

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 637

Short Title: Compost Procurement Act. (Public)

Sponsors: Representative Ager.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 22, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE COMPOST PROCUREMENT AND USE ACT.
3 The General Assembly of North Carolina enacts:

4
5 **COMPOST PROCUREMENT**

6 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 8D.

9 "Compost Procurement and Use by State Agencies and Local Governments.

10 "**§ 143-135.45. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Certified. – With respect to compost or a compost product, means the compost
13 or compost product has been approved under the Seal of Testing Assurance
14 program of the U.S. Composting Council.
- 15 (2) Compost. – A product created through the controlled aerobic, biological
16 decomposition of biodegradable materials by mesophilic or thermophilic
17 microorganisms in a manner that significantly reduces the viability of
18 pathogens and the germination of seeds present in the feedstock material and
19 that stabilizes carbon in a form that is beneficial to plant growth.
- 20 (3) Compost product. – Any of the following:
- 21 a. Vermicompost or worm castings, provided that all feedstocks have
22 been composted in a manner that complies with 40 C.F.R. § 503
23 standards for biosolids prior to utilization as worm bedding or feed.
- 24 b. Anaerobically digested solids.
- 25 c. Any other substance that undergoes composting and has been certified.
- 26 (4) Composting. – A process of decomposing organic material through aerobic
27 decomposition, aiding to the conversion of biodegradable material such as
28 garden, kitchen, and yard waste into a stable biological material which can be
29 used to improve nutrient value and structure of soil involving only simple
30 methods and can be practiced by industries and cities industrially, by farmers
31 on their land, by foresters, and by individuals at their homes.
- 32 (5) State Agency. – The State of North Carolina or any board, bureau,
33 commission, department, institution, or agency of the State.

34 "**§ 143-135.46. Findings and policy.**

35 Findings. – The General Assembly finds all of the following:



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- 1 (1) Local compost manufacturing plays a crucial role in the State's solid waste
2 infrastructure and economy. Composting benefits public agencies, counties,
3 cities, businesses, and residents by diverting organic waste from landfills,
4 reducing solid waste costs, lowering carbon emissions, and creating a
5 value-added product from those waste materials that can be used to improve
6 soil health.
- 7 (2) A growing number of local governments are recognizing the benefits of
8 composting programs and exploring ways to provide organics recycling to
9 their residents and businesses.
- 10 (3) Composting is an effective way to remove carbon-containing materials from
11 the waste stream so that they can be used for various land management
12 practices. Compost can also reduce the use of synthetic chemical fertilizer,
13 prevent topsoil erosion, and filter stormwater in green infrastructure projects.
- 14 (4) Composting helps meet the policies of the State set forth in G.S. 130A-309.04
15 to promote alternatives to disposal in landfills and assist units of local
16 government with solid waste management.

17 **"§ 143-135.47. Procurement of compost in landscaping by State agencies and by local**
18 **government.**

19 (a) Any State agency or unit of local government planning a construction or infrastructure
20 project using State funds that includes a landscaping component shall do all of the following:

- 21 (1) Where possible, include compost and compost products in the bid
22 specifications or contract to replace the use of topsoil or reduce the need for
23 nutrient supplementation for landscape plantings.
- 24 (2) If compost or compost products meet applicable contract specifications and
25 other applicable federal or State health and safety standards and are
26 comparable in price to the materials the compost or compost products will
27 replace, then the State agency or local government must use compost or
28 compost products. This subdivision shall not apply in any of the following
29 situations:
- 30 a. The compost or compost product is not available within a reasonable
31 period to meet contract time lines.
- 32 b. The use of compost or compost products in a project will have
33 detrimental impacts on the physical characteristics and nutrient
34 condition of the soil.
- 35 c. The compost or compost products that are available have not been
36 certified as being free of pests and pathogens.

37 (b) Before the transportation or application of compost or compost products under this
38 section, State agencies and local governments must ensure compliance with pest control rules
39 adopted by the Department of Agriculture and Consumer Services.

40 (c) State agencies and local governments are encouraged to give priority to purchasing
41 certified compost and compost products from companies located in the State.

42 **"§ 143-135.48. Procurement of compost by local governments with composting programs.**

43 Each local government that administers a composting program for residential yard and food
44 scraps collected by the local government shall enter into a purchasing agreement with its compost
45 processor to buy back finished compost products for use in government projects, on government
46 land, or by local residents on local property in the jurisdiction. The local government is
47 encouraged to incorporate compost in all soil project specifications as a focus on creating a
48 sustainable planting environment. Local governments may enter into collective purchasing
49 agreements if doing so is more cost effective or efficient."

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51 **COMPOST REIMBURSEMENT PILOT PROGRAM**

1 **SECTION 2.(a)** Definitions. – For purposes of this section, the definitions in
2 G.S. 143-135.45 and the following definitions apply:

- 3 (1) Department. – The Department of Agriculture and Consumer Services.
- 4 (2) Eligible cost. – The cost to a farm operation for the purchase and use of
5 compost or compost products, including transportation, equipment, soil
6 testing, and labor costs.
- 7 (3) Farming operation. – A commercial agricultural, silvicultural, orchard,
8 forestry, or aquacultural facility or pursuit, including the care and production
9 of livestock and livestock products, poultry and poultry products, apiary
10 products, and plant and animal production for nonfood uses; the planting,
11 cultivating, harvesting, and processing of crops; and the farming or ranching
12 of any plant or animal species in a controlled salt, brackish, or freshwater
13 environment.

14 **SECTION 2.(b)** Program Established. – The Compost Reimbursement Pilot
15 Program (Program) is established in the Department. The Program will reimburse farming
16 operations in the State for eligible costs. The Program authorized by this section shall provide
17 grants during the 2021-2022 and 2022-2023 fiscal years. The Department is authorized to
18 establish one time-limited position to administer the Program.

19 **SECTION 2.(c)** Eligibility. – A farming operation must complete an eligibility
20 review with the Department prior to transporting or applying any compost products for which
21 reimbursement will be sought under this section. The purpose of the review is for the Department
22 to ensure that (i) the proposed transport and application of compost products is consistent with
23 the Department's agricultural pest control rules and (ii) the farming operation will allow soil
24 sampling as necessary to establish a baseline of soil quality and amount of carbon storage to be
25 used by the Department for reporting requirements under subsection (h) of this section.

26 **SECTION 2.(d)** Application. – Application for cost reimbursement shall be made
27 on a form accompanied with supporting information as the Department may specify, including,
28 at a minimum, the following:

- 29 (1) Documentation to verify the source, size, sale weight, or amount of compost
30 products purchased and the cost of transportation, equipment, spreading,
31 labor, and soil testing.
- 32 (2) An affirmation from the applicant that it is not seeking reimbursement for (i)
33 compost or compost products produced by the applicant, (ii) compost or
34 compost products that the applicant transferred, or intends to transfer to
35 another individual or entity, whether or not for compensation, (iii) compost or
36 compost products that were purchased from an unpermitted facility, or (iv) the
37 quantity of carbon stored in the soil.

38 **SECTION 2.(e)** Limitation. – A farming operation may submit only one application
39 per year for purchases made and usage costs incurred during the fiscal year. Applications for
40 reimbursement must be filed before the end of the fiscal year in which purchases were made and
41 usage costs incurred. Reimbursements are subject to the following limitations:

- 42 (1) Farming operations may receive reimbursement for the lesser of fifty percent
43 (50%) of eligible costs or ten thousand dollars (\$10,000).
- 44 (2) Farming operations may not receive reimbursement for (i) compost or
45 compost products produced by the farming operation, (ii) compost or compost
46 products that it has transferred, or intends to transfer to another individual or
47 entity, whether or not for compensation, or (iii) compost or compost products
48 that were purchased from an unpermitted facility.

49 **SECTION 2.(f)** Priority. – The Department shall prioritize small farming operations
50 as measured by acreage in awarding reimbursement under this section.

1 **SECTION 2.(g)** Indemnification. – Any recipient of funds under this section shall
2 without limit indemnify and hold harmless the State and its officers, agents, and employees from
3 all claims arising out of or resulting from the compost products purchased that are reimbursed
4 under this section.

5 **SECTION 2.(h)** Report. – The Department must submit an annual report to the Joint
6 Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later
7 than October 1 following each fiscal year in which cost reimbursements are provided under this
8 section. The report shall include, at a minimum, the following:

9 (1) The amount of compost for which reimbursement was sought under the
10 Program.

11 (2) The qualitative or quantitative effects of the Program on soil quality and
12 carbon storage.

13 (3) An evaluation of the benefits and costs to the State of continuing, expanding,
14 or furthering the strategies explored in the Program.

15 **SECTION 2.(i)** Funding. – There is appropriated from the General Fund to the
16 Department of Agriculture and Consumer Services the sum of one hundred thousand dollars
17 (\$100,000) in nonrecurring funds for the 2021-2022 fiscal year for the Compost Reimbursement
18 Pilot Program established by this section.

19 **SECTION 2.(j)** Effective Date. – This section becomes effective July 1, 2021.

20 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
21 law. Section 2 of this act expires on June 30, 2025.