

Article 43.

Nuisance and Other Wrongs.

§ 1-538.1. Strict liability for damage to person or property by minors.

Any person or other legal entity shall be entitled to recover actual damages suffered in an amount not to exceed a total of two thousand dollars (\$2,000) from the parent or parents of any minor who shall maliciously or willfully injure such person or destroy the real or personal property of such person. Parents whose custody and control have been removed by court order or by contract prior to the act complained of shall not be liable under this act. This act shall not preclude or limit recovery of damages from parents under common law remedies available in this State. (1961, c. 1101; 1981, c. 414, s. 1; 1993, c. 540, s. 1.)

§ 1-538.2. Civil liability for larceny, shoplifting, theft by employee, embezzlement, and obtaining property by false pretense.

(a) Any person, other than an unemancipated minor, who commits an act that is punishable under G.S. 14-72, 14-72.1, 14-74, 14-90, or 14-100 is liable for civil damages to the owner of the property. In any action brought by the owner of the property, the owner is entitled to recover the value of the goods or merchandise, if the goods or merchandise have been destroyed, or any loss of value to the goods or merchandise, if the goods or merchandise were recovered, or the amount of any money lost by reason of the theft or embezzlement or fraud of an employee. In addition to the above, the owner of the property is entitled to recover any consequential damages, and punitive damages, together with reasonable attorneys' fees. The total compensatory and consequential damages awarded to a plaintiff against a defendant under this section shall not be less than one hundred fifty dollars (\$150.00) and shall not exceed one thousand dollars (\$1,000), except an act punishable under G.S. 14-74 or G.S. 14-90 shall have no maximum limit under this section.

(b) The parent or legal guardian, having the care, custody and control of an unemancipated minor who commits an act punishable under G.S. 14-72, 14-72.1, 14-74, 14-90, or 14-100, is civilly liable to the owner of the property obtained by the act if such parent or legal guardian knew or should have known of the propensity of the child to commit such an act; and had the opportunity and ability to control the child, and made no reasonable effort to correct or restrain the child. In an action brought against the parent or legal guardian by the owner, the owner is entitled to recover the amounts specified in subsection (a) except punitive damages. The total compensatory and consequential damages awarded to a plaintiff against the parent or legal guardian shall not be less than one hundred fifty dollars (\$150.00) and shall not exceed one thousand dollars (\$1,000).

(c) An action may be brought under this section regardless of whether a criminal action is brought or a criminal conviction is obtained for the act alleged in the civil action.

(c1) For the purposes of this section, consequential damages shall include, but shall not be limited to:

- (1) The salary paid to any employee for investigation, reporting, testifying, or any other time related to the investigation or prosecution for any violation under subsection (a) of this section; and
- (2) Any costs, such as mileage, postage, stationery, or telephone expenses that were incurred as a result of the violation.

(c2) The owner of the property may seek payment for damages under subsections (a) and (b) of this section prior to filing a civil action, by sending the violator a demand letter. If such a letter is sent, it shall be substantially similar to the following:

"Our records show that on (date), you unlawfully took possession of property from (store name/owner of the property), located in (city, state), without the consent of (store name/owner of the property), without paying for the property, and with the intent of converting the property to your own use. In accordance with G.S. 1-538.2, we are authorized to demand that you pay damages of one hundred fifty dollars (\$150.00).

In the event you fail to comply with our demand for one hundred fifty dollars (\$150.00) within 15 days from the date of your receipt of the notice, you may be held civilly liable for an amount not less than one hundred fifty dollars (\$150.00) and not more than one thousand dollars (\$1,000) in a civil action against you to recover the penalties and damages authorized by law, which include court costs and attorneys' fees. If you pay the one hundred fifty dollars (\$150.00), (store name/owner of the property) will have no further civil remedy against you arising from the events occurring on (date).

If you are the parent or legal guardian of an unemancipated minor who unlawfully took possession of property as set out above, you can be held liable if you knew or should have known of the propensity of the child to commit the act complained of, and you had the opportunity and ability to control the child and you made no reasonable effort to correct or restrain the child.

If you believe you have received this notice in error, please contact (name) immediately.

YOU HAVE A RIGHT TO CONTEST YOUR LIABILITY IN COURT."

(c3) The owner of the property sending the demand letter required by this section shall have qualified privilege from any civil liability resulting therefrom provided that there is no excessive publication and that the owner acted in good faith and without malice.

(c4) If the recipient of a notice pursuant to subsection (c2) of this section pays the demanded one hundred fifty dollars (\$150.00) within 15 days of the recipient's receipt of the notice, the owner of the property shall have no further civil remedy against that violator for the incident described in the notice.

(d) Nothing contained in this act shall prohibit recovery upon any other theory in the law. (1987, c. 519, s. 1; 1987 (Reg. Sess., 1988), c. 1081, s. 4.1; 1995, c. 185, s. 1; 1995 (Reg. Sess., 1996), c. 742, s. 3.)

§ 1-538.3. Negligent supervision of minor.

(a) The parent or individual legal guardian who has the care, custody, and control of an unemancipated minor may be held civilly liable to an educational entity for the negligent supervision of that minor if the educational entity proves by clear, cogent, and convincing evidence that:

- (1) The minor:
 - a. Violated the provisions of G.S. 14-49, 14-49.1, 14-50, 14-69.1(c), 14-69.2(c), 14-269.2(b1), 14-269.2(c1), or committed a felony offense involving injury to persons or property through use of a gun, rifle, pistol, or other firearm of any kind as defined in G.S. 14-269.2(b); and
 - b. The offense occurred on educational property; and
- (2) The parent or individual legal guardian who has the care, custody, and control of the minor:

- a. Knew or reasonably should have known of the minor's likelihood to commit such an act;
- b. Had the opportunity and ability to control the minor; and
- c. Made no reasonable effort to correct, restrain, or properly supervise the minor.

(b) In an action brought against the parent or legal guardian under this section for a false report, hoax, or possession of a bomb or other explosive device on educational property, the educational entity is entitled to recover the actual compensatory and consequential damages resulting from the disruption or dismissal of school or the school-sponsored activity arising from the false report, the hoax, the bringing or possession of a bomb or other explosive device onto educational property or to a school-sponsored activity. The total amount of compensatory and consequential damages awarded to a plaintiff against the parent or legal guardian pursuant to this subsection shall not exceed twenty-five thousand dollars (\$25,000).

(c) In an action brought against the parent or legal guardian under this section, the educational entity is entitled to recover the actual compensatory and consequential damages to educational property that is the result of the discharge of the firearm or the detonation or explosion of the bomb or other explosive device. The total amount of compensatory and consequential damages awarded to a plaintiff against the parent or legal guardian pursuant to this subsection shall not exceed fifty thousand dollars (\$50,000).

(d) For purposes of this section, the term "educational property" has the same definition as in G.S. 14-269.2(a)(1), and the term "educational entity" means the board of education or other entity that administers and controls the educational property or the school-sponsored activity.

(e) Nothing contained in this section shall prohibit recovery upon any other theory in the law. (1999-257, s. 5.)

§ 1-539. Remedy for nuisance.

Injuries remediable by the old writ of nuisance are subjects of action as other injuries; and in such action there may be judgment for damages, or for the removal of the nuisance, or both. (C.C.P., s. 387; Code, s. 630; Rev., s. 825; C.S., 894.)

§ 1-539.1. Damages for unlawful cutting, removal or burning of timber; misrepresentation of property lines.

(a) Any person, firm or corporation not being the bona fide owner thereof or agent of the owner who shall without the consent and permission of the bona fide owner enter upon the land of another and injure, cut or remove any valuable wood, timber, shrub or tree therefrom, shall be liable to the owner of said land for double the value of such wood, timber, shrubs or trees so injured, cut or removed.

(b) If any person, firm or corporation shall willfully and intentionally set on fire, or cause to be set on fire, in any manner whatever, any valuable wood, timber or trees on the lands of another, such person, firm or corporation shall be liable to the owner of said lands for double the value of such wood, timber or trees damaged or destroyed thereby.

(c) Any person, firm or corporation cutting timber under contract and incurring damages as provided in subsection (a) of this section as a result of a misrepresentation of property lines by the party letting the contract shall be entitled to reimbursement from the party letting the contract for damages incurred. (1945, c. 837; 1955, c. 594; 1971, c. 119; 1977, c. 859.)

§ 1-539.2. Dismantling portion of building.

When one person owns a portion of a building and another or other persons own the remainder of said building, neither of said owners shall dismantle his portion of said building without making secure the portions of said building belonging to other persons. Any person violating the provisions of this section shall be responsible in damages to the owners of other portions of such building. (1955, c. 1359.)

§ 1-539.2A. Damages for computer trespass.

(a) Any person whose property or person is injured by reason of a violation of G.S. 14-458 may sue for and recover any damages sustained and the costs of the suit. Without limiting the general of the term, "damages" shall include loss of profits. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, the injured person, other than an electronic mail service provider, may also recover attorneys' fees and may elect, in lieu of actual damages, to recover the lesser of ten dollars (\$10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars (\$25,000) per day. The injured person shall not have a cause of action against the electronic mail service provider which merely transmits the unsolicited bulk commercial electronic mail over its computer network. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, an injured electronic mail service provider may also recover attorneys' fees and costs and may elect, in lieu of actual damages, to recover the greater of ten dollars (\$10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars (\$25,000) per day.

(b) A civil action under this section shall be commenced before expiration of the time period prescribed in G.S. 1-54. In actions alleging injury arising from the transmission of unsolicited bulk commercial electronic mail, personal jurisdiction may be exercised pursuant to G.S. 1-75.4. (1999-212, s. 4; 1999-456, s. 8.)

§ 1-539.2B. Double damages for injury to agricultural commodities or production systems; define value of agricultural commodities grown for educational, testing, or research purposes.

(a) Any person who unlawfully and willfully injures or destroys any other person's agricultural commodities or production system is liable to the owner for double the value of the commodities or production system injured or destroyed.

(b) For purposes of this section, the value of agricultural commodities that are grown for educational, testing, or research purposes includes all of the following:

- (1) The diminution in market value of the commodities when the commodities were grown for sale and the plaintiff is the entity who sold the commodities or would have sold the commodities but for their injury or destruction.
- (2) Costs to the plaintiff for research and development of the injured or destroyed commodities.
- (3) Other incidental and consequential damages proven to have been incurred by the plaintiff.

(c) For the purpose of this section, the following definitions apply:

- (1) "Agricultural commodities" means:
 - a. Commodities produced for individual and public use, consumption, and marketing from one of the following:

1. The cultivation of soil or hydroponics or any other method of production for crops, including fruits, vegetables, flowers, and ornamental plants.
 2. The planting and production of trees, timber, forests, or forest products.
 3. The raising of livestock, poultry, and eggs.
 4. Aquaculture as defined in G.S. 106-758.
- b. Seed, genetic material, tissue cultures, and any research and development materials, information, and records related to items included in subdivision (1)a. of this subsection developed or used for educational, testing, or research purposes.
- (2) "Production systems" means land, buildings, and equipment used in the production of agricultural commodities, including aquaculture facilities as defined in G.S. 106-758. (2001-290, s. 1.)

§ 1-539.2C. Damages for identity theft.

(a) Any person whose property or person is injured by reason of an act made unlawful by Article 19C of Chapter 14 of the General Statutes, or a violation of G.S. 75-66, may sue for civil damages. For each unlawful act, or each violation of G.S. 75-66, damages may be

- (1) In an amount of up to five thousand dollars (\$5,000), but no less than five hundred dollars (\$500.00), or
- (2) Three times the amount of actual damages,

whichever amount is greater. A person seeking damages as set forth in this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of this section. The court, in an action brought under this section, may award reasonable attorneys' fees to the prevailing party.

(b) If the identifying information of a deceased person is used in a manner made unlawful by Article 19C of Chapter 14 of the General Statutes, or by a violation of G.S. 75-66, the deceased person's estate shall have the right to recover damages pursuant to subsection (a) of this section.

(c) The venue for any civil action brought under this section shall be the county in which the plaintiff resides or any county in which any part of the alleged violation of G.S. 75-66, G.S. 14-113.20 or G.S. 14-113.20A took place, regardless of whether the defendant was ever actually present in that county. Civil actions under this section must be brought within three years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

(d) Civil action under this section does not depend on whether or not a criminal prosecution has been or will be instituted under Article 19C of Chapter 14 of the General Statutes for the acts which are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law. (2002-175, s. 8; 2005-414, s. 9; 2007-534, s. 3.)

§ 1-539.2D. Civil liability for acts of terror.

(a) The following definitions apply in this section:

- (1) Act of terror. – An activity with all of the following characteristics:
 - a. Involves violent acts or acts dangerous to human life that violate federal or State law.

- b. Appears to be intended (i) to intimidate or coerce a civilian population, (ii) to influence the policy of a government by intimidation or coercion, or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.
 - c. Occurs primarily within this State.
- (2) Terrorist. – A person who commits an act of terror, including a person who acts as an accessory before or after the fact, aids or abets, solicits, or conspires to commit an act of terror or who lends material support to an act of terror.

(b) Any person whose property or person is injured by a terrorist may sue for and recover damages from the terrorist.

(c) Any person who files an action under this section is entitled to recover three times the actual damages sustained or fifty thousand dollars (\$50,000), whichever is greater, as well as court costs and attorneys' fees in the trial and appellate courts if the person prevails in the claim.

(d) The rights and remedies provided by this section are in addition to any other rights and remedies provided by law. (2015-215, s. 1.)