



## The Daily Bulletin: 2019-07-25

### PUBLIC/SENATE BILLS

S 315 (2019-2020) [NORTH CAROLINA FARM ACT OF 2019](#). Filed Mar 20 2019, *AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS OF THE STATE*.

House committee substitute to the 7th edition makes the following changes.

Changes the definition of *smokable hemp* set forth in GS 106-568.51, applicable to Article 50E, NC Hemp Commission. Now defines the term to mean a product that does not exceed the federally defined THC level for hemp in a form that allows THC to be introduced into the human body by inhalation of smoke, including hemp buds, hemp flowers, whole or ground raw hemp plant material, hemp cigars, and hemp cigarettes (identical to the definition set forth in the 5th and 6th editions; previously, defined as harvested raw or dried hemp plant material, in a form intended to allow THC to be introduced into the human body by inhalation of smoke, including hemp buds or hemp flowers, hemp cigars, and hemp cigarettes, but excluding hemp extracts).

Eliminates the proposed member qualification modifications for the NC Hemp Commission set forth in GS 106-568.52 (previously, amended the qualifications to require one member from NC A&T, one member that is an historically underserved African-American small farmer, and one member recommended by the Small and Minority Farm Program).

Eliminates proposed subsections (g) and (h) of GS 106-568.53A, which extended the privileges of hemp cultivator or handler licenses to the spouse of licensees, and established the licenses to be transferrable. Makes conforming organizational changes.

Modifies proposed GS 106-568.55A to prohibit the Hemp Commission from issuing a license to handle hemp to any person (rather than any person who processes hemp purchased from a cultivator) without satisfying the bonding requirements specified. No longer exempts from the bond requirements handlers who process only hemp grown by the handler.

Eliminates proposed GS 106-578.57(d), which made it a Class 2 misdemeanor to sell hemp, hemp products, or hemp extracts to a person less than 18 years old.

Makes technical changes to proposed GS 106-568.59, concerning the NC Hemp Program Fund.

Modifies the proposed changes to GS 90-87 to no longer enact definitions for the terms *hemp*, *hemp extract*, *hemp product*, and *smokable hemp*, applicable to the NC Controlled Substances Act. Additionally, eliminates the proposed changes to the term *marijuana*, which defined the term to include smokable hemp and exclude hemp, when under the control of a licensed cultivator or handler, hemp products, and hemp extracts. Instead, amends the definition set forth for *marijuana* to exclude hemp, hemp products, hemp extracts, and smokable hemp as defined in GS 106-568.51 (Article 50E of GS Chapter 106), when the hemp is produced and used in compliance with Article 5, the NC Controlled Substances Act, and rules adopted by the Hemp Commission (identical to the definition provided in the 5th edition).

Amends the exception set forth for tetrahydrocannabinols in hemp products and hemp extracts from being included as a schedule VI controlled substance, to also except tetrahydrocannabinols in hemp and smokable hemp, as defined in Article 50E, GS Chapter 106 (identical to the exceptions set forth in the 5th edition).

Changes the effective date of the proposed changes to GS 90-87 and GS 90-94, and proposed GS 90-94.5, now making those provisions effective on the later of either December 1, 2019, or 30 days after the effective date of specified federal regulations. Additionally, reinstates the proposed sunset of those provisions on July 1, 2021 (identical to the provisions set forth in the 5th and 6th editions; previously, effective December 1, 2019, with no sunset).

Makes further conforming changes.

Makes the following modifications to new Article 50F, NC Hemp Program, of GS Chapter 106, effective July 1, 2021.

Makes identical changes to the defined term *smokable hemp* as those made to the defined term applicable to Article 50E (identical to the definition set forth in the 5th and 6th editions; previously, defined to mean a material, compound, mixture, or preparation that allows THC to be introduced into the human body by inhalation of smoke, including whole or ground raw hemp plant material, including hemp buds, hemp flowers, hemp cigars, and hemp cigarettes).

Makes identical changes to the proposed qualifications for licensed cultivators or handlers of hemp as those made to Article 50E, deleting subsection (f) and (g), which extended the privileges of hemp cultivator or handler licenses to the spouse of licensees, and established the licenses to be transferrable. Makes conforming organizational changes.

Makes identical changes to the proposed bonding requirements for licensed cultivators or handlers of hemp as those made to Article 50E. Prohibits the Commissioner of Agriculture (Commissioner) from issuing a license to handle hemp to any person (rather than any person who processes hemp purchased from a cultivator) without satisfying the bonding requirements specified. No longer exempts from the bond requirements handlers who process only hemp grown by the handler.

Adds to the civil penalties set forth under the new Article to permit the Commissioner to access a civil penalty of up to \$2,500 for knowingly or intentionally manufacturing, delivering, selling, or possessing smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product (identical to the civil penalty provided in the 5th and 6th editions).

Modifies the criminal penalty provisions set for under the new Article. Eliminates the proposed Class 2 misdemeanor established for selling hemp, hemp products, or hemp extracts to a person less than 18 years old. Now, makes it a Class 1 misdemeanor to knowingly or intentionally manufacture, deliver, sell, or possess smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product (identical to the criminal penalty provided in the 5th edition).

Makes technical changes to the provisions concerning the NC Hemp Program Fund.

Amends GS 90-87, GS 90-94, and enacts GS 90-94.5, effective July 1, 2021, similarly to the provisions set forth in Section 2 of the act, which sunset on July 1, 2021, with the following changes. Amends GS 90-87, now defining *marijuana* to exclude hemp, hemp products, hemp extracts, and smokable hemp as defined in the new Article (identical to the definition set forth in the 5th edition). Makes changes to new GS 90-94.5 to refer to the Department of Agriculture and Consumer Services (DACs) rather than the Hemp Commission, and to make statutory cross-references to the new Article.

Makes further technical changes.

Amends the proposed definition of *cannabinoid-related compounds* set forth in GS 106-121 to no longer exclude smokable hemp. Makes conforming and technical changes.

Reinstates the proposed civil and criminal penalties of Article 50E in proposed GS 106-568.56(a)(5) and GS 106-568.57(d), as set forth in the 5th edition, identical to those added to new Article 50F. Permits the Commissioner to access a civil penalty of up to \$2,500 for knowingly or intentionally manufacturing, delivering, selling, or possessing smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product. Makes it a Class 1 misdemeanor to knowingly or intentionally manufacture, deliver, sell, or possess smokable hemp, except for hemp plants or parts of a hemp plant grown or handled by a licensee for processing or manufacturing into a legal hemp product. Applies to offenses occurring on or after December 1, 2020.

Reinstates the directives regarding the Environmental Management Commission's implementation of 15A NCAC 02D .1806 (Control and prohibition of odorous emissions), as the provisions appeared in the 5th edition. Requires the EMC to classify facilities that store products that are grown, produced, or generated on one or more agricultural operations and are renewable resources under specified state law, as agricultural operations that are exempt from the identified rule's requirements.

Modifies the proposed changes to GS 153A-340 to no longer explicitly require properties used for shooting sports to comply local zoning and development ordinances. Makes conforming changes.

Eliminates the proposed changes to the sunset provision of the NC Food Innovation Lab Committee set forth in SL 2017-57 (previously, amended to sunset January 1, 2020, rather than January 1, 2025 under existing law).

Modifies proposed GS 139-8.2 to no longer exclude from confidentiality complaints to a soil and water conservation district resulting in a determination that a violation of the law has occurred.

Reinstates the following provisions as they appeared in the 5th and 6th editions.

Amends GS 143-215.71 and GS 143B-135.238 to specify that projects cannot receive grant funding from both the Environmental Quality Incentives Program and the Clean Water Management Trust Fund.

Directs the Department of Environmental Quality (DEQ) and the Department of Natural and Cultural Resources to jointly report to the specified NCGA committee by September 30, 2019, regarding funding overlaps between water resources development grant funding and Clean Water Management Trust Fund grants for the Western Stream Initiative (Initiative) and the efforts of the Departments to improve administration of grants for the Environmental Quality Incentives Program.

Directs DEQ to develop performance management procedures for projects funded as part of the Initiative, including the collection and reporting of 10 specified measures for all projects receiving grant funding. Requires the Department of Natural and Cultural Resources to provide DEQ with the specified measures relevant to funding for the Initiative provided by the Clean Water Management Trust Fund.

Amends GS 143-215.72, establishing an annual reporting requirement for DEQ regarding grants for projects funded through the Initiative (defined as the portion of the federal Environmental Quality Incentives Program funding provided to the Western Stream Initiative for certain counties). Requires the report to be submitted to the specified NCGA committee and division by November 1, and requires the report to include measures of grant administration and grant implementation efficiency and effectiveness.

Directs the Office of the State Auditor to audit all State funds ever paid to the Resources Institute for the Initiative through the Clean Water Management Trust Fund and Water Resources Development Grants for the Environmental Quality Incentives Program no later than June 1, 2020. Directs the Director and Board of Trustees of the Clean Water Management Trust Fund and DEQ to seek recoupment of any identified overpayment of State funds based on the audit's findings.

Maintains the act's severability clause and effective date provisions.

**Intro. by B. Jackson, Sanderson, Johnson.**

[STUDY, GS 20, GS 62, GS 89C, GS 90, GS 99E, GS 105, GS 106, GS 120, GS 136, GS 139, GS 143, GS 143B, GS 153A, GS 160A](#)

[Agriculture, Business and Commerce, Consumer Protection, Courts/Judiciary, Motor Vehicle, Development, Land Use and Housing, Land Use, Planning and Zoning, Property and Housing, Environment, Energy, Government, State Agencies, Department of Agriculture and Consumer Services, Department of Natural and Cultural Resources \(formerly Dept. of Cultural Resources\), Department of Environmental Quality \(formerly DENR\), Office of State Auditor, Tax, Local Government, Health and Human Services, Health, Public Health, Public Enterprises and Utilities](#)

[View summary](#)

S 682 (2019-2020) [IMPLEMENT CRIME VICTIM RIGHTS AMENDMENT](#). Filed Jun 27 2019, *AN ACT TO IMPLEMENT THE CONSTITUTIONAL AMENDMENT TO PROVIDE BETTER PROTECTIONS AND SAFEGUARDS TO VICTIMS OF CRIME*.

House committee substitute to the 3rd edition makes the following changes.

Part I.

Further amends the defined terms set forth in GS 15A-824, applicable to Article 45, Fair Treatment for Certain Victims and Witnesses, as follows. Now defines *crime* to mean a felony or serious misdemeanor as determined at the sole discretion of the district attorney, except those included in Article 46, Crime Victims' Rights Act, or an act by a juvenile as provided in Article 20A of GS Chapter 7B, as enacted (previously, included any act committed by a juvenile that, if committed by an adult, would constitute a felony or serious misdemeanor; excluded an offense against the person or a felony property crime covered by Article 46 of GS Chapter 15A or Article 20A of GS Chapter 7B). Additionally, modifies *family member* to more specifically

include the sibling or grandparent of the victim (rather than the closest living relative of the victim), and explicitly exclude the accused from the term.

Further amends GS 15A-825, concerning the treatment of victims by law enforcement agencies, the prosecutorial system, the judicial system, and the correctional system. Maintains existing law regarding the provision of a secure waiting area during court proceedings (previously, amended to refer to proximity to any defendant or the family of any defendant; existing law refers to proximity to defendants and families or friends of defendants). Now requires that each victim be given the opportunity to prepare a victim impact statement for consideration by the court (under current law, required to have a victim impact statement prepared). Modifies terminology to require the victim be informed prior to trial, rather than told, that the district attorney (DA) may recommend a plea bargain. Maintains current law which requires family members of a homicide victim be offered all the guarantees of the statute, as appropriate (previously, eliminated).

Amends GS 8-53.12, concerning privileged communications with agents of rape crisis centers and domestic violence programs, establishing that any agent or center that receives a request for any necessary information which the agent acquired during the provision of services to a victim must make every effort to inform the victim of the request and provide the victim a copy of the written request, if applicable. Concerning a court's decision to compel production of the records, adds new provisions to require the judge in any proceeding subject to the statute to inquire as to whether the victim is present and wishes to be heard. Requires the court to grant the victim the opportunity to be reasonably heard if present and so desiring, including, at the victim's discretion, by oral statement, submission of a written statement, or submission of an audio or video statement.

Further amends the defined terms set forth in GS 15A-830, applicable to Article 46, Crime Victims' Rights Act, as follows. Amends the proposed definition of *court proceeding* to more specifically include a hearing involving a plea that disposes of the case, rather than any plea. Adds that if it is known to law enforcement and the DA's office that the defendant and the victim have a personal relationship, as defined by state law, and the hearing can result in the defendant's release, efforts will be made to contact the victim. Makes clarifying changes. Amends the proposed definition of *family member* to include a guardian or legal custodian of the victim. Also qualifies that the accused can be included in the term if the charges are dismissed or the person is found not guilty. Amends the proposed definition of *offense against the person* to include violations of GS Chapter 20 (motor vehicle laws) if an element of the offense involves impairment of the defendant, or injury or death to the victim (previously, if the offense involved that specified). Specifies that violations of a valid GS 50B-4.1 protective order includes domestic criminal trespass, GS 14-134.3, and purchase or possession of firearms by a person subject to a domestic violence protective order, GS 14-269.8. Specifies that the term includes violations of Article 35 of GS Chapter 14 (offenses against the public peace) if the elements of the offense involve communicating a threat or stalking (previously, if the offense involved that specified). Adds that the term includes an offense that triggers the enumerated victims' rights, as required by the NC Constitution. Concerning the assertion of the victim's rights, prohibits the accused from asserting the victim's right when the victim is a minor or is legally incapacitated. Additionally, prohibits an individual who would not act in the best interest of the victim, in the determination of the DA (was, the court), from asserting or exercising the victim's rights. Adds that an individual can petition the court to review the DA's determination.

Amends proposed GS 15A-830.5, setting forth victim's rights, specifying that the victim's right to be reasonably heard at court proceedings involving a plea is limited to those involving a plea that disposes of the case. Also, modifies the terminology to establish the right to reasonably confer with the DA's office, rather than the prosecution. Makes further terminology changes to the Article to refer to the attorney prosecuting the case, or the prosecuting attorney, concerning the right to reasonably confer, as appropriate.

Further amends GS 15A-832 to require the DA's office's court date notifications be given to the victim in a reasonable manner in addition to an accurate and timely manner. Adds that the DA's can provide the required notification electronically or by telephone, unless the victim requests otherwise (previously, required the victim's consent). Requires that the required notifications be documented by the DA's office. Establishes a new duty for the DA's office to make every effort to ensure that a victim's personal information is not disclosed unless required by law. Requires the DA's office to inform the victim that personal information is not relevant in every case and that the victim can request the DA to object to that line of questioning when appropriate. Specifies that the DA's responsibilities extend to a victim of an act of delinquency if the juvenile's case is transferred to criminal court (was, if transferred to superior court).

Further amends GS 15A-832.1, concerning responsibilities of judicial officials. Modifies the scope of the statute to now extend to the issuance of criminal pleadings, rather than specified warrants for arrest, for any misdemeanor offense against the person based on testimony or evidence from a complaining witness. Makes changes to the proposed responsibilities set forth in new

subsection (d) following notification that a victim has filed a motion alleging a violation of the rights provided by Article 46. Now requires the judge to review the motion and either dispose of the motion or set the motion for hearing as required by law. Adds provisions regarding recusal if justice so requires.

Modifies and adds to proposed GS 15A-834.5, concerning enforcement of victims' rights. Makes organizational and clarifying changes. More specifically provides that a victim can allege a violation of the rights provided by Article 46 by filing a motion with the superior court clerk's office, within the same criminal proceeding giving rise to the rights in question. Adds the following provisions. Establishes a new right for the victim to consult with an attorney regarding the alleged violation of the rights provided by Article 46, but not the right to counsel provided by the State. Directs the Administrative Office of the Courts (AOC) to create a form to serve as the motion to allege victims' rights violations, as specified. Requires the form to be provided to victims by the superior clerk at no cost. Requires the judge to review, as described, and either dispose of the motion or set a hearing for the motion in a timely manner. Prohibits the use of the failure or inability of any person to provide a right or service under Article 46 by a defendant in a criminal case, by an inmate, by any other accused, or by an victim as a ground for relief in any criminal or civil proceeding.

Amends GS 15A-835, concerning posttrial responsibilities, to establish that the victim is permitted to be present at any appellate proceeding that is an open hearing, though the victim does not have a right to be heard.

## Part II.

Modifies the defined terms set forth for new Article 20A, Rights of Victims of Delinquent Acts, of GS Chapter 7B, as follows. Adds to the term *court proceeding*, that if it is known by the juvenile court counselor and the DA's office that the juvenile and the victim have a personal relationship, as defined under state law, and the hearing can result in the juvenile's release from custody, efforts will be made to contact the victim (identical to the provision added to the defined term applicable to Article 46 of GS Chapter 15A, above). Amends the term *family member* to include the guardian or legal custodian of the victim. Also no longer excepts from the exclusion of the accused from the term in the event the charges are dismissed or the person is found not guilty. Makes identical changes to the term *offense against the person* as those made to the term as it is applicable to Article 46 of GS Chapter 15A, described above. Similarly, explicitly prohibits the accused from asserting the victim's right when the victim is a minor or is legally incapacitated. Changes the statutory cross-reference regarding who may exercise the right to restitution if the victim is deceased. Additionally, prohibits an individual who would not act in the best interest of the victim, in the determination of the DA (was, the court), from asserting or exercising the victim's rights. Adds that an individual can petition the court to review the DA's determination. Makes clarifying changes.

Modifies the victims' rights enumerated in new Article 20A to no longer include the right to be reasonably heard at court proceedings involving a plea. Now entitles the victim to the right to reasonably confer with the DA's office, rather than the prosecution. Makes conforming changes to the Article to refer to the DA's office and prosecutor as appropriate. Adds that no family member of a victim can use the failure or inability of any person to provide a right or service under the Article as a ground for relief in any criminal, juvenile, or other civil proceeding (previously, prohibition was limited to use by a juvenile, by any accused, or by any victim).

Regarding the responsibilities set forth of the DA's office, makes changes identical to those made to GS 15A-832, adding that the DA's office must make every effort to ensure that a victim's personal information is not disclosed unless required by law. Requires the DA's office to inform the victim that personal information is not relevant in every case and that the victim can request the DA to object to that line of questioning when appropriate. Further, requires the DA's office's court date notifications be given to the victim in a reasonable manner in addition to an accurate and timely manner. Adds that the DA's can provide the required notification electronically or by telephone, unless the victim requests otherwise (previously, required the victim's consent, consistency with the Article, and electronically only as technology allows). Requires that the required notifications be documented by the DA's office. Now makes it the responsibility of the DA's office, rather than the prosecutor, to notify the victim that the victim can request notification of the juvenile's release or escape.

Concerning responsibilities set forth of judicial officials, makes changes to the proposed responsibilities prescribed following notification that a victim has filed a motion alleging a violation of the rights provided by Article 20A. Now requires the judge to review the motion and either dispose of the motion or set the motion for hearing as required by law. Adds provisions regarding recusal if justice so requires. Modifies the terminology used concerning the court's responsibility to make every effort to provide the victim a secure waiting area, now referring to the juvenile or the juvenile's family, rather than the defendant or the defendant's family.

Makes organizational and clarifying changes concerning enforcement of the rights provided by new Article 20A, identical to those made to proposed GS 15A-834.5, described above. More specifically provides that a victim can allege a violation of the rights provided by Article 20A by filing a motion with the superior court clerk's office, within the same criminal proceeding giving rise to the rights in question. Adds the following provisions. Establishes a new right for the victim to consult with an attorney regarding the alleged violation of the rights provided by Article 20A, but not the right to counsel provided by the State. Directs AOC to create a form to serve as the motion to allege victims' rights violations, as specified. Requires the form to be provided to victims by the superior clerk at no cost. Requires the judge to review, as described, and either dispose of the motion or set a hearing for the motion in a timely manner. Prohibits the use of the failure or inability of any person to provide a right or service under Article 20A by a defendant in a criminal case, by an inmate, by any other accused, or by a victim as a ground for relief in any criminal or civil proceeding.

Amends the proposed changes to GS 7B-3000 to refer to the prosecuting attorney rather than the prosecutor concerning disclosure of information to the victim.

Part III.

Amends the directive for AOC to develop procedures for the automation of criminal court notifications to instead limit the directive to court date notifications.

**Intro. by Daniel, J. Davis, Britt.**

GS 7B, GS 8, GS 15A

[View summary](#)

**Courts/Judiciary, Court System, Criminal Justice, Corrections (Sentencing/Probation), Criminal Law and Procedure**

## ACTIONS ON BILLS

### PUBLIC BILLS

#### **H 126: AMEND CERTIFICATE OF NEED LAWS. (NEW)**

*Senate: Regular Message Sent To House*

*House: Regular Message Received For Concurrence in S Com Sub*

#### **H 228: MODERNIZE LAWS PERTAINING TO NC MEDICAL BOARD.-AB**

*House: Ratified*

#### **H 736: ELECTIVE SHARE-JOINT ACCOUNTS.**

*House: Regular Message Sent To Senate*

#### **H 784: TRAFFIC-CONTROL TRAINING PROGRAM. (NEW)**

*House: Regular Message Sent To Senate*

#### **H 872: UNDERGROUND UTILITY SAFETY ACT/CHANGES.**

*House: Pres. To Gov. 7/25/2019*

#### **H 961: ENSURING AUTHORIZATION OF FEDERAL FUNDS. (NEW)**

*House: Ratified*

#### **S 315: NORTH CAROLINA FARM ACT OF 2019.**

*House: Reptd Fav Com Sub 3*

*House: Re-ref Com On Rules, Calendar, and Operations of the House*

**S 522: LOW-PERF. SCHOOLS/STAND. STUDENT CONDUCT. (NEW)**

*House: Regular Message Sent To Senate*

**S 682: IMPLEMENT CRIME VICTIM RIGHTS AMENDMENT.**

*House: Reptd Fav Com Substitute*

*House: Re-ref Com On Rules, Calendar, and Operations of the House*

**LOCAL BILLS**

**S 190: EXPAND SPECIAL ASSESSMENTS FOR DAM REPAIR.**

*Senate: Pres. To Gov. 7/25/2019*

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