

NORTH CAROLINA ANIMAL CRUELTY LAWS

Nicholas Desai¹

Introduction

In North Carolina, criminal animal protection laws are contained primarily in §§14-360 through 14-363. However, there are also other laws related to animal cruelty in the North Carolina General Statutes. This document lists each animal protection law currently in place and the procedural sections of each case law that North Carolina follows from each law. This summary begins with the basic cruelty to animal statute and moves on to immunity for veterinarians reporting animal cruelty, instigating cruelty, abandonment, cockfighting, dog fighting, baiting, cruel restraint, cruel conveyance, living baby chicks, rabbits under eight weeks of age, novelties forbidden, confiscation of cruelly treated animals, prohibitions on computer-assisted remote hunting, treatment of endangered species, and other unlawful acts toward animals.

Overview of Statutory Provisions and Case Law

1. **Cruelty to Animals:** N.C. GEN. STAT. § 14–360
2. **Immunity for Veterinarian Reporting Animal Cruelty:** N.C. GEN. STAT. § 14–360.1
3. **Instigating or Promoting Cruelty to Animals:** N.C. GEN. STAT. § 14–361.
4. **Abandonment of Animals:** N.C. GEN. STAT. § 14–361.1
5. **Cockfighting:** N.C. GEN. STAT. § 14–362.
6. **Animal Fights and Baiting, Other than Cock Fights, Dog Fights and Dog Baiting:** N.C. GEN. STAT. § 14–362.1
7. **Dog Fighting and Baiting:** N.C. GEN. STAT. § 14–362.2
8. **Restraining Dogs in a Cruel Manner:** N.C. GEN. STAT. § 14–362.3.
9. **Conveying Animals in a Cruel Manner:** N.C. GEN. STAT. § 14–363.
10. **Living Baby Chicks or Other Fowl, or Rabbits Under Eight Weeks of Age; Disposing of as Pets or Novelties Forbidden:** N.C. GEN. STAT. § 14–363.1.
11. **Confiscation of Cruelly Treated Animals:** N.C. GEN. STAT. § 14–363.2.
12. **Computer-assisted remote hunting prohibited:** N.C. GEN. STAT. § 113-291.1A
13. **Definitions (Endangered Species):** N.C. GEN. STAT. § 113-331
14. **Specific violations (Endangered Species):** N.C. GEN. STAT. § 113-294
15. **Unlawful acts; penalties:** N.C. GEN. STAT. § 113-337

¹ Nicholas Desai produced this document as an undertaking of the George Washington University (GWU) Law School's Animal Welfare Project, and worked under the guidance of the Project's founder and faculty director, Professor Joan Schaffner. Nicholas will graduate from GWU Law School in 2015. Nicholas and Professor Schaffner can be contacted at ndesai@law.gwu.edu and jschaf@law.gwu.edu, respectively.

1. CRUELTY TO ANIMALS

N.C. GEN. STAT. § 14-360. Cruelty to animals; construction of section.

(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal², every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

Updated as of July 11, 2013

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

Applicable Case Law:

***State v. Mauer*, 202 N.C. App. 546, 688 S.E.2d 774 (2010).**

Facts: Defendant's home was filled with cat feces and urine. The debris, including feces, inhibited the opening of the door; the odor made officers' eyes water. Fifteen to twenty cats ran around within; eight on the outside. Cats attempted to escape the premises but could not. Defendant was convicted of cruelty to animals and was ordered to pay restitution. Defendant appealed.

Holding: Evidence was sufficient to support submission of cruelty to animals charge to jury because the smell was so overpowering that the prolonged confinement of the cats amounted to torment as defined in N.C. Gen.Stat. § 14-360(c). The fact that urine and feces covered "everything" indoors was also persuasive.

***Malloy v. Cooper*, 195 N.C. App. 747, 673 S.E.2d 783 (2009).**

Facts: Plaintiff hosted a series of "pigeon shoots" in which guests shot at over 40,000 pigeons per event. Many of the pigeons died and were buried. Plaintiff sought declaratory judgment that N.C. Gen. Stat § 14-360, the animal cruelty statute, was unconstitutional due to vagueness.

Holding: The court did not reach the merits of the constitutionality claim and held only on procedural matters; however, the statute was amended to protect "pigeons" rather than merely "domestic pigeons."

***State v. Coble*, 163 N.C. App. 335, 593 S.E.2d 109 (2004).**

Facts: Defendant kept two animals, including an emaciated dog tied to a tree, in her backyard. The backyard contained a broken doghouse with no food or water nearby. One of the dogs was found dead. The defendant claimed that someone else had promised to feed the dogs, as she worked twenty hours a day. The defendant did not express surprise or remorse when shown the dead dog and blamed their weight loss on worming medication.

Holding: Defendant convicted of misdemeanor cruelty to animals. The appeals court found no error because the defendant knew the dogs were being kept, with her consent, in her backyard. The lack of food or water, the tying of the dogs, and her lack of surprise at the dog's death contributed to the court's ruling. Her administration of worming medicine indicated that the dogs were within her care.

***State v. Nance*, 149 N.C. App. 734, 562 S.E.2d 557 (2002).**

Facts: Herd of horses in care of defendant had grown thin so their bones began to show. They stood in water, without food. None were in closed structures and so were visible from the road. Animal Control Officers concluded that the horses needed veterinary treatment. Defendant was convicted of cruelty to animals.

Updated as of July 11, 2013

Holding: The trial court's decision was reversed and remanded for Fourth Amendment reasons. The Court of Appeals did not interpret the cruelty statute.

***State v. Talley*, 110 N.C. App. 180, 429 S.E.2d 604 (1993).**

Facts: Authorities seized an emaciated horse, three hundred to five hundred pounds underweight, from the defendant. The horse also suffered from hair loss and an open draining abscess under her jaw. She had "rain rot" over eighty percent of her body.

Holding: With regard to the statute, the Court of Appeals held that the statute requires willful behavior for a conviction of animal cruelty. Because it would have taken a mare at least six months to lose several hundred pounds, the failure to care for the horses was willful. Because someone asked the defendant to remove the horse from a pasture where there was no food, the failure to feed was willful.

***State v. Simmons*, 36 N.C. App. 354, 244 S.E.2d 168 (1978).**

Facts: During a border dispute between two people, the defendant shot a dog belonging to his adversary from forty yards. Defendant claimed to be attempting to scare away the dogs, who were coming toward him.

Holding: The trial court found that there was no evidence that the dogs were attacking the defendant. The only justification for killing a dog is self-defense. Thus, the defendant was guilty of willfully killing the dog.

***State v. Candler*, 25 N.C. App. 318, 212 S.E.2d 901 (1975).**

Facts: Defendants found guilty of needlessly killing animals in violation of G.S. 14-360.

Holding: Court of Appeals reviewed with regard to jury instruction of circumstantial evidence and found no error.

***State v. Fowler*, 22 N.C. App. 144, 205 S.E.2d 749 (1974).**

Facts: The defendant beat and tied up his dog. The defendant and his wife filled a hole with water and submerged the dog's head in the water, which he repeated for 15 to 20 minutes. He then kicked the dog. The defendants were professional dog trainers who wanted the dog to stop digging holes. They claimed that this method had been taught to them by a famous dog trainer named Koehler.

Holding: The statute requires willfulness from the defendant. The court of appeals held that the jury should have been instructed that, if it believed the defendant inflicted the punishment on his animal in a good faith effort to train him, it should return a verdict of not guilty. The defendant should have been allowed to testify about the Koehler methods of training animals. A new trial was ordered.

Updated as of July 11, 2013

***Belk v. Boyce*, 263 N.C. 24, 138 S.E.2d 789 (1964).**

Facts: In a negligence action, plaintiff contended that defendant shot him in an attempt to shoot his dog. The defendant thought the dog had come to kill his sheep. Plaintiff alleged negligence per se because shooting toward the dog was, he alleged, a violation of the animal cruelty statute.

Holding: The cruelty to animals statute is for the protection of animals, not for the protection of trespassers or mere licensees. Thus, the claim for negligence per se failed.

***State ex rel. Bruton ex rel. Yandell v. Am. Legion Post No. 113*, 256 N.C. 691, 124 S.E.2d 885 (1962).**

Facts: An action was brought to enjoin an American Legion post from hunting rabbits by beating them to death. On one occasion approximately thirty-five rabbits were killed in a field with sticks.

Holding: Violation of a criminal statute cannot evoke the equitable jurisdiction of the court.

***State v. Dickens*, 1 S.E.2d 837, 215 N.C. 303 (1939).**

Facts: The defendant, who worked at a funeral home, shot a dog at a close range through the hips and legs, thus killing the dog. The defendant said that the dog had entered the funeral home before, had made the home smell, and had barked nearby at night.

Holding: Defendant was found guilty of willfully and needlessly killing a dog. There was no evidence that the dog was attacking the defendant or threatening injury to the property. The appeals court found no error.

***State v. Stiers*, 198 S.E. 601, 214 N.C. 126 (1938).**

Facts: Defendant charged with needlessly killing mules, horses, and other livestock. Moved to dismiss.

Holding: Supreme Court agreed to dismiss because the evidence showed only that the animals were in poor condition and that some of them died.

***State v. Smith*, 72 S.E. 321, 156 N.C. 628 (1911).**

Facts: Defendant shot and killed a dog that was outside the fence of its owner for no other reason than that the defendant perceived the dog to have been a menace in the past. Defendant was convicted under the animal cruelty statute.

Holding: The only two defenses to killing a dog are self-defense and defense of property. Because of these defenses failed, the Supreme Court found no error.

***State v. Bossee*, 59 S.E. 879, 145 N.C. 579 (1907).**

Facts: The defendant was charged under the animal cruelty statute with poisoning a chicken by strewing poison food for her to eat.

Updated as of July 11, 2013

Holding: The court found that the behavior was within the purview of the statute, but dismissed the action for reasons of improper jurisdiction.

***State v. Neal*, 27 S.E. 81, 120 N.C. 613, 58 Am.St.Rep. 810 (1897).**

Facts: Chickens from a neighbor's yard strayed into defendant's yard and destroyed a pea crop. Defendant then killed several chickens by pulling off one's head and stabbing another with a stick.

Holding: Damage to crops does not justify the killing of chickens. There was no need to prove malice, as the act of killing alone sufficed to prove cruelty; impulse of anger was not a proper defense.

***State v. Groves*, 25 S.E. 819, 119 N.C. 822 (1896).**

Facts: The defendants were charged with killing "cattle" under the animal cruelty statute. The lower court overruled a demurrer that the goats in controversy were not covered by the statute's term.

Holding: The court held that the word "cattle" in the statutory phrase "horse, mule, hog, sheep, or other cattle" referred broadly to livestock, rather than specifically to cows. Thus, the demurrer was properly overruled.

***State v. Isley*, 26 S.E. 35, 119 N.C. 862 (1896).**

Facts: The defendant threw a five-pound rock at a passing horse. The rock struck the horse between the ears and knocked the horse down. The defendant was chief of police and contended that he was attempting to stop the horse from running down a busy street.

Holding: The defendant is assumed to have acted in good faith because he was a policeman. He did not willfully intend to injure the horse. Thus, he is excused. Thus, the lower court's verdict of guilty is reversed.

***State v. Tweedy*, 20 S.E. 183, 115 N.C. 704 (1894).**

Facts: The defendant killed a hog "running at large" in a town, in violation of a town ordinance.

Holding: Because there was no evidence that the killing was done "willfully and unlawfully," the indictment under the animal cruelty statute cannot be sustained.

***State v. Porter*, 16 S.E. 915, 112 N.C. 887 (1893).**

Facts: A member of the "Asheville Gun Club" used forty pigeons as live targets. Some escaped wounded. The court determined that the wounding was done not deliberately but from "want of skill."

Holding: Because the wounding was done for sport and amusement, it was unjustified and cruel. Thus, the defendant was properly found guilty.

Updated as of July 11, 2013

***State v. Watkins*, 8 S.E. 346, 101 N.C. 702 (1888).**

Facts: Defendant charged with cruelty to a hog.

Holding: The court found that the offense was not sufficiently charged in the indictment [correctly pled], and so it set aside the judgment.

***State v. Butts*, 92 N.C. 784 (1885).**

Facts: Defendant shot a cow three times, but contended that he did so to prevent the cow from destroying his crops.

Holding: Because the defendant did not have a right to shoot the cow to protect his crops, the defendant was properly found guilty. He had a right only to restrain the animal.

***State v. Allison*, 90 N.C. 733 (1884).**

Facts: Defendant beat a cow and twisted off its tail.

Holding: A lower reversed the conviction because the act was not malicious, but the Supreme Court upheld the conviction because the statute requires only willful and unlawful actions.

***State v. Holt*, 90 N.C. 749 (1884).**

Facts: Defendant pleaded guilty to a cruelty to animals charge for running a cockfight for three days.

Holding: The court improperly suspended the right to a jury in a criminal trial.

2. IMMUNITY FOR VETERINARIAN REPORTING ANIMAL CRUELTY.

N.C. GEN. STAT. § 14-360.1. Immunity for veterinarian reporting animal cruelty.

Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8.

No Applicable Case Law.

3. INSTIGATING OR PROMOTING CRUELTY TO ANIMALS.

N.C. GEN. STAT. § 14–361. Instigating or promoting cruelty to animals.

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a Class 1 misdemeanor.

Applicable Case Law:

***State v. Porter*, 112 N.C. 887, 16 S.E. 915 (1893).**

Facts: A member of the “Asheville Gun Club” used forty pigeons as live targets. Some escaped wounded. The court determined that the wounding was done not deliberately but from “want of skill.”

Holding: Because the wounding was done for sport and amusement, it was unjustified and cruel. Thus, the defendant was properly found guilty.

4. ABANDONMENT OF ANIMALS

N.C. GEN. STAT. § 14–361.1. Abandonment of animals.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor.

No Applicable Case Law

5. COCKFIGHTING

N.C. GEN. STAT. § 14–362. Cockfighting.

A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

No Applicable Case Law

6. ANIMAL FIGHTS AND BAITING, OTHER THAN COCK FIGHTS, DOG FIGHTS AND DOG BAITING

N.C. GEN. STAT. § 14–362.1. Animal fights and baiting, other than cock fights, dog fights and dog baiting.

- (a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.
- (b) A person who owns, possesses, or trains an animal, other than a cock or a dog, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a Class 2 misdemeanor.
- (c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor.
- (d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class I felony.
- (e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

No Applicable Case Law

7. DOG FIGHTING AND BAITING

N.C. GEN. STAT. § 14–362.2. Dog fighting and baiting.

- (a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.
- (b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.
- (c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

Updated as of July 11, 2013

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.

Applicable Case Law:

***State v. Arnold*, 147 N.C. App. 670, 557 S.E.2d 119 (2001) aff'd, 356 N.C. 291, 569 S.E.2d 648 (2002).**

Facts: Defendant convicted of participating as a spectator at a dog fight. Defendant was taken to the barn where the dogfight took place, without knowing that he would be taken there; he stood outside the barn, walked in, but never actually saw the dogs fight.

Holding: The elements of a charge of participating as a spectator at a dogfight are: (1) that the defendant participated as a spectator; and (2) at an exhibition featuring the fighting or baiting of a dog. Because the defendant was present at the dogfight as a spectator, he participated as a spectator. Thus, his conviction was justified.

8. RESTRAINING DOGS IN A CRUEL MANNER

N.C. GEN. STAT. § 14-362.3. Restraining dogs in a cruel manner.

A person who maliciously restrains a dog using a chain or wire grossly in excess of the size necessary to restrain the dog safely is guilty of a Class 1 misdemeanor. For purposes of this section, “maliciously” means the person imposed the restraint intentionally and with malice or bad motive.

No Applicable Case Law

9. CONVEYING ANIMALS IN A CRUEL MANNER

N.C. GEN. STAT. § 14-363. Conveying animals in a cruel manner.

If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a Class 1 misdemeanor. Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said

Updated as of July 11, 2013

expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefore.

No Applicable Case Law

10. LIVING BABY CHICKS OR OTHER FOWL, OR RABBITS UNDER EIGHT WEEKS OF AGE; DISPOSING OF AS PETS OR NOVELTIES FORBIDDEN

N.C. GEN. STAT. § 14–363.1. Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.

If any person, firm or corporation shall sell, or offer for sale, barter or give away as premiums living baby chicks, ducklings, or other fowl or rabbits under eight weeks of age as pets or novelties, such person, firm or corporation shall be guilty of a Class 3 misdemeanor. Provided, that nothing contained in this section shall be construed to prohibit the sale of nondomesticated species of chicks, ducklings, or other fowl, or of other fowl from proper brooder facilities by hatcheries or stores engaged in the business of selling them for purposes other than for pets or novelties.

No Applicable Case Law

11. CONFISCATION OF CRUELLY TREATED ANIMALS

N.C. GEN. STAT. § 14–363.2. Confiscation of cruelly treated animals.

Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.

No Applicable Case Law

12. COMPUTER-ASSISTED REMOTE HUNTING PROHIBITED

N.C. GEN. STAT. § 113-291.1A. Computer-assisted remote hunting prohibited.

(a) It is unlawful for a person to engage in computer-assisted remote hunting or provide or operate a facility that allows others to engage in computer-assisted remote hunting if the wild animal or wild bird being hunted or shot is located in this State.

(b) For purposes of this section “computer-assisted remote hunting” means the use of a computer or other device, equipment, or software, to remotely control the aiming and discharging of a firearm or

Updated as of July 11, 2013

other weapon, that allows a person, not physically present at the location of that firearm or other weapon, to hunt or shoot a wild animal or wild bird.

No Applicable Case Law

13. DEFINITIONS (ENDANGERED SPECIES)

N.C. GEN. STAT. § 113-331. Definitions.

All of the definitions contained in Article 12 of this Chapter 113 shall apply in this Article except to the extent that they may be herein modified for the purposes of this Article 25. As used in this Article, unless the context requires otherwise:

- (1) “Conserve” and “conservation” mean the use and application of all methods, procedures and biological information for the purpose of bringing populations of native and once-native species of wildlife in balance with the optimum carrying capacity of their habitat, and maintaining such balance. These methods and procedures include all activities associated with scientific resource management such as research; census; law enforcement; habitat protection, acquisition, and enhancement; and restoration of species to unoccupied parts of historic range. With respect to endangered and threatened species, the terms means¹ the use of methods and procedures to bring the species to the point at which the measures provided are no longer necessary.
- (2) “Endangered species” means any native or once-native species of wild animal whose continued existence as a viable component of the State's fauna is determined by the Wildlife Resources Commission to be in jeopardy or any species of wild animal determined to be an “endangered species” pursuant to the Endangered Species Act.
- (3) “Endangered Species Act” means the Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), as it may be subsequently amended.
- (4) “Advisory Committee” means the North Carolina Nongame Wildlife Advisory Committee which is the advisory body of knowledgeable and representative citizens established by resolution of the Wildlife Resources Commission and charged to consider matters relating to nongame wildlife conservation and to advise the Commission in such matters.
- (5) “Protected animal” means a species of wild animal designated by the Wildlife Resources Commission as endangered, threatened, or of special concern.
- (6) “Protected animal list” means any one of the lists of North Carolina animal species that are endangered, threatened, or of special concern.
- (7) “Scientific council” means the group of scientists identified and assembled by the Advisory Committee to review the scientific evidence and to evaluate the status of wildlife species that are candidates for inclusion on a protected animal list.

Updated as of July 11, 2013

- (8) “Special concern species” means any species of wild animal native or once-native to North Carolina which is determined by the Wildlife Resources Commission to require monitoring but which may be taken under regulations adopted under the provisions of this Article.
- (9) “Threatened species” means any native or once-native species of wild animal which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as a threatened species pursuant to the Endangered Species Act.
- (10) “Wild animal” means any native or once-native nongame amphibian, bird, crustacean, fish, mammal, mollusk or reptile not otherwise legally classified by statute or regulation such as game and fur bearing animals, except those inhabiting and depending upon coastal fishing waters, marine and estuarine resources, marine mammals found in coastal fishing waters, sea turtles found in coastal fishing waters, and those declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(a) or (c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede any valid provision of law or regulation administered by any other agency.

No Applicable Case Law.

14. SPECIFIC VIOLATIONS (ENDANGERED SPECIES)

N.C. GEN. STAT. § 113-294. Specific violations.

- (a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (b) Any person who unlawfully sells, possesses for sale, or buys any deer or wild turkey is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment prescribed for the offense in question.
- (c) Any person who unlawfully takes, possesses, or transports any wild turkey is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment prescribed for the offense in question.
- (c1) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any bear or bear part is guilty of a Class 1 misdemeanor, punishable by a fine of not less than two thousand dollars (\$2,000) in addition to such other punishment prescribed for the offense in question. Each of the acts specified shall constitute a separate offense.
- (c2) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any cougar (*Felis concolor*) is guilty of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.

Updated as of July 11, 2013

- (d) Any person who unlawfully takes, possesses, or transports any deer is guilty of a Class 3 misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) in addition to such other punishment prescribed for the offense in question.
- (e) Any person who unlawfully takes deer between a half hour after sunset and a half hour before sunrise with the aid of an artificial light is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment prescribed for the offense in question.
- (f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver, or violates any rule of the Wildlife Resources Commission adopted to protect beavers, is guilty of a Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (g) Any person who unlawfully takes wild animals or birds from or with the use of a vessel equipped with a motor or with motor attached is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (h) Any person who willfully makes any false or misleading statement in order to secure for himself or another any license, permit, privilege, exemption, or other benefit under this Subchapter to which he or the person in question is not entitled is guilty of a Class 1 misdemeanor.
- (i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (j) Any person who unlawfully sells, possesses for sale, or buys a fox, or who takes any fox by unlawful trapping or with the aid of any electronic calling device is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (k) Repealed by Laws 1995, c. 209, § 1, eff. Oct. 1, 1995.
- (l) Any person who unlawfully takes, possesses, transports, sells or buys any bald eagle or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.
- (m) Any person who unlawfully takes any migratory game bird with a rifle; or who unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or other bait; or who unlawfully takes any migratory game bird during the closed season or during prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits applicable to any migratory game bird; or who violates any of the migratory game bird permit or tagging rules of the Wildlife Resources Commission is guilty of a Class 2 misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) in addition to any other punishment prescribed for the offense in question.
- (n) Any person who violates any rule of the Commission that restricts access by vehicle on game lands to a person who holds a special vehicular access identification card and permit issued by the Commission to persons who have a handicap that limits physical mobility shall be guilty of a Class 2 misdemeanor and shall be fined not less than one hundred dollars (\$100.00) in addition to any other punishment prescribed for the offense.
- (o) Any person who willfully transports or attempts to transport live coyotes (*Canis latrans*) into this State for any purpose, or who breeds coyotes for any purpose in this State, is guilty of a Class 1

misdemeanor, and upon conviction the Wildlife Resources Commission shall suspend any controlled hunting preserve operator license issued to that person for two years.

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

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

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

(s) Any person who violates the provisions of G.S. 113-291.12 by unlawfully removing feral swine from a trap while the swine is still alive or by transporting such swine after that removal is guilty of a Class 2 misdemeanor. The acts of removal from a trap and of transporting the swine after removal shall constitute separate offenses.

Applicable Case Law:

***State v. Ballance*, -- N.C. App. --, 720 S.E.2d 856 (2012).**

Facts: The statute states that no black bear may be taken with the use or aid of any salt, salt lick, grain, fruit, honey, sugar-based material, animal parts or products, or other bait. Two defendants were charged with taking a bear with the aid of bait. They had placed two barrels in a swampy area, filled partly with processed food in an arrangement commonly used to illegally attract bears.

Holding: The statute does not include reference to criminal intent or mens rea. Thus, the lack of evidence of a mental state that the defendants knew they had placed impermissible material in the barrels to attract bears was not necessary to convict them.

***State v. Madry*, 140 N.C.App. 600, 537 S.E.2d 827 (2000).**

Facts: The defendant was charged with taking a bear with bait.

Holding: The warrant was insufficient because it did not adequately put the defendant on notice as to the specific offense with which he was being charged.

Updated as of July 11, 2013

***State v. Link*, 186 S.E.2d 634, 13 N.C.App. 568 (1972).**

Facts: Defendant was alleged to have shone his headlights into a field at night so that he could shoot a deer. Defendant was charged with violating N.C. Gen. Stat. § 113-104 for taking a deer by aid of artificial light after sunset.

Holding: The shooting and killing of a deer with a rifle is a “taking” within the intent and meaning of the statute. Thus, the defendant was properly found guilty.

***State v. Lassiter*, 13 N.C. App. 292, 185 S.E.2d 478 (1971).**

Facts: Defendants were alleged to have shone his headlights into a field at night so that they could shoot a deer; however, the police prevented them from firing. They admitted that they were attempting to hunt deer.

Holding: After reviewing the case on procedural grounds, the court upheld the conviction because the prosecution presented a prima facie case and the defendants presented no contrary evidence.

15. UNLAWFUL ACTS; PENALTIES

N.C. GEN. STAT. § 113-337. Unlawful acts; penalties.

(a) It is unlawful:

(1) To take, possess, transport, sell, barter, trade, exchange, export, or offer for sale, barter, trade, exchange or export, or give away for any purpose including advertising or other promotional purpose any animal on a protected wild animal list, except as authorized according to the regulations of the Commission, including those promulgated pursuant to G.S. 113-333(1);

(2) To perform any act specifically prohibited by the regulations of the Commission promulgated pursuant to its authority under G.S. 113-333.

(b) Each person convicted of violating the provisions of this Article is guilty of a Class 1 misdemeanor.