

North Carolina Legislative Update - May 14, 2021

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The legislature's long-awaited crossover deadline has come and gone. The dash to move bills out of their chamber of origin was relatively calm compared to previous years, but crossover week still saw lengthy committee and floor calendars. Legislative leadership made an intentional effort in prior weeks to consider multiple bills to take some of the pressure off of this week.

Several controversial bills did not receive consideration this week, including legislation on topics like lifetime concealed handgun permits and whistleblower protections. These bills, along with many others which were not passed will not be eligible for consideration for the remainder of the biennium. However, bills dealing with budget or finance issues are exempt from the crossover deadline.

To date, the House of Representatives has filed 969 bills and passed 336. By comparison, the Senate has filed 721 bills and passed 156.

The final bill filing deadline in the House of Representatives was Thursday, and legislators introduced multiple bills focused on budget and finance priorities. Many of these bills contain appropriations for individual projects and will likely need to be included in the budget to be considered. Examples of bills filed this week are the IRC Update and the Revenue Laws Technical, Clarifying, and Administrative Changes.

One issue which did not receive significant action this week was the ongoing budget debate. House and Senate leaders have still not agreed to spending limits, placing the prospects of a final budget proposal being enacted before the end of the fiscal year (June 30) in jeopardy. We expect to learn more about the budget process next week.

Fuel Supply Executive Order

On Monday, Governor Roy Cooper issued Executive Order 213, declaring a state of emergency in response to the ransomware attack that shut down the Colonial Pipeline. The Colonial Pipeline is the primary fuel source for central and eastern North Carolina, and its temporary shutdown led to gas shortages across the State. Executive Order 213 waives hour, weight and size restrictions for motor transports carrying fuel or disaster aid supplies. Governor Cooper also urged drivers not to fill up unless necessary in an effort to ration fuel supplies. Unfortunately, many did not heed his advice, leading to long lines at gas stations. On Wednesday afternoon, Colonial Pipeline officials announced that operations had resumed, but officials do not expect fuel supplies to return to normal until early next week.

Press Release: Gov. Cooper Issues State of Emergency Allowing for Fuel Transportation Waivers After Colonial Pipeline Ransomware Cyber-Attack

Ransomware Bill

This week, the House approved a bill focusing on ransomware attacks, a timely topic given the recent ransomware attack on the Colonial Pipeline. The bill prohibits state agencies and local governments from paying the ransom if their systems are targeted. As stated by the bill's sponsors, the legislation's goal is to deter cyber terrorists from selecting these targets since they would be prohibited from paying the ransom. The bill also creates reporting requirements so state officials can track how often governmental entities are targeted. Further, the bill requires that the Department of Information Technology and the Department of Public Safety coordinate responses to cybersecurity breaches. The bill passed the House unanimously and was sent to the Senate.

WRAL: NC lawmakers seek to ban paying ransom to hackers

ABC Omnibus Legislation

This week, the House of Representatives passed a comprehensive alcohol reform bill focusing primarily on ABC stores and distilleries. Provisions in the bill include:

- Allows online orders from ABC stores, with customers picking up orders in-person.
- Allows personalized labels on liquor bottles.
- Creates a permit for ABC store tastings.
- Modifies ABC licensing requirements.
- Establishes the NC Spirituous Liquor Council.
- Expands abilities for those who have a "spirituous liquor specials event permit".
- Increases allowable growler size.
- Removes the requirement that people must tour a distillery to buy a bottle of liquor on-site.
- Allows distilleries to sell to consumers in other states.
- Expands the hours in which distilleries can sell closed bottles of spirituous liquor.

→ Allows age verification at ABC stores using special ID cards issued by other states.

Allows individuals to order more than one alcoholic beverage at a time when at a college sporting event.

The bill passed the House of Representatives, 100-10 and is now in the Senate.

North Carolina Farm Act of 2021

By a party-line vote of 28-21, the Senate passed the North Carolina Farm Act of 2021. The Farm Act has become an annual bill for the legislature, typically focused on reducing agricultural regulations, updating existing laws to reflect industry advancements, and implementing various provisions requested by the Department of Agriculture and Consumer Services.

This year's version includes provisions that increase penalties for certain activities, make technical changes, and create certain exemptions. During the committee and floor debate, two provisions were highlighted as controversial by opponents: Sections 11 and 12.

Section 11 modifies the law pertaining to general permits for animal farm operations. These changes aim to streamline the permitting process that allows these operations to install and operate a farm digester system. These systems capture the methane produced from animal waste and convert it into usable gas. This captured gas could then be used on the farm or transferred into a pipeline for energy use. The process of capturing this gas offers farmers an alternative energy source or a new revenue stream from something previously viewed as waste. The new language would require the Environmental Management Commission to approve projects already operating digesters within their current permits and sets a deadline for the Commission to approve new digesters if they meet the standards. Farm digester systems are typically located at hog lagoons, where hog waste is transferred into a regulated, permitted and isolated body of water. Environmental activists have long opposed using these animal waste management systems and successfully fought for a "de-facto" moratorium on such devices. Operations requiring a federal National Pollutant Discharge Elimination System Permit (NPDES) would not be grandfathered under the new language, but environmentalist activists still see this provision as a way to increase operations.

Section 12 focuses on farmworkers and labor protections. Under existing law, farmworkers are protected from retaliation by employers for various issues including filing labor complaints, testifying at hearings, pursuing workers compensation claims, and alleging discrimination based on several factors. These workers must submit a written complaint to the North Carolina Commissioner of Labor before they are allowed to file a civil suit. If the Commissioner finds that the claim is valid, then the Commissioner will file a lawsuit on behalf of the farmworker. If the Commissioner finds that the claim is not valid, he is required to issue the worker a "right-to-sue" letter, giving the worker the right to bring forward a case. Under the revised language in Section 12, the requirement that the Commissioner issue a "right-to-sue" letter based on claims determined not valid is deleted. Opponents of the bill argue that this change bars individuals from the courtroom. The bill was amended on the Senate floor to address these concerns, allowing a worker to sue after the Commissioner found an unsubstantiated claim. However, the amendment enables the Commissioner's findings to be used as evidence in any civil lawsuit. The bill now moves to the House for consideration.

WRAL: NC Senate calls for blanket permits for hog farm methane systems

List of All Filed Bills: <https://www.ncleg.gov/Legislation/Bills/WithAction/2021/10>

2020 Summary of Substantive Legislation

The Legislative Analysis Division has published the 2020 Summary of Substantive Legislation, which breaks down new laws by subject matter. Below is a link to the document: <https://www.ncleg.gov/Legislation/SummariesPublication/Subjects/2020/>