



SENATE BILL 711: NC Farm Act of 2018.

2017-2018 General Assembly

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| Committee: Senate Rules and Operations of the Senate | Date: June 5, 2018 |
| Introduced by: Sens. B. Jackson, Cook, Sanderson | Prepared by: Chris Saunders |
| Analysis of: Third Edition | Staff Attorney |

OVERVIEW: *Senate Bill 711 would make various changes to laws concerning agriculture.*

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the bill would repeal the North Carolina Handler's Act (Article 44 of Chapter 106 of the General Statutes) and enact the Fruit and Vegetable Handlers Registration Act. Under current law, the Handler's Act requires a handler of fruit and vegetables to obtain a permit from the Commissioner of Agriculture ("Commissioner") and furnish to the Commissioner a bond of at least \$10,000 before entering into a written contract with a producer. The Fruit and Vegetable Handlers Registration Act would require a handler, prior to conducting business in North Carolina, to register with the Department of Agriculture and Consumer Services ("Department") by providing (i) the handler's name, (ii) the handler's principal place of business, (iii) the type of fruits and vegetables handled by the handler, and (iv) the annual volume, in dollars, or fruits and vegetables handled by the handler in North Carolina. The annual volume, in dollars, of fruits and vegetables handled in the State must be updated by February 1 of each year. The Commissioner may assess a civil penalty of up to \$100 per violation of the Article or rules directed thereunder after 15 days' notice is given to the handler, and may seek an injunction for failure to comply with the Article.

This section would become effective January 1, 2019 and would apply to handlers conducting business in the State on or after that date.

Section 2 would allow the Department to release collected information relating to agriculture that is confidential under federal law if confidentiality is waived by the federal agency that requires confidentiality.

Section 3 would exempt the Department from the Umstead Act for purposes of selling merchandise related to its Got To Be NC Agriculture marketing promotion. The Umstead Act restricts the State from engaging directly or indirectly in the sale of goods or operation of businesses or services in competition with citizens of the State.

Section 4 would classify "verified propagules," which are seeds or clones from an industrial hemp plant that has been laboratory tested and confirmed to have a THC concentration that complies with federal law, as hemp products. This would allow distribution of clones for cultivation. Under current law, only certified seed is classified as a hemp product for purposes of cultivation.

Section 5 would make several technical corrections to the Forest Service statutes to correct references to the Secretary of the Department of Environmental Quality. These references were overlooked when the Forest Service was transferred to the Department of Agriculture and Consumer Services in 2011.

Section 6 would direct the Food and Drug Protection Division of the Department of Agriculture and Consumer Services to immediately develop an enforcement plan to enforce the United States Food and

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Drug Administration's standard of identity for milk and the Pasteurized Milk Ordinance, as adopted in the North Carolina Administrative Code, to prohibit the sale of plant-based products mislabeled as milk, such as soy milk and almond milk. No later than 90 days after the bill becomes effective, the Department would be required to implement its enforcement plan, including notification of the Department's intent to embargo all mislabeled products offered for sale in the State. This would prohibit beverages derived from plants from being labeled as milk, such as "soy milk" and "almond milk."

The bill would require all plant-based products for sale in the State to be labeled in accordance with the FDA's standard of identity for milk and the Pasteurized Milk Ordinance no later than January 1, 2019.

Section 7 would establish that a quorum for the Agriculture and Forestry Awareness Study Commission is nine members.

Section 8 would direct the Agriculture and Forestry Awareness Study Commission to study (i) requiring the holders of unused rights-of-way and utility easements to offer the easements to the underlying property owners for fair market value, and (ii) the advisability of excluding property enrolled in present use value taxation from rural fire protection district and county service district taxes. The Agriculture and Forestry Awareness Study Commission would be directed to complete the studies and report its findings and recommendations, including any legislative proposals, to the General Assembly by January 1, 2019.

Section 9 would direct all counties in the State to require that land records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that the tract is located within one half-mile of a poultry, swine, or dairy qualifying farm or other qualifying farm or a voluntary agricultural district, or within 600 feet of any other type of qualifying farm. Under current law, any county that has a computerized land records system may require such notice. For purposes of this section, a qualifying farm means a farm that qualifies for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district.

Section 10: Under the current right-to-farm law, no agricultural or forestry operation may be or become a nuisance by "any changed conditions in or about the locality of the operation after the operation has been in operation for more than one year, when such operation was not a nuisance at the time the operation began." Section 10 would provide that for purposes of the right-to-farm law, a changed condition in or about the locality outside of the operation includes, but is not limited to, a change in the ownership, occupancy, or use of the property that is affected by the alleged nuisance. This section would also repeal an exception to the right-to-farm law when a nuisance results from negligent or improper operation of the operation, and establish a presumption that the operation's activities are reasonable and not a nuisance, which the plaintiff may rebut by clear and convincing evidence that the operation has not been managed in a manner substantially consistent with (i) practices, methods, or procedures that are generally accepted and routinely utilized by other agricultural and forestry operations in region, and (ii) applicable laws and regulations.

This section would be effective when it becomes law.

Section 11 would direct the Utilities Commission, no later than October 1, 2018, to adopt rules to establish reasonable limitations on the amount by which a natural gas local distribution company may increase its margin revenues, in the event that actual construction costs exceed the estimated construction costs provided in the agreement, in an agreement between the natural gas local distribution company and a customer that provides for cost recovery in connection with the construction of facilities and extension of natural gas service to a property used for bona fide farm purposes.

Section 12 would provide that appointed and elected soil and water conservation district supervisors must receive six clock hours of training on soil, water, and natural resources conservation and the duties and

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responsibilities of district supervisors per term in office. Under current law, district supervisors must receive six clock hours of training per year.

Section 13 would provide that items that are exempted from sales tax when purchased by a qualifying farmer for use in a farming operation are also exempt from sales tax when purchased by a qualifying farmer for use in a zoo operated by a qualifying farmer. Income from zoo operations would be exempted for purposes of the income requirements for a qualifying farmer.

This section would become effective retroactively to January 1, 2011, and would apply to purchases made on or after that date. A person who paid sales and use tax for a return period ending prior to the date this section becomes law on an item exempt from sales and use tax pursuant would be able to apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2019.

Section 14 would direct the Department of Revenue to publish a depreciation schedule for farm equipment and make the schedule electronically available on its website. A county appraiser would be allowed to use any of the appraisal methods provided in statute and would be required to consider relevant taxpayer information. However, if the county uses a cost approach method to appraise the equipment, the county would be required to appraise the equipment using the depreciation schedule published by the Department of Revenue.

This section would be effective for taxes imposed for taxable years beginning on or after July 1, 2019.

Section 15: Under current law, real property set apart for burial purposes, where the property is not offered for sale or rental or sale of burial rights therein, is not subject to property tax. This section would provide that the owner of the property is not required to apply for the property tax exemption for burial property. A county would be prohibited from denying the exemption to a taxpayer who lacks a survey or plat detailing the exempt property.

Section 15.1 would allow any law enforcement agency in the State to enter into intergovernmental law enforcement mutual aid agreements with out-of-state law enforcement agencies or out-of-state law enforcement officers to aid in enforcing North Carolina laws within the jurisdiction of the requesting law enforcement agency for maintaining security for an international equestrian event. The agreement must be in writing and must contain certain provisions addressing standards of conduct, training requirements, and reimbursement of costs and expenses. This section would also provide that any nonresident veterinarian validly licensed in another state, territory, district of the United States, or foreign country may apply to the Veterinary Board for licensure to practice veterinary medicine. The Board would be required to issue a license to practice veterinary medicine without written examination, and subject to a fee not to exceed \$150, only for the purpose of treating a horse previously in the care of the nonresident veterinarian.

This section would be effective when it becomes law and expires October 1, 2018.

Section 16 contains a severability clause.

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