

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1380  
Second Edition Engrossed 6/20/90  
Third Edition Engrossed 7/18/90

Short Title: Strawberry Assessment Act.

(Public)

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Sponsors: Senators Murphy and Soles.

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Referred to: Agriculture.

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May 24, 1990

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR A STRAWBERRY ASSESSMENT.

3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 106 of the General Statutes is amended by adding a new  
5 Article to read:

6 **“ARTICLE 65.**

7 **“STRAWBERRY ASSESSMENT ACT.**

8 **“§ 106-781. Title.**

9 This Article shall be known as the ‘Strawberry Assessment Act.’

10 **“§ 106-782. Findings and purpose.**

11 The General Assembly hereby finds that strawberry production makes an important  
12 contribution to the State's economy; and that it is appropriate for the State to provide a  
13 means whereby strawberry producers may voluntarily assess themselves in order to  
14 provide funds for strawberry research and marketing.

15 **“§ 106-783. Definitions.**

16 As used in this Article:

17 (1) ‘Association’ means the North Carolina Strawberry Association, Inc.

18 (2) ‘Commercial production’ means the production of strawberries for  
19 sale.

20 (3) ‘Department’ means the North Carolina Department of Agriculture.

21 **“§ 106-784. Referendum.**

1 (a) At any time after the effective date of this Article, the Association may  
2 conduct a referendum among strawberry producers upon the question of whether an  
3 assessment shall be levied as provided for herein.

4 (b) The Association shall determine:

5 (1) The amount of the proposed assessment;

6 (2) The period for which the assessment shall be levied, not to exceed  
7 three years;

8 (3) The time and place of the referendum;

9 (4) Procedures for conducting the referendum and counting of votes; and

10 (5) Any other matters pertaining to the referendum.

11 (c) The amount of the proposed assessment and the method of collection shall be  
12 set forth on the ballot; provided that no annual assessment shall exceed five percent  
13 (5%) of the value of the previous year's strawberry plant sales.

14 (d) All persons engaged in the commercial production of strawberries, including  
15 owners of farms, tenants and sharecroppers shall be eligible to vote in the referendum.  
16 Any questions concerning eligibility to vote shall be resolved by the Board of Directors  
17 of the Association.

18 **"§ 106-785. Two-thirds vote required; collection of assessment.**

19 (a) The assessment shall not be collected unless at least two-thirds of the votes  
20 cast in the referendum are in favor of the assessment. If at least two-thirds of the votes  
21 cast in the referendum are in favor of the assessment, then the Department shall notify  
22 all strawberry plant growers of the assessment. The assessment shall be added by plant  
23 growers to the price of all strawberry plants sold for planting in North Carolina and  
24 shall be remitted to the Department no later than the 10th day following the end of each  
25 calendar quarter. The Department shall provide forms to plant growers for reporting the  
26 assessment. Persons who purchase strawberry plants for commercial production on  
27 which the assessment has not been collected by the seller shall report such purchases  
28 and pay the assessment to the Department.

29 (b) The Association may bring an action against any plant grower who fails to  
30 pay the assessment to collect unpaid assessments, and if successful shall also recover  
31 the cost of such action, including attorney's fees.

32 **"§ 106-786. Use of funds; refunds.**

33 The Department shall remit all funds collected under this Article to the Association  
34 at least monthly.

35 The Association shall use such funds for research and marketing related to  
36 strawberries including such administrative expenses as may be reasonably necessary to  
37 carry out this function. A funding committee composed of seven members of the  
38 Association appointed by the Commissioner of Agriculture, shall approve all  
39 expenditures of such funds. Funding committee members may be reimbursed for  
40 necessary expenses as determined by the Association's Board of Directors.

41 Any person who has purchased strawberry plants upon which the assessment has  
42 been paid shall have the right to receive a refund of the assessment by making demand  
43 in writing to the Association within 30 days of purchase of the plants. Such demand  
44 must be accompanied by proof of purchase satisfactory to the funding committee."

1           Sec. 1.1. G.S. 106-550 reads as rewritten:

2   "**§ 106-550. Policy as to promotion of use of, and markets for, farm products;**  
3       **tobacco-excluded products.**

4       It is declared to be in the interest of the public welfare that the North Carolina  
5   farmers who are producers of livestock, poultry, field crops and other agricultural  
6   products, including cattle, swine, sheep, broilers, turkeys, commercial eggs, peanuts,  
7   cotton, potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well  
8   as bulbs and flowers and other agricultural products having a domestic or foreign  
9   market, shall be permitted and encouraged to act jointly and in cooperation with  
10  growers, handlers, dealers and processors of such products in promoting and  
11  stimulating, by advertising and other methods, the increased production, use and sale,  
12  domestic and foreign, of any and all of such agricultural commodities. The provisions of  
13  this Article, however, shall not include the agricultural ~~product of tobacco, products of~~  
14  tobacco, strawberries, or strawberry plants, with respect to which a separate provision  
15  ~~and enactment has heretofore provisions have been made."~~

16           Sec. 2. This act shall become effective upon ratification.