

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 711
PROPOSED COMMITTEE SUBSTITUTE S711-PCS15301-TQxf-5

Short Title: NC Farm Act of 2018.

(Public)

Sponsors:

Referred to:

May 17, 2018

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

4
5 **FRUIT AND VEGETABLE HANDLERS REGISTRATION ACT**

6 **SECTION 1.(a)** Article 44 of Chapter 106 of the General Statutes is repealed.

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

9 "Article 44A.

10 "Fruit and Vegetable Handlers Registration Act.

11 **"§ 106-501.1. Definitions.**

12 The following definitions shall apply when used under this Article:

- 13 (1) "Commissioner" means the Commissioner of Agriculture of the State of North
14 Carolina.
15 (2) "Consignment" means any transfer of fruits and vegetables by a seller to the
16 custody of another person who acts as the agent for the seller for the purpose
17 of selling such fruits and vegetables.
18 (3) "Department" means the Department of Agriculture and Consumer Services.
19 (4) "Farmer" means any person who produces fruits or vegetables or both.
20 (5) "Handler" means any person in the business of buying, receiving, selling,
21 exchanging, negotiating, processing for resale, or soliciting the sale, resale,
22 exchange, or transfer of any fruits and vegetables purchased from a North
23 Carolina farmer, received on consignment from a North Carolina farmer, or
24 received to be handled on net return basis from a North Carolina farmer.
25 (6) "Net return basis" means a purchase for sale of fruits and vegetables from a
26 farmer or shipper at an unfixed or unstated price at the time the fruits and
27 vegetables are shipped from the point of origin, and it shall include all
28 purchases made "at the market price," "at net worth," and on similar terms,
29 which indicate that the buyer is the final arbiter of the price to be paid.
30 (7) "Processing" means any act or operation that freezes, dehydrates, cans, or
31 otherwise changes the physical form or characteristic of fruits and vegetables.

32 **"§ 106-501.2. Registration required.**

33 (a) Prior to conducting business in North Carolina, a handler shall register with the
34 Department, free of cost, by providing to the Department the following information:

- 35 (1) The handler's name.
36 (2) The handler's principal place of business.



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1 (3) The type of fruits and vegetables handled by the handler.

2 (4) The annual volume, in dollar amount, of fruits and vegetables handled by the
3 handler in North Carolina.

4 (b) A handler shall update the Department within 60 calendar days of any change in
5 information required under subdivision (a)(1), (a)(2), or (a)(3) of this section.

6 (c) A handler shall update the Department of the annual volume required under
7 subdivision (a)(4) of this section by February 1st of each year.

8 (d) Information collected under this Article shall be held confidential by the Department
9 and not subject to public records disclosure.

10 **"§ 106-501.3. Exemptions to registration.**

11 This Article shall not apply to:

12 (1) A farmer or group of farmers in the sale of fruits and vegetables produced by
13 the farmer or group of farmers.

14 (2) A handler who pays at the time of purchase with United States cash currency
15 or a cash equivalent, such as a money order, cashier's check, wire transfer,
16 electronic funds transfer, or PIN-based debit transaction, or a credit card.

17 (3) A restaurant.

18 (4) A retailer that sells fruits and vegetables to end-use consumers through retail
19 establishments or food stands operated by the company, its affiliates, or
20 subsidiaries.

21 **"§ 106-501.4. Authority of the Board of Agriculture.**

22 The Board of Agriculture may adopt rules to implement this Article.

23 **"§ 106-501.5. Civil penalties.**

24 (a) The Commissioner may assess a civil penalty of not more than one hundred dollars
25 (\$100.00) per violation against any person or business entity who violates a provision of this
26 Article or any rule adopted thereunder. In determining the amount of the penalty, the
27 Commissioner shall consider the degree and extent of harm caused by the violation. The clear
28 proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty
29 and Forfeiture Fund in accordance with G.S. 115C-457.2.

30 (b) Civil penalties for failure to register or provide updated information under this Article
31 shall only be issued after a 15-calendar-day notice has been provided to the handler and the
32 handler fails to remedy the deficiency within the 15 days.

33 **"§ 106-501.6. Injunctions.**

34 In addition to the remedies provided in this Article and notwithstanding the existence of any
35 adequate remedy at law, the Commissioner is authorized to apply to any court of competent
36 jurisdiction, and such court shall have jurisdiction upon hearing and for cause shown to grant,
37 for a temporary or permanent injunction, or both, restraining any person from violating or
38 continuing to violate any of the provisions of this Article or any rule promulgated thereunder.
39 Such injunction shall be issued without bond."

40 **SECTION 1.(c)** This section becomes effective January 1, 2019, and applies to
41 handlers conducting business in the State on or after that date.

42
43 **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**
44 **CONFIDENTIALITY CHANGE**

45 **SECTION 2.** G.S. 106-24.1 reads as rewritten:

46 **"§ 106-24.1. Confidentiality of information collected and published.**

47 All information published by the Department of Agriculture and Consumer Services pursuant
48 to this Part shall be classified so as to prevent the identification of information received from
49 individual farm operators. All information generated by any federal agency received pursuant to
50 this ~~Part~~ Chapter that is confidential under federal law shall be held confidential by the
51 Department and its ~~employees~~ employees, unless confidentiality is waived by the federal agency.

1 All information collected by the Department from farm owners or animal owners, including, but
2 not limited to, certificates of veterinary inspection, animal medical records, laboratory reports
3 received or generated from samples submitted for analysis, or other records that may be used to
4 identify a person or private business entity subject to regulation by the Department shall not be
5 disclosed without the permission of the owner unless the State Veterinarian determines that
6 disclosure is necessary to prevent the spread of an animal disease or to protect the public health,
7 or the disclosure is necessary in the implementation of these animal health programs."
8

9 **EXEMPT GOT TO BE NC AGRICULTURE MERCHANDISE FROM UMSTEAD ACT**

10 **SECTION 3.** G.S. 66-58 reads as rewritten:

11 **"§ 66-58. Sale of merchandise or services by governmental units.**

12 (a) Except as may be provided in this section, it shall be unlawful for any unit, department
13 or agency of the State government, or any division or subdivision of the unit, department or
14 agency, or any individual employee or employees of the unit, department or agency in his, or her,
15 or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of
16 goods, wares or merchandise in competition with citizens of the State, or to engage in the
17 operation of restaurants, cafeterias or other eating places in any building owned by or leased in
18 the name of the State, or to maintain service establishments for the rendering of services to the
19 public ordinarily and customarily rendered by private enterprises, or to provide transportation
20 services, or to contract with any person, firm or corporation for the operation or rendering of the
21 businesses or services on behalf of the unit, department or agency, or to purchase for or sell to
22 any person, firm or corporation any article of merchandise in competition with private enterprise.
23 The leasing or subleasing of space in any building owned, leased or operated by any unit,
24 department or agency or division or subdivision thereof of the State for the purpose of operating
25 or rendering of any of the businesses or services herein referred to is hereby prohibited.

26 (b) The provisions of subsection (a) of this section shall not apply to:

27 ...

28 (13b) The Department of Agriculture and Consumer Services with regard to its
29 lessees at farmers' markets operated by the Department.

30 (13c) The Western North Carolina Agricultural Center.

31 (13d) Agricultural centers or livestock facilities operated by the Department of
32 Agriculture and Consumer Services.

33 (13e) The Department of Agriculture and Consumer Services with regard to its Got
34 to Be NC Agriculture promotion.

35"
36

37 **ALLOW DISTRIBUTION OF VERIFIED PROPAGULES BY INDUSTRIAL HEMP** 38 **COMMISSION**

39 **SECTION 4.** G.S. 106-568.51 reads as rewritten:

40 **"§ 106-568.51. Definitions.**

41 The following definitions apply in this Article:

42 (1) ~~Certified seed. — Industrial hemp seed that has been certified as having a~~
43 ~~delta-9 tetrahydrocannabinol concentration less than that adopted by federal~~
44 ~~law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.~~

45 (2) Commercial use. — The use of industrial hemp as a raw ingredient in the
46 production of hemp products.

47 (3) Commission. — The North Carolina Industrial Hemp Commission created by
48 this Article.

49 (4) Department. — The North Carolina Department of Agriculture.

50 (5) Grower. — Any person licensed to grow industrial hemp by the Commission
51 pursuant to this Article.

- 1 (6) Hemp products. – All products made from industrial hemp, including, but not
 2 limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard,
 3 plastics, seed, seed meal and seed oil for consumption, and ~~certified~~
 4 seed-verified propagules for cultivation if the seeds originate from industrial
 5 hemp varieties.
- 6 (7) Industrial hemp. – All parts and varieties of the plant Cannabis sativa (L.),
 7 cultivated or possessed by a grower licensed by the Commission, whether
 8 growing or not, that contain a delta-9 tetrahydrocannabinol concentration of
 9 not more than three-tenths of one percent (0.3%) on a dry weight basis.
- 10 (7a) Industrial hemp research program. – The research program established
 11 pursuant to G.S. 106-568.53(1).
- 12 (7b) State land grant university. – North Carolina State University and North
 13 Carolina A&T State University.
- 14 (8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the
 15 substances contained in the plant, or in the resinous extractives of, cannabis,
 16 or any synthetic substances, compounds, salts, or derivatives of the plant or
 17 chemicals and their isomers with similar chemical structure and
 18 pharmacological activity.
- 19 (9) Verified propagule. – A seed or clone from an industrial hemp plant from
 20 which THC concentration samples have been tested by a qualified laboratory
 21 and confirmed as having a delta-9 tetrahydrocannabinol concentration less
 22 than that adopted by federal law in the Controlled Substances Act, 21 U.S.C.
 23 § 801, et seq."
 24

25 TECHNICAL CORRECTIONS TO FORESTRY STATUTES

26 **SECTION 5.(a)** G.S. 106-980(b) reads as rewritten:

27 "(b) Three or more persons, who associate themselves by an agreement in writing for the
 28 purpose, may become a private limited dividend corporation to finance and carry out projects for
 29 the protection and development of forests and for such other related purposes as the ~~Secretary~~
 30 Commissioner shall approve, subject to all the duties, restrictions and liabilities, and possessing
 31 all the rights, powers, and privileges, of corporations organized under the general corporation
 32 laws of the State of North Carolina, except where such provisions are in conflict with this
 33 Article."

34 **SECTION 5.(b)** G.S. 106-981 reads as rewritten:

35 "**§ 106-981. Manner of organizing.**

36 A corporation formed under this Article shall be organized and incorporated in the manner
 37 provided for organization of corporations under the general corporation laws of the State of North
 38 Carolina, except where such provisions are in conflict with this Article. The certificate of
 39 organization of any such corporation shall contain a statement that it is organized under the
 40 provisions of this Article and that it consents to be and shall be at all times subject to the rules
 41 and supervision of the ~~Secretary-Commissioner~~, and shall set forth as or among its purposes the
 42 protection and development of forests and the purchase, acquisition, sale, conveyance and other
 43 dealing in the same and the products therefrom, subject to the rules from time to time imposed
 44 by the ~~Secretary-Commissioner~~."

45 **SECTION 5.(c)** G.S. 106-982 reads as rewritten:

46 "**§ 106-982. Directors.**

47 There shall not be less than three directors, one of whom shall always be a person designated
 48 by the ~~Secretary-Commissioner~~, which one need not be a stockholder."

49 **SECTION 5.(d)** G.S. 106-1003 reads as rewritten:

50 "**§ 106-1003. Deposit of receipts with State treasury.**

1 All moneys paid to the ~~Secretary-Commissioner~~ for services rendered under the provisions
2 of this Article shall be deposited into the State treasury to the credit of the Department."

3 **SECTION 5.(e)** G.S. 106-1012(2) reads as rewritten:

4 "(2) "Approved practices" mean those silvicultural practices approved by the
5 ~~Secretary-Commissioner~~ for the purpose of commercially growing timber
6 through the establishment of forest stands, of insuring the proper regeneration
7 of forest stands to commercial production levels following the harvest of
8 mature timber, or of insuring maximum growth potential of forest stands to
9 commercial production levels. Such practices shall include those required to
10 accomplish site preparation, natural and artificial forestation, noncommercial
11 removal of residual stands for silvicultural purposes, cultivation of established
12 young growth of desirable trees for silvicultural purposes, and improvement
13 of immature forest stands for silvicultural purposes. In each case, approved
14 practices will be determined by the needs of the individual forest stand. These
15 practices shall include existing practices and such practices as are developed
16 in the future to insure both maximum forest productivity and environmental
17 protection."
18

19 **DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO** 20 **ADDRESS MISLABELING OF PLANT-BASED PRODUCTS AS "MILK"**

21 **SECTION 6.(a)** The following definitions apply to this section:

- 22 (1) "Department" means the Department of Agriculture and Consumer Services.
23 (2) "FDA" means the United States Food and Drug Administration.
24 (3) "Milk" means the lacteal secretion, practically free from colostrum, obtained
25 by the complete milking of one or more healthy hooved mammals. Hooved
26 mammals include, but are not limited to, the members of the Order
27 Cetartiodactyla, such as: Family Bovidae (cattle, water buffalo, sheep, goats,
28 yaks, etc.), Family Camelidae (llamas, alpacas, camels, etc.), Family Cervidae
29 (deer, reindeer, moose, etc.), and Family Equidae (horses, donkeys, etc.).

30 **SECTION 6.(b)** In accordance with the established standard of identity for milk
31 defined in 21 C.F.R. § 131.110 and the Pasteurized Milk Ordinance, the Department shall
32 immediately develop an enforcement plan to enforce FDA's standard of identity for milk as
33 adopted in the North Carolina Administrative Code to prohibit the sale of plant-based products
34 mislabeled as milk.

35 **SECTION 6.(c)** No later than 90 days after the effective date of this act, the
36 Department shall begin to implement its enforcement plan, which shall include, but is not limited
37 to, notification of the Department's intent to embargo all mislabeled products offered for sale in
38 this State. All plant-based products displayed for sale in this State shall be labeled in accordance
39 with FDA's standard of identity for milk and the Pasteurized Milk Ordinance no later than
40 January 1, 2019.

41 **SET QUORUM FOR AGRICULTURE AND FORESTRY AWARENESS STUDY** 42 **COMMISSION**

43 **SECTION 7.** G.S. 120-150 reads as rewritten:

44 **"§ 120-150. Creation; appointment of members.**

45 There is created an Agriculture and Forestry Awareness Study Commission. Members of the
46 Commission shall be citizens of North Carolina who are interested in the vitality of the
47 agriculture and forestry sectors of the State's economy. Members shall be as follows:

- 48 (1) Three appointed by the Governor.
49 (2) Three appointed by the President Pro Tempore of the Senate.
50 (3) Three appointed by the Speaker of the House.
51

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

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

20 **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES**

21 **SECTION 8.(a)** The Agriculture and Forestry Awareness Study Commission shall
22 study all of the following matters:

- 23 (1) Requiring the holders of unused rights-of-way and utility easements to offer
- 24 the easements to the underlying property owners for fair market value.
- 25 (2) The advisability of excluding property enrolled in present use value taxation
- 26 from rural fire protection district and county service district taxes.

27 **SECTION 8.(b)** The Agriculture and Forestry Awareness Study Commission shall
28 complete the studies required by subsection (a) of this section and report its findings and
29 recommendations, including any legislative proposals, to the General Assembly by January 1,
30 2019.

31 **MANDATORY RECORD NOTICE OF PROXIMITY TO FARMLANDS**

32 **SECTION 9.** G.S. 106-741 reads as rewritten:

33 **"§ 106-741. Record notice of proximity to farmlands.**

34 (a) ~~Any county that has a computerized land records system may require that such~~All
35 counties shall require that land records include some form of notice reasonably calculated to alert
36 a person researching the title of a particular tract that such tract is located within one-half mile
37 of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or
38 within one-half mile of a voluntary agricultural district.

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

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

46 **CLARIFY AND AMEND NORTH CAROLINA RIGHT TO FARM LAW**

47 **SECTION 10.(a)** G.S. 106-700 reads as rewritten:

48 **"§ 106-700. Legislative determination and declaration of policy.**

1 It is the declared policy of the State to conserve and protect and encourage the development
2 and improvement of its agricultural land and forestland for the production of food, fiber, and
3 other products. When there are changed conditions in the locality near agricultural and forestry
4 areas, including other land uses that extend into agricultural and ~~forest~~ forestry areas, agricultural
5 and forestry operations often become the subject of nuisance suits. As a result, agricultural and
6 forestry operations are sometimes forced to cease. Many others are discouraged from making
7 investments in farm and forest improvements. It is the purpose of this Article to reduce the loss
8 to the State of its agricultural and forestry resources by limiting the circumstances under which
9 an agricultural or forestry operation may be deemed to be a nuisance."

10 **SECTION 10.(b)** G.S. 106-701 reads as rewritten:

11 **"§ 106-701. When agricultural and forestry operation, etc., not constituted nuisance by**
12 **changed conditions in or about the locality outside of the operation.**

13 (a) No agricultural or forestry operation or any of its appurtenances shall be or become a
14 nuisance, private or public, by any changed conditions in or about the locality outside of the
15 operation after the operation has been in operation for more than one year, when such operation
16 was not a nuisance at the time the operation began. For purposes of this section, the phrase
17 "changed conditions" includes, but is not limited to, a change in ownership, occupancy, or the
18 use of the property that is affected by the alleged nuisance.

19 (a1) The provisions of subsection (a) of this section shall not apply when the plaintiff
20 demonstrates that the agricultural or forestry operation has undergone a fundamental change. A
21 fundamental change to the operation does not include any of the following:

- 22 (1) A change in ownership or size.
- 23 (2) An interruption of farming for a period of no more than three years.
- 24 (3) Participation in a government-sponsored agricultural program.
- 25 (4) Employment of new technology.
- 26 (5) A change in the type of agricultural or forestry product produced.

27 ~~(a2) The provisions of subsection (a) of this section shall not apply whenever a nuisance~~
28 ~~results from the negligent or improper operation of any agricultural or forestry operation or its~~
29 ~~appurtenances.~~

30 (a3) The activities conducted by an agricultural or forestry operation are presumed not to
31 be a nuisance unless the plaintiff shows by clear and convincing evidence that the operation has
32 not been managed in a manner substantially consistent with (i) practices, methods, or procedures
33 that are generally accepted and routinely utilized by other agricultural and forestry operations in
34 region and (ii) applicable laws and regulations.

35 (b) For the purposes of this Article, "agricultural operation" includes, without limitation,
36 any facility for the production for commercial purposes of crops, livestock, poultry, livestock
37 products, or poultry products.

38 (b1) For the purposes of this Article, "forestry operation" shall mean those activities
39 involved in the growing, managing, and harvesting of trees.

40 (c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm,
41 or corporation to recover damages for any injuries or damages sustained by him on account of
42 any pollution of, or change in condition of, the waters of any stream or on the account of any
43 overflow of lands of any such person, firm, or corporation.

44 (d) Any and all ordinances of any unit of local government now in effect or hereafter
45 adopted that would make the operation of any such agricultural or forestry operation or its
46 appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance
47 set forth in this section are and shall be null and void; ~~provided, however, that the provisions of~~
48 ~~this subsection shall not apply whenever a nuisance results from the negligent or improper~~
49 ~~operation of any such agricultural or forestry operation or any of its appurtenances. Provided~~
50 ~~further, void. Provided, however, that the provisions shall not apply whenever a nuisance results~~

1 from an agricultural or forestry operation located within the corporate limits of any city at the
2 time of enactment hereof.

3 (e) This section shall not be construed to invalidate any contracts heretofore made but
4 insofar as contracts are concerned, it is only applicable to contracts and agreements to be made
5 in the future.

6 (f) In a nuisance action against an agricultural or forestry operation, the court shall award
7 costs and expenses, including reasonable attorneys' fees, to:

- 8 (1) The agricultural or forestry operation when the court finds the operation was
9 not a nuisance and the nuisance action was frivolous or malicious; or
- 10 (2) The plaintiff when the court finds the agricultural or forestry operation was a
11 nuisance and the operation asserted an affirmative defense in the nuisance
12 action that was frivolous and malicious."

13 **SECTION 10.(c)** This section is effective when it becomes law.
14

15 **DIRECT UTILITIES COMMISSION TO ADOPT RULES FOR CERTAIN NATURAL** 16 **GAS MARGIN REVENUE AGREEMENTS**

17 **SECTION 11.** No later than October 1, 2018, the Utilities Commission shall adopt
18 rules to establish reasonable limitations on the amount by which a natural gas local distribution
19 company may increase its margin revenues, in the event that actual construction costs exceed the
20 estimated construction costs provided in the agreement, in an agreement between the natural gas
21 local distribution company and a customer that provides for cost recovery in connection with the
22 construction of facilities and extension of natural gas service to a property used for bona fide
23 farm purposes.
24

25 **AMEND SOIL AND WATER CONSERVATION DISTRICT SUPERVISOR** 26 **CONTINUING EDUCATION REQUIREMENTS**

27 **SECTION 12.** G.S. 139-7.2 reads as rewritten:

28 "**§ 139-7.2. Training of elective and appointive district supervisors.**

29 (a) All district supervisors, whether elected or appointed, shall complete a minimum of
30 six clock hours of training ~~annually~~ per term of service.

31 (b) The training shall include soil, water, and natural resources conservation and the
32 duties and responsibilities of district supervisors.

33 (c) The training may be provided by the School of Government at the University of North
34 Carolina at Chapel Hill, or other qualified sources as approved by the Soil and Water
35 Conservation Commission."
36

37 **SALES TAX EXEMPTION FOR A ZOO OPERATED BY A QUALIFYING FARMER**

38 **SECTION 13.(a)** G.S. 105-164.13 reads as rewritten:

39 "**§ 105-164.13. Retail sales and use tax.**

40 The sale at retail and the use, storage, or consumption in this State of the following tangible
41 personal property, digital property, and services are specifically exempted from the tax imposed
42 by this Article:

43 ...

- 44 (70) Sales of items listed in G.S. 105-164.13E purchased by a qualifying farmer
45 for use in a zoo operated by a qualifying farmer. For purposes of this
46 subdivision, the term "qualifying farmer" has the same meaning as defined in
47 G.S. 105-164.13E(a). Income from zoo operations are excluded for purposes
48 of the income requirements for a qualifying farmer."

49 **SECTION 13.(b)** This section becomes effective retroactively to January 1, 2011,
50 and applies to purchases made on or after that date. A person who paid sales and use tax for a
51 return period ending prior to the date this section becomes law on an item exempt from sales and

1 use tax pursuant to G.S. 105-164.13(70), as enacted by this section, may apply to the Department
2 of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change
3 in the law enacted by this section. A request for a refund must be made on or before January 1,
4 2019. Notwithstanding G.S. 105-241.6, a request for a refund received after this date is barred
5 and the provisions of G.S. 105-164.11 do not apply.

7 **PROVIDE UNIFORMITY TO ASSESSMENT OF FARM MACHINERY**

8 **SECTION 14.(a)** G.S. 105-317.1 reads as rewritten:

9 **"§ 105-317.1. Appraisal of personal property; elements to be considered.**

10 (a) Appraisal Elements. – Whenever any personal property is appraised it shall be the
11 duty of the persons making appraisals to consider the following as to each item (or lot of similar
12 items):

- 13 (1) The replacement cost of the property;
- 14 (2) The sale price of similar property;
- 15 (3) The age of the property;
- 16 (4) The physical condition of the property;
- 17 (5) The productivity of the property;
- 18 (6) The remaining life of the property;
- 19 (7) The effect of obsolescence on the property;
- 20 (8) The economic utility of the property, that is, its usability and adaptability for
21 industrial, commercial, or other purposes; and
- 22 (9) Any other factor that may affect the value of the property.

23 (b) Business Property. – In determining the true value of taxable tangible personal
24 property held and used in connection with the mercantile, manufacturing, producing, processing,
25 or other business enterprise of any taxpayer, the persons making the appraisal shall consider any
26 information as reflected by the taxpayer's records and as reported by the taxpayer to the North
27 Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes,
28 taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting,
29 and the level of trade at which the taxpayer does business.

30 (b1) Farm Equipment. – In determining the true value of taxable farm equipment, the
31 person making the appraisal may use any of the appraisal methods listed in subsection (a) of this
32 section and must consider relevant taxpayer information as required under subsection (b) of this
33 section. The Department must publish a depreciation schedule for farm equipment to assist
34 counties that use the cost approach to appraise this equipment. The Department must make the
35 schedule available electronically on its Web site. A county that uses a cost approach method to
36 appraise this equipment must use the depreciation schedule published pursuant to this subsection.

37 (c) Appeal Process. – A taxpayer who owns personal property taxable in the county may
38 appeal the value, situs, or taxability of the property within 30 days after the date of the initial
39 notice of value. If the assessor does not give separate written notice of the value to the taxpayer
40 at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal
41 property. The notice must contain a statement that the taxpayer may appeal the value, situs, or
42 taxability of the property within 30 days after the date of the notice. Upon receipt of a timely
43 appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the
44 opportunity to present any evidence or argument regarding the value, situs, or taxability of the
45 property. Within 30 days after the conference, the assessor must give written notice to the
46 taxpayer of the assessor's final decision. Written notice of the decision is not required if the
47 taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an
48 agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's
49 final decision to request review of that decision by the board of equalization and review or, if
50 that board is not in session, by the board of county commissioners. Unless the request for review
51 is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely

1 request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be
2 followed."

3 **SECTION 14.(b)** This section is effective for taxes imposed for taxable years
4 beginning on or after July 1, 2019.

5
6 **CLARIFY CEMETERY PROPERTY TAX EXEMPTION**

7 **SECTION 15.** G.S. 105-278.2(a) reads as rewritten:

8 "(a) Real property set apart for burial purposes shall be exempted from taxation unless it
9 is owned and held for purposes of (i) sale or rental or (ii) sale of burial rights therein. No
10 application is required under G.S. 105-282.1 for property exempt under this subsection. A county
11 cannot deny the exemption provided under this subsection to a taxpayer that lacks a survey or
12 plat detailing the exempt property."

13
14 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

15 **SECTION 16.(a)** If any provision of this act or the application thereof to any person
16 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
17 of this act which can be given effect without the invalid provision or application, and, to this end,
18 the provisions of this act are declared to be severable.

19 **SECTION 16.(b)** Except as otherwise provided, this act is effective when it becomes
20 law.