

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 476
Committee Substitute Favorable 4/6/11
Committee Substitute #2 Favorable 6/1/11
Fourth Edition Engrossed 6/2/11

Short Title: Protect Galax & Venus Flytrap/WRC Rule Fines.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS FLYTRAP
UNDER THE PLANT PROTECTION AND CONSERVATION ACT AND TO
INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE
WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-202.19(a) reads as rewritten:

"(a) Unless the conduct is covered under some other provision of law providing greater punishment, it is ~~unlawful~~; unlawful to engage in any of the following conduct:

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial ~~use~~; use.
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the ~~Board~~; Board.
- (3) To violate any rule of the Board promulgated under this ~~Article~~; Article.
- (4) To dig ginseng on another person's land, except for the purpose of replanting, between the first day of April and the first day of ~~September~~; September.
- (5) To buy ginseng outside of a buying season as provided by the Board without obtaining the required documents from the person selling the ~~ginseng~~; ginseng.
- (6) To buy ginseng for the purpose of resale or trade without holding a currently valid permit as a ginseng ~~dealer~~; dealer.
- (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from another person's land galax or Venus flytrap without a written permit from the owner that is dated and valid for no more than 180 days. A person in lawful possession of the land who has a recorded lease which allows for the



1 disturbance or removal of any vegetation on the land, is not subject to this
2 subdivision.

3 (6b) To buy galax outside of a buying season as provided by the Board without
4 obtaining the required documents from the person selling the galax.

5 (6c) To buy Venus flytrap outside of a buying season as provided by the Board
6 without obtaining the required documents from the person selling the Venus
7 flytrap.

8 (6d) To buy more than five pounds of galax for the purpose of resale or trade
9 without a copy of the landowner's written permission and confirmation of
10 the collection date.

11 (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade
12 unless fully compliant with applicable regulations.

13 (7) To fail to keep records as required under this Article, to refuse to make
14 records available for inspection by the Board or its agent, or to use forms
15 other than those provided for the current year or harvest season by the
16 Department of Agriculture and Consumer ~~Services;~~ Services.

17 (8) To provide false information on any record or form required under this
18 ~~Article;~~ Article.

19 (9) To make false statements or provide false information in connection with
20 any investigation conducted under this ~~Article;~~ Article.

21 (10) To possess any protected plant, or part thereof, which was obtained in
22 violation of this Article or any rule adopted ~~hereunder;~~ or under this Article.

23 (11) To violate a stop sale order issued by the Board or its agent."

24 **SECTION 2.** G.S. 113-135.1(a) reads as rewritten:

25 "(a) To prevent unsuspecting members of the public from being subject to harsh criminal
26 penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for
27 an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to
28 a fine of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) except as follows:

29 (1) Offenses set out in subsection (b) of this section are punishable as set forth
30 in G.S. 113-135 or other sections of the General Statutes.

31 (2) A person who parks a vehicle in violation of a rule regulating the parking of
32 vehicles at boating access or boating launch areas is responsible for an
33 infraction and shall pay a fine of fifty dollars (\$50.00)."

34 **SECTION 3.** This act becomes effective October 1, 2011, and applies to violations
35 and offenses committed on or after that date. Prosecutions for offenses committed before the
36 effective date of this act are not abated or affected by this act, and the statutes that would be
37 applicable but for this act remain applicable to those prosecutions.