

**§ 113-209. Taking polluted shellfish at night or with prior conviction forbidden; penalty.**

(a) It is unlawful for any person between sunset and sunrise to willfully take or attempt to take shellfish from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.

(b) It is unlawful for any person to willfully possess, sell or offer for sale shellfish taken between sunset and sunrise from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.

(c) It is unlawful for any person who has been convicted of an offense under this Chapter within the preceding two years involving shellfish taken from areas closed because of suspected pollution to willfully take, attempt to take, possess, sell or offer for sale shellfish from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.

(d) Any person violating any provisions of this section shall be guilty of a Class I felony which may include a fine no less than two thousand five hundred dollars (\$2,500). Upon conviction of any person for a violation of this section, the court shall order the confiscation of all weapons, equipment, vessels, vehicles, conveyances, fish, and other evidence, fruit, and instrumentalities of the offense. The confiscated property shall be disposed of in accordance with G.S. 113-137. (1989, c. 275, s. 1; 1993, c. 539, s. 1301; 1994, Ex. Sess., c. 24, s. 14(c).)