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SENATE BILL DRS15174-TQf-5

Short Title: North Carolina Farm Act of 2019. (Public)

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

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **IMPLEMENT A STATE HEMP PROGRAM IN ACCORDANCE WITH SECTION**
6 **10113 OF THE FEDERAL AGRICULTURE IMPROVEMENT ACT OF 2018**

7 **SECTION 1.(a)** Chapter 106 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 50F.

10 "North Carolina Hemp Commission.

11 "**§ 106-568.58. Legislative findings and purpose.**

12 The General Assembly finds and declares that hemp is a viable agriculture commodity in this
13 State and that it is in the best interest of the citizens of North Carolina to:

- 14 (1) Promote the cultivation and processing of hemp, and open new commercial
15 markets for farmers and businesses through the sale of hemp products.
16 (2) Promote the expansion of the State's hemp industry to the maximum extent
17 permitted by law, allowing farmers and businesses to cultivate, handle, and
18 process hemp and sell hemp products for commercial purposes.
19 (3) Encourage and empower research into industrial hemp growth and hemp
20 products at State institutions of higher education and in the private sector.
21 (4) Move the State and its citizens to the forefront of the hemp industry.

22 "**§ 106-568.59. Definitions.**

23 The following definitions apply in this Article:

- 24 (1) "Cannabidiol" or "CBD" means the nonpsychoactive cannabinoid compound
25 derived from the hemp variety of the plant *Cannabis sativa* (L.) that is
26 essentially free of plant material and does not exceed the federally defined
27 THC level for hemp.
28 (2) "Commercial sale" means the sale of products in the stream of commerce, at
29 retail, wholesale, and online.
30 (3) "Commission" means the North Carolina Hemp Commission.
31 (4) "Commissioner" means the Commissioner of the Department of Agriculture
32 and Consumer Services.
33 (5) "Cultivating" means planting, watering, growing, and harvesting a plant or
34 crop. "Cultivating" also includes possessing or storing hemp plants for any
35 period of time on the premises where the hemp was cultivated and transporting
36 hemp to the first point of sale by the cultivator.



- 1 (6) "Department" means the Department of Agriculture and Consumer Services.
2 (7) "Federally defined THC level for hemp" means a delta-9 THC concentration
3 of not more than three-tenths percent (0.3%) on a dry weight basis.
4 (8) "Handling" means possessing or storing hemp plants for any period of time
5 on premises owned, operated, or controlled by a person licensed to handle
6 hemp. "Handling" also includes possessing or storing hemp plants in a vehicle
7 for any period of time other than during its actual transport from the premises
8 of a person licensed to cultivate, handle, or process industrial hemp to the
9 premises of another licensed person. "Handling" does not include possessing
10 or storing finished hemp products.
11 (9) "Hemp" means the plant *Cannabis sativa* (L.) and any part of that plant,
12 including the seeds thereof and all derivatives, extracts, cannabinoids,
13 isomers, acids, salts, and salts of isomers, whether growing or not, within the
14 federally defined THC level for hemp.
15 (10) "Hemp extract" means an extract from hemp, or a mixture or preparation
16 containing hemp plant material or compounds.
17 (11) "Hemp product" means any product within the federally defined THC level
18 for hemp derived from, or made by, processing hemp plants or plant parts, that
19 are prepared in a form available for commercial sale, including, but not limited
20 to, cosmetics, personal care products, food intended for animal or human
21 consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics,
22 and any product containing one or more hemp-derived cannabinoids, such as
23 cannabidiol.
24 (12) "Licensee" means an individual or business entity possessing a license issued
25 by the Department under the authority of this Article to cultivate or handle
26 hemp.
27 (13) "Processing" means converting an agricultural commodity into a marketable
28 form.
29 (14) "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents
30 of the substances contained in the plant, or in the resinous extractives of,
31 cannabis, or any synthetic substances, compounds, salts, or derivatives of the
32 plant or chemicals and their isomers with similar chemical structure and
33 pharmacological activity.

34 **"§ 106-568.60. North Carolina Hemp Commission.**

- 35 (a) Creation and Membership. – The North Carolina Hemp Commission is established
36 and shall consist of nine members as follows:
37 (1) The Commissioner of Agriculture or the Commissioner's designee, ex officio,
38 who shall serve as vice-chair.
39 (2) One appointed by the General Assembly upon recommendation of the
40 President Pro Tempore of the Senate in accordance with G.S. 120-121, who
41 shall at the time of appointment be a municipal chief of police or a retired
42 municipal chief of police.
43 (3) One appointed by the General Assembly upon recommendation of the Speaker
44 of the House of Representatives in accordance with G.S. 120-121, who shall
45 at the time of appointment be an elected sheriff or a retired sheriff, or the
46 sheriff's designee.
47 (4) Two appointed by the Governor, who both shall at the time of appointment be
48 full-time faculty members of a State land grant university who regularly work
49 in the field of agricultural science or research.

1 (5) Two appointed by the Commissioner of Agriculture, who both shall be
2 full-time farmers with at least 10 years of experience in agricultural
3 production in the State.

4 (6) One appointed by the Commissioner of Agriculture, who shall be a
5 professional agricultural consultant.

6 (7) One appointed by the Commissioner of Agriculture, who shall be an
7 agribusiness professional.

8 (b) Terms of Members. – The term of office for members of the Commission is four
9 years, beginning July 1 of the year of appointment and terminating on June 30 of the year of
10 expiration. A member may be reappointed to no more than two consecutive four-year terms. The
11 term of a member who no longer meets the qualifications of their respective appointment, as set
12 forth in subsection (a) of this section, shall terminate, but the member may continue to serve until
13 a new member who meets the qualifications is appointed. In order to establish regularly
14 overlapping terms, initial appointments shall be made effective July 1, 2019, or as soon as
15 feasible thereafter, and expire as follows:

16 (1) The initial appointment made by the General Assembly upon recommendation
17 of the President Pro Tempore of the Senate pursuant to subdivision (a)(2) of
18 this section shall expire June 30, 2023.

19 (2) The initial appointment made by the General Assembly upon recommendation
20 of the Speaker of the House of Representatives pursuant to subdivision (a)(3)
21 of this section shall expire June 30, 2021.

22 (3) The initial appointments made by the Governor pursuant to subdivision (a)(4)
23 of this section shall expire June 30, 2023.

24 (4) The initial appointments made by the Commissioner of Agriculture:

25 a. Pursuant to subdivisions (a)(5) and (a)(7) of this section shall expire
26 June 30, 2021.

27 b. Pursuant to subdivision (a)(6) of this section shall expire June 30,
28 2023.

29 (c) Chair. – The members of the Commission shall elect a chair. The chair shall serve a
30 two-year term and may be reelected.

31 (d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the
32 resignation, dismissal, death, or disability of a member shall be made by the original appointing
33 authority and shall be for the balance of the unexpired term.

34 (e) Removal. – The appointing authority shall have the power to remove any member of
35 the Commission appointed by that authority from office for misfeasance, malfeasance, or
36 nonfeasance.

37 (f) Reimbursement. – The members of the Commission shall receive per diem and
38 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

39 (g) Quorum. – Five members of the Commission shall constitute a quorum for the
40 transaction of business.

41 (h) Staff. – The Commission is authorized and empowered to employ no more than two
42 persons as staff to assist the Commission in the proper discharge of its duties and responsibilities.
43 The chair of the Commission shall organize and direct the work of the Commission staff. The
44 salaries and compensation of all such personnel shall be determined by the Commission. The
45 Department shall provide administrative support to the Commission for the processing of
46 applications, issuance of licenses, and sampling and testing of hemp.

47 **"§ 106-568.61. Powers and duties of the Commission.**

48 The Commission shall have the following powers and duties:

49 (1) To issue licenses allowing a person, firm, or corporation to cultivate or handle
50 hemp, upon proper application as the Commission may specify, and in
51 accordance with G.S. 106-568.62. The Commission may delegate approval of

1 license applications to Commission staff, but the Commission shall hear any
2 appeals of denial of a license.

3 (2) To receive gifts, grants, federal funds, and any other funds both public and
4 private needed to support the Commission's duties and programs.

5 (3) To adopt rules necessary to carry out the purposes of this Article, which shall
6 include, but are not limited to, rules to do all of the following:

7 a. Prescribe sampling and testing procedures to ensure that hemp
8 cultivated or handled under the authority of this Article does not
9 exceed the federally defined THC level for hemp. A decarboxylation
10 testing method shall be the preferred method unless the United States
11 Department of Agriculture adopts final rules specifying a different
12 approved testing method.

13 b. Set and collect a schedule of nonrefundable fees for administering the
14 North Carolina Hemp Program.

15 **"§ 106-568.62. Qualification of licensees.**

16 (a) No person shall cultivate or handle hemp in this State unless the person holds a hemp
17 license issued by the North Carolina Hemp Commission.

18 (b) In order to obtain a license to cultivate hemp pursuant to this Article, a person must
19 be a qualifying farmer pursuant to G.S. 105-164.13E(a) or a conditional qualifying farmer
20 pursuant to G.S. 105-164.13E(b).

21 (c) A person granted a license to cultivate hemp pursuant to this Article shall provide to
22 the Commission prior to issuance of the license:

23 (1) The legal description and global positioning coordinates sufficient for locating
24 the fields or greenhouses to be used to cultivate hemp.

25 (2) Written consent allowing representatives of the Department, the State Bureau
26 of Investigation, and the chief law enforcement officer of the unit or units of
27 local government where the farm is located to enter all premises where hemp
28 is cultivated or stored for the purpose of conducting physical inspections or
29 ensuring compliance with the requirements of this Article and rules adopted
30 by the Commission.

31 (d) Any person convicted of a felony relating to a controlled substance under State or
32 federal law shall be ineligible to obtain any hemp license for the ten-year period following the
33 date of the conviction.

34 (e) Any person who materially falsifies any information contained in an application for
35 a hemp license shall be ineligible to obtain a hemp license.

36 (f) A license issued by the North Carolina Industrial Hemp Commission shall be valid
37 for the term of the license. A person who holds a license issued by the North Carolina Industrial
38 Hemp Commission who wishes to modify the conditions of the license shall be required to apply
39 for a new license from the North Carolina Hemp Commission.

40 **"§ 106-568.63. Bonding requirement for hemp handlers.**

41 The Commission shall not issue a license to handle hemp to any person until the person has
42 furnished the Commissioner of Agriculture a bond satisfactory to the Commissioner in an amount
43 of not less than twenty-five thousand dollars (\$25,000). The Commissioner may require a new
44 bond or may require the amount of any bond to be increased if the Commissioner finds it
45 necessary for the protection of the cultivator. The bond shall be payable to the State and shall be
46 conditioned upon the fulfilling of all financial obligations incurred by the handler with all hemp
47 cultivators with whom the handler contracts. Any cultivator alleging any injury by the fraud,
48 deceit, willful injury, or failure to comply with the terms of any written contract by a handler
49 may bring suit on the bond against the principal and the principal's surety in any court of
50 competent jurisdiction and may recover the damages found to be caused by such acts complained
51 of.

"§ 106-568.64. Corrective action plans authorized.

(a) The Commission shall require any person who is required to obtain a hemp license issued by the Commission to comply with a corrective action plan if the Commission determines that the person has negligently violated any provision of this Article or any rule adopted by the Commission, including by negligently failing to obtain a proper license or other required authorization from the Commission, negligently failing to provide an accurate legal description of land on which the person produces hemp, or negligently producing *Cannabis sativa* (L.) with more than the federally defined THC level for hemp.

(b) A corrective action plan required by the Commission shall include at least the date by which the person shall correct the violation and a requirement that the person shall periodically report to the Commission on the person's compliance with this Article and all rules adopted by the Commission for a period of not less than the next two calendar years.

(c) Notwithstanding any other provision of law, the penalty for a negligent violation of any provision of this Article or any rule adopted by the Commission shall be compliance with a corrective action plan pursuant to subsection (b) of this section. However, a person who negligently violates this Article or any rule adopted by the Commission three times in a five-year period shall be ineligible to obtain a hemp license for a period of five years beginning on the date of the third violation and shall be subject to criminal and civil penalties for additional violations during that period.

(d) If the Commission determines that a person has violated this Article or any rule adopted by the Commission recklessly, willfully, knowingly, or intentionally, the Commission shall immediately report the person to the Commissioner, Attorney General, and the appropriate law enforcement authority.

"§ 106-568.65. Civil penalties.

(a) The Commissioner may assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation against any person who:

(1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.

(2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for hemp production, or in a manner intended to disguise the marijuana due to its proximity to hemp. This penalty may be imposed in addition to any other penalties provided by law.

(3) Provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.

(4) Tampers with or adulterates a hemp crop lawfully planted pursuant to this Article.

(b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 106-568.66. Criminal penalties.

(a) Any person who willfully, knowingly, or intentionally manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for hemp production, or in a manner intended to disguise the marijuana due to its proximity to hemp, shall be guilty of a Class I felony. This penalty may be imposed in addition to any other penalties provided by law.

(b) Any person who willfully, knowingly, or intentionally provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be guilty of a Class 1 misdemeanor.

1 (c) Any person who willfully, knowingly, or intentionally tampers with or adulterates a
2 hemp crop lawfully planted pursuant to this Article shall be guilty of a Class 1 misdemeanor.

3 **"§ 106-568.67. Hemp products.**

4 (a) Except as provided in G.S. 106-139(g), no license shall be required to possess, handle,
5 transport, or sell hemp products or hemp extracts, including those containing CBD or other
6 hemp-derived cannabinoids.

7 (b) Hemp products may be legally transported to other states and exported to foreign
8 nations, consistent with the laws of the receiving jurisdiction.

9 **"§ 106-568.68. North Carolina Hemp Program Fund.**

10 (a) The North Carolina Hemp Program Fund is established as a special fund in the
11 Department of Agriculture and Consumer Services. The fund shall consist of amounts received
12 from appropriations and any other proceeds from gifts, grants, federal funds, application fees,
13 license fees, and any other funds, both public and private, made available for purposes of this
14 Article. Any interest received and accruing from the fund shall be paid into the State's General
15 Fund.

16 (b) The Fund shall be used by the Commission for the costs of personnel, program
17 administration, testing, and any other costs incurred in administering this Article, including
18 promotion, marketing, and branding of North Carolina grown and processed hemp."

19 **SECTION 1.(b)** In order to maintain continuity and experience of membership, the
20 Commissioner, the Governor, and the General Assembly should consider the members of the
21 North Carolina Industrial Hemp Commission, repealed pursuant to Section 4 of S.L. 2015-299,
22 as amended by Section 6 of this act, when appointing the members of the North Carolina Hemp
23 Commission, created by G.S. 106-568.60, as enacted by subsection (a) of this section.

24 **SECTION 1.(c)** The North Carolina Hemp Commission may adopt temporary rules
25 to implement this act for 180 days after the effective date of this section.

26 **SECTION 2.(a)** G.S. 106-139 is amended by adding two new subsections to read:

27 "(f) The Board may adopt rules to establish current good manufacturing practices in
28 manufacturing, packaging, labeling, or holding operations for cannabinoid related compounds
29 derived from industrial hemp as defined in G.S. 106-568.51(7). The manufacture, sale, delivery,
30 holding, or offering for sale of any cannabinoid related compounds that does not comply with
31 rules adopted by the Board shall be prohibited under this Article and shall also be subject to
32 G.S. 106-123 and G.S. 106-125.

33 "(g) No person, including individuals, partnerships, firms, associations, or corporations,
34 that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling,
35 processing, or holding of cannabinoid related compounds without a valid license issued by the
36 Commissioner. Retail establishments, wholesalers, and warehousing operations that do not
37 engage in the manufacturing, packaging, or labeling of cannabinoid related compounds are not
38 required to obtain a license. Application for a license shall be made to the Commissioner on
39 forms provided by the Department. The application shall set forth the name and address of the
40 applicant, the applicant's principal place of business, and such other information as the
41 Commissioner may require. Failure to comply with this Article or regulations promulgated
42 thereunder shall be cause for suspension or revocation of a license."

43 **SECTION 2.(b)** G.S. 106-139 is amended by adding two new subsections to read:

44 "(f) The Board may adopt rules to establish current good manufacturing practices in
45 manufacturing, packaging, labeling, or holding operations for cannabinoid related compounds
46 derived from hemp as defined in G.S. 106-568.59(9). The manufacture, sale, delivery, holding,
47 or offering for sale of any cannabinoid related compounds that does not comply with rules
48 adopted by the Board shall be prohibited under this Article and shall also be subject to
49 G.S. 106-123 and G.S. 106-125.

50 "(g) No person, including individuals, partnerships, firms, associations, or corporations,
51 that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling,

1 processing, or holding of cannabinoid related compounds without a valid license issued by the
2 Commissioner. Retail establishments, wholesalers, and warehousing operations that do not
3 engage in the manufacturing, packaging, or labeling of cannabinoid related compounds are not
4 required to obtain a license. Application for a license shall be made to the Commissioner on
5 forms provided by the Department. The application shall set forth the name and address of the
6 applicant, the applicant's principal place of business, and such other information as the
7 Commissioner may require. Failure to comply with this Article or regulations promulgated
8 thereunder shall be cause for suspension or revocation of a license."

9 **SECTION 3.(a)** G.S. 90-87 reads as rewritten:

10 **"§ 90-87. Definitions.**

11 As used in this Article:

12 ...

13 (16) "Marijuana" means all parts of the plant of the genus Cannabis, whether
14 growing or not; the seeds thereof; the resin extracted from any part of such
15 plant; and every compound, manufacture, salt, derivative, mixture, or
16 preparation of such plant, its seeds or resin, but shall not include the mature
17 stalks of such plant, fiber produced from such stalks, oil, or cake made from
18 the seeds of such plant, any other compound, manufacture, salt, derivative,
19 mixture, or preparation of such mature stalks (except the resin extracted
20 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is
21 incapable of germination. The term does not include ~~industrial hemp~~ hemp,
22 hemp products, or hemp extracts as defined in G.S. 106-568.51, when the
23 ~~industrial hemp is produced and used in compliance with rules issued by the~~
24 ~~North Carolina Industrial Hemp Commission.~~ G.S. 106-568.59.

25"

26 **SECTION 3.(b)** G.S. 90-95 reads as rewritten:

27 **"§ 90-95. Violations; penalties.**

28 (a) Except as authorized by this Article, it is unlawful for any person:

- 29 (1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or
30 deliver, a controlled substance;
31 (2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit
32 controlled substance;
33 (3) To possess a controlled substance.

34 (b) Except as provided in subsections (h) and (i) of this section, any person who violates
35 G.S. 90-95(a)(1) with respect to:

36 (1) A controlled substance classified in Schedule I or II shall be punished as a
37 Class H felon, except as follows: (i) the sale of a controlled substance
38 classified in Schedule I or II shall be punished as a Class G felony, and (ii) the
39 manufacture of methamphetamine shall be punished as provided by
40 subdivision (1a) of this subsection.

41 (1a) The manufacture of methamphetamine shall be punished as a Class C felony
42 unless the offense was one of the following: packaging or repackaging
43 methamphetamine, or labeling or relabeling the methamphetamine container.
44 The offense of packaging or repackaging methamphetamine, or labeling or
45 relabeling the methamphetamine container shall be punished as a Class H
46 felony.

47 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
48 punished as a Class I felon, except that the sale of a controlled substance
49 classified in Schedule III, IV, V, or VI shall be punished as a Class H felon.
50 The transfer of less than 5 grams of marijuana for no remuneration shall not
51 constitute a delivery in violation of G.S. 90-95(a)(1).

1 (3) A controlled substance classified in Schedule VI shall only be punished by
2 being required to comply with a corrective action plan issued by the North
3 Carolina Hemp Commission for a first or second offense, provided that the
4 person has a valid hemp license from the North Carolina Hemp Commission
5 and the person did not willfully, knowingly, or intentionally cause the
6 controlled substance classified in Schedule VI to exceed a delta-9 THC
7 concentration of three-tenths percent (0.3%) on a dry weight basis.

8 ...

9 (d) Except as provided in subsections (h) and (i) of this section, any person who violates
10 G.S. 90-95(a)(3) with respect to:

11 (1) A controlled substance classified in Schedule I shall be punished as a Class I
12 felon. However, if the controlled substance is MDPV and the quantity of the
13 MDPV is 1 gram or less, the violation shall be punishable as a Class 1
14 misdemeanor.

15 (2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a
16 Class 1 misdemeanor. If the controlled substance exceeds four tablets,
17 capsules, or other dosage units or equivalent quantity of hydromorphone or if
18 the quantity of the controlled substance, or combination of the controlled
19 substances, exceeds one hundred tablets, capsules or other dosage units, or
20 equivalent quantity, the violation shall be punishable as a Class I felony. If the
21 controlled substance is methamphetamine, amphetamine, phencyclidine, or
22 cocaine and any salt, isomer, salts of isomers, compound, derivative, or
23 preparation thereof, or coca leaves and any salt, isomer, salts of isomers,
24 compound, derivative, or preparation of coca leaves, or any salt, isomer, salts
25 of isomers, compound, derivative or preparation thereof which is chemically
26 equivalent or identical with any of these substances (except decocanized coca
27 leaves or any extraction of coca leaves which does not contain cocaine or
28 ecgonine), the violation shall be punishable as a Class I felony.

29 (3) A controlled substance classified in Schedule V shall be guilty of a Class 2
30 misdemeanor;

31 (4) ~~A~~ Except as provided in subdivision (5) of this subsection, a controlled
32 substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor,
33 but any sentence of imprisonment imposed must be suspended and the judge
34 may not require at the time of sentencing that the defendant serve a period of
35 imprisonment as a special condition of probation. If the quantity of the
36 controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana
37 or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,
38 commonly known as hashish, the violation shall be punishable as a Class 1
39 misdemeanor. If the quantity of the controlled substance exceeds one and
40 one-half ounces (avoirdupois) of marijuana, or three-twentieths of an ounce
41 (avoirdupois) of the extracted resin of marijuana, commonly known as
42 hashish, or if the controlled substance consists of any quantity of synthetic
43 tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of
44 marijuana, the violation shall be punishable as a Class I felony.

45 (5) A controlled substance classified in Schedule VI shall only be required to
46 comply with a corrective action plan issued by the North Carolina Hemp
47 Commission for a first or second offense, provided that the person has a valid
48 hemp license from the North Carolina Hemp Commission and the person did
49 not willfully, knowingly, or intentionally cause the controlled substance
50 classified in Schedule VI to exceed a delta-9 THC concentration of
51 three-tenths percent (0.3%) on a dry weight basis.

...."

SECTION 4.(a) Within six months of the adoption of rules by the United States Department of Agriculture pursuant to Section 297D of the Agriculture Marketing Act of 1946, as amended by the Agriculture Improvement Act of 2018, the Commissioner, in consultation with the Governor and Attorney General, shall submit to the Secretary of the United States Department of Agriculture a State plan for the regulation of hemp production, which shall include:

- (1) A procedure to maintain relevant information regarding land on which hemp is produced in the State, including a legal description of the land. The procedure shall ensure the information is maintained for a period of not less than three calendar years.
- (2) A procedure for testing, using a post-decarboxylation testing method, delta-9 THC concentration levels of hemp produced in the State.
- (3) A procedure for the effective disposal of products that are produced in violation of Article 50F of Chapter 106 of the General Statutes or any rule adopted by the North Carolina Hemp Commission.
- (4) A procedure to comply with the enforcement process set forth in G.S. 106-568.64.

SECTION 4.(b) If the Secretary of the United States Department of Agriculture disapproves the State plan submitted pursuant to subsection (a) of this section, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit to the Secretary an amended State plan.

SECTION 5.(a) G.S. 106-550 reads as rewritten:

"§ 106-550. Policy as to promotion of use of, and markets for, farm products; official marketing campaign.

(a) It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, seafood, field crops and other agricultural products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, hemp, potatoes, sweet potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural products of tobacco, strawberries, strawberry plants, porcine animals, or equines, with respect to which separate provisions have been made.

(b) The "Got to be NC" marketing campaign of the Department of Agriculture and Consumer Services shall be the official agricultural marketing campaign for the State."

SECTION 5.(b) Article 50 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-554.1. Application to North Carolina Hemp Commission for authorization of hemp referendum.

Notwithstanding G.S. 106-554, the North Carolina Hemp Commission shall be the entity that provides certification and approval for the purpose of conducting a referendum among the growers or producers of hemp. The North Carolina Hemp Commission shall perform the same function as the Board of Agriculture in all other respects for cultivators of hemp for the purposes of this Article."

SECTION 6. Section 4 of S.L. 2015-299 reads as rewritten:

"SECTION 4. Section 2 of this act becomes effective on the first day of the month following the adoption of permanent rules pursuant to Section 3 of this act and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date. The remainder

1 of this act is effective when it becomes law. This act shall expire ~~on June 30 of the fiscal year in~~
2 ~~which the date that~~ the North Carolina Industrial Hemp Commission adopts and submits to the
3 Governor and to the Revisor of Statutes a resolution that a State pilot program allowing farmers
4 to lawfully grow industrial hemp is no longer necessary because (i) the United States Congress
5 has enacted legislation that removes industrial hemp from the federal Controlled Substances Act
6 and (ii) the legislation has taken effect."

7 **SECTION 7.** Sections 1, 2(a), 3, and 5 of this act becomes effective on the date that
8 the Commission adopts and submits to the Governor and to the Revisor of Statutes a resolution
9 that a State pilot program allowing farmers to lawfully grow industrial hemp is no longer
10 necessary because (i) the United States Congress has enacted legislation that removes industrial
11 hemp from the federal Controlled Substances Act and (ii) the legislation has taken effect. Section
12 2(b) becomes effective on the date that the Commission adopts and submits the resolution to the
13 Governor and to the Revisor of Statutes. The Commission shall adopt and submit the resolution
14 within 30 days of the adoption of rules by the United States Department of Agriculture pursuant
15 to Section 297D of the Agriculture Marketing Act of 1946, as amended by the Agriculture
16 Improvement Act of 2018. Sections 4 and 6 of this act are effective when they become law.
17

18 **REQUIRE UTILITY COMPANIES TO DISPOSE OF CERTAIN UNUSED**
19 **EASEMENTS UNDER CERTAIN CIRCUMSTANCES, AS RECOMMENDED BY THE**
20 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION**

21 **SECTION 8.(a)** Article 9 of Chapter 62 of the General Statutes is amended by adding
22 a new section to read:

23 **"§ 62-193. Disposition of certain unused easements.**

24 (a) The underlying fee owner of land encumbered by any easement acquired by a utility
25 company, whether acquired by purchase or by condemnation, on which construction has not been
26 commenced by the utility company for the purpose for which the easement was acquired within
27 20 years of the date of acquisition, may file a complaint with the Commission for an order
28 requiring the utility company to terminate the easement in exchange for payment by the
29 underlying fee owner of the current fair market value of the easement.

30 (b) Upon receipt of the complaint, the Commission shall serve a copy of the complaint
31 on each utility company named in the complaint, together with an order directing that the utility
32 company file an answer to the complaint within 90 days after service.

33 (c) If the utility company agrees to terminate the easement, the utility company shall
34 submit to the Commission, within the time allowed for answer, an original plus four copies of a
35 statement of the utility company's agreement to terminate the easement.

36 (d) If the utility company does not agree that the easement should be terminated, the
37 utility company may request a determination from the Commission as to whether the easement
38 is necessary or advisable for the utility company's long-range needs for the provision of utilities
39 to serve its service area, and whether termination of the easement would be contrary to the
40 interests of the using and consuming public. The Commission may conduct a hearing on the
41 matter, which shall be conducted in accordance with Article 4 of this Chapter. Either party may
42 appeal the Commission's decision in accordance with Article 5 of this Chapter. The burden of
43 proof shall be on the utility company to show that the easement is necessary or advisable for the
44 utility company's long-range needs for the provision of utilities to serve its service area and that
45 termination of the easement would be contrary to the interests of the using and consuming public.

46 (e) If the underlying fee owner and the utility company cannot reach a mutually agreed
47 upon fair market value of the easement, whether terminated voluntarily or by order of the
48 Commission, the Commission shall make a request to the clerk of superior court in the county
49 where the easement is located for the appointment of commissioners to determine the fair market
50 value of the easement in accordance with the process set forth in G.S. 40A-48.

1 (f) If the Commission decides that the easement should not be terminated, the underlying
 2 fee owner may not file a complaint with the Commission under this section regarding the same
 3 easement for a period of five years from the date of the decision.

4 (g) For purposes of this section, the term "utility company" means a public utility as
 5 defined in G.S. 62-3(23), a municipality providing utility services, an authority organized under
 6 the North Carolina Water and Sewer Authorities Act, a sanitary district, a metropolitan water
 7 district, a metropolitan sewerage district, a metropolitan water and sewerage district, a county
 8 water and sewer district, or an electric or telephone membership corporation."

9 **SECTION 8.(b)** This section becomes effective October 1, 2019, and applies to
 10 easements acquired on or after that date.

11 **RIGHT-OF-WAY FOR LEFT-TURNING FARM EQUIPMENT**

12 **SECTION 9.(a)** G.S. 20-150 is amended by adding a new subsection to read:

13 "(e1) The driver of a vehicle shall not overtake and pass self-propelled farm equipment
 14 proceeding in the same direction when the farm equipment is (i) making a left turn or (ii)
 15 signaling that it intends to make a left turn."

16 **SECTION 9.(b)** This section becomes effective December 1, 2019, and applies to
 17 offenses committed on or after that date.

18 **EXPAND AGRICULTURAL OUTDOOR ADVERTISING**

19 **SECTION 10.** G.S. 136-129 reads as rewritten:

20 "**§ 136-129. Limitations of outdoor advertising devices.**

21 No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of
 22 the right-of-way of the interstate or primary highway systems in this State so as to be visible from
 23 the main-traveled way thereof after the effective date of this Article as determined by
 24 G.S. 136-140, except the following:

25 ...

26 (2a) ~~Outdoor advertising which advertises the sale of any fruit or vegetable crop~~
 27 ~~by the grower at a roadside stand or by having the purchaser pick the crop on~~
 28 ~~the property on which the crop is grown provided: (i) to promote a bona fide~~
 29 ~~farm that is exempt from zoning regulations pursuant to G.S. 153-340(b),~~
 30 ~~provided the sign is no more than two-three feet long on any side; (ii) side and~~
 31 ~~the sign is located on property owned or leased by the grower where the crop~~
 32 ~~is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by~~
 33 ~~the grower for no more than 30 days.~~ the bona fide farm property.

34"

35 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION COCHAIR** 36 **HOLDOVER**

37 **SECTION 11.** G.S. 120-150 reads as rewritten:

38 "**§ 120-150. Creation; appointment of members.**

39 (a) There is created an Agriculture and Forestry Awareness Study Commission. Members
 40 of the Commission shall be citizens of North Carolina who are interested in the vitality of the
 41 agriculture and forestry sectors of the State's economy. Members shall be as follows:

42 (1) Three appointed by the Governor.

43 (2) Three appointed by the President Pro Tempore of the Senate.

44 (3) Three appointed by the Speaker of the House.

45 (4) The chairs of the House Agriculture Committee.

46 (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural
 47 Resources.

48 (6) The Commissioner of Agriculture or the Commissioner's designee.

- 1 (7) A member of the Board of Agriculture designated by the chair of the Board of
2 Agriculture.
- 3 (8) The President of the North Carolina Farm Bureau Federation, Inc., or the
4 President's designee.
- 5 (9) The President of the North Carolina State Grange or the President's designee.
- 6 (10) The Secretary of Environmental Quality or the Secretary's designee.
- 7 (11) The President of the North Carolina Forestry Association, Inc., or the
8 President's designee.

9 (b) Members shall be appointed for two-year terms beginning October 1 of each
10 odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate
11 Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. The
12 President Pro Tempore of the Senate and the Speaker of the House of Representatives may each
13 appoint an additional member of the Senate and House, respectively, to serve as cochair. If
14 appointed, these cochairs shall be voting members of the Commission. A quorum of the
15 Commission is nine members.

16 (c) Cochairs' terms on the Commission are for two years and begin on the convening of
17 the General Assembly in each odd-numbered year. Except as otherwise provided in this
18 subsection, a cochair of the Commission shall continue to serve for so long as the cochair remains
19 a member of the General Assembly and no successor has been appointed. A cochair of the
20 Commission who does not seek reelection or is not reelected to the General Assembly may
21 complete a term of service on the Commission until the day on which a new General Assembly
22 convenes. A member of the Commission who resigns or is removed from service in the General
23 Assembly shall be deemed to have resigned or been removed from service on the Commission."
24

25 **EXEMPT FACILITIES THAT STORE PRODUCTS FROM AGRICULTURAL**
26 **OPERATIONS THAT ARE RENEWABLE ENERGY RESOURCES FROM EMC RULE**

27 **SECTION 12.(a)** Rule. – Until the effective date of the revised permanent rule that
28 the Environmental Management Commission is required to adopt pursuant to subsection (c) of
29 this section, the Commission shall implement 15A NCAC 02D .1806 as provided in subsection
30 (b) of this section.

31 **SECTION 12.(b)** Implementation. – Notwithstanding subsection (c) of 15A NCAC
32 02D .1806, the Commission shall classify facilities that store products that are (i) grown,
33 produced, or generated on one or more agricultural operations and (ii) that are "renewable energy
34 resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the
35 requirements of the Rule.

36 **SECTION 12.(c)** Additional Rule-Making Authority. – The Commission shall adopt
37 rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

38 **SECTION 12.(d)** Effective Date. – Subsection (b) of this section expires on the date
39 that rules adopted pursuant to subsection (c) of this section become effective. The remainder of
40 this section is effective when it becomes law.

41
42 **ADD HUNTING, FISHING, AND SHOOTING SPORTS TO THE DEFINITION OF**
43 **AGRITOURISM**

44 **SECTION 13.(a)** G.S. 99E-30 reads as rewritten:

45 "Article 4.

46 "Agritourism Activity Liability.

47 **"§ 99E-30. Definitions.**

48 As used in this Article, the following terms mean:

- 49 (1) Agritourism activity. – Any activity carried out on a farm or ranch that allows
50 members of the general public, for recreational, entertainment, or educational
51 purposes, to view or enjoy rural activities, including farming, ranching,

1 historic, cultural, harvest-your-own activities, hunting, fishing, shooting
 2 sports, or natural activities and attractions. However, hunting or shooting
 3 sports involving semiautomatic centerfire rifles shall not be considered
 4 agritourism activities for purposes of this section. An activity is an agritourism
 5 activity whether or not the participant paid to participate in the activity.
 6 "Agritourism activity" includes an activity involving any animal exhibition at
 7 an agricultural fair licensed by the Commissioner of Agriculture pursuant to
 8 G.S. 106-520.3.

- 9 (2) Agritourism professional. – Any person who is engaged in the business of
 10 providing one or more agritourism activities, whether or not for compensation.
- 11 (3) Inherent risks of agritourism activity. – Those dangers or conditions that are
 12 an integral part of an agritourism activity including certain hazards, including
 13 surface and subsurface conditions, natural conditions of land, vegetation, and
 14 waters, the behavior of wild or domestic animals, and ordinary dangers of
 15 structures or equipment ordinarily used in farming and ranching operations.
 16 Inherent risks of agritourism activity also include the potential of a participant
 17 to act in a negligent manner that may contribute to injury to the participant or
 18 others, including failing to follow instructions given by the agritourism
 19 professional or failing to exercise reasonable caution while engaging in the
 20 agritourism activity.
- 21 (4) Participant. – Any person, other than the agritourism professional, who
 22 engages in an agritourism activity.
- 23 (5) Person. – An individual, fiduciary, firm, association, partnership, limited
 24 liability company, corporation, unit of government, or any other group acting
 25 as a unit."

26 **SECTION 13.(b)** G.S. 153A-340(b)(2a) reads as rewritten:

27 "(2a) A building or structure that is used for agritourism is a bona fide farm purpose
 28 if the building or structure is located on a property that (i) is owned by a person
 29 who holds a qualifying farmer sales tax exemption certificate from the
 30 Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in
 31 the present-use value program pursuant to G.S. 105-277.3. Failure to maintain
 32 the requirements of this subsection for a period of three years after the date
 33 the building or structure was originally classified as a bona fide purpose
 34 pursuant to this subdivision shall subject the building or structure to applicable
 35 zoning and development regulation ordinances adopted by a county pursuant
 36 to subsection (a) of this section in effect on the date the property no longer
 37 meets the requirements of this subsection. For purposes of this section,
 38 "agritourism" means any activity carried out on a farm or ranch that allows
 39 members of the general public, for recreational, entertainment, or educational
 40 purposes, to view or enjoy rural activities, including farming, ranching,
 41 historic, cultural, harvest-your-own activities, hunting, fishing, shooting
 42 sports, or natural activities and attractions. However, hunting or shooting
 43 sports involving semiautomatic centerfire rifles shall not be considered
 44 agritourism activities for purposes of this section. A building or structure used
 45 for agritourism includes any building or structure used for public or private
 46 events, including, but not limited to, weddings, receptions, meetings,
 47 demonstrations of farm activities, meals, and other events that are taking place
 48 on the farm because of its farm or rural setting."
 49

50 **ENACT THE NORTH CAROLINA SWEET POTATO ACT OF 2019 FOR THE**
 51 **PROMOTION OF NORTH CAROLINA SWEET POTATOES**

1 Commissioner may establish tolerances or allowable percentages of United States standards each
 2 season upon the recommendation of the North Carolina Sweet Potato Advisory Council.

3 **"§ 106-1070. North Carolina Sweet Potato Advisory Council.**

4 The Commissioner shall appoint a North Carolina Sweet Potato Advisory Council, to consist
 5 of individuals involved in growing, packing, or growing and packing North Carolina sweet
 6 potatoes; at least one county cooperative extension agent familiar with the production of North
 7 Carolina sweet potatoes; and any other person or persons selected by the Commissioner, for the
 8 purpose of rendering advice upon his or her request regarding the exercise the Commissioner's
 9 authority pursuant to G.S 106-1068. Members of the North Carolina Sweet Potato Advisory
 10 Council shall receive no compensation for their service."

11
 12 **SOIL AND WATER CONSERVATION JOB APPROVAL AUTHORITY**

13 **SECTION 15.(a)** G.S. 89C-25 reads as rewritten:

14 **"§ 89C-25. Limitations on application of Chapter.**

15 This Chapter shall not prevent the following activities:

- 16 ...
- 17 (6) Practice by members of the Armed Forces of the United States; employees of
 18 the government of the United States while engaged in the practice of
 19 engineering or land surveying solely for the government on
 20 government-owned works and projects; or practice by those employees of the
 21 Natural Resources Conservation Service, county employees, ~~or~~ employees of
 22 the Soil and Water Conservation ~~Districts~~-Districts, or employees of the
 23 Division of Soil and Water Conservation of the Department of Agriculture
 24 and Consumer Services who have ~~federal~~-engineering job approval authority
 25 issued by the Natural Resources Conservation Service or the Soil and Water
 26 Conservation Commission that involves the planning, designing, or
 27 implementation of best management practices on agricultural ~~lands~~-lands, or
 28 for the planning, designing, or implementation of best management practices
 29 approved for cost-share funding pursuant to programs identified in Chapter
 30 139-4(d)(9).

31"

32 **SECTION 15.(b)** G.S. 139-3 is amended by adding a new subdivision to read:

33 "(19) "Job approval authority" means the authority granted by the Commission to
 34 Soil and Water Conservation District staff or employees of the Division of
 35 Soil and Water Conservation of the Department of Agriculture and Consumer
 36 Services who have demonstrated the appropriate knowledge, skill, and ability
 37 to plan, design, and certify the installation of best management practices
 38 approved for cost-share funding pursuant to programs identified in
 39 G.S. 139-4(d)(9).

40 **SECTION 15.(c)** G.S. 139-4 reads as rewritten:

41 **"§ 139-4. Powers and duties of Soil and Water Conservation Commission generally.**

- 42 (a) through (c) Repealed by Session Laws 1973, c. 1262, s. 38.
 43 (d) In addition to the duties and powers hereinafter conferred upon the Soil and Water
 44 Conservation Commission, it shall have the following duties and powers:

- 45 ...
- 46 (14) To develop and implement a program for granting job approval authority to
 47 Soil and Water Conservation District staff and employees of the Division of
 48 Soil and Water Conservation of the Department of Agriculture and Consumer
 49 Services to plan, design, and certify the installation of best management
 50 practices approved for cost-share funding pursuant to programs identified in
 51 Chapter 139-4(d)(9).

1"

2
3 **PRESENT USE VALUE NOTICE AND APPEAL CHANGES**

4 **SECTION 16.(a)** G.S. 105-277.4 reads as rewritten:

5 "**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use**
6 **value; notice and appeal; deferred taxes.**

7 ...

8 (b1) Notice and Appeal. – If the assessor determines that the property loses its eligibility
9 for present-use value classification, the assessor shall provide written notice of the decision and
10 the date of the decision to the owner. The notice shall include the property's tax identification
11 number, the specific reason for the disqualification, and the date of the decision. The notice shall
12 be provided separately from a regular yearly tax notice or tax bill. Decisions of the assessor
13 regarding the qualification or appraisal of property under this section may be appealed to the
14 county board of equalization and review or, if that board is not in session, to the board of county
15 commissioners. An appeal must be made within 60 days after date of the written notice of the
16 decision of the assessor. If an owner submits additional information to the assessor pursuant to
17 G.S. 105-296(j), the appeal must be made within 60 days after the assessor's decision based on
18 the additional information. Decisions of the county board may be appealed to the Property Tax
19 Commission. If, while an assessor's decision that a property has lost its eligibility for present-use
20 value classification is under appeal to the county board or to the Property Tax Commission, the
21 assessor determines that the property is no longer eligible for present-use value classification
22 because of an additional disqualifying event independent of the one that is the basis of the
23 disqualification under appeal, the assessor shall follow the notice and appeal procedure set forth
24 in this subsection with regard to the subsequent disqualification. If no such notice is given to the
25 owner regarding the subsequent decision to disqualify, a reinstatement of the property by the
26 county board or the Property Tax Commission shall be deemed effective for any assessments
27 occurring from the date of the assessor's decision under appeal to the date of the final decision of
28 the county board or the Property Tax Commission to reinstate the property.

29"

30 **SECTION 16.(b)** This section is effective for taxes imposed for taxable years
31 beginning on or after July 1, 2019.

32
33 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

34 **SECTION 17.(a)** If any provision of this act or the application thereof to any person
35 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
36 of this act that can be given effect without the invalid provision or application, and, to this end,
37 the provisions of this act are declared to be severable.

38 **SECTION 17.(b)** Except as otherwise provided, this act is effective when it becomes
39 law.