

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

S

1

SENATE BILL 605

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

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

Referred to: Rules and Operations of the Senate

April 7, 2021

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

4 The General Assembly of North Carolina enacts:

5  
6 **VOLUNTARY AGRICULTURAL DISTRICT TECHNICAL CHANGES**

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

8 "Article 61.

9 "Agricultural Development and Preservation of Farmland.

10 ...

11 "Part 2. Voluntary Agricultural Districts.

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

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

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19 (2) Repealed by Session Laws 2005-390, s. 11 effective September 13, 2005.  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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

14 ...

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

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

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

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

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

31 ...

32 **"§ 106-743. Local ordinances.**

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

39 "Part 3. Enhanced Voluntary Agricultural Districts.

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

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

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

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

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

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

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

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

17 (d) A county or city ordinance adopted pursuant to this Part may be adopted  
 18 simultaneously with the creation of a voluntary agricultural district pursuant to G.S. 106-738.  
 19 ...."

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

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

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

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

26 ...  
 27 (2) In misdemeanor or infraction cases involving alcohol offenses under Chapter  
 28 18B of the General Statutes, traffic offenses, hunting, fishing, State park and  
 29 recreation area rule offenses under Chapters 113 and 143B of the General  
 30 Statutes, State forest rule offenses under Articles 74 and 75 of Chapter 106 of  
 31 the General Statutes, boating offenses under Chapter 75A of the General  
 32 Statutes, open burning offenses under Article 78 of Chapter 106 of the General  
 33 Statutes, and littering offenses under G.S. 14-399(c) and G.S. 14-399(c1), to  
 34 accept written appearances, waivers of trial or hearing and pleas of guilty or  
 35 admissions of responsibility, in accordance with the schedule of offenses and  
 36 fines or penalties promulgated by the Conference of Chief District Judges  
 37 pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the  
 38 fines or penalties and costs;

39 ...."

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

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

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

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

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

#### 3 4 **FOREST SERVICE OVERTIME MODIFICATION**

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

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

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

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

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

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

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

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

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

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

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

- 1           a.     The person remitted payment in full within the time period set in  
2                 subdivision (2) of subsection (a) of this section to a person he or she  
3                 believed in good faith to be the rightful owner of the timber.  
4           b.     The person remitted payment in full to the owner of the timber within  
5                 the 10-day period set forth in subsection (c) of this section.

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

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

- 17           (1)    Three times the value of the timber cut down, injured, or removed in violation  
18                 of subdivision (1) of subsection (a) of this section.  
19           (2)    Three times the value of the timber bought but not paid for in violation of  
20                 subdivision (2) of subsection (a) of this section.

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

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

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

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

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

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

38         ...."

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

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

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

46         ...."

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

50

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

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

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

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

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

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

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

18 (3) The amount of wood product severed.

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

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

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

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

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

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

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

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

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

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

35 The forest laws consist of:

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

37 ...."

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

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

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

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

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

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

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

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

19 **"§ 106-277.12. Records.**

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

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

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

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

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



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

## 8 **TOBACCO TRUST FUND COMMISSION ADMIN EXPENSES**

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

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

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

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

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

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

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

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

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

14 ...."

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

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

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

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

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

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

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

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

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

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

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

4 **"§ 143-213. Definitions.**

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

7 ...

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

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

14 ...

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

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

29 ...

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

34 ...."

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

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

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

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

5 ...."

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

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

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

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

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

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

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

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

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

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

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

10          ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 ...

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

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

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

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

1 ...."

2 **SECTION 11.(k)** Subsection (h) of this section becomes effective on the date that  
3 the general permit required to be issued by the Environmental Management Commission under  
4 subsection (d) of this section becomes effective. The remainder of this section is effective when  
5 it becomes law.

6  
7 **CLARIFY THE DURATION OF DRIVERS LICENSES FOR H-2A WORKERS**

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

9 "(3) Duration of license for certain other drivers. – The durations listed in  
10 subdivisions (1), (2) and (2a) of this subsection are valid unless the Division  
11 determines that a license of shorter duration should be issued when the  
12 applicant holds valid documentation issued by, or under the authority of, the  
13 United States government that demonstrates the applicant's legal presence of  
14 limited duration in the United States. In no event shall a license of limited  
15 duration expire later than the expiration of the authorization for the applicant's  
16 legal presence in the United States. A drivers license issued to an H-2A worker  
17 expires three years after the date of issuance of the H-2A worker's visa;  
18 provided, if at any time during that three-year period an H-2A worker's visa  
19 duration is not extended by United States Citizenship and Immigration  
20 Services, the license expires on the date the H-2A worker's visa expires. For  
21 purposes of this subdivision, the term "H-2A worker" means a foreign worker  
22 who holds a valid H-2A visa pursuant to the Immigration and Nationality Act  
23 (8 U.S.C. § 1101(a)(15)(H)(ii)(a)) and who is legally residing in this State."

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

25  
26 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

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

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