

Chapter 76.

Navigation.

Article 1.

Cape Fear River.

§§ 76-1 through 76-17: Repealed by Session Laws 1981, c. 910, s. 2, effective July 1, 1981.

§ 76-18. Repealed by Session Laws 1975, c. 23, s. 3.

§§ 76-19 through 76-24: Repealed by Session Laws 1981, c. 910, s. 2.

Article 2.

Beaufort Harbor.

§§ 76-25 through 76-34: Repealed by Session Laws 1975, c. 716, s. 4.

Article 3.

Bogue Inlet.

§§ 76-35 through 76-36: Repealed by Session Laws 1975, c. 716, s. 4.

Article 4.

Hatteras and Oracoke.

§§ 76-37 through 76-39: Repealed by Session Laws 1975, c. 716, s. 4.

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).)

§ 76-41. Obstructing waters of Currituck Sound.

It shall be unlawful for any person to obstruct navigation in the waters of Currituck Sound and tributaries, and all persons, corporations, companies, or clubs, who have heretofore placed or caused to be placed any hedging across the mouth of a bay, creek, strait, or lead of water in Currituck Sound or tributaries, made of iron, wire, or wood or other material, for the purpose of preventing the free passage of boats or vessels of any size or class, or to stop the public use of such bay, creek, strait, or lead of water, are required to forthwith remove the same. Any person, corporation, or club violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (1897, c. 277; Rev., s. 3553; C.S., s. 6982; 1993, c. 539, s. 571; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 76-42. Lumbermen to remove obstructions in Albemarle Sound.

If any lumberman shall fail to remove all obstructions placed by him in the waters of Albemarle Sound and its tributaries, as soon as practicable, after they have ceased to use them for the purpose for which they were placed in said waters, from all places where the water is not less than two feet deep, and also from all landing places on both sides, for the space of 60 feet from the shore outward, he shall be guilty of a Class 3 misdemeanor, and only fined not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00), at the discretion of the court. (1880, c. 37, ss. 1, 2; Code, s. 3303; Rev., s. 3551; C.S., s. 6983; 1993, c. 539, s. 572; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 76-43. Anchorage in range of lighthouses.

If the master of any vessel shall anchor on the range line of any range of lights established by the United States Lighthouse Board, unless such anchorage is unavoidable, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine not to exceed fifty dollars (\$50.00). (1883, c. 165, s. 2; Code, s. 3086; Rev., s. 3550; C.S., s. 6984; 1993, c. 539, s. 573; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 76-44. Vessels on inland waterways exempt from pilot laws; proviso as to steam vessels.

All vessels, barges, schooners, or other craft passing through the inland waterway of this State, when bound to a port or ports in this or any other state, be and the same are hereby exempt from the operations of the pilot laws of North Carolina and are not compelled to take a state-licensed pilot: Provided, that steam vessels not having a United States licensed pilot for the waters navigated on board shall be subject to the State pilot laws. (1917, c. 33, s. 2; C.S., s. 6985.)

§ 76-45. Bond of pilot.

Every person, before he obtains a commission or a branch to be a pilot, shall give bond with two sufficient sureties payable to the State of North Carolina, in the sum of five hundred dollars (\$500.00), with condition for the due and faithful discharge of his duties, and the duties of his apprentices; and the body appointing such pilot may, from time to time, and as often as they may deem it necessary, enlarge the penalty of the bond, or require new and additional bonds to be given; and every bond taken of a pilot shall be filed with, and preserved by, the said body appointing such pilot in trust for every person that shall be injured by the neglect or misconduct of such pilot, or his apprentices; who may severally bring suit thereon for the damage by each one sustained. (1784, c. 207, s. 3; R.C., c. 85, s. 6; Code, s. 3487; Rev., s. 307; C.S., s. 6986.)

§ 76-46. Pilots to have spyglasses.

Every pilot, within such convenient time as the commissioners may direct, who has control over the waters within which he acts, shall furnish himself with a good telescope or spyglass, under the penalty of fifty dollars (\$50.00), to be paid to the commissioners. (1790, c. 320, s. 3; R.C., c. 85, s. 27; Code, s. 3517; Rev., s. 4973; C.S., s. 6987.)

§ 76-47. Acting as pilot without license.

If any person shall act as a pilot, who is not qualified and licensed in the manner prescribed in this Chapter, he shall be guilty of a Class 3 misdemeanor: Provided, that should there be no licensed pilot in attendance, any person may conduct into port any vessel in danger from stress of weather or in a leaky condition. (1783, c. 194, s. 3; 1784, c. 208, s. 4; R.C., c. 85, s. 29; Code, s. 3519; Rev., s. 4974; C.S., s. 6988; 1933, c. 325; 1993, c. 539, s. 574; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 76-48. Penalty on pilot neglecting to go to vessel having signal set.

When any pilot shall see any vessel on the coast, having a signal for a pilot, or shall hear a gun of distress fired off the coast, and shall neglect or refuse to go to the assistance of such vessel, such pilot shall forfeit and pay one hundred dollars (\$100.00), to be recovered in the name of the State, one half to the use of the informer and the other half to the master of the vessel, unless such pilot is then actually in charge of another vessel. (1783, c. 194, s. 6; 1784, c. 207, s. 10; 1790, c. 320, s. 2; R.C., c. 85, s. 31; Code, s. 3521; Rev., s. 4975; C.S., s. 6989.)

§ 76-49. Pilots may be removed.

Unless otherwise provided in the first Article of this Chapter for the Cape Fear River, whenever any pilot appointed, as authorized in this Chapter, shall, on trial, be found incompetent, or shall be guilty of improper conduct by intoxication or otherwise, or of any misbehavior in his office, or shall absent himself from the State for a period of six months, the pilot so offending may be removed from his office by the board of commissioners under whose authority he is acting, by a notice to him in writing; and if after such removal he shall attempt to take charge of any vessel, he shall forfeit and pay two hundred dollars (\$200.00) for the use of said board. And it shall be the duty of the board to put up a written notice of the removal, in the public places within the port, or publish it in some convenient newspaper. But no pilot for the navigation of Hatteras Inlet shall be required to surrender or forfeit his branch by reason of absence from the State for a period of less than six months. (1784, c. 207, s. 4; 1800, c. 565; 1819, c. 1025, s. 4; R. S., c. 88, ss. 7, 31, 35; R.C., c. 85, s. 28; 1869-70, c. 235, s. 7; 1876-7, c. 22; 1881, c. 261, ss. 1, 2; Code, ss. 3490, 3518; Rev., s. 4976; C.S., s. 6990.)

§ 76-50. Pilots refused, entitled to pay.

If a branch pilot shall go off to any vessel bound in, and offer to pilot her over the bar, the master or commander of such vessel, if he refuses to take such pilot, shall pay to such pilot, if not previously furnished with one, the same sum as is allowed by law for conducting such vessel in, to be recovered in the district court: Provided, that the first pilot, and no other, who shall speak such vessel so bound in shall be entitled to the pay provided for in this section. (R.C., c. 85, s. 32; 1871-2, c. 117; Code, s. 3522; Rev., s. 4978; C.S., s. 6991; 1973, c. 108, s. 30.)

§ 76-51. Pay of pilots when detained by vessel.

Every master of a vessel who shall detain a pilot at the time appointed, so that he cannot proceed to sea, though wind and weather should permit, shall pay to such pilot three dollars (\$3.00) per day during the time of his actual detention. (1858-9, c. 23, s. 7; Code, s. 3495; Rev., s. 4979; C.S., s. 6992.)

§ 76-52. Rates of pilotage annexed to commission.

The commissioners of navigation for the several ports of this State shall annex to the branch or commission, by them given to each pilot, a copy of the fees to which such pilot is entitled. (1784, c. 208, s. 4; 1796, c. 470, s. 5; R.C., c. 85, ss. 9, 38; Code, ss. 3497, 3536; Rev., s. 4980; C.S., s. 6993.)

§ 76-53. Harbor masters; how appointed.

The several boards of commissioners of navigation may appoint a harbor master for their respective ports. They shall appoint a clerk to keep books, in which shall be recorded all their proceedings. (R C., c. 85, s. 35; Code, s. 3525; Rev., s. 4981; C.S., s. 6994.)

§ 76-54. Commissioners of navigation may hold another office.

A commissioner of navigation and pilotage shall be deemed a commissioner for a special purpose within the meaning of Sec. 7 of Article XIV of the Constitution of North Carolina, so as not to be prohibited from holding at the same time with his commissionership another office under the national or State governments. (Ex. Sess., 1913, c. 76; C.S., s. 6995.)

§ 76-55. Commissioners of navigation to designate place for trash.

The several boards of commissioners established by this Chapter may, subject to such regulations as the United States may make, designate the places whereat, within the waters under their several and respective control, may be cast and thrown ballast, trash, stone, and like matter. (1833, c. 146, ss. 1, 2, 3; R.S., c. 88, ss. 23, 24, 45; 1846, c. 60, s. 3; R.C., c. 85, s. 40; Code, s. 3537; Rev., s. 4982; C.S., s. 6996.)

§ 76-56. Harbor master; how appointed where no board of navigation.

Where no board of navigation exists the governing body of any incorporated town, situated on any navigable watercourse, shall have power to appoint a harbor master for the port, who shall have the same power and authority in their respective ports as the harbor master of Wilmington is by this Chapter given for that port, and shall receive like fees and no others.

The board of county commissioners of any county is authorized to appoint a harbor master for any unincorporated community situated on any navigable watercourses in their respective counties. Harbor masters appointed hereunder shall have the same power and authority and shall receive the same fees as set forth in G.S. 76-18. (Rev., s. 4983; C.S., s. 6997; 1953, c. 445.)

§ 76-57. Rafts to exercise care in passing buoys, etc., penalty.

If any person having charge of any raft passing any buoy, beacon, or day mark, shall not exercise due diligence in keeping clear of it, or, if unavoidably fouling it, shall not exercise due diligence in clearing it, without dragging from its position such buoy, beacon, or day mark, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine not to exceed fifty dollars (\$50.00). (1883, c. 165, s. 3; Code, s. 3087; Rev., s. 3545; C.S., s. 6998; 1993, c. 539, s. 575; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 76-58. Interfering with buoys, beacons, and day marks.

If any person shall moor any kind of vessel, or any raft or any part of a raft, to any buoy, beacon, or day mark placed in the waters of North Carolina by the authority of the United States Lighthouse Board, or shall in any manner hang on with any vessel or raft, or part of a raft, to any such buoy, beacon, or day mark, or shall willfully remove, damage, or destroy any such buoy, beacon, or day mark, or shall cut down, remove, damage, or destroy any beacon erected on land in this State by the authority of the said United States Lighthouse Board, or through unavoidable accident run down, drag from its position, or in any way injure any buoy, beacon, or day mark, as aforesaid, and shall fail to give notice as soon as practicable of having done so, to the lighthouse inspector of the district in which said buoy, beacon, or day mark may be located, or to the collector of the port, or, if in charge of a pilot, to the collector of the port from which he comes, he shall for every such offense

be guilty of a Class 2 misdemeanor. (1858-9, c. 58, ss. 2, 3; 1883, c. 165, s. 1; Code, s. 3085; Rev., s. 3546; C.S., s. 6999; 1993, c. 539, s. 576; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 6.

Morehead City Navigation and Pilotage Commission.

§§ 76-59 through 76-73: Repealed by Session Laws 1981, (Regular Session, 1982), c. 1176, s. 2.