

Wildlife and Boating Regulation

Historically, a great deal of North Carolina's wildlife and boating law has been contained in local acts that apply only to a particular county or other area, rather than in general statewide laws. That pattern continued this year, with the General Assembly enacting about as many local acts as public ones. No significant public bills concerning boating or water safety¹ were introduced during the 2003 session, but S.L. 2003-344 (H 948), dealing with "chronic wasting disease" in the deer population, is of major significance. The local acts for the most part deal with familiar subjects such as hunting from right-of-ways and the creation of no-wake zones.

Public Acts

Chronic Wasting Disease

S.L. 2003-344 attempts to deal with chronic wasting disease (CWD), a problem that could affect the state's deer population. This malady, which is related to mad cow disease, has already infected deer herds in other parts of North America. While there are presently no known cases of CWD in North Carolina, preventive measures were considered necessary. The general assembly enacted new G.S. 113-272.6, which requires the Wildlife Resources Commission to regulate the transportation, importation, and possession of cervids (elk and deer). The commission is required to adopt rules to implement this section, and the rules must include requirements for captivity licenses and permits. These rules will set standards for the care of cervids, including fencing, tagging, and inspection of captive cervid facilities. Any animal (or captivity license or permit) held contrary to the provisions of this section is subject to forfeiture. The State Department of Agriculture and Consumer Services will regulate the production and sale of cervids that are

1. See S.L. 2003-332 (S 89), which creates the Lake Lure Marine Commission.

farmed for commercial purposes. S.L. 2003-344 also adds new G.S. 113-294(p) to make possession of black-tailed or mule deer, which may be unsuitable for North Carolina's climate, a Class 1 misdemeanor. New G.S. 113-294(p) was effective October 1, 2003, and the remainder of the act was effective July 27, 2003.

Reptile and Amphibian Protection

Some species are attractive enough to commercial interests that they require protection, even though they do not meet the criteria for protection (endangered or threatened species) listed under G.S. 113-334. Thus S.L. 2003-100 (S 825) provides that "the commercial taking of any turtle or terrapin within any of the species of the Emydidae and Trionychidae families" is prohibited until the Wildlife Commission adopts rules to regulate the taking of terrapins or turtles within these families. A violation of this section is a misdemeanor punishable as provided in G.S. 113-135. These new provisions became effective July 1, 2003.

Controlled Hunting Preserves

G.S. 113-273(g) authorizes privately owned "controlled hunting preserves" where either game birds or foxes may be taken. S.L. 2003-96 (S 245) amends this section to authorize hunting preserves on which "foxes and coyotes may be hunted with dogs only." Operators of hunting preserves may purchase live coyotes from licensed trappers. New G.S. 113-294(o) makes it unlawful to transport live coyotes into North Carolina for any purpose or to breed coyotes in this state. Any person violating this provision is guilty of a Class 1 misdemeanor, and upon conviction the Wildlife Commission must suspend any controlled hunting preserve operator's license issued to that person for a period of two years. S.L. 2003-96 was effective October 1, 2003.

Hunting with Pistols

G.S. 113-291.1 permits the hunting of certain species, including rabbits, squirrels, and opossums, with a .22 caliber pistol "not less than 6 inches in length and loaded with long-rifle ammunition." G.S. 2003-160 (H 1158) amends this provision to authorize a .22 caliber pistol "with a barrel length of not less than five and one-half inches." This act was effective October 1, 2003.

Local Acts

As is the case in just about every session, a significant portion of the wildlife and boating legislation consisted of local acts. The local bills enacted in 2003 are listed below in alphabetical order by county.

Chowan County

S.L. 2003-189 (H 655) makes it unlawful to operate a vessel at greater than a "no-wake speed" on certain described portions of Pembroke Creek located in Chowan County. The county or its designee is authorized to maintain markers designating the no-wake zone in accordance with the Uniform Waterway Marking System. This act is enforceable under G.S. 75A-17 and violation is a Class 3 misdemeanor. The above provisions became effective June 12, 2003, and may be enforced after appropriate markers are placed in the water.

Columbus County

S.L. 2003-21 (H 581) authorizes the use of a hand-operated device that generates an electric current for the taking of catfish. (Under the general law, as contained in G.S. 113-262, the taking of fish with electricity is a Class 2 misdemeanor.) Any person doing “electrofishing” must hold a current and valid special device license as defined in G.S. 113-272.2. This act, which became effective July 1, 2003, applies only to those portions of the Waccamaw River and the Lumber River that are located in Columbus County.

Craven County

S.L. 2003-164 (H 550) makes it unlawful to hunt any wild animal or bird on or from the right-of-way of State Road 1459 (Riverside Road) from Riverside Church north to its intersection with State Road 1460 (St. Johns Road), or on or from the right-of-way of State Road 1460 from its intersection with State Road 1459 west to the Pitt County line. This act is enforceable by law enforcement officers of the Wildlife Commission as well as by sheriffs, deputy sheriffs, and other peace officers with general subject matter jurisdiction. S.L. 2003-164 became effective October 1, 2003.

Currituck County

S.L. 2003-16 (H 646) amends Section 5, Chapter 1436, of the 1957 Session Laws (as amended by Chapter 622 of the 1981 Session Laws) to change the manner of choosing the members of the Currituck Game Commission. Previously, this five-member commission had been selected by the board of county commissioners on the basis of districts. This act provides that, effective June 1, 2003, one member shall be chosen from each of the four townships of the county and one member appointed to serve at large. Present members will complete their terms.

Transylvania County

S.L. 2003-119 (H 13) makes it unlawful to hunt or take any wild animal or wild bird from, on, or across the right-of-way of any public road or other “public vehicular area” in Transylvania County. (This section does not apply to the public vehicular areas located in the Pisgah, Nantahala, or Toxaway game lands outside of designated safety zones.) The act also makes it unlawful to hunt on the land of another without having that person’s written permission dated within the last twelve months. A violation of S.L. 2003-119 is a Class 3 misdemeanor and is enforceable by wildlife officers as well as by sheriffs and other police officers with general subject matter jurisdiction. This act became effective October 1, 2003, and applies to offenses committed on or after that date.

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