

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 315
PROPOSED COMMITTEE SUBSTITUTE S315-PCS15357-TQf-5

Short Title: North Carolina Farm Act of 2019.

(Public)

Sponsors:

Referred to:

March 21, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS OF THE
3 STATE.

4 The General Assembly of North Carolina enacts:

5
6 **IMPLEMENT A STATE HEMP PROGRAM IN ACCORDANCE WITH SECTION**
7 **10113 OF THE FEDERAL AGRICULTURE IMPROVEMENT ACT OF 2018, TO BE**
8 **ADMINISTERED BY THE NORTH CAROLINA HEMP COMMISSION UNTIL JULY**
9 **1, 2021**

10 **SECTION 1.(a)** Article 50E of Chapter 106 of the General Statutes reads as
11 rewritten:

12 "Article 50E.

13 "~~Industrial Hemp~~ North Carolina Hemp Commission.

14 "**§ 106-568.50. Legislative findings and purpose.**

15 ~~The General Assembly finds and declares that it is in the best interest of the citizens of North~~
16 ~~Carolina to promote and encourage the development of an industrial hemp industry in the State~~
17 ~~in order to expand employment, promote economic activity, and provide opportunities to small~~
18 ~~farmers for an environmentally sustainable and profitable use of crop lands that might otherwise~~
19 ~~be lost to agricultural production. The purposes of this Article are to establish an agricultural~~
20 ~~pilot program for the cultivation of industrial hemp in the State, to provide for reporting on the~~
21 ~~program by growers and processors for agricultural or other research, and to pursue any federal~~
22 ~~permits or waivers necessary to allow industrial hemp to be grown in the State.~~

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

- 25 (1) Promote the cultivation and processing of hemp, and open new commercial
26 markets for farmers and businesses through the sale of hemp products.
27 (2) Promote the expansion of the State's hemp industry to the maximum extent
28 permitted by law, allowing farmers and businesses to cultivate, handle, and
29 process hemp and sell hemp products for commercial purposes.
30 (3) Encourage and empower research into hemp growth and hemp products at
31 State institutions of higher education and in the private sector.
32 (4) Move the State and its citizens to the forefront of the hemp industry.

33 "**§ 106-568.51. Definitions.**

34 The following definitions apply in this Article:

- 35 (1) Repealed by Session Laws 2018-113, s. 4, effective June 27, 2018.



* S 3 1 5 - P C S 1 5 3 5 7 - T Q F - 5 *

- 1 (1a) Cannabidiol or CBD. – The nonpsychoactive cannabinoid compound derived
2 from the hemp variety of the plant *Cannabis sativa* (L.) that is essentially free
3 of plant material and does not exceed the federally defined THC level for
4 hemp.
- 5 (1b) Cannabinoid. – Means any of the terpenophenolic compounds found within
6 the plant *Cannabis sativa* (L.) that are functionally or structurally similar,
7 biologically active, and are classified in subgroups such as Cannabigerols
8 (CBG), Cannabichromenes (CBC), Cannabidiols (CBD),
9 tetrahydrocannabinols (THC), Cannabinol (CBN), Cannabicyclol (CBDL),
10 and all other chemical cannabinoid constituents derived from hemp.
- 11 (1c) Commercial sale. – The sale of products in the stream of commerce, at retail,
12 wholesale, and online.
- 13 (2) ~~Commercial use. – The use of industrial hemp as a raw ingredient in the~~
14 ~~production of hemp products.~~
- 15 (3) Commission. – The North Carolina ~~Industrial-Hemp~~ Commission created by
16 this Article.
- 17 (3a) Cultivating. – Planting, watering, growing, or harvesting a plant or crop.
18 "Cultivating" also includes possessing or storing hemp plants for any period
19 of time on the premises where the hemp was cultivated and transporting hemp
20 to the first point of sale by the cultivator.
- 21 (4) Department. – The North Carolina Department of ~~Agriculture~~ Agriculture and
22 Consumer Services.
- 23 (4a) Federally defined THC level for hemp. – A delta-9 THC concentration of not
24 more than three-tenths percent (0.3%) on a dry weight basis.
- 25 (5) ~~Grower. – Any person licensed to grow industrial hemp by the Commission~~
26 ~~pursuant to this Article.~~
- 27 (5a) Handling. – Possessing or storing hemp plants for any period of time on
28 premises owned, operated, or controlled by a person licensed to handle hemp.
29 "Handling" also includes possessing or storing hemp plants in a vehicle for
30 any period of time other than during its actual transport from the premises of
31 a person licensed to cultivate, handle, or process hemp to the premises of
32 another licensed person. "Handling" does not include possessing or storing
33 finished hemp products.
- 34 (5b) Hemp. – The plant *Cannabis sativa* (L.) and any part of that plant, including
35 the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,
36 salts, and salts of isomers, whether growing or not, within the federally
37 defined THC level for hemp.
- 38 (5c) Hemp extract. – An extract from hemp, or a mixture or preparation containing
39 hemp plant material or compounds, within the federally defined THC level for
40 hemp.
- 41 (6) ~~Hemp products. – All products made from industrial hemp, including, but not~~
42 ~~limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard,~~
43 ~~plastics, seed, seed meal and seed oil for consumption, and verified propagules~~
44 ~~for cultivation if the seeds originate from industrial hemp varieties.~~ product. –
45 Any product within the federally defined THC level for hemp derived from,
46 or made by, processing hemp plants or plant parts, that are prepared in a form
47 available for commercial sale, including, but not limited to, cosmetics,
48 personal care products, food intended for animal or human consumption as
49 approved by the United States Food and Drug Administration or the United
50 States Department of Agriculture, cloth, cordage, fiber, fuel, paint, paper,
51 particleboard, plastics, and any product containing one or more hemp-derived

- 1 cannabinoids, such as cannabidiol. "Hemp product" does not include
 2 smokable hemp.
 3 ~~(7) Industrial hemp.—All parts and varieties of the plant *Cannabis sativa* (L.),~~
 4 ~~cultivated or possessed by a grower licensed by the Commission, whether~~
 5 ~~growing or not, that contain a delta-9 tetrahydrocannabinol concentration of~~
 6 ~~not more than three tenths of one percent (0.3%) on a dry weight basis.~~
 7 ~~(7a) Industrial hemp research program.—The research program established~~
 8 ~~pursuant to G.S. 106-568.53(1).~~
 9 ~~(7b) State land grant university.—North Carolina State University and North~~
 10 ~~Carolina A&T State University.~~
 11 ~~(7c) Licensee. – An individual or business entity possessing a license issued by the~~
 12 ~~Commission under the authority of this Article to cultivate or handle hemp.~~
 13 ~~(7d) Processing. – Converting an agricultural commodity into a marketable form.~~
 14 ~~(7e) Smokable hemp. – A product that does not exceed the federally defined THC~~
 15 ~~level for hemp in a form that allows THC to be introduced into the human~~
 16 ~~body by inhalation of smoke. "Smokable hemp" includes hemp buds, hemp~~
 17 ~~flowers, whole or ground raw hemp plant material, hemp cigars, and hemp~~
 18 ~~cigarettes.~~
 19 ~~(8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the~~
 20 ~~substances contained in the plant, or in the resinous extractives of, cannabis,~~
 21 ~~or any synthetic substances, compounds, salts, or derivatives of the plant or~~
 22 ~~chemicals and their isomers with similar chemical structure and~~
 23 ~~pharmacological activity. Any of the chemical analogues belonging to the~~
 24 ~~Cannabinoid subgroup Tetrahydrocannabinol. These compounds include the~~
 25 ~~chemical equivalents contained in the plant *Cannabis sativa* (L.), or in the~~
 26 ~~resinous extractive compounds, salts, or derivatives of the plant or chemicals~~
 27 ~~and their isomers with similar chemical structure and pharmacological~~
 28 ~~activity.~~
 29 ~~(9) Verified propagule.—A seed or clone from an industrial hemp plant from~~
 30 ~~which THC concentration samples have been tested by a qualified laboratory~~
 31 ~~and confirmed as having a delta-9 tetrahydrocannabinol concentration less~~
 32 ~~than that adopted by federal law in the Controlled Substances Act, 21 U.S.C.~~
 33 ~~§ 801, et seq.~~

34 **"§ 106-568.52. North Carolina Industrial Hemp Commission.**

35 (a) Creation and Membership. – The North Carolina ~~Industrial~~Hemp Commission is
 36 established and shall consist of nine members as follows:

- 37 (1) The Commissioner of Agriculture or the Commissioner's designee, who shall
 38 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.
 42 (3) One appointed by the General Assembly upon recommendation of the Speaker
 43 of the House of Representatives in accordance with G.S. 120-121, who shall
 44 at the time of appointment be an elected sheriff or the sheriff's designee.
 45 (4) Two appointed by the Governor who shall at the time of appointment be a
 46 full-time or Emeritus faculty member of a State land grant university who
 47 regularly works in the field of agricultural science or research.
 48 (5) Two appointed by the Commissioner of Agriculture, who shall be a full-time
 49 farmer with at least 10 years of experience in agricultural production in the
 50 State.

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

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

5 (b) Terms of Members. – Members of the Commission shall serve terms of four years,
6 beginning effective July 1 of the year of appointment, and may be reappointed to a second
7 four-year term. The terms of members designated by subdivisions (a)(1), (a)(2), (a)(4), and (a)(6)
8 of this section shall expire on June 30 of any year evenly divisible by four. The terms of the
9 remaining members shall expire on June 30 of any year that follows by two years a year evenly
10 divisible by four. However, the terms of all members of the Commission shall expire July 1,
11 2021.

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

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

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

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

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

24 (h) Staff. – The Commission is authorized and empowered to employ no more than two
25 persons as staff to assist the Commission in the proper discharge of its duties and responsibilities.
26 The chair of the Commission shall organize and direct the work of the Commission staff. The
27 salaries and compensation of all such personnel shall be determined by the Commission;
28 provided, however, that the aggregate cost for salaries and benefits of the staff may not exceed
29 two hundred thousand dollars (\$200,000).

30 **"§ 106-568.53. Powers and duties of the Commission.**

31 The Commission shall have the following powers and duties:

32 (1) ~~To establish an industrial hemp research program~~ the North Carolina Hemp
33 Program to grow or cultivate industrial hemp in the State, to be directly
34 managed and coordinated by State land grant universities. The Commission
35 shall pursue any permits or waivers from the United States Drug Enforcement
36 Agency or any other federal agency that are necessary for the establishment
37 of the industrial hemp research program established by this Article. This
38 research program shall consist primarily of demonstration plots planted and
39 cultivated in North Carolina by selected growers. The growers shall be
40 licensed pursuant to subdivision (2) of this section prior to planting any
41 industrial hemp. ~~State.~~

42 (2) To issue licenses allowing a person, firm, or corporation to cultivate ~~industrial~~
43 or handle hemp for research purposes to the extent allowed by federal law,
44 upon proper application as the Commission may specify, and in accordance
45 with G.S. 106-568.53A. ~~Each licensee shall provide a complete and accurate~~
46 legal description of the location of the industrial hemp farming operation,
47 including GPS coordinates, and the license shall be issued for cultivation only
48 in those locations identified in the application and shall include on its face the
49 description of those areas. ~~The Commission may delegate approval of license~~
50 applications to Commission staff, but the Commission shall hear any appeals

1 of denial of a license. The Department shall provide administrative support to
2 the Commission for the processing of applications and issuance of licenses.

3 ~~(3) To support the Commission's activities, and to reimburse the Department for
4 expenses associated with the issuance of cultivation licenses under
5 subdivision (2) of this section, the Commission may charge the following fees:~~

6 a. ~~An initial, graduated license fee, to be paid by each cultivator, based
7 upon the number of acres proposed for cultivation of industrial hemp,
8 not to exceed ten thousand dollars (\$10,000), with incentive provisions
9 to encourage the participation of small acreage farmers.~~

10 b. ~~An annual fee that is the sum of two hundred fifty dollars (\$250.00)
11 and two dollars (\$2.00) per acre of industrial hemp cultivated.~~

12 ~~In setting fees under this subdivision, the Commission may create fair and
13 reasonable licensing preferences for license applicants from North Carolina
14 counties that have been recognized as economically depressed or
15 disadvantaged. The Department shall collect and manage all fees charged by
16 the Commission and shall remit all funds collected under this subdivision to
17 the Commission at least monthly. The Department may retain its actual
18 expenses associated with the issuance of cultivation licenses from the amount
19 to be remitted to the Commission.~~

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

22 ~~(5) To establish procedures for reporting to the Commission by the growers and
23 processors for agricultural or academic research and to collaborate and
24 coordinate research efforts with the appropriate departments or programs of
25 North Carolina State University and North Carolina A & T State University.~~

26 (6), (7) Repealed by Session Laws 2016-93, s. 3, effective July 11, 2016.

27 (8) To adopt rules necessary to carry out the purposes of this Article, which shall
28 include, but are not limited to, rules for all of the following:

29 a. ~~Testing of the industrial hemp during growth to determine
30 tetrahydrocannabinol levels. Testing methods and protocols shall
31 comply in all respects with any and all applicable federal
32 requirements. Prescribe sampling and testing procedures to ensure that
33 hemp cultivated or handled under the authority of this Article does not
34 exceed the federally defined THC level for hemp.~~

35 b. ~~Supervision of the industrial hemp during its growth and harvest,
36 including rules for verification of the type of seeds and plants used and
37 grown by licensees.~~

38 c. ~~The production and sale of industrial hemp, consistent with the rules
39 of the United States Department of Justice and Drug Enforcement
40 Administration for the production, distribution, and sale of industrial
41 hemp.~~

42 d. ~~Means and methods for assisting law enforcement agencies to
43 efficiently ascertain information regarding the legitimate and lawful
44 production of industrial hemp.~~

45 e. ~~Strategies and programs for the promotion of industrial hemp products
46 and markets, in conjunction with the North Carolina Department of
47 Agriculture, the North Carolina Department of Commerce, the
48 University of North Carolina system, and the community college
49 system.~~

1 f. ~~The fees authorized by subdivision (3) of this section. Set and collect a~~
2 ~~schedule of nonrefundable fees for administering the North Carolina~~
3 ~~Hemp Program.~~

4 ~~The Commission shall adopt by reference or otherwise the federal regulations~~
5 ~~in effect regarding industrial hemp and any subsequent amendments to those~~
6 ~~regulations. No North Carolina rule, regulation, or statute shall be construed~~
7 ~~to authorize any person to violate any federal law or regulation.~~

8 (9) ~~To undertake any additional studies relating to the production, distribution, or~~
9 ~~use of industrial hemp as requested by the General Assembly, the Governor,~~
10 ~~or the Commissioner of Agriculture.~~

11 (10) ~~To notify the State Bureau of Investigation and all local law enforcement~~
12 ~~agencies of the duration, size, and location of all industrial hemp~~
13 ~~demonstration plots authorized pursuant to the industrial hemp research~~
14 ~~program.~~

15 **"§ 106-568.53A. Responsibilities Qualification of licensees.**

16 A person granted an industrial hemp license pursuant to this section shall:

17 (1) ~~Maintain records that demonstrate compliance with this Article and with all~~
18 ~~other State laws regulating the planting and cultivation of industrial hemp.~~

19 (2) ~~Retain all industrial hemp production records for a minimum of three years.~~

20 (3) ~~Allow industrial hemp crops, throughout sowing, growing, and harvesting, to~~
21 ~~be inspected by and at the discretion of the Commission, the State Bureau of~~
22 ~~Investigation, or the chief law enforcement officer of the unit or units of local~~
23 ~~government where the farm is located.~~

24 (4) ~~Maintain a current written agreement with a State land grant university that~~
25 ~~states that the grower is a participant in the industrial hemp research program~~
26 ~~managed by that institution.~~

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

29 (b) In order to obtain a license to cultivate hemp pursuant to this Article, a person must
30 be a qualifying farmer pursuant to G.S. 105-164.13E(a) or a conditional qualifying farmer
31 pursuant to G.S. 105-164.13E(b). The Commission may also grant a license to cultivate hemp to
32 a State agency or institution of higher learning, or an employee of a State agency or institution
33 of higher learning for use in the scope of the employee's duties.

34 (c) An applicant for a license issued by the Commission shall submit to and pay for an
35 annual criminal background check conducted by the State Bureau of Investigation or another
36 State or federal law enforcement agency approved by the Commission.

37 (d) A person granted a license to cultivate hemp pursuant to this Article shall provide to
38 the Commission prior to issuance of the license:

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

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

47 (e) Any person convicted of a felony relating to a controlled substance under State or
48 federal law shall be ineligible to obtain any hemp license for the 10-year period following the
49 date of the conviction.

50 (f) Any person who materially falsifies any information contained in an application for
51 a hemp license shall be ineligible to obtain a hemp license.

1 (g) A license issued by the North Carolina Industrial Hemp Commission shall be valid
2 for the term of the license. A person who holds a license issued by the North Carolina Industrial
3 Hemp Commission who wishes to modify the conditions of the license shall be required to apply
4 for a new license from the North Carolina Hemp Commission.

5 **"§ 106-568.54. Limitations.**

6 ~~The Commission shall not meet or undertake any of its powers and duties under this Article~~
7 ~~until it has obtained funding from sources other than State funds of at least two hundred thousand~~
8 ~~dollars (\$200,000) to support operations of the Commission. Funding from non-State sources for~~
9 ~~the Commission's activities may be returned to the donor or funder if not spent or encumbered~~
10 ~~within 12 months, upon request of the donor or funder. Non-State funds donated and carried over~~
11 ~~at the end of the fiscal year in which they are donated shall be retained and remain eligible for~~
12 ~~expenditure in the following fiscal year.~~

13 **"§ 106-568.55. Authorized research purposes.**

14 ~~As part of the industrial hemp research program directly managed by a State land grant~~
15 ~~university, a licensed grower may engage in any of the following research activities:~~

- 16 (1) ~~Studying and investigating marketplace opportunities for hemp products to~~
17 ~~increase the job base in the State by means of employment related to the~~
18 ~~production of industrial hemp.~~
- 19 (2) ~~Studying and investigating methods of industrial hemp cultivation that are~~
20 ~~best suited to soil conservation and restoration.~~
- 21 (3) ~~Overseeing and analyzing the growth of industrial hemp by licensed growers~~
22 ~~for agronomy research and analysis of required soils, growing conditions, and~~
23 ~~harvest methods relating to the production of various varieties of industrial~~
24 ~~hemp that may be suitable for various commercial hemp products.~~
- 25 (4) ~~Conducting seed research on various types of industrial hemp that are best~~
26 ~~suited to be grown in North Carolina, including seed availability, creation of~~
27 ~~North Carolina hybrid types, and in the ground variety trials and seed~~
28 ~~production. The Commission may establish a program to recognize certain~~
29 ~~industrial hemp seeds as being North Carolina varieties of hemp seed.~~
- 30 (5) ~~Studying the economic feasibility of developing an industrial hemp market in~~
31 ~~various types of industrial hemp that can be grown in the State, including by~~
32 ~~commercial marketing and sale of industrial hemp.~~
- 33 (6) ~~Reporting on the estimated value added benefits, including environmental~~
34 ~~benefits, to North Carolina businesses of an industrial hemp market of North~~
35 ~~Carolina grown industrial hemp varieties.~~
- 36 (7) ~~Studying the agronomy research being conducted worldwide relating to~~
37 ~~industrial hemp varieties, production, and use.~~
- 38 (8) ~~Researching and promoting on the world market industrial hemp and hemp~~
39 ~~seed that can be grown in the State.~~
- 40 (9) ~~Promoting research into the development of industrial hemp and commercial~~
41 ~~markets for North Carolina industrial hemp and hemp products.~~
- 42 (10) ~~Studying the feasibility of attracting federal or private funding for the North~~
43 ~~Carolina industrial hemp research program.~~
- 44 (11) ~~Studying the use of industrial hemp in new energy technologies, including~~
45 ~~electricity generation, biofuels, or other forms of energy resources; the growth~~
46 ~~of industrial hemp on reclaimed mine sites; the use of hemp seed oil in the~~
47 ~~production of fuels; and the production costs, environmental issues, and costs~~
48 ~~and benefits involved with the use of industrial hemp for energy.~~

49 **"§ 106-568.55A. Bonding requirement for hemp handlers.**

50 The Commission shall not issue a license to handle hemp to any person until the person has
51 furnished the Commissioner of Agriculture a bond satisfactory to the Commissioner in an amount

1 of not less than two hundred fifty thousand dollars (\$250,000). The Commissioner may require
2 a new bond or may require the amount of any bond to be increased if the Commissioner finds it
3 necessary for the protection of the cultivator. The bond shall be payable to the State and shall be
4 conditioned upon the fulfilling of all financial obligations incurred by the handler with all hemp
5 cultivators with whom the handler contracts. Any cultivator alleging any injury by the fraud,
6 deceit, willful injury, or failure to comply with the terms of any written contract by a handler
7 may bring suit on the bond against the principal and the principal's surety in any court of
8 competent jurisdiction and may recover the damages found to be caused by such acts complained
9 of.

10 **"§ 106-568.55B. Corrective action plans authorized.**

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

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

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

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

33 **"§ 106-568.56. Civil penalty.**

34 (a) In addition to any other liability or penalty provided by law, the Commissioner may
35 assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation
36 against any person who:

- 37 (1) Violates any provision of this Article or a rule adopted by the Commission, or
38 conditions of any license, permit, or order issued by the Commission.
- 39 (2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets,
40 attempts, or conspires to manufacture, distribute, dispense, deliver, purchase,
41 or possesses with the intent to manufacture, distribute, dispense, deliver, or
42 purchase marijuana on property used for ~~industrial~~ hemp production, or in a
43 manner intended to disguise the marijuana due to its proximity to ~~industrial~~
44 hemp. This penalty may be imposed in addition to any other penalties
45 provided by law.
- 46 (3) Provides the Commission with false or misleading information in relation to
47 a license application or renewal, inspection, or investigation authorized by this
48 Article.
- 49 (4) Tamper with or adulterates ~~an industrial~~ a hemp crop lawfully planted
50 pursuant to this Article.

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

3 **"§ 106-568.57. Criminal penalties.**

4 (a) Any person that manufactures, distributes, dispenses, delivers, purchases, aids, abets,
5 attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with
6 the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used
7 for ~~industrial~~-hemp production, or in a manner intended to disguise the marijuana due to its
8 proximity to ~~industrial~~-hemp, shall be deemed guilty of a Class I felony. This penalty may be
9 imposed in addition to any other penalties provided by law.

10 (b) Any person that provides the Commission with false or misleading information in
11 relation to a license application or renewal, inspection, or investigation authorized by this Article
12 shall be deemed guilty of a Class 1 misdemeanor.

13 (c) Any person that tampers with or adulterates ~~an industrial~~-a hemp crop lawfully planted
14 pursuant to this Article shall be deemed guilty of a Class 1 misdemeanor.

15 **"§ 106-658.58. Hemp products.**

16 (a) Except as provided in G.S. 106-139(g), no license shall be required to possess, handle,
17 transport, or sell hemp products or hemp extracts.

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

20 **"§ 106-568.59. North Carolina Hemp Program Fund.**

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

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

31 **SECTION 2.(a)** G.S. 90-87 reads as rewritten:

32 **"§ 90-87. Definitions.**

33 As used in this Article:

34 ...

35 (16) "Marijuana" means all parts of the plant of the genus Cannabis, whether
36 growing or not; the seeds thereof; the resin extracted from any part of such
37 plant; and every compound, manufacture, salt, derivative, mixture, or
38 preparation of such plant, its seeds or resin, but shall not include the mature
39 stalks of such plant, fiber produced from such stalks, oil, or cake made from
40 the seeds of such plant, any other compound, manufacture, salt, derivative,
41 mixture, or preparation of such mature stalks (except the resin extracted
42 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is
43 incapable of germination. The term does not include ~~industrial-hemp~~-hemp,
44 hemp products, hemp extracts, or smokable hemp as defined in
45 G.S. 106-568.51, when the ~~industrial~~-hemp is produced and used in
46 compliance with this Article and rules issued-adopted by the North Carolina
47 ~~Industrial-Hemp~~ Commission.

48"

49 **SECTION 2.(b)** G.S. 90-94 reads as rewritten:

50 **"§ 90-94. Schedule VI controlled substances.**

1 This schedule includes the controlled substances listed or to be listed by whatever official
2 name, common or usual name, chemical name, or trade name designated. In determining that
3 such substance comes within this schedule, the Commission shall find: no currently accepted
4 medical use in the United States, or a relatively low potential for abuse in terms of risk to public
5 health and potential to produce psychic or physiological dependence liability based upon present
6 medical knowledge, or a need for further and continuing study to develop scientific evidence of
7 its pharmacological effects.

8 The following controlled substances are included in this schedule:

9 (1) Marijuana.

10 (2) ~~Tetrahydrocannabinols.~~ Tetrahydrocannabinols, _____ except _____ for
11 tetrahydrocannabinols in hemp, hemp products, hemp extracts, or smokable
12 hemp, as defined in G.S. 106-568.51.

13 (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and
14 applicable to offenses committed on or after that date."

15 **SECTION 2.(c)** G.S. 90-95 reads as rewritten:

16 **"§ 90-95. Violations; penalties.**

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

18 (1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or
19 deliver, a controlled substance;

20 (2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit
21 controlled substance;

22 (3) To possess a controlled substance.

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

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

30 (1a) The manufacture of methamphetamine shall be punished as a Class C felony
31 unless the offense was one of the following: packaging or repackaging
32 methamphetamine, or labeling or relabeling the methamphetamine container.
33 The offense of packaging or repackaging methamphetamine, or labeling or
34 relabeling the methamphetamine container shall be punished as a Class H
35 felony.

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

41 (3) A controlled substance classified in Schedule VI shall only be punished by
42 being required to comply with a corrective action plan issued by the North
43 Carolina Hemp Commission for a first or second offense, provided that the
44 person has a valid hemp license from the North Carolina Hemp Commission
45 and the person did not willfully, knowingly, or intentionally cause the
46 controlled substance classified in Schedule VI to exceed the federally defined
47 THC level for hemp, as defined by G.S. 106-568.51.

48 ...

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

- 1 (1) A controlled substance classified in Schedule I shall be punished as a Class I
 2 felon. However, if the controlled substance is MDPV and the quantity of the
 3 MDPV is 1 gram or less, the violation shall be punishable as a Class 1
 4 misdemeanor.
- 5 (2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a
 6 Class 1 misdemeanor. If the controlled substance exceeds four tablets,
 7 capsules, or other dosage units or equivalent quantity of hydromorphone or if
 8 the quantity of the controlled substance, or combination of the controlled
 9 substances, exceeds one hundred tablets, capsules or other dosage units, or
 10 equivalent quantity, the violation shall be punishable as a Class I felony. If the
 11 controlled substance is methamphetamine, amphetamine, phencyclidine, or
 12 cocaine and any salt, isomer, salts of isomers, compound, derivative, or
 13 preparation thereof, or coca leaves and any salt, isomer, salts of isomers,
 14 compound, derivative, or preparation of coca leaves, or any salt, isomer, salts
 15 of isomers, compound, derivative or preparation thereof which is chemically
 16 equivalent or identical with any of these substances (except decocanized coca
 17 leaves or any extraction of coca leaves which does not contain cocaine or
 18 ecgonine), the violation shall be punishable as a Class I felony.
- 19 (3) A controlled substance classified in Schedule V shall be guilty of a Class 2
 20 misdemeanor;
- 21 (4) ~~A~~ Except as provided in subdivision (5) of this subsection, a controlled
 22 substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor,
 23 but any sentence of imprisonment imposed must be suspended and the judge
 24 may not require at the time of sentencing that the defendant serve a period of
 25 imprisonment as a special condition of probation. If the quantity of the
 26 controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana
 27 or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,
 28 commonly known as hashish, the violation shall be punishable as a Class 1
 29 misdemeanor. If the quantity of the controlled substance exceeds one and
 30 one-half ounces (avoirdupois) of marijuana, or three-twentieths of an ounce
 31 (avoirdupois) of the extracted resin of marijuana, commonly known as
 32 hashish, or if the controlled substance consists of any quantity of synthetic
 33 tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of
 34 marijuana, the violation shall be punishable as a Class I felony.
- 35 (5) A controlled substance classified in Schedule VI shall only be required to
 36 comply with a corrective action plan issued by the North Carolina Hemp
 37 Commission for a first or second offense, provided that the person has a valid
 38 hemp license from the North Carolina Hemp Commission and the person did
 39 not willfully, knowingly, or intentionally cause the controlled substance
 40 classified in Schedule VI to exceed the federally defined THC level for hemp,
 41 as defined by G.S. 106-568.51.

42"

43 **SECTION 3.(a)** G.S. 105-113.106 is amended by adding a new subdivision to read:

44 "(3a) Hemp. – Any of the following:

- 45 a. Hemp as defined in G.S. 106-568.51(5b).
 46 b. Hemp extracts as defined in G.S. 106-568.51(5c).
 47 c. Hemp products as defined in G.S. 106-568.51(6)."

48 **SECTION 3.(b)** G.S. 105-113.107A reads as rewritten:

49 "**§ 105-113.107A. Exemptions.**

1 (a) Authorized Possession. – The tax levied in this Article does not apply to a substance
2 in the possession of a dealer who is authorized by law to possess the substance. This exemption
3 applies only during the time the dealer's possession of the substance is authorized by law.

4 (b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the
5 following marijuana:

6 (1) Harvested mature marijuana stalks when separated from and not mixed with
7 any other parts of the marijuana plant.

8 (2) Fiber or any other product of marijuana stalks described in subdivision (1) of
9 this subsection, except resin extracted from the stalks.

10 (3) Marijuana seeds that have been sterilized and are incapable of germination.

11 (4) Roots of the marijuana plant.

12 (c) Hemp. – The tax levied in this Article shall not apply to hemp when lawfully
13 possessed in accordance with Article 50E of Chapter 106 of the General Statutes."

14 **SECTION 4.(a)** The Commissioner of Agriculture, in consultation with the
15 Governor and Attorney General, shall submit to the Secretary of the United States Department
16 of Agriculture a State plan for the regulation of hemp production, which shall include:

17 (1) A procedure to maintain relevant information regarding land on which hemp
18 is produced in the State, including a legal description of the land. The
19 procedure shall ensure the information is maintained for a period of not less
20 than three calendar years.

21 (2) A procedure for testing, using post-decarboxylation or other similarly reliable
22 methods, delta-9 THC concentration levels of hemp produced in the State.

23 (3) A procedure for the effective disposal of products that are produced in
24 violation of Article 50E of Chapter 106 of the General Statutes or any rule
25 adopted by the North Carolina Hemp Commission.

26 (4) A procedure to comply with the enforcement process set forth in
27 G.S. 106-568.64.

28 (5) A procedure for conducting annual inspections of, at a minimum, a random
29 sample of hemp producers to verify that hemp is not produced in violation of
30 this Article or rules adopted by the North Carolina Hemp Commission.

31 (6) A procedure for submitting (i) contact information for each hemp producer in
32 the State, (ii) a legal description of the land on which hemp is produced, and
33 (iii) the licensing status of each hemp producer in the State to the Secretary of
34 the United States Department of Agriculture not more than 30 days after the
35 date on which the information is received.

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

40 **SECTION 5.** Section 4 of S.L. 2015-299 reads as rewritten:

41 "**SECTION 4.** Section 2 of this act becomes effective on the first day of the month following
42 the adoption of permanent rules pursuant to Section 3 of this act and applies to acts involving the
43 production, possession, or use of industrial hemp occurring on or after that date. The remainder
44 of this act is effective when it becomes law. This act shall expire on ~~June 30 of the fiscal year in~~
45 ~~which the North Carolina Industrial Hemp Commission adopts and submits to the Governor and~~
46 ~~to the Revisor of Statutes a resolution that a State pilot program allowing farmers to lawfully~~
47 ~~grow industrial hemp is no longer necessary because (i) the United States Congress has enacted~~
48 ~~legislation that removes industrial hemp from the federal Controlled Substances Act and (ii) the~~
49 ~~legislation has taken effect, the later of December 1, 2019, or 30 days after the effective date of~~
50 regulations adopted by the United States Department of Agriculture pursuant to Section 297D of

1 the Agriculture Marketing Act of 1946, as amended by the Agriculture Improvement Act of
2 2018."

3 **SECTION 6.** The North Carolina Hemp Commission shall adopt temporary rules to
4 implement Section 1 of this act. The temporary rules shall remain in effect until permanent rules
5 that replace the temporary rules become effective.

6 **SECTION 6.1.** Article 50E of Chapter 106 of the General Statutes is repealed.

7 **SECTION 7.** Sections 1 and 2 of this act become effective on the later of the
8 following dates:

9 (1) December 1, 2019.

10 (2) Thirty days after the effective date of regulations adopted by the United States
11 Department of Agriculture pursuant to Section 297D of the Agriculture
12 Marketing Act of 1946, as amended by the Agriculture Improvement Act of
13 2018.

14 Section 3 of this act is effective for taxes imposed for taxable years beginning on or
15 after July 1, 2019. Sections 4, 5, 6, and 7 of this act are effective when they become law. Section
16 6.1 of this act becomes effective July 1, 2021. Sections 2 and 3 of this act expire July 1, 2021.

17
18 **TRANSFER HEMP PROGRAM AUTHORITY TO THE DEPARTMENT OF**
19 **AGRICULTURE AND CONSUMER SERVICES ON JULY 1, 2021**

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

22 "Article 50F.

23 "North Carolina Hemp Program.

24 **"§ 106-568.60. Legislative findings and purpose.**

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

27 (1) Promote the cultivation and processing of hemp, and open new commercial
28 markets for farmers and businesses through the sale of hemp products.

29 (2) Promote the expansion of the State's hemp industry to the maximum extent
30 permitted by law, allowing farmers and businesses to cultivate, handle, and
31 process hemp and sell hemp products for commercial purposes.

32 (3) Encourage and empower research into industrial hemp growth and hemp
33 products at State institutions of higher education and in the private sector.

34 (4) Move the State and its citizens to the forefront of the hemp industry.

35 **"§ 106-568.61. Definitions.**

36 The following definitions apply in this Article:

37 (1) "Cannabidiol" or "CBD" means the nonpsychoactive cannabinoid compound
38 derived from the hemp variety of the plant *Cannabis sativa* (L.) that is
39 essentially free of plant material and does not exceed the federally defined
40 THC level for hemp.

41 (2) "Cannabinoid" means any of the terpenophenolic compounds found within the
42 plant *Cannabis sativa* (L.) that are functionally or structurally similar,
43 biologically active, and are classified in subgroups such as Cannabigerols
44 (CBG), Cannabichromenes (CBC), Cannabidiols (CBD),
45 tetrahydrocannabinols (THC), Cannabinol (CBN), Cannabicyclol (CBDL),
46 and all other chemical cannabinoid constituents derived from hemp.

47 (3) "Commercial sale" means the sale of products in the stream of commerce, at
48 retail, wholesale, and online.

49 (4) "Commissioner" means the Commissioner of the Department of Agriculture
50 and Consumer Services.

- 1 (5) "Cultivating" means planting, watering, growing, and harvesting a plant or
2 crop. "Cultivating" also includes possessing or storing hemp plants for any
3 period of time on the premises where the hemp was cultivated and transporting
4 hemp to the first point of sale by the cultivator.
- 5 (6) "Department" means the Department of Agriculture and Consumer Services.
6 (7) "Federally defined THC level for hemp" means a delta-9 THC concentration
7 of not more than three-tenths percent (0.3%) on a dry weight basis.
- 8 (8) "Handling" means possessing or storing hemp plants for any period of time
9 on premises owned, operated, or controlled by a person licensed to handle
10 hemp. "Handling" also includes possessing or storing hemp plants in a vehicle
11 for any period of time other than during its actual transport from the premises
12 of a person licensed to cultivate, handle, or process industrial hemp to the
13 premises of another licensed person. "Handling" does not include possessing
14 or storing finished hemp products.
- 15 (9) "Hemp" means the plant *Cannabis sativa* (L.) and any part of that plant,
16 including the seeds thereof and all derivatives, extracts, cannabinoids,
17 isomers, acids, salts, and salts of isomers, whether growing or not, within the
18 federally defined THC level for hemp.
- 19 (10) "Hemp extract" means an extract from hemp, or a mixture or preparation
20 containing hemp plant material or compounds, within the federally defined
21 THC level for hemp.
- 22 (11) "Hemp product" means any product within the federally defined THC level
23 for hemp derived from, or made by, processing hemp plants or plant parts, that
24 are prepared in a form available for commercial sale, including, but not limited
25 to, cosmetics, personal care products, food intended for animal or human
26 consumption as approved by the United States Food and Drug Administration
27 or the United States Department of Agriculture, cloth, cordage, fiber, fuel,
28 paint, paper, particleboard, plastics, and any product containing one or more
29 hemp-derived cannabinoids, such as cannabidiol. "Hemp product" does not
30 include smokable hemp.
- 31 (12) "Licensee" means an individual or business entity possessing a license issued
32 by the Department under the authority of this Article to cultivate or handle
33 hemp.
- 34 (13) "Processing" means converting an agricultural commodity into a marketable
35 form.
- 36 (14) "Smokable hemp" means a product that does not exceed the federally defined
37 THC level for hemp in a form that allows THC to be introduced into the
38 human body by inhalation of smoke. "Smokable hemp" includes hemp buds,
39 hemp flowers, whole or ground raw hemp plant material, hemp cigars, and
40 hemp cigarettes.
- 41 (15) "Tetrahydrocannabinol" or "THC" means any of the chemical analogues
42 belonging to the Cannabinoid subgroup Tetrahydrocannabinol. These
43 compounds include the chemical equivalents contained in the plant *Cannabis*
44 *sativa* (L.), or in the resinous extractive compounds, salts, or derivatives of
45 the plant or chemicals and their isomers with similar chemical structure and
46 pharmacological activity.

47 **"§ 106-568.62. Powers and duties of the Department.**

48 The Department 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 Commissioner may specify, and in
51 accordance with G.S. 106-568.63. The Commissioner may delegate approval

1 of license applications to Department staff but the Commissioner shall hear
2 all 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 North Carolina Hemp Program.

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.

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

12 **"§ 106-568.63. Qualification of licensees.**

13 (a) No person shall cultivate or handle hemp in this State unless the person holds a hemp
14 license issued by the Department.

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

18 (c) A person granted a license to cultivate hemp pursuant to this Article shall provide to
19 the Department prior to issuance of the license:

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

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

28 (d) Any person convicted of a felony relating to a controlled substance under State or
29 federal law shall be ineligible to obtain any hemp license for the 10-year period following the
30 date of the conviction.

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

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

37 **"§ 106-568.64. Bonding requirement for hemp handlers.**

38 The Department shall not issue a license to handle hemp to any person until the person has
39 furnished the Commissioner a bond satisfactory to the Commissioner in an amount of not less
40 than two hundred fifty thousand dollars (\$250,000). The Commissioner may require a new bond
41 or may require the amount of any bond to be increased if the Commissioner finds it necessary
42 for the protection of the cultivator. The bond shall be payable to the State and shall be conditioned
43 upon the fulfilling of all financial obligations incurred by the handler with all hemp cultivators
44 with whom the handler contracts. Any cultivator alleging any injury by the fraud, deceit, willful
45 injury, or failure to comply with the terms of any written contract by a handler may bring suit on
46 the bond against the principal and the principal's surety in any court of competent jurisdiction
47 and may recover the damages found to be caused by such acts complained of.

48 **"§ 106-568.65. Corrective action plans authorized.**

49 (a) The Department shall require any person who is required to obtain a hemp license
50 issued by the Department to comply with a corrective action plan if the Commissioner determines
51 that the person has negligently violated any provision of this Article or any rule adopted by the

1 Department, including by negligently failing to obtain a proper license or other required
2 authorization from the Department, negligently failing to provide an accurate legal description
3 of land on which the person produces hemp, or negligently producing *Cannabis sativa* (L.) with
4 more than the federally defined THC level for hemp.

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

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

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

20 **"§ 106-568.66. Civil penalties.**

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

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

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

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

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

36 (5) Knowingly or intentionally manufactures, delivers, sells, or possesses
37 smokable hemp, except for hemp plants or parts of a hemp plant grown or
38 handled by a licensee for processing or manufacturing into a legal hemp
39 product.

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

42 **"§ 106-568.67. Criminal penalties.**

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

49 (b) Any person who willfully, knowingly, or intentionally provides the Department with
50 false or misleading information in relation to a license application or renewal, inspection, or
51 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 (d) Any person that knowingly or intentionally manufactures, delivers, sells, or possesses
4 smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee
5 for processing or manufacturing into a legal hemp product, shall be deemed guilty of a Class 1
6 misdemeanor.

7 **"§ 106-568.68. Hemp products.**

8 (a) Except as provided in G.S. 106-139(g), no license shall be required to possess, handle,
9 transport, or sell hemp products or hemp extracts.

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

12 **"§ 106-568.69. North Carolina Hemp Program Fund.**

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

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

22 **SECTION 8.(b)** The Department of Agriculture and Consumer Services shall have
23 the authority to enforce the rules adopted by the North Carolina Hemp Commission to implement
24 Section 1 of this act until the Department amends or repeals the rules, pursuant to
25 G.S. 150B-21.7.

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

27 **"§ 90-87. Definitions.**

28 As used in this Article:

29 ...

30 (16) "Marijuana" means all parts of the plant of the genus Cannabis, whether
31 growing or not; the seeds thereof; the resin extracted from any part of such
32 plant; and every compound, manufacture, salt, derivative, mixture, or
33 preparation of such plant, its seeds or resin, but shall not include the mature
34 stalks of such plant, fiber produced from such stalks, oil, or cake made from
35 the seeds of such plant, any other compound, manufacture, salt, derivative,
36 mixture, or preparation of such mature stalks (except the resin extracted
37 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is
38 incapable of germination. The term does not include ~~industrial hemp~~ hemp,
39 hemp products, hemp extracts, or smokable hemp as defined in
40 ~~G.S. 106-568.51, when the industrial hemp is produced and used in~~
41 ~~compliance with rules issued by the North Carolina Industrial Hemp~~
42 ~~Commission.~~ G.S. 106-568.61.

43 "

44 **SECTION 9.(b)** G.S. 90-94 reads as rewritten:

45 **"§ 90-94. Schedule VI controlled substances.**

46 This schedule includes the controlled substances listed or to be listed by whatever official
47 name, common or usual name, chemical name, or trade name designated. In determining that
48 such substance comes within this schedule, the Commission shall find: no currently accepted
49 medical use in the United States, or a relatively low potential for abuse in terms of risk to public
50 health and potential to produce psychic or physiological dependence liability based upon present

1 medical knowledge, or a need for further and continuing study to develop scientific evidence of
2 its pharmacological effects.

3 The following controlled substances are included in this schedule:

4 (1) Marijuana.

5 (2) ~~Tetrahydrocannabinols.~~ Tetrahydrocannabinols, except for
6 tetrahydrocannabinols in hemp, hemp products, hemp extracts, or smokable
7 hemp, as defined in G.S. 106-568.61.

8 (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and
9 applicable to offenses committed on or after that date."

10 **SECTION 9.(c)** G.S. 90-95 reads as rewritten:

11 **"§ 90-95. Violations; penalties.**

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

13 (1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or
14 deliver, a controlled substance;

15 (2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit
16 controlled substance;

17 (3) To possess a controlled substance.

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

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

25 (1a) The manufacture of methamphetamine shall be punished as a Class C felony
26 unless the offense was one of the following: packaging or repackaging
27 methamphetamine, or labeling or relabeling the methamphetamine container.
28 The offense of packaging or repackaging methamphetamine, or labeling or
29 relabeling the methamphetamine container shall be punished as a Class H
30 felony.

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

36 (3) A controlled substance classified in Schedule VI shall only be punished by
37 being required to comply with a corrective action plan issued by the
38 Department of Agriculture and Consumer Services for a first or second
39 offense, provided that the person has a valid hemp license from the
40 Department of Agriculture and Consumer Services and the person did not
41 willfully, knowingly, or intentionally cause the controlled substance classified
42 in Schedule VI to exceed the federally defined THC level for hemp, as defined
43 by G.S. 106-568.61.

44 ...

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

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

- 1 (2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a
- 2 Class 1 misdemeanor. If the controlled substance exceeds four tablets,
- 3 capsules, or other dosage units or equivalent quantity of hydromorphone or if
- 4 the quantity of the controlled substance, or combination of the controlled
- 5 substances, exceeds one hundred tablets, capsules or other dosage units, or
- 6 equivalent quantity, the violation shall be punishable as a Class I felony. If the
- 7 controlled substance is methamphetamine, amphetamine, phencyclidine, or
- 8 cocaine and any salt, isomer, salts of isomers, compound, derivative, or
- 9 preparation thereof, or coca leaves and any salt, isomer, salts of isomers,
- 10 compound, derivative, or preparation of coca leaves, or any salt, isomer, salts
- 11 of isomers, compound, derivative or preparation thereof which is chemically
- 12 equivalent or identical with any of these substances (except decocanized coca
- 13 leaves or any extraction of coca leaves which does not contain cocaine or
- 14 ecgonine), the violation shall be punishable as a Class I felony.
- 15 (3) A controlled substance classified in Schedule V shall be guilty of a Class 2
- 16 misdemeanor;
- 17 (4) A-Except as provided in subdivision (5) of this subsection, a controlled
- 18 substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor,
- 19 but any sentence of imprisonment imposed must be suspended and the judge
- 20 may not require at the time of sentencing that the defendant serve a period of
- 21 imprisonment as a special condition of probation. If the quantity of the
- 22 controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana
- 23 or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,
- 24 commonly known as hashish, the violation shall be punishable as a Class 1
- 25 misdemeanor. If the quantity of the controlled substance exceeds one and
- 26 one-half ounces (avoirdupois) of marijuana, or three-twentieths of an ounce
- 27 (avoirdupois) of the extracted resin of marijuana, commonly known as
- 28 hashish, or if the controlled substance consists of any quantity of synthetic
- 29 tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of
- 30 marijuana, the violation shall be punishable as a Class I felony.
- 31 (5) A controlled substance classified in Schedule VI shall only be required to
- 32 comply with a corrective action plan issued by the Department of Agriculture
- 33 and Consumer Services for a first or second offense, provided that the person
- 34 has a valid hemp license from the Department of Agriculture and Consumer
- 35 Services and the person did not willfully, knowingly, or intentionally cause
- 36 the controlled substance classified in Schedule VI to exceed the federally
- 37 defined THC level for hemp, as defined by G.S. 106-568.61.
- 38"

39 **SECTION 10.(a)** G.S. 105-113.106(3a) reads as rewritten:

40 "(3a) Hemp. – Any of the following:

41 a. Hemp as defined in G.S. 106-568.61(9).

42 b. Hemp extracts as defined in G.S. 106-568.61(10).

43 c. Hemp products as defined in G.S. 106-568.61(11)."

44 **SECTION 10.(b)** G.S. 105-113.107A reads as rewritten:

45 "**§ 105-113.107A. Exemptions.**

46 (a) Authorized Possession. – The tax levied in this Article does not apply to a substance

47 in the possession of a dealer who is authorized by law to possess the substance. This exemption

48 applies only during the time the dealer's possession of the substance is authorized by law.

49 (b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the

50 following marijuana:

- 1 (1) Harvested mature marijuana stalks when separated from and not mixed with
2 any other parts of the marijuana plant.
- 3 (2) Fiber or any other product of marijuana stalks described in subdivision (1) of
4 this subsection, except resin extracted from the stalks.
- 5 (3) Marijuana seeds that have been sterilized and are incapable of germination.
- 6 (4) Roots of the marijuana plant.
- 7 (c) Hemp. – The tax levied in this Article shall not apply to hemp when lawfully
8 possessed in accordance with Article 50F of Chapter 106 of the General Statutes."

9 **SECTION 11.** Sections 8 through 11 of this act become effective July 1, 2021.

10
11 **DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO**
12 **REGULATE CANNABINOID-RELATED COMPOUNDS**

13 **SECTION 12.(a)** G.S. 106-121 reads as rewritten:

14 **"§ 106-121. Definitions and general consideration.**

15 For the purpose of this Article:

- 16 (1) The term "advertisement" means all representations disseminated in any
17 manner or by any means, other than by labeling, for the purposes of inducing,
18 or which are likely to induce, directly or indirectly, the purchase of food,
19 drugs, devices or cosmetics.

20 (1a) The term "cannabinoid-related compounds" means chemical compounds and
21 constituents found within the hemp plant that are biologically active and are
22 classified in subgroups such as cannabinoids, terpenes, flavonoids, and all
23 other related compounds derived from hemp.

24 ~~(1a)~~(1b) The term "color" includes black, white, and intermediate grays.

25 ~~(1b)~~(1c) The term "color additive" means a material which:

26 "...."

27 **SECTION 12.(b)** G.S. 106-139 is amended by adding two new subsections to read:

28 "(f) The Board may adopt rules to establish current good manufacturing practices in
29 manufacturing, packaging, labeling, or holding operations for cannabinoid-related compounds
30 derived from hemp, as defined in G.S. 106-568.51(5b). The manufacture, sale, delivery, holding,
31 or offering for sale of any cannabinoid-related compounds that does not comply with rules
32 adopted by the Board shall be prohibited under this Article and shall also be subject to
33 G.S. 106-123 and G.S. 106-125.

34 (g) No person, including individuals, partnerships, firms, associations, or corporations,
35 that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling,
36 processing, holding, or sale of cannabinoid-related compounds without a valid license issued by
37 the Commissioner. Application for a license shall be made to the Commissioner on forms
38 provided by the Department. The application shall set forth the name and address of the applicant,
39 the applicant's principal place of business, and such other information as the Commissioner may
40 require. The Board shall develop a schedule of license fees, including fees for out-of-state and
41 online retailers. Fees collected pursuant to this subsection shall be used by the Department to
42 cover all reasonable costs of administering the licensing program. Failure to comply with this
43 Article or rules adopted thereunder shall be cause for suspension or revocation of a license."

44 **SECTION 12.(c)** G.S. 106-139 is amended by adding two new subsections to read:

45 "(f) The Board may adopt rules to establish current good manufacturing practices in
46 manufacturing, packaging, labeling, or holding operations for cannabinoid-related compounds
47 derived from hemp, as defined in G.S. 106-568.61(9). The manufacture, sale, delivery, holding,
48 or offering for sale of any cannabinoid-related compounds that does not comply with rules
49 adopted by the Board shall be prohibited under this Article and shall also be subject to
50 G.S. 106-123 and G.S. 106-125.

(g) No person, including individuals, partnerships, firms, associations, or corporations, that are subject to rules adopted by the Board shall engage in manufacturing, packaging, labeling, processing, holding, or sale of cannabinoid-related compounds without a valid license issued by the Commissioner. Application for a license shall be made to the Commissioner on forms provided by the Department. The application shall set forth the name and address of the applicant, the applicant's principal place of business, and such other information as the Commissioner may require. The Board shall develop a schedule of license fees, including fees for out-of-state and online retailers. Fees collected pursuant to this subsection shall be used by the Department to cover all reasonable costs of administering the licensing program. Failure to comply with this Article or rules adopted thereunder shall be cause for suspension or revocation of a license."

SECTION 12.(d) The Board of Agriculture shall adopt temporary rules to implement this section no later than November 1, 2019. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 12.(e) Subsection (b) of this section is effective January 1, 2020, and expires July 1, 2021. Subsection (c) of this section is effective July 1, 2021. The remainder of this section is effective when it becomes law.

ALLOW DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO MARKET HEMP

SECTION 13.(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~~, ~~sweetpotatoes~~, 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 13.(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 13.(c) This section is effective when it becomes law. Subsection (b) of this section expires July 1, 2021.

SMOKABLE HEMP

SECTION 14.(a) G.S. 106-568.56, as amended by Section 1(a) of this act, reads as rewritten:

"§ 106-568.56. Civil penalty.

1 (a) In addition to any other liability or penalty provided by law, the Commissioner may
2 assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation
3 against any person who:

4 ...

5 (5) Knowingly or intentionally manufactures, delivers, sells, or possesses
6 smokable hemp, except for hemp plants or parts of a hemp plant grown or
7 handled by a licensee for processing or manufacturing into a legal hemp
8 product.

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

11 **SECTION 14.(b)** G.S. 106-568.57, as amended by Section 1(a) of this act, is
12 amended by adding a new subsection to read:

13 "(d) Any person that knowingly or intentionally manufactures, delivers, sells, or possesses
14 smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee
15 for processing or manufacturing into a legal hemp product, shall be deemed guilty of a Class 1
16 misdemeanor."

17 **SECTION 14.(c)** At least quarterly, the Department of Agriculture and Consumer
18 Services, the North Carolina Industrial Hemp Association, the North Carolina Hemp
19 Commission, the State Bureau of Investigation, and other law enforcement agencies and district
20 attorneys as requested by the State Bureau of Investigation, shall meet to discuss best practices
21 for the hemp industry. The Department of Agriculture and Consumer Services shall report any
22 findings and legislative recommendations from these meetings to the Agriculture and Forestry
23 Awareness Study Commission within 30 days of each meeting.

24 **SECTION 14.(d)** The State Bureau of Investigation shall notify the Agriculture and
25 Forestry Awareness Study Commission in writing when the United States Drug Enforcement
26 Agency has adopted an approved immediate testing method to determine whether hemp is within
27 the federally defined THC level for hemp. Upon the receipt of notification from the State Bureau
28 of Investigation, the Agriculture and Forestry Awareness Study Commission shall study whether
29 the prohibition on the sale of smokable hemp should be repealed and make legislative
30 recommendations.

31 **SECTION 14.(e)** Subsections (a) and (b) of this section become effective December
32 1, 2020, and apply to offenses occurring on or after that date. The remainder of this section is
33 effective when it becomes law.

34
35 **REQUIRE UTILITY COMPANIES TO DISPOSE OF CERTAIN UNUSED**
36 **EASEMENTS UNDER CERTAIN CIRCUMSTANCES, AS RECOMMENDED BY THE**
37 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION**

38 **SECTION 15.(a)** Article 9 of Chapter 62 of the General Statutes is amended by
39 adding a new section to read:

40 **"§ 62-193. Disposition of certain unused easements.**

41 (a) The underlying fee owner of land encumbered by any easement acquired by a utility
42 company, whether acquired by purchase or by condemnation, on which construction has not been
43 commenced by the utility company for the purpose for which the easement was acquired within
44 20 years of the date of acquisition, may file a complaint with the Commission for an order
45 requiring the utility company to terminate the easement in exchange for payment by the
46 underlying fee owner of the current fair market value of the easement.

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

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

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

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

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

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

27 **SECTION 15.(b)** This section becomes effective October 1, 2019, and applies to
28 easements acquired on or after that date.
29

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

31 **SECTION 16.(a)** G.S. 20-150 is amended by adding a new subsection to read:

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

35 **SECTION 16.(b)** This section becomes effective December 1, 2019, and applies to
36 offenses committed on or after that date.
37

38 **EXPAND AGRICULTURAL OUTDOOR ADVERTISING**

39 **SECTION 17.** G.S. 136-129 reads as rewritten:

40 "**§ 136-129. Limitations of outdoor advertising devices.**

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

45 ...

46 (2a) ~~Outdoor advertising which advertises the sale of any fruit or vegetable crop~~
47 ~~by the grower at a roadside stand or by having the purchaser pick the crop on~~
48 ~~the property on which the crop is grown provided: (i) to promote a bona fide~~
49 ~~farm that is exempt from zoning regulations pursuant to G.S. 153-340(b),~~
50 ~~provided the sign is no more than two-three feet long on any side; (ii) side and~~
51 ~~the sign is located on property owned or leased by the grower where the crop~~

1 is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by
 2 the grower for no more than 30 days. any bona fide farm property owned or
 3 leased by the owner or lessee of the bona fide farm.

4"

5
 6 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION COCHAIR**
 7 **HOLDOVER**

8 **SECTION 18.** G.S. 120-150 reads as rewritten:

9 **"§ 120-150. Creation; appointment of members.**

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

- 13 (1) Three appointed by the Governor.
- 14 (2) Three appointed by the President Pro Tempore of the Senate.
- 15 (3) Three appointed by the Speaker of the House.
- 16 (4) The chairs of the House Agriculture Committee.
- 17 (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural
 18 Resources.
- 19 (6) The Commissioner of Agriculture or the Commissioner's designee.
- 20 (7) A member of the Board of Agriculture designated by the chair of the Board of
 21 Agriculture.
- 22 (8) The President of the North Carolina Farm Bureau Federation, Inc., or the
 23 President's designee.
- 24 (9) The President of the North Carolina State Grange or the President's designee.
- 25 (10) The Secretary of Environmental Quality or the Secretary's designee.
- 26 (11) The President of the North Carolina Forestry Association, Inc., or the
 27 President's designee.

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

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

43
 44 **EXEMPT FACILITIES THAT STORE PRODUCTS FROM AGRICULTURAL**
 45 **OPERATIONS THAT ARE RENEWABLE ENERGY RESOURCES FROM EMC RULE**

46 **SECTION 19.(a)** Rule. – Until the effective date of the revised permanent rule that
 47 the Environmental Management Commission is required to adopt pursuant to subsection (c) of
 48 this section, the Commission shall implement 15A NCAC 02D .1806 as provided in subsection
 49 (b) of this section.

50 **SECTION 19.(b)** Implementation. – Notwithstanding subsection (c) of 15A NCAC
 51 02D .1806, the Commission shall classify facilities that store products that are (i) grown,

1 produced, or generated on one or more agricultural operations and (ii) that are "renewable energy
2 resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the
3 requirements of the Rule.

4 **SECTION 19.(c)** Additional Rule-Making Authority. – The Commission shall adopt
5 rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

6 **SECTION 19.(d)** Effective Date. – Subsection (b) of this section expires on the date
7 that rules adopted pursuant to subsection (c) of this section become effective. The remainder of
8 this section is effective when it becomes law.

9
10 **ADD HUNTING, FISHING, SHOOTING SPORTS, AND EQUESTRIAN ACTIVITIES**
11 **TO THE DEFINITION OF AGRITOURISM, AND LIMIT REGULATION OF**
12 **CATERING BY BONA FIDE FARMS**

13 **SECTION 20.(a)** G.S. 99E-30 reads as rewritten:

14 **"§ 99E-30. Definitions.**

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

- 16 (1) Agritourism activity. – Any activity carried out on a farm or ranch that allows
17 members of the general public, for recreational, entertainment, or educational
18 purposes, to view or enjoy rural activities, including farming, ranching,
19 historic, cultural, harvest-your-own activities, hunting, fishing, shooting
20 sports, equestrian activities, or natural activities and attractions. An activity is
21 an agritourism activity whether or not the participant paid to participate in the
22 activity. For purposes of this section, properties used for shooting sports shall
23 comply with guidelines for design and site evaluation as established by the
24 Wildlife Resources Commission. "Agritourism activity" includes an activity
25 involving any animal exhibition at an agricultural fair licensed by the
26 Commissioner of Agriculture pursuant to G.S. 106-520.3.
- 27 (2) Agritourism professional. – Any person who is engaged in the business of
28 providing one or more agritourism activities, whether or not for compensation.
- 29 (3) Inherent risks of agritourism activity. – Those dangers or conditions that are
30 an integral part of an agritourism activity including certain hazards, including
31 surface and subsurface conditions, natural conditions of land, vegetation, and
32 waters, the behavior of wild or domestic animals, and ordinary dangers of
33 structures or equipment ordinarily used in farming and ranching operations.
34 Inherent risks of agritourism activity also include the potential of a participant
35 to act in a negligent manner that may contribute to injury to the participant or
36 others, including failing to follow instructions given by the agritourism
37 professional or failing to exercise reasonable caution while engaging in the
38 agritourism activity.
- 39 (4) Participant. – Any person, other than the agritourism professional, who
40 engages in an agritourism activity.
- 41 (5) Person. – An individual, fiduciary, firm, association, partnership, limited
42 liability company, corporation, unit of government, or any other group acting
43 as a unit."

44 **SECTION 20.(b)** G.S. 153A-340(b)(2a) reads as rewritten:

- 45 "(2a) A building or structure that is used for agritourism is a bona fide farm purpose
46 if the building or structure is located on a property that (i) is owned by a person
47 who holds a qualifying farmer sales tax exemption certificate from the
48 Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in
49 the present-use value program pursuant to G.S. 105-277.3. Failure to maintain
50 the requirements of this subsection for a period of three years after the date
51 the building or structure was originally classified as a bona fide purpose

1 pursuant to this subdivision shall subject the building or structure to applicable
2 zoning and development regulation ordinances adopted by a county pursuant
3 to subsection (a) of this section in effect on the date the property no longer
4 meets the requirements of this subsection. For purposes of this section,
5 "agritourism" means any activity carried out on a farm or ranch that allows
6 members of the general public, for recreational, entertainment, or educational
7 purposes, to view or enjoy rural activities, including farming, ranching,
8 historic, cultural, harvest-your-own activities, hunting, fishing, shooting
9 sports, equestrian activities, or natural activities and attractions. For purposes
10 of this section, properties used for shooting sports shall comply with
11 guidelines for design and site evaluation as established by the Wildlife
12 Resources Commission. A vote of the full board of county commissioners
13 shall be required to determine whether a property used for shooting sports is
14 in compliance with the guidelines adopted by the Wildlife Resources
15 Commission. A building or structure used for agritourism includes any
16 building or structure used for public or private events, including, but not
17 limited to, weddings, receptions, meetings, demonstrations of farm activities,
18 meals, and other events that are taking place on the farm because of its farm
19 or rural setting."

20 **SECTION 20.(c)** Article 6 of Chapter 153A of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 153A-145.8. Limitations on regulation of catering by bona fide farms.**

23 Notwithstanding any other provision of law, no county may require a business located on a
24 property used for bona fide farm purposes, as provided in G.S. 153A-340(b), that provides
25 catering services on and off-site from the bona fide farm property, to obtain a permit to provide
26 catering services within the county. This section shall not be construed to exempt the business
27 from any health and safety rules adopted by a local health department, the Department of Health
28 and Human Services, or the Commission for Public Health."

29 **SECTION 20.(d)** Article 8 of Chapter 160A of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 160A-203.2. Limitations on regulation of catering by bona fide farms.**

32 Notwithstanding any other provision of law, no city may require a business located on a
33 property used for bona fide farm purposes, as provided in G.S. 153A-340(b), that provides
34 catering services on and off-site from the bona fide farm property, to obtain a permit to provide
35 catering services within the city. This section shall not be construed to exempt the business from
36 any health and safety rules adopted by a local health department, the Department of Health and
37 Human Services, or the Commission for Public Health."

38
39 **ENACT THE NORTH CAROLINA SWEETPOTATO ACT FOR THE PROMOTION OF**
40 **NORTH CAROLINA SWEETPOTATOES**

41 **SECTION 21.** Chapter 106 of the General Statutes is amended by adding a new
42 Article to read:

43 "Article 87.

44 "North Carolina Sweetpotato Act.

45 **"§ 106-1065. Title.**

46 This Article shall be known and may be cited as the "North Carolina Sweetpotato Act of
47 2019."

48 **"§ 106-1066. Definitions.**

49 As used in this Article:

- 50 (1) "Commissioner" means the Commissioner of the Department of Agriculture
51 and Consumer Services.

- 1 (2) "Department" means the Department of Agriculture and Consumer Services.
2 (3) "Person" means an individual, partnership, corporation, association, or any
3 other legal entity.
4 (4) "North Carolina Sweetpotato Advisory Council" means the advisory council
5 established pursuant to G.S. 106-1070.

6 **"§ 106-1067. North Carolina sweetpotato brand.**

7 Only sweetpotatoes that are grown in the State of North Carolina may be identified, classified,
8 packaged, labeled, or otherwise designated for sale inside or outside the State as North Carolina
9 sweetpotatoes.

10 **"§ 106-1068. Powers of Commissioner to regulate and promote North Carolina**
11 **sweetpotatoes.**

12 (a) The Commissioner of Agriculture may take all actions necessary and appropriate to
13 create, register, license, promote, and protect a trademark for use on or in connection with the
14 sale or promotion of North Carolina sweetpotatoes and products containing North Carolina
15 sweetpotatoes. The Commissioner may impose and collect a reasonable royalty or license fee per
16 hundredweight of sweetpotatoes for the use of such trademark on products containing North
17 Carolina sweetpotatoes or the packaging containing such sweetpotato products. The
18 Commissioner shall determine the fee in consultation with representatives of the sweetpotato
19 industry and the Marketing Division of the Department of Agriculture and Consumer Services.
20 The Commissioner shall remit all royalties and license fees received from this Article, less any
21 costs associated with monitoring the use of the trademark, prohibiting the unlawful or
22 unauthorized use of the trademark, and enforcing rights in the trademark, to the North Carolina
23 SweetPotato Commission for the promotion of North Carolina sweetpotatoes.

24 (b) The Board of Agriculture may adopt rules that may include, but are not limited to,
25 quality standards, grades, packing, handling, labeling, and marketing practices for the marketing
26 of sweetpotatoes in this State, and such other rules as are necessary to administer this Article.
27 The Board of Agriculture may also adopt rules establishing a registration, inspection, and
28 verification program for the production and marketing of North Carolina sweetpotatoes in this
29 State. All North Carolina sweetpotatoes sold shall conform to the prescribed standards and grades
30 and shall be labeled accordingly.

31 (c) The Commissioner and the Commissioner's agents and employees may enter any
32 premises or other property where sweetpotatoes are produced, stored, sold, offered for sale,
33 packaged for sale, transported, or delivered to inspect the sweetpotatoes for the purpose of
34 enforcing the provisions of this Article and the rules adopted under this Article.

35 **"§ 106-1069. Standards for grades.**

36 The most recent standards for grades adopted by the United States Department of Agriculture,
37 Agricultural Marketing Service, United States Standards for Grades of Sweetpotatoes are
38 adopted by reference and shall be the standards for grades in this State, except that the
39 Commissioner may establish tolerances or allowable percentages of United States standards each
40 season upon the recommendation of the North Carolina Sweetpotato Advisory Council.

41 **"§ 106-1070. North Carolina Sweetpotato Advisory Council.**

42 The Commissioner shall appoint a North Carolina Sweetpotato Advisory Council, to consist
43 of individuals involved in growing, packing, or growing and packing North Carolina
44 sweetpotatoes; at least one sweetpotato processor; at least one sweetpotato retailer; at least one
45 county cooperative extension agent familiar with the production of North Carolina
46 sweetpotatoes; and any other person or persons selected by the Commissioner, for the purpose
47 of rendering advice upon his or her request regarding the exercise of the Commissioner's
48 authority pursuant to G.S. 106-1068. Members of the North Carolina Sweetpotato Advisory
49 Council shall receive no compensation for their service."

50
51 **SOIL AND WATER CONSERVATION JOB APPROVAL AUTHORITY**

1 **SECTION 22.(a)** G.S. 89C-25 reads as rewritten:

2 "**§ 89C-25. Limitations on application of Chapter.**

3 This Chapter shall not prevent the following activities:

4 ...

5 (6) Practice by members of the Armed Forces of the United States; employees of
6 the government of the United States while engaged in the practice of
7 engineering or land surveying solely for the government on
8 government-owned works and projects; or practice by those employees of the
9 Natural Resources Conservation Service, county employees, ~~or~~ employees of
10 the Soil and Water Conservation ~~Districts~~ Districts, or employees of the
11 Division of Soil and Water Conservation of the Department of Agriculture
12 and Consumer Services who have ~~federal~~ engineering job approval authority
13 issued by the Natural Resources Conservation Service or the Soil and Water
14 Conservation Commission that involves the planning, designing, or
15 implementation of best management practices on agricultural ~~lands~~ lands, or
16 for the planning, designing, or implementation of best management practices
17 approved for cost-share funding pursuant to programs identified in
18 G.S. 139-4(d)(9).

19 "

20 **SECTION 22.(b)** G.S. 139-3 is amended by adding a new subdivision to read:

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

28 **SECTION 22.(c)** G.S. 139-4 reads as rewritten:

29 "**§ 139-4. Powers and duties of Soil and Water Conservation Commission generally.**

30 (a) through (c) Repealed by Session Laws 1973, c. 1262, s. 38.

31 (d) In addition to the duties and powers hereinafter conferred upon the Soil and Water
32 Conservation Commission, it shall have the following duties and powers:

33 ...

34 (14) To develop and implement a program for granting job approval authority to
35 Soil and Water Conservation District staff and employees of the Division of
36 Soil and Water Conservation of the Department of Agriculture and Consumer
37 Services to plan, design, and certify the installation of best management
38 practices approved for cost-share funding pursuant to programs identified in
39 G.S. 139-4(d)(9).

40 "

41
42 **PRESENT-USE VALUE NOTICE AND APPEAL CHANGES**

43 **SECTION 23.(a)** G.S. 105-277.4 reads as rewritten:

44 "**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use**
45 **value; notice and appeal; deferred taxes.**

46 ...

47 (b1) Notice and Appeal. – If the assessor determines that the property loses its eligibility
48 for present-use value classification, the assessor shall provide written notice of the decision and
49 the date of the decision to the owner. The notice shall include the property's tax identification
50 number, the specific reason for the disqualification, and the date of the decision. The notice shall
51 be provided separately from a regular yearly tax notice or tax bill. Decisions of the assessor

1 regarding the qualification or appraisal of property under this section may be appealed to the
2 county board of equalization and review or, if that board is not in session, to the board of county
3 commissioners. An appeal must be made within 60 days after date of the written notice of the
4 decision of the assessor. If an owner submits additional information to the assessor pursuant to
5 G.S. 105-296(j), the appeal must be made within 60 days after the assessor's decision based on
6 the additional information. Decisions of the county board may be appealed to the Property Tax
7 Commission. If, while an assessor's decision that a property has lost its eligibility for present-use
8 value classification is under appeal to the county board or to the Property Tax Commission, the
9 assessor determines that the property is no longer eligible for present-use value classification
10 because of an additional disqualifying event independent of the one that is the basis of the
11 disqualification under appeal, the assessor shall follow the notice and appeal procedure set forth
12 in this subsection with regard to the subsequent disqualification. If no such notice is given to the
13 owner regarding the subsequent decision to disqualify, a reinstatement of the property by the
14 county board or the Property Tax Commission shall be deemed effective for any assessments
15 occurring from the date of the assessor's decision under appeal to the date of the final decision of
16 the county board or the Property Tax Commission to reinstate the property.

17"

18 **SECTION 23.(b)** This section is effective for taxes imposed for taxable years
19 beginning on or after July 1, 2019.

20 **CHANGE NAME OF FOOD PROCESSING INNOVATION CENTER COMMITTEE**

21 **SECTION 24.** Section 10.24.(a) of S.L. 2017-57 reads as rewritten:

22 **"SECTION 10.24.(a)** There is created the ~~Food Processing Innovation Center North~~
23 ~~Carolina Food Innovation Lab~~ Committee (Committee), which shall be located administratively
24 in the Department of Agriculture and Consumer Services. The Committee shall consist of 14
25 members, including:

26"

27 **SOIL AND WATER CONSERVATION CONFIDENTIALITY CHANGE**

28 **SECTION 25.(a)** Article 1 of Chapter 139 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 139-8.2. Certain information confidential.**

31 (a) All information that is collected by soil and water conservation districts from farm
32 owners, animal owners, agricultural producers or owners of agricultural land that is confidential
33 under federal or State law shall be held confidential by the soil and water conservation districts,
34 including:

- 35 (1) Information provided by an agricultural producer or owner of agricultural land
36 concerning the agricultural operation, farming or conservation practices, or
37 the land itself, in order to participate in soil and water conservation programs.
38 (2) Geospatial information otherwise maintained by the district about agricultural
39 lands or operations for which information described in subdivision (1) of this
40 subsection is provided.

41 (b) This section shall not include applications for cost-share assistance and associated
42 contract documents that require the approval of the soil and water conservation district or the
43 Soil and Water Conservation Commission."

44 **SECTION 25.(b)** This section becomes effective October 1, 2019.

45 **RIGHT TO REPAIR FARM EQUIPMENT**

46 **SECTION 26.(a)** Chapter 75 of the North Carolina Statutes is amended by adding a
47 new Article to read:

48 "Article 9.

"Right to Repair Act.""§ 75-150. Definitions."

The following definitions apply in this Article:

- (1) "Authorized repair provider" means an individual or entity that has an arrangement for a definite or indefinite period in which an original farm equipment manufacturer grants to a separate individual or entity a license to use a trade name, service mark, or related characteristic for purposes of offering repair services under the name of the original farm equipment manufacturer.
- (2) "Documentation" means manuals, diagrams, reporting output, or service code descriptions provided to the authorized repair provider for the purposes of repair.
- (3) "Embedded software" means any programmable instructions provided on firmware delivered with farm equipment, and all relevant patches and fixes made by the original farm equipment manufacturer, for purposes of farm equipment operation. "Embedded software" includes a basic internal operating system, an internal operating system, a machine code, an assembly code, a root code and a microcode, and other similar components.
- (4) "Fair and reasonable terms" means an equitable price in light of relevant factors, including all of the following:
 - a. The net cost to the authorized repair provider for similar parts or information obtained from an original farm equipment manufacturer, less any discounts, rebates, or other incentive programs.
 - b. The cost to the original farm equipment manufacturer to prepare and distribute the parts or information, including amortized capital costs for the preparation and distribution of the parts or information, but excluding any research and development costs incurred in designing and implementing, upgrading, or altering the product.
 - c. The price charged by other original farm equipment manufacturers for similar parts or information.
- (5) "Farm equipment" means equipment that is used or intended for use in a farm operation, including any combine, tractor, implement, engine, motor, or attachment, but excluding a motor vehicle.
- (6) "Firmware" means a software program or set of instructions programmed on a hardware device to allow the device to communicate with other computer hardware.
- (7) "Independent repair provider" means a person or business operating in this State that is not affiliated with an original farm equipment manufacturer or its authorized repair provider and that is engaged in the diagnosis, service, maintenance, or repair of farm equipment. "Independent repair provider" includes an original farm equipment manufacturer when it engages in the diagnosis, service, maintenance, or repair of farm equipment that is not affiliated with the original farm equipment manufacturer.
- (8) "Motor vehicle" means the same as in G.S. 20-4.01(23).
- (9) "Original farm equipment manufacturer" means any person or business engaged in the business of selling or leasing new farm equipment to another person or business and engaged in the diagnosis, service, maintenance, or repair of farm equipment.
- (10) "Owner" means an individual or business who lawfully acquires farm equipment purchased or used in this State.

1 (11) "Part" means any replacement part, either new or used, made available by the
2 original farm equipment manufacturer to an authorized repair provider for
3 purposes of effecting repair.

4 (12) "Trade secret" means anything tangible or intangible or electronically stored
5 or kept that constitutes, represents, evidences, or records intellectual property,
6 including secret or confidentially held designs, processes, procedures,
7 formulas, inventions, or improvements or secrets of confidentially held
8 scientific, technical, merchandising, production, financial, business, or
9 management information, or anything within the definition of 18 U.S.C. §
10 1839(3).

11 **"§ 75-151. Right to repair.**

12 (a) For farm equipment sold or used in this State, the original farm equipment
13 manufacturer shall make available all of the following:

14 (1) Diagnostic and repair documentation, including repair technical updates and
15 updates and corrections to embedded software, to any independent repair
16 provider or owner of farm equipment manufactured by the original farm
17 equipment manufacturer for no charge or in the same manner as the original
18 farm equipment manufacturer makes available the diagnostic and repair
19 documentation to its authorized repair provider.

20 (2) Farm equipment parts, including any updates to the farm equipment's
21 embedded software, for purchase by the owner, the owner's agent, or any
22 independent repair provider on fair and reasonable terms.

23 (b) An original farm equipment manufacturer that sells to any independent repair
24 provider or owner any diagnostic, service, or repair documentation in a format that is
25 standardized with other original farm equipment manufacturers and on terms and conditions
26 more favorable than those under which the authorized repair provider obtains the same
27 diagnostic, service, or repair documentation shall be prohibited from requiring an authorized
28 repair provider to continue purchasing diagnostic, service, or repair documentation in a
29 proprietary format, unless the proprietary format includes diagnostic, service, or repair
30 documentation or functionality that is not available in a format that is standardized with other
31 original farm equipment manufacturers.

32 (c) An original farm equipment manufacturer of farm equipment sold or used in this State
33 shall make available for purchase by owners and independent repair providers all diagnostic
34 repair tools incorporating the same diagnostic, repair, and remote communication capabilities
35 that the original farm equipment manufacturer makes available to any authorized repair provider.
36 An original farm equipment manufacturer shall offer such tools for sale to any owner or
37 independent repair provider on fair and reasonable terms.

38 (d) An original farm equipment manufacturer that provides diagnostic repair
39 documentation to aftermarket diagnostic tool manufacturers, diagnostic providers, or service
40 information publications and systems shall have fully satisfied its obligations under this section
41 and thereafter is not responsible for the content and functionality of the aftermarket diagnostic
42 tools, diagnostics, or service information systems.

43 (e) Farm equipment manufactured by an original farm equipment manufacturer that is
44 sold or used in this State for the purpose of providing security-related functions shall include
45 diagnostic, service, or repair documentation necessary to reset a security-related electronic
46 function from information provided to an owner or independent repair provider. If necessary for
47 security purposes, an original farm equipment manufacturer may provide information necessary
48 to reset an immobilizer system or security-related electronic module to an owner or independent
49 repair provider through the appropriate secure data release system.

50 **"§ 75-152. No requirement to divulge trade secret.**

1 This Article shall not be interpreted or construed to require an original farm equipment
2 manufacturer to divulge a trade secret.

3 **"§ 75-153. No abrogation of contract.**

4 (a) This Article shall not be interpreted or construed to abrogate, interfere with,
5 contradict, or alter the terms of an agreement executed between an authorized repair provider and
6 an original farm equipment manufacturer, including, but not limited to, performing warranty or
7 recall repair work by an authorized repair provider on behalf of an original farm equipment
8 manufacturer pursuant to the authorized repair agreement. Except in the case of a dispute arising
9 between an original farm equipment manufacturer and its authorized repair provider related to
10 either party's compliance with an existing repair agreement, an authorized repair provider has all
11 the rights and remedies provided in this section.

12 (b) Any provision in an authorized repair agreement purporting to waive, avoid, restrict,
13 or limit an original farm equipment manufacturer's compliance with this section shall be void.

14 **"§ 75-154. No access to certain information.**

15 This Article does not require an original farm equipment manufacturer or authorized repair
16 provider to provide an owner or independent repair provider access to nondiagnostic and
17 nonrepair documentation provided to an authorized repair provider by an original farm
18 equipment manufacturer pursuant to the terms of an agreement or contract between the original
19 farm equipment manufacturer and the authorized repair provider.

20 **"§ 75-155. Enforcement.**

21 (a) The Attorney General may investigate any complaints received alleging violation of
22 this Article. If the Attorney General finds that there has been a violation of this Article, the
23 Attorney General may bring an action to impose civil penalties and to seek any other appropriate
24 relief pursuant to this Article, including equitable relief to restrain the violation. The civil penalty
25 shall be not more than five hundred dollars (\$500.00) for each violation.

26 (b) An owner or independent repair provider may bring an action in civil court against an
27 original farm equipment manufacturer that violates any provision of this Article to recover not
28 more than five hundred dollars (\$500.00) for each violation."

29 **SECTION 26.(b)** This section becomes effective October 1, 2019.

30
31 **CLARIFY PERMITTING FOR CERTAIN SWINE FARM MODIFICATIONS**

32 **SECTION 27.** G.S. 143-215.10I reads as rewritten:

33 **"§ 143-215.10I. Performance standards for animal waste management systems that serve**
34 **swine farms; lagoon and sprayfield systems prohibited.**

35 (a) As used in this section:

36 (1) "Anaerobic lagoon" means a lagoon that treats waste by converting it into
37 carbon dioxide, methane, ammonia, and other gaseous compounds; organic
38 acids; and cell tissue through an anaerobic process.

39 (2) "Anaerobic process" means a biological treatment process that occurs in the
40 absence of dissolved oxygen.

41 (3) "Lagoon" has the same meaning as in G.S. 106-802.

42 (4) "Swine farm" has the same meaning as in G.S. 106-802.

43 (b) The Commission shall not issue or modify a permit to authorize the construction,
44 operation, or expansion of an animal waste management system that serves a swine farm that
45 employs an anaerobic lagoon as the primary method of treatment and land application of waste
46 by means of a sprayfield as the primary method of waste disposal. ~~The Commission may issue a~~
47 ~~permit for the construction, operation, or expansion of an animal waste management system that~~
48 ~~serves a swine farm under this Article only if the Commission determines that the animal waste~~
49 ~~management system will meet or exceed all of the following performance standards:~~
50 disposal
unless:

- 1 (1) The permitting action does not result in an increase in the permitted capacity
 2 of the swine farm, as measured by the annual steady state live weight capacity
 3 of the swine farm; or
 4 (2) The Commission determines that the animal waste management system will
 5 meet or exceed all of the following performance standards:
 6 (1)a. Eliminate the discharge of animal waste to surface water and
 7 groundwater through direct discharge, seepage, or runoff.
 8 (2)b. Substantially eliminate atmospheric emission of ammonia.
 9 (3)c. Substantially eliminate the emission of odor that is detectable beyond
 10 the boundaries of the parcel or tract of land on which the swine farm
 11 is located.
 12 (4)d. Substantially eliminate the release of disease-transmitting vectors and
 13 airborne pathogens.
 14 (5)e. Substantially eliminate nutrient and heavy metal contamination of soil
 15 and groundwater."

17 PREVENT GRANT FUNDING DUPLICATION

18 **SECTION 28.(a)** G.S. 143-215.71 reads as rewritten:

19 "**§ 143-215.71. Purposes for which grants may be requested.**

20 (a) Applications for grants may be made for the nonfederal share of water resources
 21 development projects for the following purposes in amounts not to exceed the percentage of the
 22 nonfederal costs indicated:

23 ...

24 (8) Projects that are part of the Environmental Quality Incentives Program – one
 25 hundred percent (100%).

26 (b) Notwithstanding subdivision (8) of subsection (a) of this Section, projects that are
 27 part of the Environmental Quality Incentives Program are ineligible for funding under this Part
 28 if they receive funding from the Clean Water Management Trust Fund established in
 29 G.S. 143B-135.234."

30 **SECTION 28.(b)** G.S. 143B-135.238(d) reads as rewritten:

31 "(d) Restriction. – No grant shall be awarded under this Part for any of the following
 32 purposes:

33 (1) ~~to~~ To satisfy compensatory mitigation requirements under 33 USC § 1344 or
 34 G.S. 143-214.11.

35 (2) To any project receiving State funds authorized by G.S. 143-215.71 for the
 36 nonfederal share of a grant under the Environmental Quality Incentives
 37 Program."

38 **SECTION 28.(c)** The Department of Environmental Quality and the Department of
 39 Natural and Cultural Resources shall jointly report to the Joint Legislative Oversight Committee
 40 on Agriculture and Natural and Economic Resources no later than September 30, 2019, regarding
 41 funding overlaps between water resources development grant funding and Clean Water
 42 Management Trust Fund grants for Environmental Quality Incentives Program funding for the
 43 Western Stream Initiative and the efforts of both Departments to improve administration of State
 44 grants for that program.

46 IMPROVE PERFORMANCE MANAGEMENT OF STATE GRANT FUNDS

47 **SECTION 29.(a)** The Department of Environmental Quality shall develop
 48 performance management procedures for projects funded as part of the Western Stream Initiative.
 49 These procedures shall include, at a minimum, the collection and reporting of the following
 50 measures for all projects receiving grant funding:

51 (1) Time to issue and act upon grant applications.

- 1 (2) Time to process requests for payment.
 2 (3) Cost per grant administered.
 3 (4) Number of applicants reviewed, approved, and denied.
 4 (5) Number of grants administered.
 5 (6) Total grant dollars administered.
 6 (7) Total project cost for each project, including all funding sources, broken out
 7 into the following categories:
 8 a. Permitting cost.
 9 b. Site assessment, design, and engineering.
 10 c. Management and engineering.
 11 (8) Total linear feet of stream restored in each year.
 12 (9) Cost per linear foot of restored stream.
 13 (10) Reduction in sediment loading achieved.

14 **SECTION 29.(b)** The Department of Natural and Cultural Resources shall provide
 15 to the Department of Environmental Quality all of the measures set forth in subsection (a) of this
 16 section that are relevant to funding for the Western Stream Initiative provided by the Clean Water
 17 Management Trust Fund.

18 **SECTION 29.(c)** G.S. 143-215.72(d) is amended by adding a new subdivision to
 19 read:

20 "(3) The Department shall annually report no later than November 1 to the Joint
 21 Legislative Oversight Committee on Agriculture and Natural and Economic
 22 Resources and the Fiscal Research Division regarding grants for projects
 23 funded through the Western Stream Initiative. The report shall include
 24 measures of grant administration and grant implementation efficiency and
 25 effectiveness. For purposes of this subdivision, the "Western Stream
 26 Initiative" refers to the portion of federal Environmental Quality Incentives
 27 Program funding provided to the Western North Carolina Stream Initiative for
 28 the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke,
 29 Caldwell, Catawba, Cherokee, Clay, Cleveland, Graham, Haywood,
 30 Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mitchell,
 31 Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes,
 32 Yadkin, and Yancey."
 33

34 **DIRECT STATE AUDITOR TO CONDUCT AUDIT OF WESTERN STREAM** 35 **INITIATIVE FUNDING FOR PROJECTS MANAGED BY RESOURCE INSTITUTE**

36 **SECTION 30.** No later than June 1, 2020, the Office of the State Auditor shall
 37 conduct an audit of all State funds ever paid to Resource Institute for the Western Stream
 38 Initiative through the Clean Water Management Trust Fund and through Water Resources
 39 Development Grants for the Environmental Quality Incentives Program. Based on the findings
 40 of the audit required by this section, the Director and Board of Trustees of the Clean Water
 41 Management Trust Fund and the Department of Environmental Quality are directed to seek
 42 recoupment of any identified overpayment of State funds.
 43

44 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

45 **SECTION 31.(a)** If any provision of this act or the application thereof to any person
 46 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
 47 of this act that can be given effect without the invalid provision or application, and, to this end,
 48 the provisions of this act are declared to be severable.

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