



SENATE BILL 639: North Carolina Farm Act of 2025.

2025-2026 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	May 13, 2025
Introduced by:	Sens. Jackson, Sanderson, Barnes	Prepared by:	Chris Saunders
Analysis of:	Fourth Edition		Staff Attorney

OVERVIEW: *Senate Bill 639 would make various changes to the agricultural laws of this State.*

CURRENT LAW AND BILL ANALYSIS:

AGRICULTURAL WATER PLAN UPDATE

S.L. 2010-149 directed the Department of Agriculture and Consumer Services (DACS) and the Division of Soil and Water Conservation of the Department of Environment and Natural Resources (which has since been moved under DACS) to develop a plan to identify agricultural water infrastructure needs that are not accounted for in the surveys of water infrastructure needs conducted by the United States Environmental Protection Agency (EPA). The [report](#), known as the "Strategic Plan for Protecting Agricultural Water Resources in North Carolina" (Plan) was submitted to the Legislative Study Commission on Water and Wastewater Infrastructure on October 27, 2010.

Section 1 of the bill would direct DACS to update the Plan to include information on water infrastructure needs, water conservation practices, cost-share assistance needed for long-term water storage capacity and conservation practices, and flooding mitigation practices and incentive programs. The report would be due to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources by October 1, 2026.

FERAL SWINE WORKING GROUP

Section 2 would establish a Feral Swine Working Group within the Wildlife Resources Commission to develop a statewide plan to control feral swine damage on private and public lands. The Working Group would report annually to the Wildlife Resources Commission, the Senate and House Appropriations Subcommittees on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the results of the program during the preceding year.

ALLOW DENIAL OF SPECIAL USE PERMITS FOR NEGATIVE IMPACT ON AGRICULTURAL PRODUCTION

In local government development regulation, a special use permit authorizes certain land uses in a particular zoning district if the applicant demonstrates competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. Special use permit decisions must be decided through a quasi-judicial process.

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Section 4 would allow a board of adjustment, planning board, or governing board to deny a special use permit for a property that is owned by a business entity that has owned the property for less than three years, on the basis that the proposed land use will negatively impact agricultural production within the local government's jurisdiction. This would not apply where the primary purpose of the proposed land use is the construction of single-family dwellings or two-, three-, or four-family dwellings.

REPEAL VIOLATION POINTS SYSTEM APPLICABLE TO SWINE FARMS

G.S. 143-215.6E, enacted in 1997, directed the Environmental Management Commission (EMC) to develop a Violation Points System applicable to permits for animal waste management systems for swine farms. The Violation Points System was never developed.

In 2022, as part of the readoption of the 15A NCAC 02T rules, the EMC received several public comments requesting revision of the rules to include a Violation Points System. The EMC responded that the Department of Environmental Quality (DEQ) has adopted a tiered enforcement policy with provisions for escalating enforcement actions to address violations and that creation of a Violation Points System that does not assess penalties based on fact-specific assessment factors set forth in G.S. 143-215.6A and G.S. 143-282.1(b) would violate those statutes. Additionally, effective May 3, 2018, DEQ entered into a settlement agreement to address an environmental justice complaint in which DEQ committed to draft rules regarding a violation points system consistent with G.S. 143-215.6A within 12 months.

Section 5 would repeal G.S. 143-214.6E.

SWINE FARM SITING ACT TECHNICAL CORRECTION

In 2023, the General Assembly enacted legislation to clarify certain environmental permitting laws applicable to agricultural activities, specifically that a person who constructs or operates an animal waste management system only need obtain a permit under the Animal Waste Management Systems Part (Part 1A) of [Article 21 of Chapter 143 of the General Statutes](#). This would not eliminate a permittee's responsibility to obtain an NPDES permit.

Section 6 would make conforming changes to Chapter 106 of the General Statutes (Agriculture).

AMEND ELIGIBILITY CRITERIA FOR ANIMAL WASTE FERTILIZER CONVERSION COST SHARE PROGRAM

Section 10.4 of the 2023 Appropriations Act (S.L. 2023-134) established a cost-share program for statewide deployment of processes and technologies developed for conversion of animal waste to fertilizer. An "eligible entity" under the cost-share program is any person who owns or operates an anaerobic lagoon or other liquid animal waste management system treating animal waste from a livestock operation that generates sludge suitable for conversion into fertilizer products.

Section 7 would provide that any person converting sludge from an anaerobic lagoon or other liquid animal waste management system treating animal waste from a livestock operation into fertilizer products is also an eligible entity.

CLARIFY SPECIES SUSCEPTIBLE TO CHRONIC WASTING DISEASE

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For purposes of deer farming, "farmed cervids" are cervids that are susceptible to Chronic Wasting Disease (CWD), a prion disease affecting certain species of deer, and any other member of the family Cervidae that is not susceptible to CWD, that is held in captivity and produced, bought, or sold for commercial purposes. For cervids that are susceptible to CWD, the term "farmed cervid" includes only cervids that were bred in captivity and continuously maintained in a herd that is enrolled in a USDA-approved Herd Certification Program.

Section 8 would specify that cervids that are susceptible to CWD are those set forth in 9 C.F.R. § 55.1, namely "animals in the genera *Odocoileus*, *Cervus*, and *Alces* and their hybrids, *i.e.*, deer, elk, and moose." This would exclude animals in the genera *Muntiacus* (muntjac deer) and *Rangifer* (reindeer). This would allow the importation of muntjac deer and reindeer that were not bred in captivity and continuously maintained in a USDA-approved Herd Certification Program.

MODIFY REQUIREMENTS FOR COMPOSTING OF EQUINE AND BOVINE MORTALITY

EMC rule 15A NCAC 02T .0113 provides that certain disposal systems are deemed permitted provided they do not result in violations of surface water or groundwater standards, there is no direct discharge to surface waters, and all criteria required for the specific system are met. This includes composting facilities for animal mortality if they meet all of the following conditions:

- The construction and operation of the facilities is approved by the North Carolina Department of Agriculture and Consumer Services.
- The facilities are constructed on an impervious, weight-bearing foundation, and are operated under a roof.
- The facilities are approved by the State Veterinarian pursuant to G.S. 106-403.

Section 9 would allow disposal systems for composting of equine and bovine mortality to be deemed permitted if they meet all the requirements currently in effect for composting facilities for animal mortality except for the requirement that the facilities be constructed on an impervious, weight-bearing foundation and operated under a roof.

ALLOW EXCUSED SCHOOL ABSENCES FOR EQUESTRIAN COMPETITIONS AND OTHER AGRICULTURAL EVENTS

Under current law, the State Board of Education (Board) determines causes that may constitute legitimate excuses for temporary nonattendance in K-12 education. In addition to excused absences approved by the Board at its discretion, school principals are required by statute to allow at least two excused absences each academic year for religious observances and at least two excused absences each academic year for a parent's active duty military service in a combat zone.

Section 10 would require school principals to authorize at least two excused absences each academic year for participation in equestrian sporting events, livestock shows, or similar agricultural events.

ADD NEW HANOVER AND PENDER TO HIGH HAZARD COUNTIES FOR OPEN BURNING

In 1981, the General Assembly enacted S.L. 1981-1100, which set forth Article 4C of Chapter 113, entitled "Regulation of Open Fires" (now Article 78 of Chapter 106). The General Assembly found that in certain counties a high percentage of the land area contains organic soils or forest types which may pose greater

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problems with forest fire and air pollution controls. These counties are classified as high hazard counties. In the high hazard counties the following actions are unlawful:

- For any person to willfully start or cause to be started any fire in or within 500 feet of any woodland under the protection of DACS without a permit from DACS.
- For any person to willfully burn debris, stumps, brush, or other flammable materials from ground clearing of five or more contiguous acres without a special permit from DACS. Regular permits are required for areas less than five acres.

Section 11 would declare New Hanover County and Pender County as high hazard counties.

ALLOW PESTICIDE BOARD TO ADJUST ANNUAL ASSESSMENT FOR REGISTERED PESTICIDES

The Pesticide Board is a receipt-supported board in DACS. Every pesticide distributed or sold in the State must be registered with the Pesticide Board. Under current law, each applicant for registration of a pesticide must pay an annual registration fee of \$150, plus an additional annual assessment depending on the sales of the pesticide. If gross sales of the pesticide in the State in the preceding 12 months were more than \$5,000, the assessment is \$50. If gross sales were less than \$5,000, the additional assessment is \$25.

Section 12 would allow the Pesticide Board to set the amount of the additional annual assessment based on the gross sales of the pesticide, up to \$125. This would be done by rule.

LIQUID PETROLEUM GAS ENFORCEMENT AUTHORITY

Under current law, the Commissioner of Agriculture may conduct inspections of liquefied petroleum (LP) gas and investigate violations of the statutes and regulations governing LP gas.

Section 13 would supplement that authority by giving the Commissioner of Agriculture and the Commissioner's authorized agents the specific authority to:

- Access premises where LP products are stored to conduct an inspection or examine documentation.
- Issue stop-sale, hold, and removal orders for LP gas equipment that violates the statutes or rules governing LP gas.
- Recall a vehicle used for the delivery of LP gas back to its original point of dispatch for inspection upon receipt of a consumer complaint.

PUBLIC WEIGHMASTER MODERNIZATION

A public weighmaster is an individual licensed by DACS who certifies that scales used in commercial transactions are accurate. Public weighmasters are licensed for the period of July 1 to June 30, and there is a \$19 application fee. A public weighmaster must also obtain from DACS an official seal, with a fee of \$6.

Section 14 would make a public weighmaster's license valid for a year from the day the application is processed, rather than running from July 1 to June 30. This section would also increase the application fee from \$19 to \$25 and eliminate the requirement that the official seal be obtained from DACS for a \$6 fee.

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This section would require that the official seal provide the weighmaster's name, assigned license number, and license expiration date. It would also allow a public weighmaster to use an electronic stamp, and provides two alternatives for how the weighmaster's signature may be captured.

DIRECT AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION TO STUDY LOW HANGING COMMUNICATION LINES AND THE SALE AND DISPENSING OF RAW MILK

Section 15.(a) would direct the Agriculture and Forestry Awareness Study Commission (Commission) to study communication lines that fall below minimum height requirements and create a public safety hazard. The Commission would be required to seek input from numerous stakeholders, including the Office of Broadband Infrastructure, electric and telecommunications companies, agricultural organizations, and any other stakeholders the Commission deems necessary. The Commission would be directed to report its findings, including recommendations or proposed legislation, prior to the start of the 2026 Regular Session of the General Assembly. A provision directing the Commission to study this topic was also enacted in the North Carolina Farm Act of 2024, S.L. 2024-32.

Section 15.(b) would direct the Commission to study the advisability of allowing the dispensing of raw milk via herd share arrangements and the retail sale of raw milk and raw milk products. The Commission would be required to seek input from DACS, dairy farmers, raw milk advocates, and any other stakeholders the Commission deems necessary. The Commission would be directed to report its findings, including recommendations or proposed legislation, prior to the start of the 2026 Regular Session of the General Assembly.

REDUCE PENALTY FOR CERTAIN SHELLFISH AQUACULTURE VIOLATIONS

Under current law, violations of shellfish leases or aquaculture operation permits related to shellfish leases are enforced pursuant to G.S. 113-187, which makes violations a Class A1 misdemeanor.

Section 16 would reduce the penalties for certain acts related to shellfish aquaculture operation, as follows:

- A violation for an improperly marked shellfish lease area, a first offense would be a warning ticket, a second offense within a month would be an infraction, and a third offense within a month of the warning ticket would be a Class 3 misdemeanor.
- A violation for operating under an expired aquaculture operation permit that occurs within one month of the expiration of the permit would be a warning ticket.
- A violation for operating under an expired shellfish lease agreement that occurs within one month of the expiration of the agreement would be a warning ticket.

Section 16 would become effective December 1, 2025, and would apply to offenses committed on or after that date.

DACS LAW ENFORCEMENT OFFICER JURISDICTION

Under current law, the Commissioner of Agriculture may appoint DACS law enforcement officers to investigate and enforce violations of the laws within DACS authority or occurring on DACS property. A DACS law enforcement officer may arrest any person committing any crime in the officer's presence or

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who such officer has probable cause for believing has committed a crime in the officer's presence, and may obtain and serve warrants.

Section 17 would clarify the jurisdiction of DACS law enforcement officers as follows:

- DACS law enforcement officers would have statewide jurisdiction in enforcing matters within their subject matter jurisdiction.
- The subject matter jurisdiction of DACS law enforcement officers would include all current subject matter jurisdiction, plus criminal offenses that:
 - Are encountered or otherwise discovered while investigating or enforcing DACS statutes and rules.
 - Occur in a DACS law enforcement officer's presence.
 - Occur outside of a DACS law enforcement officer's presence as provided in G.S. 15A-401(b), and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the State if ignored. This includes G.S. 14-223 (Resisting officers), G.S. 14-225 (False reports to law enforcement agencies or officers), G.S. 14-269 (Carrying concealed weapons), and G.S. 14-277 (Impersonation of a law-enforcement or other public officer).
- DACS law enforcement officers could also arrest and take other actions when assisting another law enforcement agency.
- DACS law enforcement officers would be authorized as peace officers to:
 - Execute criminal process.
 - Obtain and serve warrants.
 - Respond to and take enforcement action for any crime of violence or breach of the peace.
 - Additional duties when needed for security at a public event or in response to a disaster or state of emergency.
- The primary responsibility of a DACS law enforcement officer would be the enforcement of Chapter 106 and DACS rules.
- DACS law enforcement officers would be authorized to temporarily stop any person they reasonably believe to be engaging in any activity regulated by DACS to determine whether the activity is being conducted in compliance with the law, including license and permitting requirements. They would also be authorized to enforce traffic laws.

INCREASE PENALTY FOR A SECOND OR SUBSEQUENT OFFENSE FOR LARCENY OF CROPS

Under current law, stealing ungathered crops is a Class H felony under G.S. 14-78.

Section 18 would require that for a first offense of G.S. 14-78, the penalty is a Class H felony punishable by a fine of \$250 in addition to any other punishment prescribed for the offense. A second or subsequent offense would be a Class G felony, punishable by a fine of \$500 in addition to any other punishment prescribed for the offense.

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LIMIT LIABILITY FOR FIFRA-COMPLIANT LABELING

G.S. 99B-5 protects the manufacturer or seller of a product from a products liability suit based on failure to warn unless the plaintiff proves that the manufacturer or seller acted unreasonably in failing to provide a warning and the failure to warn caused an injury that was or should have been reasonably foreseeable to the manufacturer or seller.

Section 19 would provide that, notwithstanding the law typically applicable to failure to warn claims in products liability, the duty of a manufacturer or seller of a pesticide to warn about the risks associated with the pesticide is presumed to be met if the pesticide's label has been approved by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the pesticide is registered with the Pesticide Board.

The plaintiff may rebut this presumption only by showing that the weight of the scientific evidence does not support the scientific basis on which the required warning is premised and that the manufacturer or seller knew or should have known at the time the pesticide was sold that the required warning was not supported by the weight of scientific evidence.

This section would be effective when it becomes law, and would apply to actions filed on or after that date.

REPEAL THE DISPENSING OF RAW MILK AND RAW MILK PRODUCTS FOR PERSONAL USE AND CONSUMPTION

Under current law, milk that is not Grade "A" pasteurized milk may only be sold as animal feed, and since 2018, may be dispensed for personal use or consumption to an independent or partial owner of a cow, goat, or other lactating animal.

Section 20.1 would repeal the provision allowing raw milk to be sold as animal feed.

This section would become effective July 1, 2025.

ADD CERTAIN COMPOSTING FACILITIES TO THE DEFINITION OF "AGRICULTURE"

G.S. 106-581.1 provides a definition for the terms "agriculture," "agricultural," and "farming" that is referred to in numerous sections of the General Statutes, including exemption from county zoning (G.S. 160D-903) and the State Building Code (G.S. 143-138(b4)).

EMC rule 15A NCAC 13B .1402 sets out the following classifications for solid waste compost facilities:

- Type 1 facilities may receive yard and garden waste, silvicultural waste, and untreated and unpainted wood waste.
 - Small Type 1 facilities have an operations area less than two acres in size and are limited to no more than 6,000 cubic yards material onsite at any given time, including finished product. Large Type 1 facilities have an operations area of two or more acres in size or have more than 6,000 cubic yards material onsite at any given time.
- Type 2 facilities may receive pre-consumer meat-free food processing waste, vegetative agricultural waste, source separated paper, and other source separated specialty wastes that are low in pathogens and physical contaminants. Waste acceptable for a Type 1 facility may be composted at a Type 2 facility.

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- Type 3 facilities may receive manures and other agricultural waste, meat, post-consumer source-separated food wastes, and other source-separated specialty wastes that are low in physical contaminants but may have high levels of pathogens. Waste acceptable for a Type 1 or 2 facility may be composted at a Type 3 facility.
 - Small Type 2 and 3 facilities have an operations area less than two acres in size and shall be limited to no more than 1,000 cubic yards material onsite at any given time. Large Type 2 and 3 facilities have an operations area of two or more acres in size or have more than 1,000 cubic yards material onsite at any given time

Section 21 would provide that the production, processing, storage, use, and sale of compost for agricultural, residential, or commercial purposes by a permitted Small or Large Type 1, Type 2, or Type 3 composting facility is "agriculture" under G.S. 106-581.1.

PROPANE ASSESSMENT AMENDMENTS

S.L. 2013-299 authorized the North Carolina Propane Education & Research Foundation (Foundation), a North Carolina nonprofit corporation serving the propane gas industry, to assess propane at a rate of two-tenths of a cent per gallon (\$.002) in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.

Section 21 would, effective January 1, 2026, increase the amount of the propane assessment from \$.002 to \$.003 per gallon and increase the vote share required to approve the assessment from 50% to 75%. This section would also, effective when law, allow the Foundation to use the proceeds of the assessment for workforce development.

PUV BUSINESS ENTITY TEST CHANGES

In order to qualify for present use value taxation, property must be owned by a qualifying entity. A business entity can be a qualifying entity if it meets all of the following criteria:

- A business entity (as opposed to the individual members of the business entity) must have agriculture, horticulture, or forestry as its principal business.
- All members of the business entity must be individuals, either directly or indirectly.
- All individual members must be either actively engaged in the principal business of the entity or be the relative of an individual member who is actively engaged in the principal business of the entity.
- A business entity cannot be a corporation whose shares are publicly traded, and its members cannot be corporations whose shares are publicly traded.
- There is an exception to the general "principal business" and "actively engaged" requirements when the business entity leases the land and all its members are relatives.

Section 21.5 would eliminate the requirement for a qualifying business entity to have agriculture, horticulture, or forestry as its principal business, and would clarify what it means for members of the business entity to be "actively engaged" in farming.

This section would be effective for taxes imposed for taxable years beginning on or after January 1, 2027.

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EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.