

Article 5.

General Provisions.

§ 76-40. Navigable waters; certain practices regulated.

(a) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited or left, either temporarily or permanently, any trash, refuse, rubbish, garbage, debris, rubble, scrapped vehicle or equipment or other similar waste material in or upon any body of navigable water in this State; "waste material" shall not include spoil materials lawfully dug or dredged from navigable waters and deposited in spoil areas designated by the Department of Environmental Quality; violation of this section shall constitute a Class 2 misdemeanor.

(a1) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited, or left, either temporarily or permanently, any medical waste as defined in G.S. 130A-290 in the open waters of the Atlantic Ocean over which the State has jurisdiction or the navigable waters of this State.

- (1) A person who willfully violates this subsection is guilty of a Class 1 misdemeanor.
- (2) A person who willfully violates this subsection and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class F felony which may include a fine not to exceed fifty thousand dollars (\$50,000) per day of violation.

(b) No person, firm or corporation shall erect upon the floor of, or in or upon, any body of navigable water in this State, any sign or other structure, without having first secured a permit to do so from the appropriate federal agencies (which would include a permit from the State of North Carolina) or from the Department of Administration, or from the agency designated by the Department to issue such permit. Provided, however, this subsection shall not apply to commercial fishing nets, fish offal, ramps, boathouses, piers or duck blinds placed in navigable waters. Any person, firm or corporation erecting such sign or other structure without a proper permit or not in accordance with the specification of such permit shall be guilty of a Class 2 misdemeanor. The State may immediately proceed to remove or cause to be removed such unlawful sign or structure after five days' notice to the owner or erector thereof and the cost of such removal by the State shall be payable by the person, firm or corporation who erected or owns the unlawful sign or other structure and the State may bring suit to recover the costs of the removal thereof.

(c) Whenever any structure lawfully erected upon the floor of, or in or upon, any body of navigable water in this State, is abandoned, such structure shall be removed by the owner thereof and the area cleaned up within 30 days of such abandonment; failure to comply with this section shall constitute a Class 2 misdemeanor. The State may, after 10 days' notice to the owner or erector thereof, remove the abandoned structure and have the area cleaned up and the cost of such removal and cleaning up by the State shall be payable by the owner or erector of the abandoned structure and the State may bring suit to recover the costs thereof.

(d) For purposes of this section, the term "navigable waters" shall not include any waters within the boundaries of any reservoir, pond or impoundment used in connection with the generation of electricity, or of any reservoir project owned or operated by the United States.

(e) The provisions of this section, in the coastal waters of this State, shall be enforced by the Department of Environmental Quality. In the inland waters of the State, the provisions of this section shall be enforced by the Wildlife Resources Commission. The Department of Environmental Quality and the Wildlife Resources Commission shall cooperate in the enforcement of this section. (1784, c. 206, s. 11; 1811, c. 839; 1833, c. 146; R.S., c. 88, ss. 23,

24, 45; 1842, c. 65, s. 4; 1846, c. 60, s. 3; R.C., c. 85, ss. 40, 41; Code, ss. 3537, 3538; Rev., s. 3560; C.S., s. 6891; 1969, c. 792; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, ss. 13, 218(18); c. 742, s. 3; 1993, c. 539, ss. 570, 1287; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u.)