

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 748
SENATE BILL 678

AN ACT TO ESTABLISH PENALTIES FOR THE CRIMINALLY NEGLIGENT
USE OF A FIREARM WHILE HUNTING.

Whereas, despite the decrease in the number of hunting accidents resulting in death or bodily injury, there is increased public concern over the safe handling of firearms by persons engaged in the hunting of wild animals and wild birds; and

Whereas, numerous members of the general public have requested increased assurance that hunters are acting responsibly in the handling of firearms; and

Whereas, the vast majority of licensed hunters in North Carolina wish to encourage safe handling of firearms among the hunting public, and to police the hunting public in order to remove the negative impact of the small number of careless hunters; and

Whereas, the hunting public has expressed its recognition of the hunter's obligation to exercise reasonable care in the discharge of a firearm; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 21B.

"Criminally Negligent Hunting.

"§ 113-290. Unlawful use of firearms.

It is unlawful for any person, while hunting or taking wild animals or wild birds as those terms are defined in G.S. 113-129 and G.S. 113-130, to discharge a firearm:

- (1) Carelessly and heedlessly in wanton disregard for the safety of others;
or
- (2) Without due caution or circumspection, and in a manner so as to endanger any person or property;

and resulting in property damage or bodily injury.

"§ 113-290.1. Penalties.

(a) A person who violates the provisions of this Article is guilty of a misdemeanor punishable as follows:

- (1) If property damage only results from the unlawful activity, a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000), or imprisonment not to exceed 60 days, or both, in the discretion of the court, and the court shall order the payment of restitution to the property owner;

- (2) If bodily injury not leading to the disfigurement or total or partial permanent disability of another person results from the unlawful activity, a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000), or imprisonment not to exceed two years, or both, in the discretion of the court; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner;
- (3) If bodily injury leading to the disfigurement or total or partial permanent disability of another person results from the unlawful activity, a fine of not less than seven hundred fifty dollars (\$750.00) nor more than two thousand dollars (\$2,000), and imprisonment for not less than 15 days nor more than two years; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner;
- (4) If death results from the unlawful activity, a fine of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), and imprisonment for not less than 30 days nor more than two years; if property damage also results from the unlawful activity, the court shall order the payment of restitution to the property owner.

(b) The fact that a person was impaired at the time of a violation of this Article shall be an aggravating factor and the court shall impose an additional fine and/or imprisonment in accordance with (a)(2) above in cases not resulting in bodily injury and in accordance with (a)(4) above in cases resulting in bodily injury. For purposes of this section, 'impaired' means being under the influence of an impairing substance, or having consumed sufficient alcohol so that the person has, at any relevant time after the offense, an alcohol concentration of .10 or above.

(c) In addition to the penalties provided in (a), upon conviction of a violation of this Article, the Wildlife Resources Commission shall suspend all hunting privileges of:

- (1) A person convicted under (a)(1) for one year;
- (2) A person convicted under (a)(2) for three years; and
- (3) A person convicted under (a)(3) or (a)(4) for five years.

(d) A person convicted of hunting or taking wild animals or wild birds while his hunting license is suspended under this section shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000), or imprisoned not to exceed two years, or both, and shall have all hunting privileges suspended for an additional five years. The person shall not be issued another hunting license until he has satisfactorily completed the hunter safety course established in G.S. 113-270.1A.

(e) This Article shall be enforced by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

(f) A violation of this Article resulting in the death of another person constitutes a separate and distinct offense from, and is not a lesser included offense of, the crime of involuntary manslaughter."

Sec. 2. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives