



# SENATE BILL 762: North Carolina Farm Act of 2022.

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

2021-2022 General Assembly

<b>Committee:</b>	Senate Agriculture, Energy, and Environment.	<b>Date:</b>	May 24, 2022
	If favorable, re-refer to Finance. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate		
<b>Introduced by:</b>	Sens. B. Jackson, Sanderson, Woodard	<b>Prepared by:</b>	Chris Saunders
<b>Analysis of:</b>	First Edition		Committee Counsel

### OVERVIEW: Senate Bill 762 would:

- *Make the exception for hemp in the North Carolina Controlled Substances Act permanent.*
- *Provide that a building used primarily for storage of agricultural commodities or products or storage and use of materials for agricultural purposes is considered a farm building for purposes of the building code, regardless of whether the building is located on the same property where the agricultural commodities or products were produced.*
- *Clarify that for purposes of county zoning, a building or structure that is used solely for the storage of cotton, peanuts, or sweetpotatoes, or any of the byproducts of those commodities, is a bona fide farm purpose.*
- *Establish a "right to repair" for electronic farm equipment.*
- *Provide that, in the event of a tax foreclosure on property encumbered by a conservation easement, the conservation easement is not extinguished upon the sale of the property.*
- *Specify that farmed cervid feed means commercial feed sold to a cervid farmer for farmed cervid use, rather than commercial feed labeled or marketed for farmed cervid use.*
- *Provide that \$2.5 million in nonrecurring funds appropriated in both the 2021-2022 and 2022-2023 fiscal years to the North Carolina SweetPotato Commission for a contract with North Carolina State University to study nematode mitigation will remain available until expended and not revert.*
- *Make several technical changes.*

### CURRENT LAW AND BILL ANALYSIS:

**Section 1** of this act would make permanent the exception for hemp in the definition of marijuana in the North Carolina Controlled Substances Act, which is scheduled to sunset on June 30, 2022.

The exception is due to sunset because, in August of 2021, the Industrial Hemp Commission submitted a resolution pursuant to S.L. 2015-299 that the State pilot program is no longer necessary because the United States Congress has removed industrial hemp from the federal Controlled Substances Act and the provisions of that act, including the State Controlled Substances Act exception, expire at the end of the fiscal year in which that resolution was submitted. The United States Department of Agriculture (USDA)

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# Senate Bill 762

Page 2

is currently operating the State's hemp program through the U.S. Domestic Hemp Production Program. Making the exception for hemp permanent would allow USDA to continue operating the State's hemp program.

This section would become effective June 30, 2022.

**Section 2** would provide that a building used primarily for the storage of agricultural commodities or products, or storage and use of materials for agricultural purposes, is considered a farm building for purposes of the building code, regardless of whether the building is located on the same property where the agricultural commodities or products were produced. This section would also make technical changes to apply the definition of "farm building" to the entire subsection and update a cross-reference.

**Section 3** would clarify that for purposes of county zoning, a building or structure that is used solely for the storage of cotton, peanuts, or sweetpotatoes, or any of the byproducts of those commodities, is a bona fide farm purpose, and therefore exempt from county zoning. This section would also clarify that the list of documents provided in this section is sufficient evidence that a property is used for bona fide farm purposes is not exhaustive.

**Section 4** would establish a "right to repair" for agricultural equipment that depends on digital electronic equipment to function. This section would apply several requirements to original manufacturers of that equipment, including:

- Making available to independent repair providers, on fair and reasonable terms, any documentation, part, software, or tool required to (i) diagnose, maintain, or repair digital electronic equipment for any electronics-enabled agricultural equipment or (ii) disable or enable an electronic security lock or other security-related function on the agricultural equipment.
- Making available diagnostic and repair documentation to any independent repair provider or owner of equipment at no charge or in the same manner as that documentation would be made available to the manufacturer's authorized repair provider.
- Making available parts, including updates to embedded software, available for purchase to the owner of equipment, the owner's agent, or an independent repair provider on fair and reasonable terms.
- Ensuring that any part required by the equipment can be replaced without causing damage to the equipment using either a commonly available tool or a tool that is made available to owners or independent repair providers on fair and reasonable terms.
- Allowing authorized repair providers to obtain diagnostic, service, or repair documentation in a format standardized with other manufacturers if the manufacturer sells the standardized documentation to independent repair providers on conditions more favorable than those under which the authorized repair provider obtains proprietary documentation, unless the proprietary format includes documentation or functionality that is not available in a standardized format.
- Making available for purchase by owners and independent repair providers all diagnostic repair tools that are made available to any authorized repair provider.

# Senate Bill 762

Page 3

This section would be enforceable by the Attorney General, with a civil penalty of up to \$500 per violation, or by a civil action by an owner of equipment or an independent repair provider, with a maximum award of \$500 per violation.

This section would not:

- Require a manufacturer to divulge trade secrets, except as necessary to provide access to necessary repair materials or processes on fair and reasonable terms.
- Alter the terms of an agreement between a manufacturer and an authorized repair provider, except with respect to any provision of such an agreement that would limit the obligations of a manufacturer.
- Require an authorized repair provider to make its documentation, parts, or tools available on fair and reasonable terms unless the authorized repair provider is the manufacturer of the equipment.
- Require a manufacturer to provide any part or equipment solely used in the development of its products.
- Require a manufacturer or authorized repair provider to provide an owner or independent repair provider access to nondiagnostic or nonrepair documentation.
- Abrogate or alter any agreement executed between a manufacturer and an authorized repair provider.
- Allow (i) any modification that permanently deactivates a safety notification system when agricultural equipment is being repaired; (ii) access to any function of a tool that enables the owner or independent repair provider to change the settings of equipment so as to bring the equipment permanently out of compliance with any applicable safety or emissions laws; (iii) the evasion of emissions laws or copyright laws; or (iv) any other illegal modification activities.

This section would become effective October 1, 2022.

**Section 5** would provide that, in the event of a tax foreclosure on property encumbered by a conservation easement, the conservation easement is not extinguished upon the sale of the property.

**Section 6** would make a clarifying change to the definition of "farmed cervid feed" for purposes of the farmed cervid assessment. This section would specify that farmed cervid feed means commercial feed sold to a cervid farmer for farmed cervid use, rather than commercial feed labeled or marketed for farmed cervid use. Commercial feed for cervids is often labeled for hunting purposes rather than farming.

**Section 7** would clarify that for purposes of present use value taxation, the commercial production or growing of animals includes boarding of horses. Under current law, the commercial production or growing of animals includes "the rearing, feeding, training, caring, and managing of horses."

This section would be effective for taxes imposed for taxable years beginning on or after July 1, 2022.

**Section 8** would make several technical changes to update cross-references in the statutes that refer to the section on county zoning. G.S. 153A-340(b) was recodified as G.S. 160D-903 in 2020.

# Senate Bill 762

*Page 4*

The 2021 Appropriations Act appropriated \$2.5 million in nonrecurring funds in both the 2021-2022 and 2022-2023 fiscal years to the North Carolina SweetPotato Commission for a contract with North Carolina State University to study nematode mitigation. **Section 9** would provide that these funds will remain available until expended and do not revert.

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