

# ***Punishments for Selected Wildlife Offense***

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***Introduction***

This document was prepared to assist the legal community in determining penalties for selected wildlife and boating offenses in North Carolina. In addition to providing a list of punishments for individual offenses, we have also included references to the background statutes underlying these punishments as well as information on license suspensions, replacement costs, and forfeitures.

Users are encouraged to report any errors to [nyoung@ncdoj.gov](mailto:nyoung@ncdoj.gov).

***General Provisions***

*Legal Sources*

State fishing, trapping and hunting statutes are set forth in Subchapter IV of Chapter 113 of the General Statutes. State boating laws are set forth in Chapter 75A of the General Statutes. Administrative rules covering hunting, trapping, fishing and boating are found in 15A NCAC, Chapter 10.

*Punishments*

G.S. § 113-135 - Unless another punishment is set forth elsewhere, the punishment for conviction of a violation is as a Class 3 misdemeanor. However, for a second or subsequent conviction of any wildlife offense within three years, the punishment is as a Class 2 misdemeanor. Specific exceptions are noted in the specific offenses.

G.S. § 113-135.1 - Provides that the penalty for most rule violations are limited to \$10.00 unless there is a specific exception in rule or statute. Again, exceptions are noted in the specific violations.

*Definition of Conviction - Important!*

G.S. § 113-277(a3) - Specifies that conviction of wildlife offenses has the same meaning as that found in G.S. § 113-171, a Marine Fisheries provision.

G.S. § 113-171(a) states that a conviction includes any indefinite prayer for judgment continued. ***Thus, for a PJC not to trigger a mandatory suspension, a court must affirmatively order that the license shall not be suspended, or suspended for a period less than the mandatory time period specified in the statute.*** (For an analogous treatment of a PJC as a conviction, see G.S. § 20-4.01(4a).)

*License Suspensions*

G.S. § 113-276.6 - Conviction of certain wildlife offenses carry mandatory license suspensions. Subsection (d) provides that any offense for which a punishment is greater than that set out in G.S. § 113-135, is a suspension offense. Five statutes are listed for which the conviction is a

mandatory 2 year suspension. All others suspension offenses are for a 1 year period. Subsection (e) provides that these mandatory suspensions may be modified by order of the trial court.

G.S. § 113-277 defines conviction (see above), and provides that the court cannot order a longer period of suspension than the law permits. Again, note that a PJC by itself is not enough if the intent is to allow a defendant to retain the license or have a reduced period of suspension.

#### *Fines*

G.S. § 15A-1340.23 sets forth punishments for misdemeanors. Unless otherwise provided for in wildlife statutes, the maximum fine for a Class 3 misdemeanor is \$200.00, for a Class 2 misdemeanor is \$1,000.00, and for a Class 1 or A1 in the discretion of the court. Mandatory minimums are set out in some statutes as noted below.

#### *Replacement Costs*

15A NCAC 10B.0117 (animals); 15A NCAC 10C.0215 (fish) - Replacement costs are used to recover a portion of the conservation costs associated with the unlawful taking of wildlife. While WRC encourages the ordering of such costs where appropriate, they are not mandatory.

#### *Forfeitures*

G.S. 113-137 sets forth the law regarding seizure of the instrumentalities of an offense and forfeitures upon conviction. Subsection (b) provides that such instrumentalities may be seized upon arrest, and subsection (i) provides that the court may order confiscation of these instrumentalities upon conviction. The remainder of the statute includes provisions for the return of seized property to an owner with no knowledge of the offense (subsection (c)), the disposition of seized wildlife resources (subsection (d)), and pre-trial handling of seized property (subsections (e) and (f)).

**Specific Violations  
(Numerically by Statute Number)**

The following list represents those offenses which are most commonly charged. For information on those offenses not listed here, users are encouraged to contact a local Wildlife Enforcement Officer regarding the particular rule or statute under which a specific violation is charged.

*Boating Offenses*

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***G.S. § 75A-10(a) - Operate motorboat, vessel, water skis, surfboards, or similar devices on the waters of this state in a reckless or negligent manner***

Class 2 misdemeanor; fine per G.S. § 15A-1340.23

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***G.S. § 75A-10(b) - Manipulate a non-motorized vessel, water skis, surfboards, or similar devices on the waters of this State while impaired***

Class 2 misdemeanor; fine per G.S. § 15A-1340.23

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***G.S. §75A-10(b1) - Operating a vessel on the waters of this state while under the influence of an impairing substance*** G.S. §75A-10 (b1)

Class 2 misdemeanor; fine per G.S. § 15A-1340.23

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***G.S. § 75A-13.3 - Other personal watercraft offenses***

Class 3 misdemeanor; fine per G.S. § 15A-1340.23, unless otherwise specifically noted in the statute

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***G.S. § 75A-13.3(b) - Operating a personal watercraft on the waters of this state while under the age of 16 if not otherwise permitted***

Infraction as provided in G.S. §14-13.3(b)

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Wildlife Offenses

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**G.S. § 14-159.6(a) (Effective October 1, 2011) - Hunt fish, or trap on posted property without written permission**

Class 2 misdemeanor; fine per G.S. § 15A-1340.23

**NOTE:** For posting regulations, see G.S. § 14-159.7.

It is an affirmative defense that the individual had prior permission of the landowner even though he or she did not have written permission with him at the time of arrest.

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**G.S. §113-270.2(a) - Taking a wild animal or bird without having first procured a hunting license**

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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**G.S. § 113-270.3(c); 15A NCAC 10B.0113 - Failure to record big game harvest**

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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**G.S. § 113-270.3(c); 15A NCAC 10B.0113 - Failure to report big game harvest**

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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**G.S. § 113-285 - Hunting or fishing on registered property of another without permission**

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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**G.S. § 113-290 - Criminally negligent hunting**

*Property damage only* - Class 2 misdemeanor; fine per G.S. § 15A-1340.23; not to exceed \$1,000.00; restitution to the property owner and suspension of hunting privileges for one year. (G.S. §113-290.1)

*Minor bodily injuries* - Class 1 misdemeanor; fine per G.S. § 15A-1340.23; restitution for any property damage also incurred; suspension of hunting privileges for three years. (G.S. §113-290.1)

*Disfigurement or total or partial permanent disability* - Class 1 misdemeanor; fine per G.S. § 15A-1340.23; restitution for any property damage; suspension of hunting privileges for five years. (G.S. §113-290.1)

*Death* - Class 1 misdemeanor; fine per G.S. § 15A-1340.23; restitution for any property damage; suspension of hunting privileges for five years. (G.S. §113-290.1)

**NOTE:** A violation causing death is a separate and distinct offense from, and is not a lesser included offense of, involuntary manslaughter.

**NOTE:** Pursuant to G.S. §113-290.1(b), "A person violating this section while under the influence of an impairing substance or after having consumed sufficient alcohol, so that he has at any relevant time after the offense, an alcohol concentration of .10 or above, shall receive an additional fine and/or imprisonment as in (2) above in cases not resulting in bodily injury and in accordance with (4) above in cases resulting in bodily injury."

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***G.S. §113-291.1(a) - Taking a game animal at a prohibited time***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.  
Manner of taking wild animals or birds.

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***G.S. § 113-291.1(b) (1) - Taking of wildlife from vehicle or vessel***

If the taking is from a vehicle, then Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

If the taking is from a vessel, then Class 2 misdemeanor; fine per G.S. § 15A-1340.23; mandatory 1 year suspension.

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***G.S. § 113-291.1(e1); 15A NCAC 10B.0115 - Shining lights on deer after hours***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23

**NOTE:** This offense is commonly referred to as a "curfew" offense and does not include the actual taking of deer with artificial light. The taking of deer with an artificial light is covered under **113-294(e)**.

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***G.S. §113-291.1(1) - Taking migratory game birds with an unlawful weapon***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. §113-291.2; 15A NCAC 10B.0201 - Taking a game animal or game bird during closed seasons***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. § 113-291.2; 15A NCAC 10B.0201 - Exceeding the daily bag limit for wild animals or birds***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. § 113-291.2(b) - Waste of Wildlife***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. §113-291.8 - Requirement to display hunter orange***

Infraction punishable by a mandatory \$25.00 fine; no court costs

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***G.S. § 113-292(a)(3); 15A NCAC 10C.0304- Taking Inland game fish of a smaller size than the applicable minimum size limit***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. § 113-292(a)(3); 15A NCAC 10C.0304- Taking in one day inland game fish with a specified creel limit in excess of that limit***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. § 113-292(a)(3); 15A NCAC 10C.0304- Possessing more than three days creel limit of Inland Game Fish with a specified creel limit***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23; replacement costs may be assessed.

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***G.S. §113-294(c) - Unlawful taking of wild turkey***

Class 2 misdemeanor; fine of not less than \$250.00; mandatory 2 year suspension offense; replacement costs may be assessed.

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***G.S. §113-294(c1) - Unlawful taking or sale of bear***

Class 1 misdemeanor; fine of not less than (2,000) dollars; mandatory 2 year suspension; replacement costs may be assessed.

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***§113-294(d) - Unlawful taking of Deer***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23

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***G.S. § 113-294(e) - Taking of deer at a prohibited time and with the aid of an artificial light.***

Class 2 misdemeanor; fine of not less than \$250.00; mandatory 2 year suspension; replacement costs may be assessed.

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***G.S. 113-294(m) - Unlawful taking of migratory game bird***

Class 2 misdemeanor; minimum \$100 fine; mandatory 1 year suspension (G.S. § 113-276.3); replacement costs may be assessed.

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***G.S. §113-294(r) - Unlawful placing of processed food products where there is an open season for black bear***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23

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***G.S. § 113-295 - Intentional harassment of persons involved in the lawful taking of wildlife***

Class 3 misdemeanor (second or subsequent conviction within three years, Class 2 misdemeanor and mandatory 1 year suspension); fine per G.S. § 15A-1340.23

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***15A NCAC 10D.0102(h) - Vehicular traffic on roads or trails posted otherwise***

Fine of \$10.00

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