new sections to read:

"§ 95-125.1. Operation of unsafe device.

No person shall operate, permit to be operated, or use any device subject to the provisions of this Article if the person knows or reasonably should know that the operation or use of the device will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

"§ 95-125.2. Reports required.

(a) The owner of any device regulated under the provisions of this Article, or the owner's authorized agent, shall, within 24 hours, notify the Commissioner of each and every occurrence involving the device when either of the following occurs:

- (1) Death or injury requiring medical treatment, other than first aid, by a physician. For the purposes of this section, "first aid" means (i) the one-time treatment or observation of scratches, cuts not requiring stitches, burns, splinters, or contusions or (ii) performing a diagnostic procedure, including

examination and X rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel.

- (2) Damage to the device indicating a substantial defect in design, mechanics, structure, or equipment that affects the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) of this section has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

(c) No person, after an occurrence specified in subsection (a) of this section, shall do either of the following:

- (1) Operate, attempt to operate, use, or move or attempt to move such device or part thereof without the approval of the Commissioner, unless so as to prevent injury to any person or persons.
- (2) Remove or attempt to remove from the premises any damaged or undamaged part of such device or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The Department must initiate its investigation within 24 hours of being notified.

"§ 95-125.3. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-118 (Registration required; application procedures) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each day each device is so operated or used.

(b) Any person who violates G.S. 95-120.1 (Liability insurance) or G.S. 95-125.2 (Reports required) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated and used.

(c) Any person who violates G.S. 95-125.1 (Operation of unsafe device) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated and used.

(d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(e) The Commissioner's determination of the amount of the penalty is final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedures Act.

(f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides or, if a corporation is involved, in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed form, or of a final order of the Commissioner affirmed upon appeal. Upon such filing, the clerk of said court shall enter judgment in accordance with the final order and notify the parties. The judgment shall have the same effect, and all proceedings in relation to the judgment shall thereafter be the same, as though the judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(g) Any person who willfully violates any provision of this Article and that violation causes the serious injury or death of any person, then the person is guilty of a Class E felony, which shall include a fine.

(h) Nothing in this section prevents any prosecuting officer of the State of North Carolina from proceeding against a person who violates this Article on a prosecution charging any degree of willful or culpable homicide."

SECTION 14.(d) G.S. 95-174 reads as rewritten:

"§ 95-174. Definitions.

(a) "Chemical manufacturer" ~~shall mean~~ means a manufacturing facility classified in ~~Standard Industrial Classification (SIC) Codes 20 through 39~~ North American Industry Classification System (NAICS) Codes 31 through 33 where chemicals are produced for use or distribution in North Carolina.

(b) "Chemical name" ~~shall mean~~ means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC), or the Chemical Abstracts Service (CAS) rules of nomenclature or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(c) "Common name" ~~shall mean~~ means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

(d) "Distributor" ~~shall mean~~ means any business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to purchasers.

(e) "Employee" ~~shall mean~~ means any person who is employed by an employer under normal operating conditions.

(f) "Employer" means a person engaged in business who has employees, including the State and its political subdivisions but excluding an individual whose only employees are domestic workers or casual laborers who are hired to work at the individual's residence.

(g) "Facility" ~~shall mean~~ means one or more establishments, factories, or buildings located at one contiguous site in North Carolina.

(h) "Fire Chief" ~~shall mean~~ means Fire Chief or Fire Marshall, or Emergency Response Coordinator in the absence of a Fire Chief or Fire Marshall for the appropriate local fire department.

(i) Repealed by Session Laws 1987, c. 489, s. 1.

(j) "Fire Department" ~~shall mean~~ means the fire department having jurisdiction over the facility.

(k) "Hazardous chemical" ~~shall mean~~ means any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the OSHNC Standard or a hazardous substance as defined in standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).

(l) "Hazardous Substance List" ~~shall mean~~ means the list required by G.S. 95-191.

(m) "Hazardous substance trade secret" means any formula, plan, pattern, device, process, production information, or compilation of information, which is not patented, which is known only to the employer, the employer's licensees, the employer's employees, and certain other individuals, and which is used or developed for use in the employer's business, and which gives the employer possessing it the opportunity to obtain a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the identity or composition of the substance cannot be readily

ascertained without undue expense by analytical techniques, laboratory procedures, or other lawful means available to a competitor.

(n) "Label" ~~shall mean means~~ any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

(o) "Manufacturing facility" ~~shall mean means~~ a facility classified in ~~SIC Codes 20 through 39~~ NAICS Code 31 through 33 which manufactures or uses a hazardous chemical or chemicals in North Carolina.

(p) ~~"Material Safety"~~ "Safety Data Sheets" or ~~"MSDS"~~ "SDS" means chemical information sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).

(q) "Nonmanufacturing facility" ~~shall mean means~~ any facility in North Carolina other than a facility in ~~SIC Code 20 through 39~~, NAICS Code 31 through 33, the State of North Carolina (and its political subdivisions) and volunteer emergency service organizations whose members may be exposed to chemical hazards during emergency situations.

(r) "OSHNC Standard" ~~shall mean means~~ the current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).

(s) "Storage and Container" ~~shall have~~ has the ordinary meaning however it does not include pipes used in the transfer of substances or the fuel tanks of ~~self propelled self-propelled~~ internal combustion vehicles."

SECTION 14.(e) G.S. 95-191(a) reads as rewritten:

"(a) All employers who manufacture, process, use, store, or produce hazardous chemicals, shall compile and maintain a Hazardous Substance List which shall contain all of the following information for each hazardous chemical stored in the facility in quantities of 55 gallons or 500 pounds, whichever is greater:

- (1) The chemical name or the common name used on the ~~MSDS-SDS~~ or container ~~label;label.~~
- (2) The maximum amount of the chemical stored at the facility at any time during a year, using the following ranges:
Class A, which ~~shall include~~ includes quantities of less than 55 gallons or 500 ~~pounds;pounds.~~
Class B, which ~~shall include~~ includes quantities of between 55 gallons to 550 gallons, and quantities of between 500 pounds and 5,000 ~~pounds; andpounds.~~
Class C, which ~~shall include~~ includes quantities of between 550 gallons and 5500 gallons, and quantities between 5,000 pounds and 50,000 ~~pounds; andpounds.~~
Class D, which ~~shall include~~ includes quantities of greater than 5500 gallons or 50,000 ~~pounds; andpounds.~~
- (3) The area in the facility in which the hazardous chemical is normally stored and to what extent the chemical may be stored at altered temperature or pressure."

SECTION 14.(f) G.S. 95-192 reads as rewritten:

"§ 95-192. Material safety-Safety data sheets.

(a) Chemical manufacturers and distributors shall provide ~~material~~-safety data sheets (~~MSDS's~~)(SDSs) to manufacturing and nonmanufacturing purchasers of hazardous chemicals in North Carolina for each hazardous chemical purchased.

(b) Employers shall maintain the most current ~~MSDS-SDS~~ received from manufacturers or distributors for each hazardous chemical purchased. If an ~~MSDS-SDS~~ has not been provided by the manufacturer or distributor for chemicals on the Hazardous Substance List at the time

the chemicals are received at the facility, the employer shall request one in writing from the manufacturer or distributor within 30 days after receipt of the chemical. If the employer does not receive an ~~MSDS-SDS~~ within 30 days after his written request, he shall notify the Commissioner of Labor of the failure by manufacturer or distributor to provide the ~~MSDS-SDS~~."

SECTION 14.(g) G.S. 95-194 reads as rewritten:

"§ 95-194. Emergency information.

...
(d) Employers shall provide to the Fire Chief, upon written request of the Fire Chief, a copy of the ~~MSDS-SDS~~ for any chemical on the Hazardous Substance List.

...
(f) The Fire Chief shall make information from the Hazardous Substance List, the emergency response plan, and ~~MSDS's-SDSs~~ available to members of the Fire Department having jurisdiction over the facility and to personnel responsible for preplanning emergency response, police, medical or fire activities, but shall not otherwise distribute or disclose (or allow the disclosure of) information not available to the public under G.S. 95-208. Such persons receiving such information shall not disclose the information received and shall use such information only for the purpose of preplanning emergency response, police, medical or fire activities.

...."

SECTION 14.(h) G.S. 95-208 reads as rewritten:

"§ 95-208. Community information on hazardous chemicals.

(a) Any person in North Carolina may request in writing from the employer a list of chemicals used or stored at the facility. The request shall include the name and address of the person making the request and a statement of the purpose for the request. If the person is requesting the list on behalf of or for the use of an organization, partnership, or corporation, he shall also disclose the name and business address of such organization, partnership, or corporation. The request may include, at the option of the employer, a statement to the effect that the information will be used only for the purpose stated. The employer shall furnish to the person making the request a list containing, at a minimum, all chemicals included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an ~~MSDS-SDS~~ for each chemical for which an ~~MSDS-SDS~~ is available and is requested. Whenever an employer has withheld a chemical under the provisions of G.S. 95-197 from the information provided under G.S. 95-208, the employer must state that the information is being withheld and, upon request, must provide the ~~MSDS-SDS~~ for the chemical. Additional information may be furnished to the person making the request at the option of the employer. The employer shall provide, at a fee not to exceed the cost of reproducing the materials, the materials requested within 10 working days of the date the employer receives the written request for information.

(b) If the employer fails or refuses to provide the information required under subsection (a) of this section, the person requesting the information may request in writing that the Commissioner of Labor review the request. The Commissioner of Labor may conduct an investigation in the same manner as provided in G.S. 95-195(b). Following the investigation, the Commissioner shall make appropriate findings. Either the employer or the person making the initial request may request an administrative hearing pursuant to Chapter 150B of the General Statutes. This request for an administrative hearing shall be submitted to the Commissioner of Labor within 30 days following the Commissioner making his findings. The Commissioner of Labor shall within 30 days of receiving the request hold an administrative hearing to consider the request for information under subsection (a) of this section. This hearing shall be held as provided for in G.S. Chapter 150B, Article 3. If the Commissioner of Labor finds that the request complies with the requirements of subsection (a) of this section, the

Commissioner of Labor shall direct that the employer provide to the person making the request a list containing, at a minimum, all chemicals used or stored at the facility included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an ~~MSDS-SDS~~ for each chemical for which an ~~MSDS-SDS~~ is available and is requested and may in his discretion assess civil penalties as provided in G.S. 95-195(c); provided that it shall be a defense to such disclosure if the employer proves that the information has been requested directly or indirectly by, or in behalf of, a competitor of the employer, or that such information is a Hazardous Substance Trade Secret, or that the request did not comply with the requirements of subsection (a) of this section.

(c) Any order by the Commissioner of Labor under subsection (b) of this section shall be subject to judicial review as provided under G.S. Chapter 150B, Article 4."

SECTION 14.(i) G.S. 95-216 reads as rewritten:

"§ 95-216. Exemptions.

Notwithstanding any language to the contrary, the provisions of this Article shall not apply to chemicals in or on any of the following:

- (1) Hazardous substances while being transported in interstate commerce into or through this ~~State;~~State.
- (2) Products intended for personal consumption by employees in the ~~facilities;~~facilities.
- (3) Retail food sale establishments and all other retail trade establishments in ~~Standard Industrial Classification Codes 53 through 59, North American Industry Classification System Codes 44 through 45,~~ exclusive of processing and repair areas, except that the employer must comply with the provisions of ~~G.S. 95-194(a)(i);~~G.S. 95-194(a)(i).
- (4) Any food, food additive, color additive, drug or cosmetic as such terms are defined in the Federal Food, Drug and Cosmetic Act (~~21 U.S.C. 301 et seq.~~);(21 U.S.C. § 301, et seq.).
- (5) A laboratory under the direct supervision or guidance of a technically qualified individual provided that:
 - a. Labels on containers of incoming chemicals shall not be removed or defaced;
 - b. ~~MSDS's-SDSs~~ received by the laboratory shall be maintained and made accessible to employees and students;
 - c. The laboratory is not used primarily to produce hazardous chemicals in bulk for commercial purposes; and
 - d. The laboratory operator complies with the provisions of ~~G.S. 95-194(a)(i);~~G.S. 95-194(a)(i).
- (6) Any farming operation which employs 10 or fewer full-time employees, except that if any hazardous chemical in an amount in excess of 55 gallons or 500 pounds, whichever is greater, is normally stored at the farming operation, the employer must comply with the provisions of ~~G.S. 95-194(a)(i); and~~G.S. 95-194(a)(i).
- (7) Any distilled spirits, tobacco, and untreated wood ~~products; and~~products.
- (8) Medicines used directly in patient care in health care facilities and health care facility laboratories."

SECTION 14.(j) Subsection (c) of this section becomes effective January 1, 2018, and applies to violations occurring and offenses committed on or after that date. The remainder of this section becomes effective October 1, 2017.

DEPARTMENT OF LABOR/CAROLINA STAR PROGRAM

SECTION 15.(a) G.S. 95-127 is amended by adding a new subdivision to read:

"(2a) Carolina Star Program. – A voluntary program designed to recognize work sites that implement effective safety and health management systems and that meet standards adopted by the Commissioner pursuant to G.S. 95-157. The Carolina Star Program is inclusive of four distinct programs, which includes the following: Carolina Star, Rising Star, Building Star, and Public Sector Star."

SECTION 15.(b) Article 16 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-157. Carolina Star Program.

(a) The Commissioner may adopt rules for the operation of the Carolina Star Program in a manner that will promote safe and healthy workplaces throughout the State. The rules for the Carolina Star Program adopted by the Commissioner shall pertain to the following matters:

- (1) Upper management leadership and active and meaningful employee involvement.
- (2) Systematic assessment of occupational hazards.
- (3) Comprehensive hazard prevention, control, and mitigation programs.
- (4) Employee safety and health training.
- (5) Annual safety and health program evaluation.
- (6) Star Annual Report.
- (7) Attendance and active participation on Carolina Star Safety Conference Regional Teams and conference related activities.

(b) Applications for participation in the Carolina Star Program shall be submitted by the workplace's management. Applications shall include documentation establishing to the satisfaction of the Commissioner that the employer meets all standards for Carolina Star Program participation.

(c) The Department shall provide for on-site evaluations, as resources allow, by Carolina Star Program evaluation teams of each workplace that has applied to participate in the Carolina Star Program to determine if the applicant's workplace complies with the standards for Carolina Star Program participation.

(d) A workplace's continued participation in the Carolina Star Program shall be conditioned on meeting the requirements and expectations established by the Carolina Star Program Policies and Procedures Manual, Star Annual Report, and successful completion of periodic on-site evaluations conducted by the Carolina Star Program evaluation team.

(e) During periods in which a workplace is a participant in the Carolina Star Program, the workplace shall be exempt from inspections under G.S. 95-136; however, this exception shall not apply to inspections or investigations of the workplace arising from complaints, referrals, fatalities, catastrophes, nonfatal accidents, or significant toxic chemical releases."

SECTION 15.(c) A workplace that was a participant in the uncodified Carolina Star Program prior to October 1, 2017, may continue as a participant in the Carolina Star Program established pursuant to G.S. 95-157, as enacted by this section. On and after October 1, 2017, the continued participation by that workplace in the Carolina Star Program shall be conditioned upon the workplace's ability to meet the requirements and expectations established by all guidelines for participation in the Carolina Star Program adopted by the Commissioner under G.S. 95-157.

SECTION 15.(d) This section becomes effective October 1, 2017.

LANDFILL/LIFE-OF-SITE

SECTION 16.(a) Section 3.2(a) of S.L. 2017-10 is repealed.

SECTION 16.(b) Section 3.2(e) of S.L. 2017-10 reads as rewritten:

"SECTION 3.2.(e) Subsection (a) of this section applies to franchise agreements (i) executed on or after October 1, 2015, and (ii) ~~executed on or before October 1, 2015, only if all~~

~~parties to a valid and operative agreement consent to modify the agreement for the purpose of extending the agreement's duration of the life-of-site of the landfill for which the agreement was executed, and public notice and hearing is provided for such modification in compliance with the requirements of G.S. 130A-294(b1)(3)-2015."~~

SECTION 16.(c) G.S. 130A-294 reads as rewritten:

"§ 130A-294. Solid waste management program.

...
(a2) Permits for sanitary landfills and transfer stations shall be issued for the life-of-site of the facility unless ~~revoked as otherwise provided under this Article or upon the expiration of any local government franchise required for the facility pursuant to subsection (b1) of this section.~~ revoked. For purposes of this section, "life-of-site" means the period from the initial receipt of solid waste at the facility until ~~the Department approves final closure of the facility.~~ the facility reaches its final permitted elevations, which period shall not exceed 60 years. Permits issued pursuant to this subsection shall take into account the duration of any permits previously issued for the facility and the remaining capacity at the facility.

(a3) In order to preserve long-term disposal capacity, a life-of-site permit issued for a sanitary landfill shall survive the expiration of a local government approval or franchise. In order to preserve any economic benefits included in the franchise, the County may extend the franchise under the same terms and conditions for the term of the life-of-site permit. The extension of the franchise hereby shall not trigger the requirements for a new permit, a major permit modification, or a substantial amendment to the permit.

...
(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:

...
(2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall (i) be granted for the life-of-site of the landfill, but for a period not to exceed 60 years, and (ii) include all of the following:

- a. A statement of the population to be served, including a description of the geographic area.
- b. A description of the volume and characteristics of the waste stream.
- c. A projection of the useful life of the sanitary landfill.
- d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
- e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.
- f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities,

and all other facilities and infrastructure, including ingress and egress to the facility.

- (3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public. The requirements of this subdivision shall not apply to franchises extended pursuant to subsection (a3) of this section.

...."

CLARIFY DEFINITION OF COMMERCIAL REAL ESTATE/BROKER LIEN

SECTION 17. G.S. 44A-24.2(3) reads as rewritten:

- "(3) Commercial real estate. – Any real property or interest therein, whether freehold or nonfreehold, which at the time the property or interest is made the subject of an agreement for broker services:
- a. Is lawfully used primarily for sales, office, research, institutional, agricultural, forestry, warehouse, manufacturing, industrial, or mining purposes or for multifamily residential purposes involving five or more dwelling units;
 - b. May lawfully be used for any of the purposes listed in sub-subdivision (3)a. of this section by a zoning ordinance adopted pursuant to the provisions of Article 18 of Chapter 153A or Article 19 of Chapter 160A of the General Statutes or which is the subject of an official application or petition to amend the applicable zoning ordinance to permit any of the uses listed in sub-subdivision (3)a. of this section which is under consideration by the government agency with authority to approve the amendment; or
 - c. Is in good faith intended to be immediately used for any of the purposes listed in sub-subdivision (3)a. of this section by the parties to any contract, lease, option, or offer to make any contract, lease, or option."

PRESSURE VESSEL EXCLUSION

SECTION 18. G.S. 95-69.10(b)(8) reads as rewritten:

- "(8) Any of the following pressure vessels that do not exceed the listed limitations if the vessel is not equipped with a quick actuating closure:
- a. Five cubic feet in volume and 250 psig.
 - b. Three cubic feet in volume and 350 psig.
 - c. One and one-half cubic feet in volume and 600 psig.
 - d. An inside diameter of six inches with no limitation on pressure.

- e. Five cubic feet in volume when the pressure vessel is constructed and operated on the same real property zoned industrial and where its operation is undertaken using commercially acceptable safety precautions for the application."

WASTEWATER SYSTEM PERMIT EXTENSION

SECTION 19. G.S. 130A-336 is amended by adding a new subsection to read:

"(b1) An improvement permit or authorization for wastewater system construction issued by a local health department from January 1, 2000, to January 1, 2015, which has not been acted on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty, unless there are changes in the hydraulic flows or wastewater characteristics from the original local health department evaluation. Permits are transferrable with ownership of the property. Permits shall retain the site, soil evaluations, and construction conditions of the original permit."

STUDY CREATION OF A PROCESS FOR THE MEDIATION AND ARBITRATION OF DISPUTES BETWEEN OWNERS OF PROPERTY LOCATED IN A HOMEOWNERS OR PROPERTY OWNERS ASSOCIATION AND THE GOVERNING ENTITIES OF SUCH HOMEOWNERS OR PROPERTY OWNERS ASSOCIATIONS

SECTION 20. The Legislative Research Commission shall study the creation of a process for the mediation and arbitration of disputes between the owners of property located in a homeowners or property owners association and the governing entities of such homeowners or property owners associations. The Legislative Research Commission shall report its findings and recommendations to the 2018 Regular Session of the 2017 General Assembly when it convenes.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 21.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 21.(b) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of August, 2017.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 10:11 p.m. this 5th day of October, 2017.

s/ James White
House Principal Clerk