

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1208

Short Title: Extend Swine Moratoria.

(Public)

Sponsors: Representative Hunter.

Referred to: Environment and Natural Resources.

April 10, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE MORATORIA ON CONSTRUCTION OR EXPANSION
3 OF SWINE FARMS.

4 Whereas, seasonal rainfall continues to threaten the structural integrity of
5 swine waste lagoons and to reduce the absorptive capacity of land on to which swine
6 waste is sprayed, both of which increase the likelihood of swine waste runoff into
7 surface water and pose a threat to human health; and

8 Whereas, the General Assembly finds that, given the risk to surface water,
9 groundwater, air, and public health associated with current methods of swine waste
10 management, a statewide conversion of anaerobic swine waste lagoons and sprayfields
11 to environmentally superior technologies is necessary and in the public interest; and

12 Whereas, the 1997 General Assembly established moratoria on the
13 construction or expansion of certain swine farms and on lagoons and animal waste
14 management systems for certain swine farms; and

15 Whereas, one of the original purposes of these moratoria was to allow
16 completion of certain studies related to swine farms and animal waste management
17 systems; and

18 Whereas, the 1998 General Assembly extended these moratoria and
19 established exceptions for animal waste management systems that meet certain
20 performance standards; and

21 Whereas, the 1999 General Assembly and the 2001 General Assembly further
22 extended the moratoria so that moratoria have remained in effect continuously since 1
23 March 1997; and

24 Whereas, on 25 July 2000, the Attorney General of North Carolina entered
25 into an agreement with Smithfield Foods, Incorporated, and certain other companies;
26 and

27 Whereas, on 29 September 2000, the Attorney General of North Carolina
28 entered into an agreement with Premium Standard Farms, Incorporated, and certain
29 other companies; and

1 Whereas, on 13 March 2002, the Attorney General of North Carolina entered
2 into an agreement with Frontline Farmers, Incorporated; and

3 Whereas, the companies that are parties to these agreements constitute a
4 significant portion of the swine production capacity of the State; and

5 Whereas, these agreements commit the companies that are parties to these
6 agreements to work cooperatively to identify animal waste management technologies
7 that meet the performance standards established by the General Assembly and that are
8 economically feasible; and

9 Whereas, the companies that are parties to these agreements have agreed to
10 provide substantial resources to assist the State in the identification of animal waste
11 management technologies that meet the performance standards established by the
12 General Assembly and that are economically feasible; and

13 Whereas, the Animal and Poultry Waste Management Center at North
14 Carolina State University is currently evaluating a number of animal waste management
15 technologies in order to identify one or more technologies that meet the performance
16 standards established by the General Assembly and that are economically feasible, as
17 provided in the Smithfield and related agreements; and

18 Whereas, on 28 January 2003, the Environmental Review Commission
19 received a report from the Animal and Poultry Waste Management Center on progress
20 in the evaluation of animal waste management technologies; and

21 Whereas, based on this report, it appears that additional time will be needed
22 to complete the evaluation of all technologies currently being evaluated; and

23 Whereas, the Smithfield and related agreements commit the companies that
24 are parties to these agreements to apply animal waste management technologies that
25 meet the performance standards established by the General Assembly and that are
26 economically feasible on all company-owned farms within three years of the
27 identification of the technologies; and

28 Whereas, the General Assembly intends that those integrators and growers
29 who can afford the cost of conversion to animal waste management technologies that
30 meet the performance standards established by the General Assembly and that are
31 economically feasible do so; and

32 Whereas, the companies that are parties to the Smithfield and related
33 agreements are committed to provide the financial and technical assistance to their
34 contract growers necessary to enable those growers to convert to animal waste
35 management technologies that meet the performance standards established by the
36 General Assembly and that are economically feasible within three years of the
37 identification of the technologies; and

38 Whereas, some time will be required for the companies that are parties to the
39 Smithfield and related agreements to identify the means by which they will provide this
40 financial and technical assistance; and

41 Whereas, some time will be required to identify available cost-share funds or
42 other financial or technical assistance that may be available from federal, State, or other
43 sources, including tax incentives, to support conversion to animal waste management
44 technologies that meet the performance standards established by the General Assembly

1 and that are economically feasible by those growers who cannot afford the cost of
2 conversion; and

3 Whereas, the General Assembly will need some time to consider the results
4 of the evaluation of animal waste management technologies by the Animal and Poultry
5 Waste Management Center at North Carolina State University once the evaluation has
6 been completed and to enact whatever legislation it determines to be appropriate; and

7 Whereas, it further appears that some time may be required for the
8 implementation of any legislation that may be enacted by the General Assembly; Now,
9 therefore,

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended
12 by Section 2 of S.L. 1998-188, Section 2.1 of S.L. 1999-329, and Section 1 of S.L.
13 2001-254, reads as rewritten:

14 "(a1) There is hereby established a moratorium on the construction or expansion of
15 swine farms and on lagoons and animal waste management systems for swine farms.
16 The purposes of this moratorium are ~~to allow counties time to adopt zoning ordinances~~
17 ~~under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the~~
18 ~~completion of the studies authorized by the 1995 General Assembly (1996 Second Extra~~
19 ~~Session); and to allow the 1999 to allow time for the completion of ongoing evaluations~~
20 of animal waste management technologies and related research and studies; to allow the
21 General Assembly to receive and act on the findings and recommendations of those
22 studies, evaluations, research, and studies; and to allow for the implementation of any
23 legislation that may be enacted. Except as provided in subsection (b) of this section, the
24 Environmental Management Commission shall not issue a permit for an animal waste
25 management system for a new swine farm or the expansion of an existing swine farm
26 for a period beginning on 1 March 1997 and ending on 1 September ~~2003-2007~~. The
27 construction or expansion of a swine farm or animal waste management system for a
28 swine farm is prohibited during the period of the moratorium regardless of the date on
29 which a site evaluation for the swine farm is completed and regardless of whether the
30 animal waste management system is permitted under G.S. 143-215.1 or Part 1A of
31 Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North
32 Carolina Administrative Code 2H.0217."

33 **SECTION 2.** Section 1.2 of S.L. 1997-458, as amended by Section 3 of S.L.
34 1998-188, Section 2.2 of S.L. 1999-329, and Section 2 of S.L. 2001-254, reads as
35 rewritten:

36 "**Section 1.2.** (a) As used in this section, 'swine farm' and 'lagoon' have the same
37 meaning as in G.S. 106-802. As used in this section, 'animal waste management system'
38 has the same meaning as in G.S. 143-215.10B. There is hereby established a
39 moratorium for any new or expanding swine farm or lagoon for which a permit is
40 required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in any
41 county in the State: (i) that has a population of less than 75,000 according to the most
42 recent decennial federal census; (ii) in which there is more than one hundred fifty
43 million dollars (\$150,000,000) of expenditures for travel and tourism based on the most
44 recent figures of the Department of Commerce; and (iii) that is not in the coastal area as

1 defined by G.S. 113A-103. Effective 1 January 1997, until 1 September ~~2003~~,2007, the
2 Environmental Management Commission shall not issue a permit for an animal waste
3 management system, as defined in G.S. 143-215.10B, or for a new or expanded swine
4 farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of
5 Section 1.1 of this act do not apply to the moratorium established under this section.

6 (b) In order to protect travel and tourism, effective 1 September ~~2003~~,2007, no
7 animal waste management system shall be permitted except under an individual permit
8 issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in
9 the State: (i) that has a population of less than 75,000 according to the most recent
10 decennial federal census; (ii) in which there is more than one hundred fifty million
11 dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent
12 figures of the Department of Commerce; and (iii) that is not in the coastal area as
13 defined by G.S. 113A-103."

14 **SECTION 3.** If any section or provision of this act is declared
15 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
16 provision does not affect the validity of this act as a whole or any part of this act other
17 than the part declared to be unconstitutional or invalid.

18 **SECTION 4.** This act is effective when it becomes law.