

§ 106-202.19. Unlawful acts; penalties; enforcement.

(a) Unless the conduct is covered under some other provision of law providing greater punishment, it is unlawful to engage in any of the following conduct:

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial use.
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the Board.
- (3) To violate any rule of the Board promulgated under this Article.
- (4) Repealed by Session Laws 2012-200, s. 18, effective October 1, 2012.
- (5) To buy ginseng outside of a buying season as provided by the Board without obtaining the required documents from the person selling the ginseng.
- (6) To buy ginseng for the purpose of resale or trade without holding a currently valid permit as a ginseng dealer.
- (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from another person's land ginseng, galax, or Venus flytrap without a written permit from the owner that is dated and valid for no more than 180 days. A person in lawful possession of the land who has a recorded lease which allows for the disturbance or removal of any vegetation on the land is not subject to this subdivision.
- (6b) To buy galax outside of a buying season as provided by the Board without obtaining the required documents from the person selling the galax.
- (6c) To buy Venus flytrap outside of a buying season as provided by the Board without obtaining the required documents from the person selling the Venus flytrap.
- (6d) To buy more than five pounds of galax for the purpose of resale or trade without a copy of the landowner's written permission and confirmation of the collection date.
- (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade unless fully compliant with applicable regulations.
- (7) To fail to keep records as required under this Article, to refuse to make records available for inspection by the Board or its agent, or to use forms other than those provided for the current year or harvest season by the Department of Agriculture and Consumer Services.
- (8) To provide false information on any record or form required under this Article.
- (9) To make false statements or provide false information in connection with any investigation conducted under this Article.
- (10) To possess any protected plant, or part thereof, which was obtained in violation of this Article or any rule adopted under this Article.
- (11) To violate a stop sale order issued by the Board or its agent.

(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor. Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person

continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(a2) A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person guilty of violating this Article a second or subsequent time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The Commissioner or any employee or agent of the Department of Agriculture and Consumer Services designated by the Commissioner to enforce the provisions of this Article, may enter any place within the State at all reasonable times where plant materials are being grown, transported, or offered for sale and require the presentation for inspection of all pertinent papers and records relative to the provisions of this Article, after giving notice in writing to the owner or custodian of the premises to be entered. If he refuses to consent to the entry, the Commissioner may apply to any district court judge and the judge may order, without notice, that the owner or custodian of the place permit the Commissioner to enter the place for the purposes herein stated and failure by any person to obey the order may be punished as for contempt.

(c) The Commissioner of Agriculture is authorized to apply to the superior court for, and the court shall have jurisdiction upon hearing and, for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of G.S. 106-202.19(a), regardless of whether there exists an adequate remedy at law. (1979, c. 964, s. 1; 1989, c. 508, s. 2; 1993, c. 539, s. 749; 1994, Ex. Sess., c. 24, s. 14(c); 1997-261, ss. 40, 41; 1998-215, s. 9; 2001-487, s. 43(b); 2007-456, ss. 4, 5; 2012-200, s. 18.)