

Article 4D.

North Carolina Biological Organism Act.

§ 106-65.42. Short title.

This Article shall be known as the "North Carolina Biological Organism Act." (1973, c. 713, s. 2.)

§ 106-65.43. Purpose.

The purpose of this Article is to regulate the production, sale, use and distribution of biological organisms that may have an adverse effect on the environment. (1973, c. 713, s. 1.)

§ 106-65.44. Definitions.

For the purposes of this Article, unless the context clearly requires otherwise:

- (1) The term "biological organism" means any plant, lower animal, virus or disease causal agent intended for release into the environment; or, an organism which affects the environment by its presence or absence.
- (2) The term "Board" means North Carolina Board of Agriculture.
- (3) The term "Commissioner" means the Commissioner of Agriculture of North Carolina or his designated agent or agents.
- (4) The term "Division of Entomology" means the Division of the Department of Agriculture and Consumer Services. (1973, c. 713, s. 3; 1997-261, s. 30.)

§ 106-65.45. Authority of the Board to adopt regulations.

The Board of Agriculture is hereby authorized to adopt regulations to implement and carry out the purposes of this Article so as to protect the environment from detrimental importation, rearing, sale, and/or release of insects, parasites, predators and other biological organisms in North Carolina, and to protect organisms that are beneficial to man and/or his environment. No viable biological organism shall be brought into North Carolina, reared, collected, propagated or offered for sale or released except under such conditions as are prescribed by regulations adopted under the provisions of this Article. (1973, c. 713, s. 4.)

§ 106-65.46. Commissioner of Agriculture to enforce Article; further authority of Board.

It shall be the duty of the Commissioner to exercise the powers and duties imposed upon him by this Article and such regulations as shall be adopted under these provisions for the purpose of protecting the environment from adverse effects of biological organisms released into the environment of North Carolina and to protect beneficial biological organisms in the State. The Board is hereby authorized to cause importation, collection, release, destruction and propagation of beneficial organisms when such action is deemed to be in the best interest of North Carolina and its environment. The Board is authorized to promote and/or regulate businesses, persons or agencies engaged in the importation, collection, rearing, sales, release, or use of biological organisms. The Board is authorized to establish standards of positive identification, purity of culture or colony, freedom from disease and hyperparasites of biological organisms and to establish standards of competence and responsibility for the private practitioner engaged in the propagation, use, distribution, release or sale of biological organisms.

The Commissioner is hereby authorized to cause or cooperate in management or mitigation programs to be conducted against such plant, environmental, or nuisance pests as can be controlled in an economically, ecologically, and biologically sound manner. The Board is authorized to cause

use of pesticides, parasites, predators, pheromones, genetic material, and other control techniques which are consistent with the pesticide, environmental and other laws applicable in the State of North Carolina.

The Commissioner shall have authority to designate such employees of the North Carolina Department of Agriculture and Consumer Services and/or to enter into cooperative agreements with other governmental agencies as may be needed to carry out the duties and exercise the powers provided by this Article. Persons collaborating with the Division of Entomology may also be designated by the Commissioner as agents for the purpose of this Article. (1973, c. 713, s. 5; 1997-261, s. 109.)

§ 106-65.47. Authority under other statutes not abrogated; memoranda of understanding.

The provisions of this Article shall in no way abrogate the authority as defined in other Articles of the General Statutes of the State of North Carolina as previously enacted. The Commissioner is hereby authorized to enter into memoranda of understanding with other State and federal agencies and individuals concerning biological organisms or pest mitigation programs when such action is desirable to ensure cooperation and prevent conflicts of interest. (1973, c. 713, s. 6.)

§ 106-65.48. Criminal penalties; violation of law or regulations.

If anyone shall interfere with or attempt to interfere with the Commissioner or any of his agents, while engaged in the performance of his duties under this Article, or shall violate any provision of this Article or any regulation of the Board of Agriculture adopted pursuant to this Article, he shall be guilty of a Class 3 misdemeanor. Each day's violation shall constitute a separate offense. (1973, c. 713, s. 7; 1993, c. 539, s. 741; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 106-65.49. Article not applicable in certain cases.

The provisions of this Article and/or regulations promulgated hereunder shall not apply to:

- (1) Any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license issued pursuant to section 351 of the Public Health Service Act (42 U.S.C. section 262) and regulations promulgated thereunder;
- (2) Any finished virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product or other biological product shipped prior to licensing for development or investigational purposes in compliance with the requirements of the Federal Food, Drug and Cosmetic Act (21 U.S.C. section 301 et seq.) or the Animal Virus, Serum, and Toxin Law of March 4, 1913 (37 Stat. 832; 21 U.S.C. section 151 et seq.), and rules and regulations promulgated thereunder; and
- (3) Any etiological agent shipped in accordance with regulations promulgated under section 361 of the Public Health Service Act (42 U.S.C. section 264). (1973, c. 1091.)

§§ 106-65.50 through 106-65.54. Reserved for future codification purposes.