

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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SENATE BILL 582

Agriculture, Energy, and Environment Committee Substitute Adopted 4/19/23

Short Title: North Carolina Farm Act of 2023.

(Public)

Sponsors:

Referred to:

April 5, 2023

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL AND
WASTEWATER LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

**INCLUDE INCOME FROM THE SALE OF HONEY IN GROSS INCOME FOR
PURPOSES OF PRESENT USE VALUE TAXATION**

SECTION 1.(a) G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, the sale of bees or products derived from ~~beehives other than honey~~, beehives, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004."

SECTION 1.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2023.

**CLARIFY THAT TURKEY BROODER LITTER RECYCLING IS INCLUDED IN THE
DEFINITION OF AGRICULTURE**

SECTION 1.1. G.S. 106-581.1 reads as rewritten:

"§ 106-581.1. Agriculture defined.



For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

...

(8) A facility that receives used turkey brooder litter from brooder farms and recycles the used litter by means of a drying process to reduce the moisture content of the litter sufficient to return the recycled litter to the brooder farm for use with a new flock of turkey brooders."

CORRECT REFERENCES TO NORTH CAROLINA TOBACCO FOUNDATION, INC.

SECTION 1.2.(a) G.S. 106-568.3 reads as rewritten:

"§ 106-568.3. Action of Board of Agriculture on petition for referendum; creation of the Tobacco Research Commission.

(a) The State Board of Agriculture, upon a petition being filed with it so requesting and signed by the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall examine such petition and upon finding that it complies with the provisions of this Article shall authorize the holding of a referendum as hereinafter set out and the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall thereupon be fully authorized and empowered to hold and conduct on the part of the producers and growers of the commodities herein mentioned a referendum on the question of whether or not such growers and producers shall levy upon themselves an assessment under and subject to and for the purposes stated in this Article. Provided, that the petition for a tobacco referendum shall be signed by and, once approved, shall authorize the holding of a referendum by the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated.

(b) There is hereby created a North Carolina Tobacco Research Commission within the Department of Agriculture and Consumer Services. The Commission shall consist of the Commissioner of Agriculture, or ~~his~~ the Commissioner's designee; the President of the North Carolina Farm Bureau Federation, Inc., or ~~his~~ the President's designee; the President of the Tobacco Growers Association of North Carolina, Incorporated, or ~~his~~ the President's designee; the ~~Master President~~ of the North Carolina State Grange, or ~~his~~ the President's designee; and, the President of the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., or his designee."

SECTION 1.2.(b) G.S. 106-568.4 reads as rewritten:

"§ 106-568.4. By whom referendum to be managed; announcement.

The governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall arrange for and manage any referendum conducted under the provisions of this Article but shall, 60 days before the date upon which it is to be held, fix, determine, and publicly announce in each county the date, hours, and polling places in that county for voting in such referendum, the amount and basis proposed to be collected, the means by which such assessment shall be collected as authorized by the growers and producers, and the general purposes for which said funds so collected shall be applied. Provided, that the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated, shall arrange for and manage any referendum for tobacco poundage assessments under the provisions of this Article."

SECTION 1.2.(c) G.S. 106-568.7 reads as rewritten:

"§ 106-568.7. Preparation and distribution of ballots; poll holders; canvass and announcement of results.

The governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall prepare and distribute

in advance of such referendum all necessary ballots and shall under rules and regulations, adopted and promulgated by the organizations holding such referendum, arrange for the necessary poll holders and shall, within 10 days after the date of such referendum, canvass and publicly declare the results thereof. Provided, that for the tobacco poundage assessment referendum, the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina Tobacco Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated, shall perform the functions set forth in this section."

SECTION 1.2.(d) G.S. 106-568.8 reads as rewritten:

"§ 106-568.8. Collection and disposition of assessment; report of receipts and disbursements; audit.

...

(b) Tobacco Poundage Assessments. In the event two-thirds or more of the eligible farmers and producers participating in the tobacco referendum vote in favor of the tobacco poundage assessment authorized under this Article, then said assessment shall be collected for a period of six years under rules, regulations, and methods adopted by the North Carolina Tobacco Research Commission. The North Carolina Tobacco Research Commission is exempt from the provisions of Chapter 150B of the General Statutes.

The assessments collected shall be remitted to the Department of Agriculture and Consumer Services to be expended under the direction of the Tobacco Research Commission for research and dissemination of research facts concerning tobacco. Any person that receives assessment funds from the Tobacco Research Commission shall file quarterly written reports with the Tobacco Research Commission on the receipt and expenditure of assessment funds. The Tobacco Research Commission may transfer assessments to the North Carolina Tobacco Agricultural Foundation, Inc., to be held and invested by the Tobacco Agricultural Foundation until such time as the Commission shall direct their expenditure for the purposes set forth in this section."

SECTION 1.2.(e) G.S. 106-568.10 reads as rewritten:

"§ 106-568.10. Subsequent referenda; continuation of assessment.

If the assessment is defeated in the referendum, the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall have full power and authority to call another referendum for the purposes herein set out in the next succeeding year on the question of the annual assessment for six years. In the event the assessment carried in a referendum by two-thirds or more of the eligible farmers participating therein, such assessment shall be levied annually for the six years set forth in the call for such referendum and a new referendum may be called and conducted during the sixth year of such period on the question of whether or not such assessment shall be continued for the next ensuing six years. Provided, that if the tobacco poundage assessment is defeated in the referendum, the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina Tobacco Agricultural Foundation, Inc., and Tobacco Growers Association of North Carolina, Incorporated, may call another referendum in the next succeeding year on the question of the annual assessment for six years. If the tobacco assessment carried in a referendum by two-thirds or more of the eligible farmers participating therein, the assessment shall be levied annually for the six years set forth in the call for the referendum and a new referendum may be called and conducted during the sixth year of the period on the question of whether or not the assessment shall be continued for the next ensuing six years."

ADD EQUINE INDUSTRY MEMBER TO THE BOARD OF AGRICULTURE

SECTION 1.3. G.S. 106-2 reads as rewritten:

"§ 106-2. Department of Agriculture and Consumer Services established; Board of Agriculture, membership, terms of office, etc.

...

(b) Membership; Qualifications. – The Board of Agriculture shall consist of the Commissioner of Agriculture, who shall be an ex officio member and chairman thereof and shall preside at all meetings, and of 11 other members from the State, so distributed as to reasonably represent the different sections and agriculture of the State. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practicing farmers engaged in their profession. The members of the Board shall be appointed by the Governor by and with the consent of the Senate. In the appointment of the members of the Board the Governor shall also take into consideration the different agricultural interests of the State, and shall appoint members with the following qualifications:

- (1) One member who shall be a practicing tobacco farmer to represent the tobacco farming interest.
- (2) One member who shall be a practicing cotton grower to represent the cotton interest.
- (3) One member who shall be a practicing fruit or vegetable farmer to represent the fruit and vegetable farming interest.
- (4) One member who shall be a practicing dairy farmer to represent the dairy and cattle interest of the State.
- (5) One member who shall be a practicing poultryman to represent the poultry interest of the State.
- (6) One member who shall be a practicing peanut grower to represent the peanut interests of the State.
- (7) One member who shall be experienced in marketing to represent the marketing of products of the State.
- (8) One member who shall be actively involved in forestry to represent the forestry interests of the State.
- (9) One member who shall be actively involved in the nursery business to represent the nursery industry of the State.
- (10) One member who shall be a practicing general farmer to represent the general farming interest.
- (11) One member who shall be a practicing pork farmer to represent the swine interest of the State.
- (12) One member who shall be actively involved in the equine industry to represent the equine industry of the State.

(c) Terms. – The term of office of members of the Board shall be six years and until their successors are duly appointed and qualified.

(d) Vacancies. – Vacancies in the Board shall be filled by the Governor for the unexpired term."

EXEMPT COMPOST FROM SALES TAX FOR QUALIFYING FARMERS

SECTION 1.4. G.S. 105-164.13E(a) reads as rewritten:

"§ 105-164.13E. Exemption for farmers.

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ten thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, and a livestock farmer, a farmer of crops, a farmer of an aquatic species, as defined in G.S. 106-758, and a person who boards horses. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires

when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming operations, whichever comes first.

Except as otherwise provided in this section, the items exempt under this section must be purchased by a qualifying farmer or conditional farmer and used by the qualifying or conditional farmer primarily in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops, in the production of dairy products, eggs, or animals, or by a person who boards horses. The items that may be exempt from sales and use tax under this section are:

- (1) Fuel, piped natural gas, and electricity that are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
- (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, compost, and seeds.
-"

AGRITOURISM ADVERTISING

SECTION 2. G.S. 136-32 reads as rewritten:

"§ 136-32. Regulation of signs.

(a) Commercial Signs. – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political advertising, except as provided in subsections (b) through (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in ~~subsection (b)~~ subsections (b) and (b1) of this section.

(b) Compliant Political Signs Permitted. – During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection. Any political sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

(b1) Compliant Farm Signs Permitted. – During a farm's seasonal operation, persons may place farm signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the farm's season. Any farm sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of the farm sign without penalty.

(c) ~~Definition.~~ Definitions. – For purposes of this section, "~~political sign~~" ~~means any the following definitions apply:~~

- (1) Farm. – Any property that is used for a bona fide farm purpose as provided in G.S. 106-581.1.

(2) Farm sign. – A sign that advertises a farm, products grown, raised, or produced on a farm, or services provided on a farm; or that provides customers with directions to a farm.

(3) Political sign. – Any sign that advocates for political action. The term does not include a commercial sign.

(d) Sign Placement. – The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

(1) No sign shall be permitted in the right-of-way of a fully controlled access highway.

(2) No sign shall be closer than three feet from the edge of the pavement of the road.

(3) No sign shall obscure motorist visibility at an intersection.

(4) No sign shall be higher than 42 inches above the edge of the pavement of the road.

(5) No sign shall be larger than 864 square inches.

(6) No sign shall obscure or replace another sign.

(e) Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this section.

(f) Application Within Municipalities. – Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. Any such ordinance shall provide that any political sign that remains in a right-of-way of streets located within the corporate limits of a municipality and maintained by the municipality more than 30 days after the end of the period prescribed in the ordinance is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty. In the absence of an ordinance prohibiting or regulating the placement of political signs on the rights-of-way of streets located within a municipality and maintained by the municipality, the provisions of subsections (b) through (e) of this section shall apply."

AMEND REQUIREMENTS ON AGRITOURISM WARNING SIGNS

SECTION 2.1.(a) G.S. 99E-3 reads as rewritten:

"§ 99E-3. Warning required.

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

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

"WARNING

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

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

SECTION 2.1.(b) G.S. 99E-8 reads as rewritten:

"§ 99E-8. Warning required.

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

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

"WARNING

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

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

"WARNING

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

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

SECTION 2.1.(c) G.S. 99E-32 reads as rewritten:

"§ 99E-32. Warning required.

(a) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (b) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of three quarters of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (b) of this section.

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

"WARNING

Under North Carolina law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this subsection will prevent an agritourism professional from invoking the privileges of immunity provided by this Article."

SECTION 2.1.(d) This section is effective when it becomes law and applies to actions arising from events occurring on or after that date.

CLARIFY DEFINITION OF PROPERTY-HAULING VEHICLES

SECTION 3. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(31) Property-Hauling Vehicles. –

...

g. A fifth-wheel trailer, recreational vehicle, semitrailer, or trailer used exclusively or primarily to transport vehicles in connection with motorsports competition events is not a property-hauling vehicle.

...."

AMEND VETERINARY MEDICAL BOARD INSPECTION PROCESS

SECTION 4.(a) Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-187.17. Inspection process.

At least one week prior to conducting any inspection pursuant to G.S. 90-185(3) or G.S. 90-186(2), the Board shall provide written notice of the upcoming inspection to the veterinarian. The written notice may be provided via an electronic communication. The veterinarian may contact the Board to reschedule the inspection, but the inspection shall be rescheduled no later than one week after the originally scheduled date of the inspection. Along with the written notice of inspection, the Board shall provide the veterinarian with a checklist of all standards adopted by rule for which the inspector may issue a violation and, with as much specificity as possible, conditions that violate the standards."

SECTION 4.(b) This section becomes effective October 1, 2023.

CREATE CLASS 3 MISDEMEANOR FOR LEAVING THE SCENE OF AN ANIMAL WASTE SPILL

SECTION 4.1.(a) G.S. 14-399(i)(4) reads as rewritten:

"(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, animal waste as defined in G.S. 143-215.10B, dead animal, animal or animal parts, animal by-products, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental

operations. While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina."

SECTION 4.1.(b) Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-399.3. Duty to stop in event of certain spills from vehicles.

The driver of any vehicle who knows or reasonably should know that animal waste, as defined in G.S. 143-215.10B, dead animals or animal parts, or animal by-products have been blown, scattered, spilled, thrown, or placed from the vehicle shall immediately stop his or her vehicle at the scene of the incident. The driver shall remain with the vehicle at the scene of the incident until a law enforcement officer completes the investigation of the incident or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the incident by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer; to call for assistance in removing the materials that were blown, scattered, thrown, spilled, or placed from the vehicle; or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this section, then the driver must return with the vehicle to the scene of the incident within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this section shall be punished as a Class 3 misdemeanor, and the court may order restitution for the cost of removing the materials that were blown, scattered, thrown, spilled, or placed from the vehicle."

SECTION 4.1.(c) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

ENCOURAGE PUBLIC SCHOOLS TO MAKE ONE HUNDRED PERCENT MUSCADINE GRAPE JUICE AVAILABLE TO STUDENTS

SECTION 5.(a) G.S. 115C-12 is amended by adding a new subdivision to read:

"(49) Goal To Make Available Muscadine Grape Juice In Certain Schools. – The State Board of Education shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students in every school operated under Article 9C of this Chapter as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(b) Part 2 of Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-264.5. Muscadine grape juice.

Local boards of education shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students in every school in the local school administrative unit as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(c) G.S. 115C-218.75 is amended by adding a new subsection to read:

"(k) Muscadine Grape Juice. – A charter school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(19) Muscadine grape juice. – A regional school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students

as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(e) G.S. 116-239.8(b)(4)c. reads as rewritten:

"c. Food services. – The laboratory school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities. Upon request, the local school administrative unit in which the laboratory school is located shall administer the National School Lunch Program for the laboratory school in accordance with G.S. 115C-264."

SECTION 5.(f) G.S. 115D-20 reads as rewritten:

"§ 115D-20. Powers and duties of trustees.

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

...

(15) To strive to make available one hundred percent (100%) muscadine grape juice as a beverage option in the operation of the community college's vending facilities."

SECTION 5.(g) Part 5 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-43.25. Availability of muscadine grape juice on campuses.

Each constituent institution shall strive to make one hundred percent (100%) muscadine grape juice available as a beverage option in the operation of the institution's vending facilities."

SECTION 5.(h) This section is effective when it becomes law. Subsections (a), (b), (c), (d), and (e) of this section apply beginning with the 2023-2024 school year. Subsections (f) and (g) of this section apply beginning with the 2023-2024 academic year.

ESTABLISH EQUINE STATE TRAIL

SECTION 6.(a) The General Assembly makes the following findings:

- (1) The equine industry provides a three billion four hundred forty million dollar (\$3,440,000,000) overall economic impact to the State of North Carolina, and horses are a rich part of our State's historical and cultural heritage.
- (2) The inclusion of an Equine State Trail as a State trail in the State Parks System would be beneficial to the people of North Carolina and further the development of North Carolina as the "Great Trails State."

SECTION 6.(b) The General Assembly authorizes the Department of Natural and Cultural Resources to add the Equine State Trail in Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, and Richmond Counties to the State Parks System as a State trail, as provided in G.S. 143B-135.54(b).

SECTION 6.(c) The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Equine State Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 6.(d) The requirement of G.S. 143B-135.54(b) that additions be accompanied by adequate appropriations for land acquisition, development, and operations shall not apply to the authorization set forth in this act; provided, however, that the State may receive donations of appropriate land and may purchase other needed lands for the Equine State Trail with existing funds in the Land and Water Fund, the Parks and Recreation Trust Fund, the

Complete the Trails Fund, the federal Land and Water Conservation Fund, and other available sources of funding.

RENAME THE OFFICIAL STATE FRUIT TO THE MUSCADINE GRAPE

SECTION 7.(a) The General Assembly makes the following findings:

- (1) North Carolina is the home of our nation's first cultivated grape, the variety of native Muscadine grape known as Scuppernong.
- (2) French explorers in 1524 first discovered Muscadine grapes while exploring the Cape Fear River Valley, and later British explorers in 1584 and 1585 reported to Queen Elizabeth and Sir Walter Raleigh that the barrier islands were full of grapes and the soil of the land was "so abounding with sweet trees that bring rich and most pleasant gummies, grapes of such greatness, yet wild as France, Spain and Italy hath not greater..."
- (3) The thick skins, fruit seed, and sweet pulp and juice that characterize Muscadine grapes make the native fruit a state treasure.
- (4) In recent times, researchers have discovered that Muscadine grapes are rich in antioxidants and phytochemicals, including resveratrol, among many others.

SECTION 7.(b) G.S. 145-18(a) reads as rewritten:

"(a) The official fruit of the State of North Carolina is the ~~Scuppernong~~ Muscadine grape (Vitis genus)."

DESIGNATE THE LONGLEAF PINE AS THE EMBLEM REPRESENTING THE TREES OF NORTH CAROLINA

SECTION 8. G.S. 145-3 reads as rewritten:

"§ 145-3. State tree.

The pine is hereby adopted as the official State tree of the State of North ~~Carolina~~ Carolina, and the longleaf pine (Pinus palustris) is designated as the emblem representing the trees of North Carolina."

PREScribed BURNING ACT AMENDMENTS

SECTION 9.(a) G.S. 106-966 reads as rewritten:

"§ 106-966. Definitions.

As used in this Article:

- (1) "Certified prescribed burner" means an individual who has successfully completed a certification program approved by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
- (2) "Prescribed burning" means the planned and controlled application of fire to ~~naturally occurring~~ vegetative fuels under ~~safe~~ specified weather and ~~safe~~ environmental and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.
- (3) "Prescription" means a written plan establishing the conditions and methods for conducting a prescribed burn prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning."

SECTION 9.(b) G.S. 106-967 reads as rewritten:

"§ 106-967. Immunity from liability.

(a) Any prescribed burning conducted in compliance with G.S. 106-968 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury

caused by fire, including reignition of a smoldering, previously contained burn, or resulting from smoke.

(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from ~~a negligently or improperly conducted prescribed burning-gross negligence.~~

(d) Notwithstanding subsections (a), (b) and (c), this section shall not apply to claims by public utilities resulting from damage to their equipment or facilities, where a prescribed burn proximately causes such damage.

(e) For purposes of this section, the term "public utility" means an electric power supplier, as defined in 62-133.8(a)(3), a gas operator, as defined in 62-50(g), or a business providing telecommunications service taxed under G.S. 105-164.4(a)(4c)."

SECTION 9.(c) G.S. 106-968 reads as rewritten:

"§ 106-968. ~~Prescribed-Certified prescribed burning.~~

(a) Prior to conducting a prescribed burning, a certified prescribed burner shall prepare and provide to the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed burning. The certified prescribed burner shall also file the prescription with the North Carolina Forest Service of the Department of Agriculture and Consumer Services. A copy of the prescription shall be provided to the landowner. A Both the landowner and the certified prescribed burner on site shall retain a copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

- (1) The landowner's name and address.
- (2) A description of the area to be burned.
- (3) A map of the area to be burned.
- (4) An estimate of tons of the fuel located on the area.
- (5) The objectives of the prescribed burning.
- (6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
- (7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
- (8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed ~~burning-burning~~, including firebreaks and sufficient personnel and firefighting equipment to contain the fire within the burn area.
 - a. Fire spreading outside the authorized burn area on the day of the prescribed burn ignition shall not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment.
 - b. If the prescribed burn is contained within the authorized burn area during the authorized period, there shall be a rebuttable presumption that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.
 - c. Continued smoldering of a prescribed burn resulting in a subsequent wildfire does not in itself constitute evidence of gross negligence under G.S. 106-967.
- (9) Provision for reasonable notice of the prescribed burning to be provided to ~~nearby~~ homes and businesses located adjacent to the burn site to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed

burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning and be in compliance with this Article without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

- (1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.
- (2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.
- (3) Any applicable local ordinances relating to open burning.
- (4) The smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
- (5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.

(d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article."

PROHIBIT USE OF AN UNMANNED AIRCRAFT SYSTEM NEAR A FOREST FIRE

SECTION 10.(a) Article 16B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

(a) Prohibition. – No person, entity, or State agency shall use an unmanned aircraft system within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet from any forest fire within the jurisdiction of the North Carolina Forest Service. For purposes of this section, the horizontal distance shall extend outward from the furthest exterior perimeter of the forest fire or forest fire control lines.

(b) Exceptions. – Unless the use of the unmanned aircraft system is otherwise prohibited under State or federal law, the prohibitions in subsection (a) of this section do not apply to any of the following:

- (1) A person operating an unmanned aircraft system with the written consent of the official in responsible charge of management of the forest fire.
- (2) A law enforcement officer using an unmanned aircraft system in accordance with G.S. 15A-300.1(c).
- (3) A North Carolina Forest Service employee or a person acting under the direction of a North Carolina Forest Service employee.

(c) Penalties. – The following penalties apply for violations of this section:

- (1) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of the death of another person is guilty of a Class D felony and shall also be fined not less than one thousand dollars (\$1,000).
- (2) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of serious bodily injury to another person is guilty of a Class E felony and shall also be fined not less than one thousand dollars (\$1,000).

(3) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of serious physical or mental injury to another person is guilty of a Class F felony and shall also be fined not less than one thousand dollars (\$1,000).

(4) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use interferes with emergency operations and such interference proximately causes damage to any real or personal property or any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands, springs, or any other matter or thing growing or being on the land is guilty of a Class G felony and shall also be fined not less than one thousand dollars (\$1,000).

(5) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use interferes with emergency operations is guilty of a Class H felony and shall be fined not less than one thousand dollars (\$1,000).

(6) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of physical or mental injury to another person is guilty of a Class I felony and shall also be fined not less than one thousand dollars (\$1,000).

(7) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is not covered under another provision of law providing greater punishment is guilty of a Class A1 misdemeanor and shall be fined not less than one thousand dollars (\$1,000).

(d) Seizure, Forfeiture, and Disposition of Seized Property. – A law enforcement agency may seize an unmanned aircraft system and any attached property used in violation of this section. An unmanned aircraft system used in violation of this section and seized by a law enforcement agency is subject to forfeiture and disposition pursuant to G.S. 18B-504. An innocent owner or holder of a security interest applying to the court for release of the unmanned aircraft system, in accordance with G.S. 18B-504(h), shall also provide proof of ownership or security interest and written certification that the unmanned aircraft system will not be returned to the person who was charged with the violation of subsection (a) of this section.

(e) Definitions. – For purposes of this section, the following definitions apply:

(1) Physical or mental injury. – Cuts, scrapes, bruises, or other physical or mental injury that does not constitute serious bodily injury or serious physical or mental injury.

(2) Serious bodily injury. – Bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(3) Serious physical or mental injury. – Physical or mental injury that causes great pain and suffering."

SECTION 10.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

AMEND TIMBER LARCENY STATUTE

SECTION 11.(a) G.S. 14-135 reads as rewritten:

"§ 14-135. Larceny of timber.

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

- 1 (1) Knowingly and willfully cuts down, injures, or removes any timber owned by
2 another person, without the consent of the owner of the land or the owner of
3 the timber, or without a lawful easement running with the land.
- 4 (2) Buys timber directly from the owner of the timber and fails to make payment
5 in full to the owner by (i) the date specified in the written timber sales
6 agreement or (ii) if there is no such agreement, 60 days from the date that the
7 buyer removes the timber from the property.
- 8 (3) Knowingly and willfully aids, hires, or counsels an individual to cut down,
9 injure, or remove any timber owned by another person without the consent of
10 the owner of the land or the owner of the timber, or without a lawful easement
11 running with the land.
- 12 (4) Knowingly and willfully transports forest products that have been cut down,
13 removed, obtained, or acquired from the property of a landowner without the
14 consent of the owner of the land or the owner of the timber, or without a lawful
15 easement running with the land.
- 16 (b) Exceptions. – The following are exceptions to the offense set forth in subsection (a)
17 of this section:
- 18 (1) A person is not guilty of an offense under subdivision (1) of subsection (a) of
19 this section if the person is an employee or agent of an electric power supplier,
20 as defined in G.S. 62-133.8, and either of the following conditions is met:
- 21 a. The person believed in good faith that consent of the owner had been
22 obtained prior to cutting down, injuring, or removing the timber.
- 23 b. The person believed in good faith that the cutting down, injuring, or
24 removing of the timber was permitted by a utility easement or was
25 necessary to remove a tree hazard. For purposes of this
26 ~~sub-subdivision, subsection,~~ the term "tree hazard" includes a dead or
27 dying tree, dead parts of a living tree, or an unstable living tree that is
28 within striking distance of an electric transmission line, electric
29 distribution line, or electric equipment and constitutes a hazard to the
30 line or equipment in the event of a tree failure.
- 31 (2) A person is not guilty of an offense under subdivision (2) of subsection (a) of
32 this section if either of the following conditions is met:
- 33 a. The person remitted payment in full within the time period set in
34 subdivision (2) of subsection (a) of this section to a person he or she
35 believed in good faith to be the rightful owner of the timber.
- 36 b. The person remitted payment in full to the owner of the timber within
37 the 10-day period set forth in subsection (c) of this section.
- 38 (3) A person is not guilty of an offense under subdivision (3) of subsection (a) of
39 this section if the person is an electric power supplier, as defined in
40 G.S. 62-133.8, and either of the following conditions is met:
- 41 a. The person believed in good faith that consent of the owner had been
42 obtained prior to aiding, hiring, or counseling the individual to cut
43 down, injure, or remove the timber.
- 44 b. The person believed in good faith that the cutting down, injuring, or
45 removing of the timber was permitted by a utility easement or was
46 necessary to remove a tree hazard.
- 47 (c) Prima Facie Evidence. – An owner of timber who does not receive payment in full
48 within the time period set in subdivision (2) of subsection (a) of this section may notify the timber
49 buyer in writing of the owner's demand for payment at the timber buyer's last known address by
50 certified mail or by personal delivery. The timber buyer's failure to make payment in full within
51 10 days after the mailing or personal delivery authorized under this subsection shall constitute

prima facie evidence of the timber buyer's intent to commit an offense under subdivision (2) of subsection (a) of this section.

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

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

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

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

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

(f) For purposes of this section, "person" means any individual, association, consortium, corporation, partnership, unit of State or local government, or other group, entity, or organization.

SECTION 11.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

ESTABLISH FORESTRY SERVICES AND ADVICE FUND

SECTION 12. G.S. 106-1003 reads as rewritten:

"§ 106-1003. ~~Deposit of receipts with State treasury.~~Forestry Services and Advice Fund.

(a) The Forestry Services and Advice Fund is established as a special fund within the Department of Agriculture and Consumer Services, North Carolina Forest Service. All moneys paid to the Commissioner for services rendered under the provisions of this Article shall be deposited into the State treasury to the credit of the Department Fund. The Fund may also consist of any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund.

(b) The Department shall use the Fund to develop, improve, repair, maintain, operate, and otherwise invest in providing forestry services and advice to owners and operators of forestland as authorized by this Article."

SEDIMENTATION BUFFER AROUND TROUT WATERS

SECTION 13.(a) G.S. 113A-52.01 reads as rewritten:

"§ 113A-52.01. Applicability of this Article.

(a) This Article shall not apply to the following land-disturbing ~~activities:~~activities except as provided in subsection (b) of this section:

(1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

- f. Fur producing animals.
- g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

...

(b) Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed, vegetated buffer zone 25 feet wide where activities included under subdivision (a)(1) of this section are prohibited. The Commission, however, may approve plans that include land-disturbing activity within the 25-foot buffer when the duration of the disturbance would be temporary and the extent of the disturbance would be minimal in the discretion of the Commission. The Commission may take any action reasonably necessary to enforce this requirement."

SECTION 13.(b) This section becomes effective January 1, 2024, and applies to tracts or portions of tracts on which activities set forth under G.S. 113A-52.01(a)(1), as amended by this section, are initiated on or after that date.

DIGESTER GENERAL PERMIT CLARIFICATION

SECTION 14. G.S. 143-213(12a) reads as rewritten:

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

CLARIFY DEFINITION OF WETLANDS

SECTION 15.(a) Definitions. – For purposes of this section and its implementation, "Wetlands Definition" means 15A NCAC 02B .0202 (Definitions).

SECTION 15.(b) Wetlands Definition Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission (Commission) is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Wetlands Definition Rule as provided in subsection (c) of this section.

SECTION 15.(c) Implementation. – Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 C.F.R. § 328.3 and 40 C.F.R. § 230.3. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions.

SECTION 15.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Wetlands Definition 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 in G.S. 150B-21.3(b2).

SECTION 15.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

WASTEWATER AMENDMENTS

1 **SECTION 16.(a)** Definitions. – For purposes of this section and its implementation,
2 "Prefabricated Permeable Block Panel Systems Rule" means 15A NCAC 18E .0905
3 (Prefabricated Permeable Block Panel Systems).

4 **SECTION 16.(b)** Prefabricated Permeable Block Panel Systems Rule. – Until the
5 effective date of the revised permanent rule that the Commission for Public Health is required to
6 adopt pursuant to subsection (d) of this section, the Commission shall implement the
7 Prefabricated Permeable Block Panel Systems Rule as provided in subsection (c) of this section.

8 **SECTION 16.(c)** Implementation. – Prefabricated permeable block panel system
9 trenches shall be located a minimum of 8 feet on center or three times the trench width. When
10 used in sand-lined trench systems, bed, or fill systems, prefabricated permeable block panel
11 systems shall use the equivalent trench width of 6 feet to calculate the minimum trench length
12 unless otherwise instructed by the manufacturer on a case-by-case basis. The long term
13 acceptance rate for prefabricated permeable block panel systems shall not exceed 0.8 gallons per
14 day per square foot. Prefabricated permeable block panel systems may be used in high strength
15 wastewater systems or other system designs. However, prefabricated permeable block panel
16 systems may not be used where effluent contains high amounts of grease and oil, such as
17 restaurants.

18 **SECTION 16.(d)** Additional Rulemaking Authority. – The Commission shall adopt
19 a rule to amend the Prefabricated Permeable Block Panel Systems Rule consistent with
20 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the
21 Commission pursuant to this section shall be substantively identical to the provisions of
22 subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of
23 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall
24 become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections
25 had been received as provided in G.S. 150B-21.3(b2).

26 **SECTION 16.(e)** Sunset. – This section expires when permanent rules adopted as
27 required by subsection (d) of this section become effective.

28 **SECTION 17.(a)** G.S. 130A-343 reads as rewritten:

29 **"§ 130A-343. Approval of on-site subsurface wastewater systems.**

30 ...

31 (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an Innovative
32 wastewater dispersal system or other approved trench dispersal system specifically identified in
33 a rule adopted by the Commission that has been in general use in this State for a minimum of
34 five years may petition the Commission to have the system designated as an Accepted wastewater
35 system as provided in this subsection. The manufacturer shall provide the Commission with the
36 data and findings of all prior evaluations of the performance of the system in this State and other
37 states referenced in the petition, including disclosure of any conditions found to result in
38 unacceptable structural integrity, treatment, or hydraulic performance. In addition, the
39 manufacturer shall provide the Commission with information sufficient to enable the
40 Commission to fully evaluate the performance of the system in this State for at least the five-year
41 period immediately preceding the petition. The Commission shall designate a wastewater
42 dispersal system as an Accepted wastewater system only if it finds that there is clear, convincing,
43 and cogent evidence based on actual field surveys and county activity reports (i) to confirm the
44 findings made by the Department at the time the Department approved the system as a wastewater
45 dispersal system and (ii) that the system performs in a manner that is equal or superior to a
46 conventional or Accepted wastewater system under actual field conditions in this State. The
47 Commission shall specify the circumstances in which use of the system is appropriate and any
48 conditions and limitations related to the use of the system. However, the Commission shall not
49 include more restrictive conditions and limitations established in the approval of a wastewater
50 system as Accepted that are not included in the approval of the wastewater system as Innovative.

If the Department designates a wastewater dispersal system as an Accepted wastewater system pursuant to this section, the following shall apply:

(1) The approval shall be limited to the manufacturer who submitted the petition and received the Accepted status from the Commission.

(2) Neither the Commission, the Department, or any local health department shall condition, delay, or deny the substitution of any Accepted wastewater system based on location of nitrification lines when all parts of the dispersal field can be installed within the approved initial dispersal field area while complying with all Commission rules.

(i) Nonproprietary Wastewater Systems. – The Department may initiate a review of a nonproprietary wastewater system and approve the system for use as a provisional wastewater system or an innovative wastewater system without having received an application from a manufacturer. ~~The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.~~

...

(j2) Clarification of Use of Native Backfill. – In considering the use of backfill material in subsurface trench dispersal products, neither the Commission nor the Department shall condition, delay, or deny the approval of a subsurface trench dispersal product based on a non-native backfill material requirement without the prior approval of the manufacturer. With respect to approvals already issued by the Department or the Commission that include conditions or requirements specifying the use of non-native backfill material, the Department or Commission, as applicable, shall reissue those approvals, at the written request of the manufacturer, without conditions or requirements relating to the use of non-native backfill material.

...."

SECTION 17.(b) This section is effective when it becomes law and applies retroactively to any wastewater system approvals issued by the Commission for Public Health or the Department of Health and Human Services.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 18.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application and, to this end, the provisions of this act are declared to be severable.

SECTION 18.(b) Except as otherwise provided, this act is effective when it becomes law.