



SENATE BILL 770: NC Farm Act of 2016.

**This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.**

2016-2017 General Assembly

Committee:	House Agriculture	Date:	June 28, 2016
Introduced by:	Sens. B. Jackson, Brock, Cook	Prepared by:	Chris Saunders Committee Counsel
Analysis of:	PCS to Fifth Edition S770-CSTQxf-56 [v.2]		

SUMMARY: *The Proposed Committee Substitute (PCS) to Senate Bill 770 would make various changes to agricultural, wildlife, taxation, Building Code, and other laws. The PCS would make the following changes from the Fifth Edition and version 1 of this PCS, which was heard on June 23:*

- *In Section 16, requires notice of an automatically renewing contract to be given would be given no sooner than 45 days and no later than 15 days before the renewal. The Fifth Edition would have required notice to be given no sooner than 30 days and no later than 15 days before the renewal.*
- *In Section 11, makes the assessment on cervid feed applicable to all cervid feed, rather than farmed cervid feed only.*
- *Deletes Section 12, which would have exempted agricultural and silvicultural operations from water withdrawal permitting in capacity use areas.*
- *In Section 14, clarifies specific agricultural activities that are exempt from the Sedimentation Pollution Control Act.*
- *Adds Section 18, which would give priority to certain swine and poultry waste renewable energy facilities in the public utility's interconnection queue.*

[As introduced, this bill was identical to H993, as introduced by Reps. Brody, Dixon, Langdon, Steinburg, which is currently in House Agriculture.]

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would grant the Department of Agriculture and Consumer Services (DACS) several new powers to enforce the DACS bedding sanitation program. This section would grant DACS the authority to detain or embargo bedding products suspected of being adulterated or misbranded, and allow DACS to petition for the products to be condemned. This section would also authorize the Commissioner of Agriculture (Commissioner) to petition the superior court for an injunction and assess a civil penalty of not more than \$2,500 against a person in violation of the bedding laws. This section would also make a violation of the bedding laws a Class 2 misdemeanor.

This section would become effective December 1, 2016, and would apply to offenses committed on or after that date.

Section 2 would authorize DACS to appoint and deploy agricultural emergency response teams (AERTs) to respond to agricultural emergencies. AERTs would be employees of DACS and personnel operating with DACS as a contracted service, whom the Commissioner designates to respond to

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Senate PCS 770

Page 2

agricultural emergencies. AERTs would have the same immunity from liability in responding to agricultural emergencies as other emergency response agencies covered by the North Carolina Emergency Management Act. DACS would be authorized to use any unrestricted funds available to it that have been allocated by the General Assembly from the General Fund.

Section 3 would authorize employees of the Wildlife Resources Commission and employees of federal agencies whose responsibilities include fisheries and wildlife management, such as the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA-APHIS), to cull feral swine from aircraft with the written permission of the landowner. This activity would be prohibited in coastal counties during waterfowl season.

Section 4 would eliminate the rendering plant inspection committee, which is composed of an employee of DACS, an employee of the Department of Health and Human Services, and a person having practical knowledge of rendering operations, and direct the Commissioner or the Commissioner's designee to inspect rendering operations.

Section 5 would require that both elected and appointed soil and water district supervisors annually receive six hours of training in soil, water, and natural resources conservation and the duties and responsibilities of district supervisors.

Section 6 would direct the Board of Agriculture, rather than the Animal Welfare Section of DACS, to adopt rules detailing eligible expenses and application guidelines for the Animal Shelter Support Fund ("Fund"). The Animal Welfare Section does not have rulemaking authority. This section would also give the Board of Agriculture temporary rulemaking authority to administer the Fund.

Section 7 would exempt the Board of Agriculture from the rulemaking requirements of the Administrative Procedure Act with respect to the adoption of fee schedules for the preparation of forest management plans by the North Carolina Forest Service.

Section 8 would allow local school boards to develop and implement policies to facilitate and maximize purchases of food grown or raised in North Carolina, including policies that allow a percentage price preference for the purpose of procuring food grown or manufactured within the State. The federal Food, Conservation, and Energy Act of 2008 authorized institutions receiving funds under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to use a geographic preference for procurement of local unprocessed agricultural products (Public Law No. 110-234, Section 4302).

Section 9 would create an exemption for chorionic gonadotropin from the list of Schedule III controlled substances when administered by injection for veterinary use by a licensed veterinarian or the veterinarian's designated agent.

Section 10 would extend the sunset for the production credit for commercial facilities for processing renewable fuel from January 1, 2017 to January 1, 2020.

Section 11 would create a voluntary assessment on cervid feed to be administered by the North Carolina Deer and Elk Farmers Association ("Association"), not to exceed four dollars (\$4.00) per ton of cervid feed. The assessment may not be levied for a period longer than ten years. All funds paid into the assessment are refundable upon written request to the Association.

Section 13 would provide that no permit is required to conduct any construction, installation, repair, replacement, or alteration activities costing \$15,000 or less in residential and farm structures if the work is performed in accordance with the current edition of the North Carolina State Building Code and involves:

Senate PCS 770

Page 3

- Replacements of windows; doors; exterior siding; or pickets, railings, stair treads, and decking of porches and exterior decks.
- Plumbing replacements that do not change size or capacity.
- Replacement of roofing.

This section would further provide that no permit is required for:

- Replacement of water heaters in one- or two-family dwellings, if (1) the energy use or thermal input does not exceed that of the water heater being replaced and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and (2) the work is performed by a person or employee of a company licensed by the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.
- Repair or replacement of dishwashers, disposals, electrical devices, or lighting fixtures in residential or commercial structures, if (1) the repair or replacement does not require addition or relocation of additional electrical wiring, and (2) the work is performed by a person or employee of a company licensed by the State Board of Examiners of Electrical Contractors.

This section would also provide that no permit is required, either under the State Building Code or any local variant, for routine maintenance of fuel dispensing pumps and other dispensing devices.

This section would become effective October 1, 2016.

Section 14 would exempt production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, including the production of mulch, ornamental plants, sod, and other horticultural products, from the Sedimentation Pollution Control Act.

Section 15 would modify the eligibility requirements for the Expanded Gas Products Service to Agriculture Fund by providing that an eligible project is a project for an agricultural operation or agricultural processing facility that requests natural gas or propane gas service. Under current law, an eligible project must expand the agricultural or processing capabilities of the facility.

Section 16 would make an automatic contract renewal for the sale, lease of products or services for a term exceeding 60 days void and unenforceable unless the consumer is given written notice that the contract will automatically renew if the consumer does not cancel it, and would require the notice to be given no sooner than 45 days and no later than 15 days before the renewal. This section would (i) limit the notice requirement to automatic renewals for periods exceeding 60 days, (ii) provide for notice by personal delivery, electronic mail or first-class mail, and (iii) exclude entities regulated by the Federal Communications Commission under federal law, by the N.C. Utilities Commission under State law, or doing business under authorization issued by a political subdivision of the State or any agency thereof. These exclusions would be in addition to entities excluded under current law, including insurers licensed under Chapter 58 of the General Statutes, banks, trust companies, savings and loan associations, savings banks, and credit unions licensed or organized under the laws of any state or the United States, and any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof.

This section would become effective when it becomes law, and would apply to contracts entered into on or after that date.

Section 17 would authorize certified well contractors to install both water pipes and electrical wiring in a single ditch when running electrical wires from the well pump to the pressure switch and water pipes

Senate PCS 770

Page 4

from the well to the water tank. The ditch must be as deep as the deepest applicable minimum cover requirement for the electrical wiring or water pipes. This section would also direct the Building Code Council to amend the State Electrical Code and the State Plumbing Code consistent with this section.

This section would become effective October 1, 2016.

Section 18 would give priority to swine and poultry waste renewable energy facilities in the public utility's interconnection queue, provided that prior to May 21, 2016, the facility has (i) entered into the interconnection queue and (ii) either obtained a certificate of public convenience and necessity under G.S. 62-110.1(a) or reported to the Utilities Commission that it proposes to construct the facility under G.S. 62-110.1(g). Any such facility would not be moved ahead of an interconnection request that has either (i) initiated the system impact study process, or (ii) received a system impact study report and is continuing through the interconnection process.

This section would be effective when it becomes law, and would expire on January 1, 2017.

Section 19 contains a severability clause.

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