

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

S

D

SENATE BILL 636  
Judiciary II Committee Substitute Adopted 5/13/13  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S636-PCS85244-RI-28

Short Title: Wildlife Resources Comm. Penalty Changes.

(Public)

Sponsors:

Referred to:

April 4, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE BOATING SAFETY ACT BY INCREASING THE FINES AND  
3 OTHERWISE AMENDING THE PENALTY AND OTHER PROVISIONS OF THAT  
4 ACT AND BY AMENDING THE PENALTY PROVISIONS FOR SPECIFIC  
5 VIOLATIONS OF THE WILDLIFE LAWS.

6 The General Assembly of North Carolina enacts:

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

8 "**§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel**  
9 **Committee; Boating Safety Committee; funds for administration.**

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

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

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

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

28 "(c) Violation of ~~the navigation rules specified in subsection (a) of this section~~any rule  
29 governing navigational lighting adopted by the Commission shall constitute a Class 3  
30 ~~misdemeanor and is punishable only by a fine not to exceed one hundred dollars~~  
31 ~~(\$100.00)-misdemeanor."~~

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

33 "**§ 75A-10. Operating vessel or manipulating water skis, etc., in reckless manner;**  
34 **operating, etc., while intoxicated, etc.; depositing or discharging litter, etc.**



\* S 6 3 6 - P C S 8 5 2 4 4 - R I - 2 8 \*

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)~~ subsections (a) or  
15 (b) 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-13.1(d) reads as rewritten:

34 "(d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor~~  
35 ~~and shall only be subject to a fine not to exceed twenty five dollars (\$25.00).~~ responsible for an  
36 infraction as provided in G.S. 14-3.1."

37 **SECTION 5.** G.S. 75A-13.3(b1) reads as rewritten:

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

42 **SECTION 6.** G.S. 75A-13.3(c3) reads as rewritten:

43 "(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic  
44 safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety  
45 instruction" shall include direction on how to safely operate the personal watercraft and a  
46 review of the safety provisions of this section. A vessel livery that fails to provide basic safety  
47 instruction is ~~guilty of a Class 3 misdemeanor.~~ responsible for an infraction as provided in  
48 G.S. 14-3.1."

49 **SECTION 7.** G.S. 75A-16.2 reads as rewritten:

50 **"§ 75A-16.2. Boating safety education required.**

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

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

- 6 (1) Completes and passes the boating safety course instituted by the Wildlife  
7 Resources Commission under G.S. 75A-16.1 or another boating safety  
8 course that is approved by the National Association of State Boating Law  
9 Administrators (NASBLA) and accepted by the Wildlife Resources  
10 Commission;
- 11 (2) Passes a proctored equivalency examination that tests the knowledge of  
12 information included in the curriculum of an approved course;
- 13 (3) Possesses a valid or expired license to operate a vessel issued to maritime  
14 personnel by the United States Coast Guard;
- 15 (4) Possesses a State-approved nonrenewable temporary operator's certificate to  
16 operate a vessel for 90 days that was issued with the certificate of number  
17 for the vessel, if the boat was new or was sold with a transfer of ownership;
- 18 (5) Possesses a rental or lease agreement from a vessel rental or leasing business  
19 that lists the person as the authorized operator of the vessel;
- 20 (6) Properly displays Commission-issued dealer registration numbers during the  
21 demonstration of the vessel;
- 22 (7) Operates the vessel under onboard direct supervision of a person who is at  
23 least 18 years of age and who meets the requirements of this section;
- 24 (8) Demonstrates that he or she is not a resident, is temporarily using the waters  
25 of this State for a period not to exceed 90 days, and meets any applicable  
26 boating safety education requirements of the state or nation of residency;
- 27 (9) Has assumed operation of the vessel due to the illness or physical  
28 impairment of the initial operator, and is returning the vessel to shore in  
29 order to provide assistance or care for the operator;
- 30 (10) Is registered as a commercial fisherman or a person who is under the  
31 onboard direct supervision of a commercial fisherman while operating the  
32 commercial fisherman's boat; or
- 33 (11) Provides proof that he or she ~~is at least 26 years of age~~ was born before  
34 January 1, 1988.

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

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

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

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

49 **SECTION 8.** G.S. 75A-18 reads as rewritten:

50 **"§ 75A-18. Penalties.**

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

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

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

11 **SECTION 9.** G.S. 113-294 reads as rewritten:

12 **"§ 113-294. Specific violations.**

13 (a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of  
14 a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars  
15 (\$250.00), unless a greater penalty is prescribed for the offense in question.

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

20 (c) Any person who unlawfully takes, possesses, or transports any wild turkey is guilty  
21 of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars  
22 (\$250.00) in addition to such other punishment prescribed for the offense in question.

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

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

30 (c3) Any person who unlawfully takes, possesses, or transports any elk is guilty of a  
31 Class 1 misdemeanor, punishable by a fine of not less than two thousand five hundred dollars  
32 (\$2,500) in addition to such other punishment prescribed for the offense in question.

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

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

41 (e) Any person who unlawfully takes deer between a half hour after sunset and a half  
42 hour before sunrise with the aid of an artificial light is guilty of a Class 2 misdemeanor,  
43 punishable by a fine of not less than ~~two hundred fifty dollars (\$250.00)~~ five hundred dollars  
44 (\$500.00) in addition to such other punishment prescribed for the offense in question.

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

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

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

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

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

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

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

15 (m) Any person who unlawfully takes any migratory game bird with a rifle; or who  
16 unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or  
17 other bait; or who unlawfully takes any migratory game bird during the closed season or during  
18 prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits  
19 applicable to any migratory game bird; or who violates any of the migratory game bird permit  
20 or tagging rules of the Wildlife Resources Commission is guilty of a Class 2 misdemeanor,  
21 punishable by a fine of not less than ~~one hundred dollars (\$100.00)~~two hundred fifty dollars  
22 (\$250.00) in addition to any other punishment prescribed for the offense in question.

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

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

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

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

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

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

6 **SECTION 10.** This act becomes effective December 1, 2013, and applies to  
7 offenses committed on or after that date.