

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
Apr 2, 2013
S.B. 636
PRINCIPAL CLERK

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SENATE DRS85169-LL-91 (03/06)

Short Title: Wildlife Resources Comm. Penalty Changes. (Public)

Sponsors: Senator Newton (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BOATING SAFETY ACT BY INCREASING THE PENALTIES AND OTHERWISE AMENDING THE PENALTY AND OTHER PROVISIONS OF THAT ACT AND BY AMENDING THE PENALTY PROVISIONS FOR SPECIFIC VIOLATIONS OF THE WILDLIFE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 75A-3 reads as rewritten:

"§ 75A-3. **Wildlife Resources Commission to administer Chapter; ~~Vessel Committee; Boating Safety Committee~~; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the ~~Vessel Committee~~ Boating Safety Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars (\$3.00) of each one-year certificate of number fee and at least nine dollars (\$9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance."

SECTION 2. G.S. 75A-6.1(c) reads as rewritten:

"(c) Violation of ~~the navigation rules specified in subsection (a) of this section~~ any rule governing navigational lighting adopted by the Commission shall constitute a Class 3 ~~misdemeanor and is punishable only by a fine not to exceed one hundred dollars (\$100.00)~~ misdemeanor."

SECTION 3. G.S. 75A-10 reads as rewritten:

"§ 75A-10. **Operating vessel or manipulating water skis, etc., in reckless manner; operating, etc., while intoxicated, etc.; depositing or discharging litter, etc.**



1 (a) No person shall operate any motorboat or vessel, or manipulate any water skis,
2 surfboard, or similar device on the waters of this State in a reckless or negligent manner so as
3 to endanger the life, limb, or property of any person.

4 (b) No person shall manipulate any water skis, surfboard, nonmotorized vessel, or
5 similar device on the waters of this State while under the influence of an impairing substance.

6 (b1) No person shall operate any vessel while underway on the waters of this State:

7 (1) While under the influence of an impairing substance, or

8 (2) After having consumed sufficient alcohol that the person has, at any relevant
9 time after the boating, an alcohol concentration of 0.08 or more.

10 (b2) The fact that a person charged with violating this subsection is or has been legally
11 entitled to use alcohol or a drug is not a defense to a charge under subsections (b) and (b1) of
12 this section. The relevant definitions contained in G.S. 20-4.01 shall apply to subsections (b),
13 (b1), and (b2) of this section.

14 (b3) A person who violates a provision of ~~subsection (a), (b), or (b1)~~ subsection (a) or (b)
15 of this section is guilty of a Class 2 misdemeanor.

16 (b4) A person who violates subsection (b1) of this section is guilty of a Class 2
17 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

18 (c) No person shall place, throw, deposit, or discharge or cause to be placed, thrown,
19 deposited, or discharged on the waters of this State or into the inland lake waters of this State,
20 any litter, raw sewage, bottles, cans, papers, or other liquid or solid materials which render the
21 waters unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public
22 health or welfare or to the enjoyment and safety of the water for recreational purposes.

23 (d) No person shall place, throw, deposit, or discharge or cause to be placed, thrown,
24 deposited, or discharged on the waters of this State or into the inland lake waters of this State
25 any medical waste as defined by G.S. 130A-290 which renders the waters unsightly, noxious,
26 or otherwise unwholesome so as to be detrimental to the public health or welfare or to the
27 enjoyment and safety of the water for recreational purposes.

28 (e) A person who willfully violates subsection (d) of this section is guilty of a Class 1
29 misdemeanor. A person who willfully violates subsection (d) of this section and in so doing
30 releases medical waste that creates a substantial risk of physical injury to any person who is not
31 a participant in the offense is guilty of a Class F felony which may include a fine not to exceed
32 fifty thousand dollars (\$50,000) per day of violation."

33 **SECTION 4.** G.S. 75A-13.3 reads as rewritten:

34 "(b1) A person who is the lawful owner of a personal watercraft or a person having
35 control of a personal watercraft who knowingly allows a person under 16 years of age ~~who~~
36 ~~operates to operate~~ a personal watercraft in violation of the provisions of subsection (b) of this
37 section is guilty of an infraction as provided in G.S. 14-3.1."

38 **SECTION 5.** G.S. 75A-16.2 reads as rewritten:

39 **"§ 75A-16.2. Boating safety education required.**

40 (a) No person shall operate a vessel with a motor of 10 horsepower or greater on the
41 public waters of this State unless the operator has met the requirements for boating safety
42 education.

43 (b) A person shall be considered in compliance with the requirements of boating safety
44 education if the person does one of the following:

45 (1) Completes and passes the boating safety course instituted by the Wildlife
46 Resources Commission under G.S. 75A-16.1 or another boating safety
47 course that is approved by the National Association of State Boating Law
48 Administrators (NASBLA) and accepted by the Wildlife Resources
49 Commission;

50 (2) Passes a proctored equivalency examination that tests the knowledge of
51 information included in the curriculum of an approved course;

- 1 (3) Possesses a valid or expired license to operate a vessel issued to maritime
2 personnel by the United States Coast Guard;
- 3 (4) Possesses a State-approved nonrenewable temporary operator's certificate to
4 operate a vessel for 90 days that was issued with the certificate of number
5 for the vessel, if the boat was new or was sold with a transfer of ownership;
- 6 (5) Possesses a rental or lease agreement from a vessel rental or leasing business
7 that lists the person as the authorized operator of the vessel;
- 8 (6) Properly displays Commission-issued dealer registration numbers during the
9 demonstration of the vessel;
- 10 (7) Operates the vessel under onboard direct supervision of a person who is at
11 least 18 years of age and who meets the requirements of this section;
- 12 (8) Demonstrates that he or she is not a resident, is temporarily using the waters
13 of this State for a period not to exceed 90 days, and meets any applicable
14 boating safety education requirements of the state or nation of residency;
- 15 (9) Has assumed operation of the vessel due to the illness or physical
16 impairment of the initial operator, and is returning the vessel to shore in
17 order to provide assistance or care for the operator;
- 18 (10) Is registered as a commercial fisherman or a person who is under the
19 onboard direct supervision of a commercial fisherman while operating the
20 commercial fisherman's boat; or
- 21 (11) Provides proof that he or she ~~is at least 26 years of age~~ was born before
22 January 1, 1988.

23 Any person who operates a vessel with a motor of 10 horsepower or greater on the waters
24 of this State shall, upon the request of a law enforcement officer, present to the officer a
25 certification card or proof that the person has complied with the provisions of this section.

26 (c) Any person who violates a provision of this section or a rule adopted pursuant to
27 this section is guilty of an infraction, as provided in ~~G.S. 14-3.1. The court shall assess court~~
28 ~~costs for each violation but shall not assess a penalty.~~ G.S. 14-3.1, and shall pay a fine of fifty
29 dollars (\$50.00). A person may not be convicted of violating this section if, when tried for the
30 offense, the person produces in court a certification card or proof that the person has completed
31 and passed a boating safety course in compliance with subdivision (b)(1) of this section.

32 (d) No unit of local government shall enact any ordinance or rule relating to boating
33 safety education, and this law preempts all existing ordinances or rules.

34 (e) An operator of a personal watercraft on the public waters of this State remains
35 subject to any more specific provision of law found in G.S. 75A-13.3."

36 **SECTION 6.** G.S. 75A-18 reads as rewritten:

37 **"§ 75A-18. Penalties.**

38 (a) Except as otherwise provided, a person who violates a provision of this Article ~~or~~
39 ~~who violates a rule adopted under authority of this Chapter~~ is guilty of a Class 3 misdemeanor
40 and shall only be subject to a fine not to exceed two hundred and fifty dollars (\$250.00) for
41 each violation. This limitation shall not apply in a case where a more severe penalty is
42 prescribed in this Chapter.

43 (b) through (e) Repealed by Session Laws 2006-185, s. 1.

44 (f) Except as otherwise provided in this Chapter, a person who violates a rule adopted
45 by the Commission under the authority of this Chapter is guilty of an infraction, as provided in
46 G.S. 14-3.1, and shall pay a fine of fifty dollars (\$50.00). A person convicted of an infraction
47 under this Chapter shall not be assessed court costs."

48 **SECTION 7.** G.S. 113-294 reads as rewritten:

49 **"§ 113-294. Specific violations.**

1 (a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of
2 a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars
3 (\$250.00) unless a greater penalty is prescribed for the offense in question.

4 (b) Any person who unlawfully sells, possesses for sale, or buys any deer or wild turkey
5 is guilty of a Class 2 misdemeanor, punishable by a fine of not less than ~~two hundred fifty~~
6 ~~dollars~~ (\$250.00) five hundred dollars (\$500.00) in addition to such other punishment
7 prescribed for the offense in question.

8 (c) Any person who unlawfully takes, possesses, or transports any wild turkey is guilty
9 of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars
10 (\$250.00) in addition to such other punishment prescribed for the offense in question.

11 (c1) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or
12 buys any bear or bear part is guilty of a Class 1 misdemeanor, punishable by a fine of not less
13 than two thousand dollars (\$2,000) in addition to such other punishment prescribed for the
14 offense in question. Each of the acts specified shall constitute a separate offense.

15 (c2) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or
16 buys any cougar (*Felis concolor*) is guilty of a Class 1 misdemeanor, unless a greater penalty is
17 prescribed for the offense in question.

18 (c3) Any person who unlawfully takes, possesses, or transports any elk from
19 State-owned land is guilty of a Class 1 misdemeanor, punishable by a fine of not less than two
20 thousand five hundred dollars (\$2,500) in addition to such other punishment prescribed for the
21 offense in question.

22 (d) Any person who unlawfully takes, possesses, or transports any deer is guilty of a
23 Class 3 misdemeanor, punishable by a fine of not less than ~~one hundred dollars~~ (\$100.00) two
24 hundred fifty dollars (\$250.00) in addition to such other punishment prescribed for the offense
25 in question.

26 (d1) Any person who unlawfully takes, possesses, or transports any deer from land that
27 has been posted in accordance with the provisions of G.S. 14-159.7 without written permission
28 of the landowner, lessee, or the agent of the landowner or lessee is guilty of a Class 2
29 misdemeanor, punishable by a fine of not less than five hundred dollars (\$500.00).

30 (e) Any person who unlawfully takes deer between a half hour after sunset and a half
31 hour before sunrise with the aid of an artificial light is guilty of a Class 2 misdemeanor,
32 punishable by a fine of not less than ~~two hundred fifty dollars~~ (\$250.00) five hundred dollars
33 (\$500.00) in addition to such other punishment prescribed for the offense in question.

34 (f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver,
35 or violates any rule of the Wildlife Resources Commission adopted to protect beavers, is guilty
36 of a Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in question.

37 (g) Any person who unlawfully takes wild animals or birds from or with the use of a
38 vessel equipped with a motor or with motor attached is guilty of a Class 2 misdemeanor, unless
39 a greater penalty is prescribed for the offense in question.

40 (h) Any person who willfully makes any false or misleading statement in order to
41 secure for himself or another any license, permit, privilege, exemption, or other benefit under
42 this Subchapter to which he or the person in question is not entitled is guilty of a Class 1
43 misdemeanor.

44 (i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is
45 guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in
46 question.

47 (j) Any person who unlawfully sells, possesses for sale, or buys a fox, or who takes any
48 fox by unlawful trapping or with the aid of any electronic calling device is guilty of a Class 2
49 misdemeanor, unless a greater penalty is prescribed for the offense in question.

50 (k) Repealed by Session Laws 1995, c. 209, s. 1.

1 (l) Any person who unlawfully takes, possesses, transports, sells or buys any bald eagle
2 or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty
3 of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.

4 (m) Any person who unlawfully takes any migratory game bird with a rifle; or who
5 unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or
6 other bait; or who unlawfully takes any migratory game bird during the closed season or during
7 prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits
8 applicable to any migratory game bird; or who violates any of the migratory game bird permit
9 or tagging rules of the Wildlife Resources Commission is guilty of a Class 2 misdemeanor,
10 punishable by a fine of not less than ~~one hundred dollars (\$100.00)~~two hundred fifty dollars
11 (\$250.00) in addition to any other punishment prescribed for the offense in question.

12 (n) Any person who violates any rule of the Commission that restricts access by vehicle
13 on game lands to a person who holds a special vehicular access identification card and permit
14 issued by the Commission to persons who have a handicap that limits physical mobility shall be
15 guilty of a Class 2 misdemeanor and shall be fined not less than one hundred dollars (\$100.00)
16 in addition to any other punishment prescribed for the offense.

17 (o) Any person who willfully transports or attempts to transport live coyotes (*Canis*
18 *latrans*) into this State for any purpose, or who breeds coyotes for any purpose in this State, is
19 guilty of a Class 1 misdemeanor, and upon conviction the Wildlife Resources Commission
20 shall suspend any controlled hunting preserve operator license issued to that person for two
21 years.

22 (p) Any person who willfully imports or possesses black-tailed or mule deer
23 (*Odocoileus hemionus* and all subspecies) in this State for any purpose is guilty of a Class 1
24 misdemeanor.

25 (q) Any person who violates any provision of G.S. 113-291.1A is guilty of a Class 1
26 misdemeanor.

27 (r) It is unlawful to place processed food products as bait in any area of the State where
28 the Wildlife Resources Commission has set an open season for taking black bears. For purposes
29 of this subsection, the term "processed food products" means any food substance or flavoring
30 that has been modified from its raw components by the addition of ingredients or by treatment
31 to modify its chemical composition or form or to enhance its aroma or taste. The term includes
32 substances modified by sugar, honey, syrups, oils, salts, spices, peanut butter, grease, meat,
33 bones, or blood, as well as extracts of such substances. The term also includes sugary products
34 such as candies, pastries, gums, and sugar blocks, as well as extracts of such products. Nothing
35 in this subsection prohibits the lawful disposal of solid waste or the legitimate feeding of
36 domestic animals, livestock, or birds. The prohibition against taking bears with the use and aid
37 of bait shall not apply to the release of dogs in the vicinity of any food source that is not a
38 processed food product as defined herein. Violation of this subsection constitutes a ~~Class 2~~
39 ~~misdemeanor.~~Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty
40 dollars (\$250.00).

41 (s) Any person who violates the provisions of G.S. 113-291.12 by unlawfully removing
42 feral swine from a trap while the swine is still alive or by transporting such swine after that
43 removal is guilty of a ~~Class 2 misdemeanor.~~Class 2 misdemeanor, punishable by a fine of not
44 less than two hundred fifty dollars (\$250.00). The acts of removal from a trap and of
45 transporting the swine after removal shall constitute separate offenses."

46 **SECTION 8.** This act becomes effective December 1, 2013, and applies to
47 offenses committed on or after that date.