

Article 75.

Protection and Development of Forests; Fire Control.

**§ 106-895. Powers of Department of Agriculture and Consumer Services.**

(a) The Department of Agriculture and Consumer Services may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(a1) The Department shall adopt Forest Practice Guidelines Related to Water Quality pursuant to G.S. 113A-52.1 of the Sedimentation Pollution Control Act.

(b) In this Article, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Agriculture.

(2) "Department" means the Department of Agriculture and Consumer Services. (1915, c. 243, s. 1; C.S., s. 6133; 1925, c. 122, s. 22; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 60; 1997-443, s. 11A.119(a); 2011-145, ss. 13.25(p), (q); 2017-108, s. 6(d).)

**§ 106-896. Forest rangers, deputy rangers, and emergency workers.**

The Commissioner or the Commissioner's designee may authorize as many forest rangers, deputy rangers, or emergency workers as the Commissioner deems necessary and available. For purposes of this Article, the following definitions apply:

(1) "Deputy ranger" means a highly trained emergency worker hired on a temporary basis to respond to a given emergency or condition. A deputy ranger shall be sworn or affirmed to the terms of "General Oath" as provided in G.S. 11-11. A deputy ranger shall have the powers and duties as enumerated in G.S. 106-899.

(2) "Emergency worker" means a person who is not an employee of the North Carolina Forest Service but is an individual serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency. Except for a deputy ranger, an emergency worker is not sworn or affirmed to the terms of "General Oath" provided in G.S. 11-11.

(3) "Forest ranger" means an employee of the North Carolina Forest Service who has been sworn or affirmed to the terms of "General Oath" provided in G.S. 11-11. A forest ranger shall have the powers and duties as enumerated in G.S. 106-898 and G.S. 106-899. (1915, c. 243, s. 2; C.S., s. 6134; 1925, c. 106, s. 1; c. 122, s. 22; 1927, c. 150, s. 1; 1935, c. 178, s. 1; 1951, c. 575; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 61; 2011-145, ss. 13.25(p), (q); 2017-108, s. 12(a).)

**§ 106-897. Forest laws defined.**

The forest laws consist of:

(1) G.S. 14-136 to G.S. 14-140;

(2) Articles 74 through 84 of this Chapter;

(3) G.S. 77-13 and G.S. 77-14;

- (4) Other statutes enacted for the protection of forests and woodlands from fire, insects, or disease and concerning obstruction of streams and ditches in forests and woodlands; and
- (5) Regulations and ordinances adopted under the authority of the above statutes. (1983, c. 327, s. 1; 2011-145, s. 13.25(p), (q).)

**§ 106-898. Duties of forest rangers; payment of expenses by State and counties.**

Forest rangers shall have charge of measures for controlling forest fires, protection of forests from pests and diseases, and the development and improvement of the forests for maximum production of forest products; shall post along highways and in other conspicuous places copies of the forest fire laws and warnings against fires, which shall be supplied by the Commissioner; shall patrol and man lookout towers and other points during dry and dangerous seasons under the direction of the Commissioner; and shall perform such other acts and duties as shall be considered necessary by the Commissioner in the protection, development and improvement of the forested area of each of the counties within the State. No county may be held liable for any part of the expenses thus incurred unless specifically authorized by the board of county commissioners under prior written agreement with the Commissioner; appropriations for meeting the county's share of such expenses so authorized by the board of county commissioners shall be provided annually in the county budget. For each county in which financial participation by the county is authorized, the Commissioner shall keep or cause to be kept an itemized account of all expenses thus incurred and shall send such accounts periodically to the board of county commissioners of said county; upon approval by the board of the correctness of such accounts, the county commissioners shall issue or cause to be issued a warrant on the county treasury for the payment of the county's share of such expenditures, said payment to be made within one month after receipt of such statement from the Commissioner. Appropriations made by a county for the purposes set out in Articles 75, 76, 78, and 82 of this Chapter in the cooperative forest protection, development and improvement work are not to replace State and federal funds which may be available to the Commissioner for the work in said county, but are to serve as a supplement thereto. Funds appropriated to the Department for a fiscal year for the purposes set out in Articles 75, 76, 78, and 82 of this Chapter shall not be expended in a county unless that county shall contribute at least twenty-five percent (25%) of the total cost of the forestry program. (1915, c. 243, s. 4; C.S., s. 6136; 1925, c. 106, s. 1; 1927, c. 150, s. 3; 1935, c. 178, s. 2; 1943, c. 660; 1947, c. 56, s. 1; 1951, c. 575; 1961, c. 833, s. 17; 1963, c. 312, s. 1; 1973, c. 1262, s. 86; 1975, c. 620, s. 1; 1977, c. 771, s. 4; 1983, c. 327, s. 2; 1989, c. 727, s. 62; 1991 (Reg. Sess., 1992), c. 1039, s. 23; 2011-145, s. 13.25(p), (q).)

**§ 106-899. Powers of forest rangers and deputy rangers to prevent and extinguish fires; authority to issue citations and warning tickets.**

(a) Forest rangers or deputy rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the Commissioner or his designate may establish a fire patrol in any district, and in case of fire in or threatening any forest or woodland, the forest ranger or deputy ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to

assist or to allow the use of equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy ranger, or person summoned by a forest ranger for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy ranger.

(b) Forest rangers are authorized to issue and serve citations under the terms of G.S. 15A-302 and warning tickets under the terms of G.S. 106-901 for offenses under the forest laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2. (1915, c. 243, s. 6; C.S., s. 6137; 1925, c. 106, ss. 1, 2; c. 240; 1927, c. 150, s. 4; 1951, c. 575; 1963, c. 312, s. 2; 1973, c. 108, s. 65; c. 1262, s. 86; 1975, c. 620, s. 2; 1977, c. 771, s. 4; 1983, c. 327, s. 3; 1989, c. 727, s. 63; 1993, c. 539, s. 832; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, ss. 13.25(p), (q); 2017-108, s. 12(b).)

#### **§ 106-900. Powers of Department of Agriculture and Consumer Services law-enforcement officers.**

The Commissioner is authorized to appoint as many Department of Agriculture and Consumer Services law enforcement officers as he or she deems necessary to investigate and enforce any violation of the laws within the authority of the Department or which occur on Department property. Such officers shall meet the requirements of Chapter 17C of the General Statutes and shall take the oath of office prescribed by Section 7 of Article VI of the North Carolina Constitution. Of these officers, the Commissioner may designate certain officers to also have the powers and the duties of a forest ranger enumerated in G.S. 106-898 and G.S. 106-899 and the power to enforce the forest laws. A Department law enforcement officer may arrest, without warrant, any person or persons committing any crime in the officer's presence or who such officer has probable cause for believing has committed a crime in the officer's presence and bring such person or persons forthwith before a district court or other officer having jurisdiction. Department law enforcement officers shall also have authority to obtain and serve warrants including warrants for violation of any duly promulgated rule of the Department. (1975, c. 620, s. 3; 1977, c. 771, s. 4; 1983, c. 327, s. 5; 1989, c. 727, s. 64; 2011-145, ss. 13.25(p), (q); 2014-103, s. 7.)

#### **§ 106-901. Warning tickets for violations of the forest laws.**

(a) To encourage the cooperation of the public in achieving the objectives of the forest laws, the Commissioner may provide for the issuance of warning tickets instead of the initiation of criminal prosecution by forest rangers and forest law-enforcement officers. Issuance of the warning tickets shall be in accordance with criteria administratively promulgated by the Commissioner within the requirements of this section. These criteria are exempt from Article 2A of Chapter 150B of the General Statutes.

- (b) No warning ticket may be issued unless all of the following conditions are met:
- (1) The forest ranger or the forest law-enforcement officer must be convinced that the offense was not committed intentionally.
  - (2) The offense is not one, or a type of offense, for which the Commissioner has prohibited the issuance of warning tickets.

(3) At the time of the violation it was not reasonably foreseeable that the conduct of the offender could result in any significant destruction of forests or woodlands or constitute a hazard to the public.

(c) A warning ticket may not be issued if the offender has previously been charged with, or issued a warning ticket for, the same or a similar offense within the preceding three years. A list of persons who have been issued warning tickets under this section within the preceding three years shall be maintained and periodically updated by the Commissioner.

(d) This section does not entitle any person who has committed an offense to the right to be issued a warning ticket, and the issuance of a warning ticket does not prohibit the later initiation of criminal prosecution for the same offense for which the warning ticket was issued. (1983, c. 327, s. 6; 1987, c. 827, s. 6; 2000-189, s. 8; 2011-145, s. 13.25(p), (q).)

#### **§ 106-902. Compensation of forest rangers, deputy rangers, and emergency workers.**

Forest rangers, deputy rangers, and emergency workers shall receive compensation from the Department at a reasonable rate to be fixed by said Department for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the Commissioner every month, and approved by him. Forest rangers shall render to the Commissioner a statement of the services rendered by the men employed by them or their deputy rangers, as provided in this Article, within one month of the date of service, which bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the Commissioner. If said bill be duly approved by the Commissioner, it shall be paid by direction of the Department out of any funds provided for that purpose. (1915, c. 243, s. 7; C.S., s. 6138; 1924, c. 60; 1925, c. 106, ss. 1, 3; c. 122, s. 22; 1947, c. 56, s. 2; 1951, c. 575; 1963, c. 312, s. 3; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1989, c. 727, s. 65; 2011-145, ss. 13.25(p), (q); 2017-108, s. 12(c).)

#### **§ 106-903. Overtime compensation for forest fire fighting.**

The Department shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the North Carolina Forest Service involved in fighting forest fires. (1983, c. 761, s. 119; 1989, c. 727, s. 66; 2005-386, s. 1.5; 2011-145, s. 13.25(p); 2013-155, s. 13.)

#### **§ 106-904. Woodland defined.**

For the purposes of this Article, woodland is taken to include all forest areas, both timber and cutover land, and all second-growth stands on areas that have at one time been cultivated. (1915, c. 243, s. 11; C.S., s. 6139; 2011-145, s. 13.25(p).)

#### **§ 106-905. Misdemeanor to destroy posted forestry notice.**

Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the Commissioner, under the provisions of this Article, or any other act which may be passed for the purpose of protecting and developing the forests in this State, shall be guilty of a Class 3 misdemeanor. (1915, c. 243, s. 5; C.S., s. 6140;

1963, c. 312, s. 4; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 67; 1993, c. 539, s. 833; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 13.25(p), (q).)

**§ 106-906. Cooperation between counties and State in forest protection and development.**

The board of county commissioners of any county is hereby authorized and empowered to cooperate with the Department in the protection, reforestation, and promotion of forest management of their own forests within their respective counties, and to appropriate and pay out of the funds under their control such amount as is provided in G.S. 106-898. (1921, c. 26; C.S., s. 6140(a); 1925, c. 122, s. 22; 1945, c. 635; 1963, c. 312, s. 5; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 68; 2011-145, s. 13.25(p), (q).)

**§ 106-907. Instructions on forest preservation and development.**

(a) It shall be the duty of all forest rangers provided for in this Chapter to distribute in all of the public schools and high schools of the county in which they are serving as such forest rangers all such tracts, books, periodicals and other literature that may, from time to time, be sent out to such rangers by the State and federal forestry agencies touching or dealing with forest preservation, development, and forest management.

(b) It shall be the duty of the forest rangers herein mentioned under the direction of the Commissioner, and the duty of the teachers of the various schools, both public and high schools, to keep posted at some conspicuous place in the various classrooms of the school buildings such appropriate bulletins and posters as may be sent out from the forestry agencies herein named for that purpose and keep the same constantly before their pupils; and said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the State, the development and scientific management of the forests of the State, and shall be prepared to give practical instruction to their pupils from time to time and as often as they shall find it possible so to do. (1925, c. 61, s. 3; 1951, c. 575; 1963, c. 312, s. 6; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 69; 2011-145, ss. 13.25(p), (q); 2017-108, s. 12(d).)

**§ 106-908. Authority of Governor to close forests and woodlands to hunting, fishing and trapping.**

During periods of protracted drought or when other hazardous fire conditions threaten forest and water resources and appear to require extraordinary precautions, the Governor of the State, upon the joint recommendation of the Commissioner and the Executive Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

- (1) Close any or all of the woodlands and inland waters of the State to hunting, fishing and trapping for the period of the emergency.
- (2) Forbid for the period of the emergency the building of campfires and the burning of brush, grass or other debris within 500 feet of any woodland in any county, counties, or parts thereof.
- (3) Close for the period of the emergency any or all of the woodlands of the State to such other persons and activities as he deems proper under the circumstances, except to the owners or tenants of such property and their agents and employees, or persons holding written permission from any owner or his recognized agent to enter thereon for any lawful purpose other than hunting, fishing or trapping.

(1953, c. 305; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 70; 2011-145, s. 13.25(p), (q).)

**§ 106-909. Publication of proclamation; annulment thereof.**

Such proclamation shall become effective 24 hours after certified time of issue, and shall be published in such newspapers and posted in such places and in such manner as the Governor may direct. It shall be annulled in the same manner by another proclamation by the Governor when he is satisfied, upon joint recommendation of the Commissioner and the Executive Director of the North Carolina Wildlife Resources Commission, that the period of the emergency has passed. (1953, c. 305; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 71; 2011-145, s. 13.25(p), (q).)

**§ 106-910. Violation of proclamation a misdemeanor.**

Any person, firm or corporation who enters upon any woodlands or inland waters of the State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush, grass or other debris within 500 feet of any woodland, after a proclamation has been issued by the Governor forbidding such activities, or who violates any other provisions of the Governor's proclamation with regard to permissible activities in closed woodlands shall be guilty of a Class 1 misdemeanor. (1953, c. 305; 1993, c. 539, s. 834; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 13.25(p).)

**§ 106-911. Annual report on wildfires.**

No later than October 1 of each year, beginning October 1, 2012, the Commissioner shall submit a written report on wildfires in the State to the chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division of the General Assembly. The report shall include the following information for all major or project wildfires during the prior fiscal year:

- (1) The date, location, and impacts (property damage and any casualties) from the wildfire.
- (2) The following data for firefighters and related support personnel involved in fighting the wildfire:
  - a. Total overtime hours worked.
  - b. Total compensation paid for overtime.
  - c. The portion of compensation paid that was reimbursed to the State.
- (3) The fiscal impact of the wildfire, including total costs, reimbursable costs, and costs incurred by the State. (2012-142, s. 11.2.)

**§ 106-912:** Reserved for future codification purposes.

**§ 106-913:** Reserved for future codification purposes.

**§ 106-914:** Reserved for future codification purposes.

§ **106-915**: Reserved for future codification purposes.

§ **106-916**: Reserved for future codification purposes.

§ **106-917**: Reserved for future codification purposes.

§ **106-918**: Reserved for future codification purposes.

§ **106-919**: Reserved for future codification purposes.