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CHAPTER 1.

 GENERAL PROVISIONS

**SECTION 50‑1‑5.** Definitions.

For the purposes of Title 50, unless the context clearly indicates otherwise:

(1) “Board” means the governing body of the department.

(2) “Department” means the South Carolina Department of Natural Resources.

(3) “Director” means the administrative head of the department, appointed by the board.

(4) “Enforcement officer” means an enforcement officer of the Natural Resources Enforcement Division of the department.

**SECTION 50‑1‑10.** Wild birds, wild game, and fish are property of State.

All wild birds, wild game, and fish, except fish in strictly private ponds and lakes and lakes entirely segregated from other waters or held and grown in bonafide aquaculture operations are the property of the State.

**SECTION 50‑1‑20.** “Hunters” and “hunting” defined.

The word “hunters” in the game laws of this State providing punishment shall not be construed so as to include persons who, without guns, assist others with dogs and horses or in the finding or retrieving of birds nor shall any such activity be deemed to constitute “hunting” within the meaning of such laws.

**SECTION 50‑1‑30.** Classifications of birds, animals, and fish.

For the purpose of Chapters 1 through 19 of this title the following classifications shall be recognized:

(1) Game birds.‑‑mourning dove, bob white quail, ruffed grouse, wild turkey, Wilson snipe, woodcock, the Anatidae (commonly known as goose, brant, and duck), and the Rallidae (commonly known as marsh hen, coot, gallinule, and rail).

(2) English sparrow, pigeon, and starling. These birds are unprotected by South Carolina law.

(3) Nongame birds.‑‑All native birds not named in items (1) and (2) of this section are nongame birds and shall not be destroyed in any manner at any time, except as otherwise provided by law.

(4) “Game animals”. Beaver, black bear, bobcat, white‑tailed deer, fox, mink, muskrat, opossum, otter, rabbit, raccoon, skunk, squirrel, and weasel.

(5) Game fish. Bream: bluegill, redear or shellcracker or government bream, copperface or bald bream, redbreast, pumpkinseed or redeye bream, green sunfish, longear sunfish, orangespotted sunfish, stumpknocker, warmouth or flyer; blackbass; largemouth bass, smallmouth bass or coosae bass; striped bass or rockfish; white bass; hybrid striped bass‑white bass; crappie; walleye or sauger; jackfish, pickerel or redfin trout; rainbow, brown or brook trout; and yellow perch.

(6) Saltwater gamefish. Spotted seatrout (winter trout) Cynoscion nebulosus; red drum (channel bass) Sciaenops ocellatus; tarpon Megalops atlanticus; and any species of billfish of the Family Istiophoridae.

**SECTION 50‑1‑40.** Stocked or released exotic game birds.

All species of the pheasants and the francolins that have been stocked or may be released by the department are hereby classified as game birds in this State, along with any other game bird species that the department may select for release in this State; provided, that any such species that may not adapt itself to environmental conditions in this State after extensive trial may be removed from the game bird list.

**SECTION 50‑1‑60.** Division of State into game zones.

For the purpose of protection and management of wildlife, the State is divided into six zones:

(1) Game Zone 1 consists of all properties north of the main line of the Norfolk Southern Railroad from the Georgia state line to South Carolina Highway 183 in Westminster, then north of South Carolina Highway 183 to intersection of South Carolina Highway 183 and the Norfolk Southern Railroad main line in Greenville and then north of the main line of the Norfolk Southern Railroad to the Spartanburg County Line.

(2) Game Zone 2 consists of the counties of Abbeville, Anderson, Chester, Cherokee, Edgefield, Fairfield, Greenwood, Lancaster, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, York; and those portions of the counties of Greenville, Oconee, and Pickens south of the main line of the Norfolk Southern Railroad from the Georgia state line to South Carolina Highway 183 in Westminster, then south of South Carolina Highway 183 to the intersection of South Carolina Highway 183 and the Norfolk Southern Railroad main line in Greenville and then south of the main line of the Norfolk Southern Railroad to the Spartanburg County Line.

(3) Game Zone 3 consists of the counties of Aiken, Lexington, and Richland.

(4) Game Zone 4 consists of the counties of Chesterfield, Dillon, Florence, Horry, Kershaw, Marion, and Marlboro.

(5) Game Zone 5 consists of the counties of Clarendon, Darlington, Georgetown, Lee, Sumter, and Williamsburg.

(6) Game Zone 6 consists of the counties of Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Orangeburg, and Jasper.

**SECTION 50‑1‑70.** Application of game laws to zones.

All laws of this State in force on April 24, 1952, affecting game shall, until changed, apply to all of the zones of the State, and all laws of the State thereafter enacted shall apply to the entire State except where otherwise specified.

**SECTION 50‑1‑80.** Peace officers to assist in enforcement of game and fish laws.

It shall be the positive duty of all sheriffs, deputy sheriffs, constables, rural policemen and special officers to actively cooperate with the department in the enforcement of the game and fish laws of the State.

**SECTION 50‑1‑85.** Use of firearms or archery tackle in criminally negligent manner; penalties; seizure of license; disposition of monetary penalties.

It is unlawful for any person to use a firearm or archery tackle while in preparation for, engaged in the act of, or returning from hunting in a criminally negligent manner. Criminal negligence is defined as the reckless disregard for the safety of others.

A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be:

(1) in a case where no personal injury or property damage occurs, fined not more than two hundred dollars or imprisoned for not more than thirty days;

(2) in the case of property damage only, fined not more than one thousand dollars nor less than five hundred dollars or imprisoned for not more than six months, and the court must order restitution to the owner of the property;

(3) in the case of bodily injury to another, fined not less than five hundred dollars nor more than two thousand, five hundred dollars or imprisoned for not more than two years; if the bodily injury results in disfigurement, total or partial permanent disability, be imprisoned for not less than sixty days nor more than two years;

(4) in the case of death, be imprisoned for not less than three months nor more than three years.

No part of the minimum fines and penalties provided in this section may be suspended by any court in this State.

In addition to the criminal penalties provided above, the department must seize immediately the license of a person charged under this section and, upon conviction, the hunting privileges of a person convicted under item (1) or (2) above must be suspended for one year. A person convicted under item (3) of this section shall lose his privilege to hunt for three years, and a person convicted under item (4) of this section shall lose the privilege of hunting for five years.

A person convicted of hunting while his license is suspended under the provisions of this section must be fined not less than five hundred dollars nor more than two thousand, five hundred dollars or imprisoned for not more than two years and shall have his hunting privileges suspended for an additional five years.

The person may not obtain another hunting license until he has completed satisfactorily a hunter’s safety program conducted by the department.

All monetary penalties shall be remitted to the South Carolina Victim’s Compensation Fund.

**SECTION 50‑1‑90.** Hunting, fishing, or trapping without consent on lands of others.

If any person, at any time whatsoever, shall hunt or range on any lands or shall enter thereon, for the purpose of hunting, fishing or trapping, without the consent of the owner or manager thereof, such person shall be guilty of a misdemeanor and, upon conviction thereof shall, for a first offense, be fined not more than two hundred dollars or imprisoned for not more than thirty days, for a second offense, be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days and, for a third or subsequent offense, be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than six months or both. A first or second offense prosecution resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the communications and records division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency may inquire into whether or not a defendant has a prior record. Only those offenses which occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

**SECTION 50‑1‑100.** Fishing or hunting on banks of navigable stream without landowner’s permission.

It shall be unlawful to fish or hunt from the banks of a navigable stream without the permission of the owner of the land, and such permit must be in writing should the owner not be within one mile of the place where the person may be caught in the act of so fishing or hunting.

**SECTION 50‑1‑110.** Disposition of game and fish unlawfully caught, taken, or killed.

Wildlife unlawfully taken, shipped, or received for shipment, or found in the possession or under control of a person, which comes into the possession of the department and wildlife legally taken which comes into possession of the department may be disposed of in the discretion of the department. No wildlife coming into the possession of the department may be transferred to or used by a department employee or member of his family for personal use.

**SECTION 50‑1‑125.** Wildlife defined; penalties for trafficking in wildlife.

Wildlife, as used in this section, means a wild animal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal, or product, egg, offspring, or the dead body parts of the wildlife.

A person illegally buying, selling, trading, trafficking, or bartering any wildlife, upon conviction, must be punished as follows:

(1) For the first offense, if the money or other consideration exchanged for the wildlife is of a value of two hundred dollars or less, the penalty must be a fine of not more than two hundred dollars or imprisonment for no more than thirty days.

(2) For the first offense, if the money or other consideration exchanged for the wildlife is of a value of more than two hundred dollars, the penalty must be a fine of not less than five hundred dollars nor more than five thousand dollars or imprisonment for not less than thirty days nor more than one year, or both. In addition, the person convicted shall lose his hunting and fishing privileges for one year from the date of conviction.

(3) For a second offense, within three years of the first offense, the fine must be not less than one thousand dollars nor more than five thousand dollars or imprisonment for not less than thirty days nor more than one year. In addition to this penalty, the person shall lose his hunting and fishing privileges for three years.

(4) For a third or subsequent offense, within three years of the last previous conviction, the fine must be five thousand dollars, no part of which may be suspended, or imprisonment for one year, or both. In addition to this penalty, the person shall lose his hunting and fishing privileges for three years from the date of conviction.

**SECTION 50‑1‑130.** General penalties.

Unless a different penalty is specified, any person who violates a provision of this title is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not less than ten days nor more than thirty days.

**SECTION 50‑1‑135.** Effect of forfeiture of bail, guilty plea, or plea of nolo contendere for violation of fish and game laws.

The entry of any plea of guilty, the forfeiture of any bail posted, or the entry of plea of nolo contendere for a violation of the fish and game laws of this State has the same effect as a conviction. In any case where bail is posted by the defendant, no forfeiture of bail becomes effective until ten days following the date of arrest nor may the defendant be required to plead prior to the elapse of the ten‑day period. The provisions of this section may not be construed to prohibit a defendant from voluntarily entering a plea or forfeiting bail within the ten‑day period.

**SECTION 50‑1‑136.** Penalties for conspiracy.

(A) Notwithstanding the provisions of Section 16‑17‑410 a person who conspires to violate any provision of the game and fish laws of this State or other provision of Title 50, except the provisions of the Federal Migratory Bird Treaty Act or its regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(B) A person who conspires to violate two or more provisions of the game and fish laws of this State or other provision of Title 50, except the provisions of the Federal Migratory Bird Treaty Act or its regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than one year, or both.

(C) In addition to the criminal penalty, a person convicted under this section shall have his privilege to hunt or fish either recreationally or commercially revoked for one year.

**SECTION 50‑1‑137.** Impeding or obstructing hunting, trapping, fishing, or harvesting of marine species unlawful; penalty.

It is unlawful for a person wilfully to impede or obstruct another person from lawfully hunting, trapping, fishing, or harvesting marine species. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished as provided by Section 50‑1‑130. In addition to the criminal penalty, any person convicted must have his privilege to hunt, trap, fish, or harvest marine species recreationally or commercially revoked for one year.

**SECTION 50‑1‑140.** Receiving portion of fine imposed for violation of game and fish laws.

It shall be unlawful for any enforcement officer or any person to receive any portion of a fine imposed by any court for the violation of the game and fish laws of the State.

**SECTION 50‑1‑160.** Disposition of portion of nonresident hunters’ license fees.

One dollar of each nonresident hunter’s license fee collected and fifty cents of each temporary nonresident hunter’s license fee collected shall be used by the department for propagation, management and control of ducks and geese in this State and a like portion of such license fees shall be contributed by the department to proper agencies in Canada for propagation, management and control of ducks and geese.

**SECTION 50‑1‑180.** Consent of General Assembly to Congressional rulemaking.

The consent of the General Assembly is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the Federal Government shall determine to be needful in respect to game animals, game birds and nongame birds and fish on such lands in this State as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled “An Act to Enable any State to Cooperate with any other State or States, or with the United States for the Protection of the Watersheds of Navigable Streams and to Appoint a Commission for the Acquisition of Lands for the Purpose of Conserving the Navigability of Navigable Rivers” (36 United States Statutes at large, page 961) and acts of Congress supplementary thereto and amendatory thereof.

**SECTION 50‑1‑190.** Agreements with United States respecting wildlife of national forest lands.

The department may enter into a cooperative agreement with the United States Government, or with the proper authorities thereof, for the protection and management of the wildlife resources of the national forest lands within the State and for the restocking of such lands with desirable species of game, birds and other animals and fish.

**SECTION 50‑1‑200.** Powers of department over national forest lands.

The department may close all hunting and fishing within such lands so contracted for with the Federal Government for such period of time as may, in the opinion of the department, be necessary. The department may from time to time prescribe the season for hunting and fishing therein, fix the amount of fees required for special hunting and fishing licenses and issue such licenses, prescribe the number of animals and game, fish and birds that may be taken therefrom and the size thereof and prescribe the conditions under which they may be taken.

**SECTION 50‑1‑210.** Violation of department rules pertaining to national forest lands.

Any person violating any of the regulations promulgated by the department or who hunts or fishes upon the lands at any time, other than those times specified by the department, must, upon conviction of the violations, be fined not more than two hundred dollars or imprisoned for not more than thirty days for each and every offense.

**SECTION 50‑1‑220.** Application of Sections 50‑1‑180 to 50‑1‑230 to other federal or state lands.

The provisions of Sections 50‑1‑180 to 50‑1‑230 shall also apply to (a) other properties of the United States Government, (b) any other properties acquired or to be acquired from the United States Government by the State or (c) any other lands or waters purchased by the United States or the State. But hunting and fishing shall not be allowed on any lands under the control or ownership of the State Commission of Forestry except by written agreement with that Commission. Nothing contained in such sections shall interfere in any manner with the use and management of lands by a state agency in charge of such lands in the functions of such agency as authorized by law.

**SECTION 50‑1‑240.** Assent to act of Congress providing aid for wildlife restoration projects; implementation of act.

The State hereby assents to the provisions of the act of Congress entitled “An Act to Provide that the United States Shall Aid the States in Wildlife Restoration Projects, and for Other Purposes,” approved September 2, 1937 (Public Law No. 415, 75th Congress), and acts supplementary thereto or amendatory thereof, and the department shall perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in such act of Congress, in compliance with such act and with rules and regulations promulgated by the Secretary of Agriculture thereunder.

**SECTION 50‑1‑250.** Acquiring rights of way to certain waters for public use.

The department may contract with owners of land contiguous to the Catawba River and its tributaries for rights of ingress and egress to such waters over and upon such lands for the use of the public who wish to go lawfully upon said stream and waters. Such rights of way shall be leased for such terms as the landowners and the department shall agree upon and compensation for them, if need be, may be paid from the game fund of York County. The purpose of this provision is to make sure that the public have reasonable access to the waters above referred to.

**SECTION 50‑1‑260.** Vandalizing property seized by department.

It is unlawful to vandalize, tamper with, or enter on or into watercraft, vehicles, devices, or pieces of equipment seized and held as required or permitted by law by the department. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days. Magistrates have jurisdiction of violations of this section. The department shall attach a notice to each unit of impounded property stating the prohibition and the penalties for violations.

**SECTION 50‑1‑270.** Liability for gross destruction or injury to wildlife, aquatic life, endangered or threatened species, or state lands or waters.

(A) A person or public or private entity is liable to the State for the unlawful gross destruction of or injury to wildlife, aquatic life, endangered or threatened species, or the lands or waters owned by the State. For a deliberate or grossly negligent act, the State must be awarded damages of three times the value of the resource affected, plus costs, including attorney’s fees. Monies paid in satisfaction of these claims must be used to restore, replenish, or enhance wildlife, aquatic life, endangered or threatened species, or the lands or waters owned by the State. For purposes of this section, the injury or damages must be caused by other than pollution.

(B) The department is the agency primarily responsible for the enforcement and implementation of this section. Other state agencies and governmental entities shall cooperate with the department in an effort to investigate the causes of the destruction or injury and shall assist in collecting the appropriate damages.

(C) This section does not apply to ordinary agricultural practices.

**SECTION 50‑1‑280.** Nongame Wildlife and Natural Areas Fund.

(A) The State Treasurer shall credit the total amount transferred by the South Carolina Department of Revenue pursuant to Section 12‑6‑5060 to the Nongame Wildlife and Natural Areas Fund established in this section.

(B) There is established a special fund to be known as the “Nongame Wildlife and Natural Areas Fund” consisting of all monies transferred to it under this section, donations to the Nongame and Endangered Species or Heritage Trust Programs of the department, and all interest earned in the fund.

(C) All balances in the Nongame Wildlife and Natural Areas Fund must be carried forward each year so that no part of the fund reverts to the general fund of the State.

(D) The department may expend monies held in the Nongame Wildlife and Natural Areas Fund in furtherance of its Nongame and Endangered Species Programs, Heritage Trust Programs, and for related educational projects and programs.

(E) Revenues produced pursuant to Section 12‑6‑5060 are supplemental and are in no way intended to take the place of funding that would otherwise be appropriated for these purposes.

**SECTION 50‑1‑285.** Admissibility of photographs; authentication.

In any prosecution for a violation of state fish, game, wildlife, or natural resources laws, photographs of either wildlife or fish alleged to have been taken, possessed, sold, transported, or imported illegally are considered competent evidence of the wildlife or fish and are admissible if properly authenticated in any proceeding of the case to the same extent as if the wildlife or fish had been introduced as evidence. The photographer shall affix his signature and the date to the back of each photograph for identification purposes. When the photograph is so identified, is authenticated, and is admitted, it shall constitute substantive evidence.

**SECTION 50‑1‑290.** Unlawful to buy, sell, or possess for sale protected native wildlife; penalty.

It is unlawful to buy, sell, trade, or barter or offer for sale or offer to buy any protected wild mammals and birds or parts of mammals or birds except as specifically allowed by this title. Except as otherwise provided by law, this section shall not apply to the sale of rabbits and grey squirrels taken during the legally established seasons. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars and not more than five hundred dollars or imprisoned up to thirty days.

**SECTION 50‑1‑295.** Removing or defacing buoys marking areas or bottoms; penalty.

A person removing, defacing, injuring, or otherwise disturbing signs, buoys, or other devices used by the department in marking areas or bottoms or used by department permittees for marking permitted areas or who injures or destroys any departmental real or personal property in either fresh or salt water or adjacent wetlands, is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

**SECTION 50‑1‑300.** Promulgation of regulations.

Unless specifically authorized, all regulations promulgated under the authority of this title must be promulgated in accordance with the Administrative Procedures Act.

**SECTION 50‑1‑310.** Mitigation Trust Fund.

(A) The Mitigation Trust Fund of South Carolina is created for the purposes of receiving gifts, grants, contributions, and other proceeds for mitigation projects in the State. The Board of Trustees for the Mitigation Trust Fund is the Chairman and the members of the South Carolina Department of Natural Resources Board with full authority over the administration of the funds deposited in the fund. The State Treasurer is the custodian of the fund and shall invest its assets in an interest‑bearing account pursuant to South Carolina law.

(B) The Mitigation Trust Fund may receive appropriations of state general funds, federal funds, donations, gifts, bond‑issue receipts, securities, and other monetary instruments of value. Reimbursement for monies expended from this fund must be deposited in this fund. Funds received through sale, exchange, or otherwise, of products of the property including, but not limited to, timber and utility easement rights, accrue to the Mitigation Trust Fund. Funds recovered for losses or damages to natural resources must be deposited to the Mitigation Trust Fund to be used first for restoration in the areas affected and then as provided in subsection (C) of this section.

(C) The income received and accruing from the fund must be spent only for the acquisition, restoration, enhancement, or management of property for mitigation for adverse impacts to natural resources.

(D) The Trustees of the Mitigation Trust Fund are authorized to disburse funds to the South Carolina Center for Birds of Prey to fund construction of the Avian Conservation Center in Charleston County.

(E) The proceeds from this fund may be carried forward from year to year and do not revert to the general fund of the State.