



# SENATE BILL 401: NC Farm Act of 2025.

2025-2026 General Assembly

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<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	June 25, 2025
<b>Introduced by:</b>	Sens. Jackson, Lazzara, Sawyer	<b>Prepared by:</b>	Chris Saunders
<b>Analysis of:</b>	Second Edition		Staff Attorney

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**OVERVIEW:** *Senate Bill 401 would make various changes to the agricultural laws of this State.*

## CURRENT LAW AND BILL ANALYSIS:

### PART I: NORTH CAROLINA FARM ACT OF 2025

#### 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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# Senate Bill 401

Page 2

**Section 3** 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. 143B-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 4** 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 5** 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 6** 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

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

# Senate Bill 401

Page 3

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 7** 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 8** 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 9** 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 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.

# Senate Bill 401

Page 4

- 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 10** 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 11** 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 12** 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 for inspection a vehicle used for the delivery of LP gas.

## **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 13** 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.

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**

**Section 14** 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

# Senate Bill 401

Page 5

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.

## **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 15** 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.

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

## **REQUIRE A STATEWIDE STUDY ON SHELLFISH AQUACULTURE LEASING AND CURRENT MORATORIUMS ON SHELLFISH LEASING**

**Section 15.5** would direct the Collaboratory to study shellfish aquaculture regulations to ensure a balanced approach between economic development, environmental protection, and public access to coastal waters. In conducting the study, the Collaboratory would be required to consult with the North Carolina Division of Marine Fisheries, the Marine Fisheries Commission, and other stakeholders, including shellfish growers, commercial and recreational fishermen, property owners, and coastal area local governments.

An interim report would be due to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources by December 1, 2025, and a final report, including any recommendations for legislative or regulatory changes, would be due by May 1, 2026.

## **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 16** 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.

## **ADD CERTAIN COMPOSTING FACILITIES TO THE DEFINITION OF "AGRICULTURE"**

# Senate Bill 401

Page 6

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.
- 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 18** 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 19** 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.

## APA EXEMPTION FOR RULES TO MODERNIZE WASTEWATER PERMITTING

Section 5.1 of S.L. 2024-44 repealed Section 12.9 of S.L. 2023-134, and requires DEQ and the EMC, no later than August 1, 2024, to develop and submit to the United States Environmental Protection Agency for USEPA's approval draft rules that establish methodologies and permitting requirements for the discharge of treated domestic wastewaters with low risk following site specific criteria to surface waters of the State, including wetlands, perennial streams, and unnamed tributaries of named and classified streams and intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow of the receiving water is estimated to be low flow or zero flow, or under certain conditions non-existent, as determined by

# Senate Bill 401

Page 7

the United States Geological Survey (USGS). If USEPA approves these draft rules, the EMC must initiate the process for temporary and permanent rulemaking within 20 days.

**Section 20** would exempt the rules adopted by the EMC after receiving approval from USEPA from the 10 letters of objection and legislative review process in the Administrative Procedure Act.

This section would be retroactively effective July 8, 2024, the date that Section 5.1 of S.L. 2024-44 became law.

## **ALLOW THE USE OF UNGRADED LUMBER IN CERTAIN CIRCUMSTANCES**

**Section 20.1.(a)** would define "dimension lumber" and "small mill" for purposes of the bill.

**Sections 20.1.(b) and 20.1.(c)** would direct the Residential Code Council to amend the North Carolina Residential Code to allow dimension lumber that has not been grade-stamped to be used in the construction of one- and two-family dwellings, and structures classified as Residential Group R-2 or R-3, under certain conditions.

**Section 20.1.(d)** would direct the Residential Code Council and the Building Code Council to adopt temporary rules to implement the requirements of this section no later than 180 days after the effective date of this section. The Residential Code Council and the Building Code Council must also adopt permanent rules to replace the temporary rules.

This section would be effective when it becomes law and expires when the Residential Code Council and Building Code Council have issued permanent rules substantially similar to Sections 20.1(b) and 20.1(c) of this act.

**Section 20.2** would direct NC Cooperative Extension to establish a basic lumber grading training program, offered annually, including requirements for completing the program and certification under the program.

**Section 20.3** would amend G.S. 160D-1110 (Building Permits) to require building permit applicants using lumber sold pursuant to Section 20.1 of this act to submit certain information with the building permit application.

Section 20.3 becomes effective on the date that the temporary rules required to be adopted by the Residential Code Council and Building Code Council by Section 20.1 of this act become effective.

## **AUTHORIZE USE OF CERTAIN SUBSURFACE DISPERSAL PRODUCTS FOR WASTEWATER STORAGE AND DISPERSAL IN TRAFFIC-RATED AREAS UNDER PRIVATE OPTION PERMITS**

**Section 20.5** would allow the use of wastewater dispersal products under areas subject to vehicular traffic if the product is approved by the manufacturer for that purpose and a permit is issued for the product is issued by a professional engineer under an engineered option permit, or by an Authorized On-Site Wastewater Evaluator.

## **REQUIRE APPROVAL FROM COUNTY COMMISSIONERS FOR ANNEXATION OF CERTAIN PROPERTY**

**Section 20.6** would provide that, for cities in a county with a population of 150,000 residents or more as of the most recent federal decennial census, before a public hearing for annexation of an area that (i) is agricultural land, forestland, or horticultural land, or has been enrolled in present use value taxation within the previous three calendar years, (ii) is not contiguous to the city's corporate limits, and (iii) is not within the city's ETJ, the city council must direct its planning department to consult with the planning department

# Senate Bill 401

*Page 8*

of the county with jurisdiction over the area proposed for annexation to determine whether zoning the area as residential would increase the number of students attending public school in the county to more than 100% of the county's current capacity.

If so, then the annexation could not proceed unless either (i) the board of county commissioners approves the annexation or (ii) the city agrees to pay the county the amount necessary to restore compliance with school capacity.

This section would become effective July 1, 2025, and would apply to petitions for annexation received on or after that date.

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