

## **Article 22A.**

Trespassing upon "Posted" Property to Hunt, Fish, Trap, or Remove Pine Needles/Straw.

### **§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor; defense.**

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another that has been posted in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without written permission of the landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section.

(b) Any person who willfully goes on the land of another that has been posted in accordance with the provisions of G.S. 14-159.7(1), to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor.

(c) It is an affirmative defense to a prosecution under subsection (a) or (b) of this section that the person had in fact obtained prior permission of the owner, lessee, or agent as required by those subsections but did not have on his or her person valid written permission at the time of citation or arrest. (1949, c. 887, s. 1; 1953, c. 1226; 1965, c. 1134; 1975, c. 280, s. 1; 1979, c. 830, s. 11; 1991, c. 435, s. 4; 1993, c. 539, s. 99; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(z); 2011-231, s. 1.)

### **§ 14-159.7. Regulations as to posting of property.**

For purposes of posting property under G.S. 14-159.7, the owner or lessee of the property may use either of the following methods:

- (1) The owner or lessee of the property may place notices, signs, or posters on the property. The notices, signs or posters shall measure not less than 120 square inches and shall be conspicuously posted on private lands not more than 200 yards apart close to and along the boundaries. At least one such notice, sign, or poster shall be posted on each side of such land, and one at each corner thereof, provided that said corner can be reasonably ascertained. For the purpose of prohibiting fishing, or the taking of fish by any means, in any stream, lake, or pond, it shall only be necessary that the signs, notices, or posters be posted along the stream or shoreline of a pond or lake at intervals of not more than 200 yards apart.
- (2) The owner or lessee of the property may place identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length, and the bottom of the mark shall be no less than three feet nor more than five feet from the base of the tree or post. The paint marks shall be placed no more than 100 yards apart and shall be readily visible to any person approaching the property. For the purpose of prohibiting fishing, or the taking of fish by any means, in any stream, lake, or pond, it shall

only be necessary that the paint marks be placed along the stream or shoreline of a pond or lake at intervals of not more than 100 yards apart. (1949, c. 887, s. 2; 1953, c. 1226; 1965, c. 923; 1975, c. 280, ss. 2, 3; 1979, c. 830, s. 11; 2011-231, s. 2.)

**§ 14-159.8. Mutilation, etc., of "posted" signs; posting signs without consent of owner or agent.**

Any person who shall mutilate, destroy or take down any "posted," "no hunting" or similar notice, sign or poster on the lands, waters, or legally established waterfowl blind of another, or who shall post such sign or poster on the lands, waters or legally established waterfowl blind of another, without the consent of the owner or his agent, shall be deemed guilty of a Class 3 misdemeanor and only punished by a fine of not more than one hundred dollars (\$100.00). (1949, c. 887, s. 3; 1953, c. 1226; 1969, c. 51; 1979, c. 830, s. 11; 1993, c. 539, s. 100; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-159.9. Entrance on navigable waters, etc., for purpose of fishing, hunting or trapping not prohibited.**

Nothing in this Article shall be construed to prohibit the entrance of any person upon navigable waters and the bays and sounds adjoining such waters for the purpose of fishing, hunting or trapping. (1949, c. 887, s. 4; 1953, c. 1226; 1979, c. 830, s. 11.)

**§ 14-159.10. Enforcement of Article.**

This Article may be enforced by sheriffs or deputy sheriffs, law enforcement officers of the Wildlife Resources Commission, and other peace officers with general subject matter jurisdiction. (1979, c. 830, s. 11; 2011-231, s. 3.)

**Article 22B.**  
**First and Second Degree Trespass.**

As used in this Article, "building" means any structure or part of a structure, other than a conveyance, enclosed so as to permit reasonable entry only through a door and roofed to protect it from the elements. (1987, c. 700, s. 1.)

§ 14-159.12. First degree trespass.

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

(1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders;

(2) In a building of another; or

(3) On the lands of the Eastern Band of Cherokee Indians after the person has been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council.

(b) Except as otherwise provided in subsection (c), (d), or (f) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

(1) The offense is committed on the premises of any of the following:

a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.

b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.

c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.

d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1.

(2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class H felony:

(1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.

(2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

(e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure.

(f) A violation of subsection (a) of this section is a Class I felony and shall include a fine of not less than one thousand dollars (\$1,000) for each violation, if any of the following circumstances exist:

- (1) The offense occurs on real property where the person has reentered after having previously been removed pursuant to the execution of a valid order or writ for possession.
- (2) The offense occurs under color of title where the person has knowingly created or provided materially false evidence of an ownership or possessory interest.
- (3) The offense is the person's second or subsequent violation of subdivision (a)(3) of this section. (1987, c. 700, s. 1; 1993, c. 539, s. 101; 1994, Ex. Sess., c. 24, s. 14(c); 2012-168, s. 1; 2014-103, s. 10(a); 2016-26, s. 1; 2018-66, s. 1.)

§ 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

- (1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or
- (2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification. – Second degree trespass is a Class 3 misdemeanor. (1987, c. 700, s. 1; 1993, c. 539, s. 102; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.14. Lesser included offenses.

The offenses created by this act shall constitute lesser included offenses of breaking or entering as provided in G.S. 14-54 and G.S. 14-56. (1987, c. 700, s. 1.)

§§ 14-159.15 through 14-159.19. Reserved for future codification purposes.



# **Landowner Protection Act**

## **Session Law 2011-231**

### **House Bill 762**

### *July 2011*

#### **What is the Landowner Protection Act?**

The Landowner Protection Act ([H762](#)) clarifies existing trespass laws, for the purposes of hunting, fishing, and trapping, to specify the requirements for written permission on posted land only. The new law is effective October 1, 2011.

#### **What does the Landowner Protection Act do?**

The Landowner Protection Act addresses existing trespass law to strengthen and clarify four elements:

1. Defines the requirements for written permission to hunt, fish, or trap on posted lands.
2. Allows landowners to post land using purple paint marks or by placing signs or posters, as currently allowed.
3. Allows Wildlife Officers to enforce trespass laws on site, instead of executing process issued by the courts.
4. Removes the exemption for Halifax and Warren counties that requires landowners to initiate prosecution for trespass on posted lands.

The Landowner Protection Act specifically relates only to hunting, fishing, or trapping on posted lands. It clarifies the existing [G.S. 14-159.6](#) requirement for written consent to hunt, fish, or trap on posted lands by specifying that written permission, dated within the past 12 months and signed by the landowner, lessee, or agent of that land, be carried and displayed upon request of any law enforcement officer. If a hunting club has leased the land, a person shall have a copy of their hunting club membership and a copy of the landowner permission granted to that hunting club.

The Landowner Protection Act does not change general trespass laws nor have any effect on lands which are not posted. It does not repeal any local acts currently in effect that require written permission to hunt, fish, or trap.

#### **Why Purple Paint?**

Landowners in North Carolina who want to post their lands can have difficulty keeping posted signs erected and intact. Using paint marks, as an alternative or in addition to signage, is a convenient and effective means of marking lands as posted, and requires less frequent maintenance and cost, since paint marks are more difficult to vandalize than signs.

Many states throughout the U.S. currently allow the use of paint marks to denote land posting. Landowners in N.C. now may use signs, purple paint marks or both to post their properties.

Each paint mark must be a vertical line of at least eight inches in length, and the bottom of the mark shall be no less than three feet or more than five feet from the base of the tree or post. For more information, including an illustration, on how to post property under the new law, see the Landowner Protection Act [document](#) on our website.

**Don't Wildlife Officers already enforce trespass on posted property?**

Prior to passage of the Landowner Protection Act, Wildlife Officers were generally required to execute process in order to enforce trespass under [G.S. 14-159.10](#). This means a Wildlife Officer would obtain an arrest warrant or criminal summons prior to enforcing trespass.

Beginning October 1, 2011 the Landowner Protection Act makes changes that enable Wildlife Officers to write a citation on site, removing the barrier to proper and efficient enforcement of the existing trespass law.

**What liability does a landowner have if written permission is given to hunt, fish or trap on posted lands?**

Chapter 38A of the North Carolina General Statutes specifically encourages landowners to make lands available for recreational use at no cost. [General Statute 38A-4](#) states that a landowner who permits or invites someone, without charge, onto their land for recreational purposes owes them the same duty of care they would owe a trespasser.

**How does the Landowner Protection Act affect current local permission laws in my area?**

There is no change or repeal of local permission laws under the Landowner Protection Act.

**What if a landowner leases his land, from whom do I need to get permission?**

Under the Landowner Protection Act, either the landowner or leaseholder may grant permission to the property.

**What are the permission requirements for a hunting club on private lands?**

The hunting club must have written permission from the landowner or leaseholder and each individual must carry both a current membership card from the hunting club and a copy of the written permission granted to the club.

**If I am in a hunt club that has permission, what if I don't have a membership card or my club doesn't provide membership cards?**

You are required by the new law to carry valid proof of membership in the hunt club and a copy of the club's written permission to hunt on the landowner or leaseholder's posted property.

**Where can I find a permission form?**

The N.C. Wildlife Resources Commission provides a [sample permission form](#) as a public service to N. C. sportsmen to facilitate compliance with the new law. You are not required to use this particular form, and it is not the only allowable format for landowner written permission.

**Must I use the N.C. Wildlife Resources Commission's form? If not, what information should be on the form in order for it to be valid?**

To comply with the written permission requirements of the Landowner Protection Act, you may use any form that provides at least the following information:

- Landowner or leaseholder's name

- Sportsman's name
- Dated within the last 12 months

**Where can I find more information?**

Visit the [N.C. Wildlife Resources Commission](#) online for more information, including a [sample permission form](#).