

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 476
PROPOSED COMMITTEE SUBSTITUTE H476-PCS70162-LD-3

Short Title: Protect Galax & Venus Flytrap/WRC Rule Fines.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT, TO REQUIRE ANY PERSON WHO ACTS IN THE CAPACITY OF A DEALER OF EITHER OF THESE PLANTS TO OBTAIN A DEALER PERMIT, AND TO INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-202.19(a) reads as rewritten:

"(a) Unless the conduct is covered under some other provision of law providing greater punishment, it is ~~unlawful~~ unlawful to engage in any of the following conduct:

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial ~~use~~ use.
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the ~~Board~~ Board.
- (3) To violate any rule of the Board promulgated under this ~~Article~~ Article.
- (4) To dig ginseng on another person's land, except for the purpose of replanting, between the first day of April and the first day of ~~September~~ September.
- (5) To buy ginseng outside of a buying season as provided by the Board without obtaining the required documents from the person selling the ~~ginseng~~ ginseng.
- (6) To buy ginseng for the purpose of resale or trade without holding a currently valid permit as a ginseng ~~dealer~~ dealer.

(6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from another person's land, galax or Venus flytrap, without a written permit from the owner that is dated and valid for no more than 180 days.



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- 1 (6b) To buy galax outside of a buying season as provided by the Board without
2 obtaining the required documents from the person selling the galax.
- 3 (6c) To buy Venus flytrap outside of a buying season as provided by the Board
4 without obtaining the required documents from the person selling the Venus
5 flytrap.
- 6 (6d) To buy more than five pounds of galax for the purpose of resale or trade
7 without holding a currently valid permit as a galax dealer.
- 8 (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade
9 without holding a currently valid permit as a Venus flytrap dealer.
- 10 (7) To fail to keep records as required under this Article, to refuse to make
11 records available for inspection by the Board or its agent, or to use forms
12 other than those provided for the current year or harvest season by the
13 Department of Agriculture and Consumer ~~Services;~~Services.
- 14 (8) To provide false information on any record or form required under this
15 ~~Article;~~Article.
- 16 (9) To make false statements or provide false information in connection with
17 any investigation conducted under this ~~Article;~~Article.
- 18 (10) To possess any protected plant, or part thereof, which was obtained in
19 violation of this Article or any rule adopted ~~hereunder;~~ or under this Article.
- 20 (11) To violate a stop sale order issued by the Board or its agent."

21 **SECTION 2.** Article 19B of Chapter 106 of the General Statutes is amended by
22 adding the following new sections to read:

23 **"§ 106-202.21A. Galax dealer permits.**

24 (a) No person shall act in the capacity of a dealer of galax (Galax aphylla), or shall
25 engage, or offer to engage, in the business of a dealer of more than five pounds of galax, unless
26 that person holds a currently valid permit as provided in this Article.

27 (b) Applications for a galax dealer permit shall be on a form and shall contain
28 information as prescribed by the Board. All permits issued under this section shall expire on 30
29 June of the fiscal year for which they are issued.

30 (c) A galax dealer permit may be renewed annually upon application to the Board.

31 (d) A dealer shall notify the Board of any change of address or business location within
32 30 days of such change.

33 (e) The Board shall issue to each applicant who satisfies the requirements of this Article
34 a permit which entitles the applicant to conduct the business described in the application during
35 the harvest season for which the permit is issued, unless the permit is suspended or revoked.

36 **"§ 106-202.21B. Venus flytrap dealer permits.**

37 (a) No person shall act in the capacity of a dealer of Venus flytrap (Dionaea
38 muscipula), or shall engage, or offer to engage, in the business of a dealer of more than 50
39 Venus flytrap plants, unless that person holds a currently valid permit as provided in this
40 Article.

41 (b) Applications for a Venus flytrap dealer permit shall be on a form and shall contain
42 information as prescribed by the Board. All permits issued under this section shall expire on 30
43 June of the fiscal year for which they are issued.

44 (c) A Venus flytrap dealer permit may be renewed annually upon application to the
45 Board.

46 (d) A Venus flytrap dealer shall notify the Board of any change of address or business
47 location within 30 days of such change.

48 (e) The Board shall issue to each applicant who satisfies the requirements of this Article
49 a permit which entitles the applicant to conduct the business described in the application during
50 the harvest season for which the permit is issued, unless the permit is suspended or revoked."

51 **SECTION 3.** G.S. 113-135.1(a) reads as rewritten:

1 "(a) To prevent unsuspecting members of the public from being subject to harsh criminal
2 penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for
3 an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to
4 a fine of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) except as follows:

5 (1) Offenses set out in subsection (b) of this section are punishable as set forth
6 in G.S. 113-135 or other sections of the General Statutes.

7 (2) A person who parks a vehicle in violation of a rule regulating the parking of
8 vehicles at boating access or boating launch areas is responsible for an
9 infraction and shall pay a fine of fifty dollars (\$50.00)."

10 **SECTION 4.** This act becomes effective October 1, 2011, and applies to violations
11 and offenses committed on or after that date. Prosecutions for offenses committed before the
12 effective date of this act are not abated or affected by this act, and the statutes that would be
13 applicable but for this act remain applicable to those prosecutions.