

FOREST LAWS

IN SOUTH CAROLINA

Eighth Edition, 2017



South Carolina

Forestry Commission

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SECTION 1: GENERAL FORESTRY LAWS

TITLE 48, CHAPTER 23 SOUTH CAROLINA RIGHT TO PRACTICE FORESTRY ACT

48-23-205. Local regulation of development affecting forest land.

A. For purposes of this section:

1. “Development” means any activity, including timber harvesting that is associated with the conversion of forest land to nonforest or nonagricultural use;
2. “Forestland” means land supporting a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses or for other purposes;
3. “Forest management plan” means a document or documents prepared or approved by a forester registered in this state that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or a potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes;
4. “Forestry activity” includes, but is not limited to, timber harvest, site preparations, control burning, tree planting, applications of fertilizers, herbicides, pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and animal other general accepted forestry practices.

B. A county or municipality must not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forest land that is:

1. Taxed on the basis of its present use value as forest under Section 12-43-220(d);
2. Managed in accordance with a forest management plan;

3. Certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm Systems, or any other nationally recognized forest certification system;
 4. Subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or
 5. Managed and harvested in accordance with the best management practices established by the State Commission of Forestry pursuant to Section 48-36-30.
- C. This section does not limit, expand, or otherwise alter the authority of a county or a municipality to:
1. Regulate activities associated with development, provided that a county or municipality requires a deferral of consideration of an application for a building permit, a site disturbance or a subdivision plan, or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use, the deferral may not exceed a period of up to:
 - a. One year after completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B); or
 - b. Five years after the completion of a timber harvest, if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision in item (1), and the removal qualified for an exemption contained in subsection (B) for which the permit or approval is sought and the harvest was a willful violation of the county regulation;
 2. Regulate trees pursuant to any act of the General Assembly;
 3. Adopt ordinances that are necessary to comply with any Federal or State law, regulation, or rule; or

4. Exercise its development permitting, planning, or zoning authority as provided by law.
- D.** A person whose application for a building permit, a site disturbance, or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in section may appeal the decisions to the appropriate governmental authority.

TITLE 48, CHAPTER 33 SOUTH CAROLINA FOREST FIRE PROTECTION ACT

48-33-10. Short Title.

This chapter shall be cited as the “South Carolina Forest Fire Protection Act.”

48-33-20. “Forest Land” defined.

For the purposes of this chapter all lands shall be construed as “forest land” which have enough forest growth, standing or down, or have sufficient inflammable debris or, outside of corporate limits, to constitute, in the judgement of the State Commission of Forestry, a fire menace to itself or adjoining lands.

48-33-30. “Forest Fire” defined.

The term “forest fire” as used in this chapter, means any fire burning uncontrolled on any land covered wholly or in part by timber, brush, grass or other inflammable vegetation.

48-33-40. State Commission of Forestry shall direct forest fire protection work.

All forest fire protection work shall be under the direction and supervision of the State Commission of Forestry, through the State Forester, subject to the provisions of this chapter and the laws of the State enacted relative to forestry and forest fire prevention and suppression.

48-33-80. Access to property.

The State Commission of Forestry, any of its authorized agents and any member of a county forestry board may, at any or all times, go upon any land for the purpose of preventing or controlling forest fires, as defined herein, without making themselves liable for trespassing.

48-33-90. Title to property acquired shall vest in State Commission of Forestry.

The title to all property acquired incident to carrying out the provisions of this chapter shall be vested in the State Commission of Forestry.

TITLE 48, CHAPTER 34 SOUTH CAROLINA PRESCRIBED FIRE ACT

48-34-20. Definitions.

As used in this chapter:

1. 'Prescribed fire' means a controlled fire applied to forest, brush, or grassland vegetative fuels under specified environmental conditions and precautions which cause the fire to be confined to a predetermined area and allow accomplishment of the planned land management objectives. It also is known as 'controlled burn';
2. 'Certified prescribed fire manager' means an individual who successfully completes a certification program approved by the State Commission of Forestry;
3. 'Prescribed fire plan' means a written prescription for starting and controlling a prescribed fire.

48-34-30. Forestry Commission responsibility.

The State Commission of Forestry shall promulgate regulations for the use of prescribed fire and for the certification of prescribed fire managers.

48-34-40. Requirements for prescribed fire qualified under this chapter.

Prescribed fires conducted pursuant to this chapter:

1. must have a written prescribed fire plan prepared before authorization to burn is given by the State Commission of Forestry, and the plan must be on site and followed during the burn;
2. must have at least one certified prescribed fire manager present and supervising the burn from ignition until it is declared safe according to certification guidelines;
3. are considered in the public interest and do not constitute a public nuisance when conducted pursuant to state air pollution statutes, smoke management guidelines, and regulations applicable to the use of prescribed fire;
4. are considered a property right of the property owner.

48-34-50. Liability for damages, injury, or loss caused by prescribed fire.

A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by fire, or other consequences of the prescribed fire, except for smoke, unless *negligence* is proven. A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by the resulting smoke of a prescribed fire unless *gross negligence* or *recklessness* is proven.

48-34-60. Other prescribed fires not prohibited.

Notwithstanding the requirements of this chapter, a person may conduct a prescribed fire without a certified prescribed fire manager present.

LAW ENFORCEMENT NOTE:

Certified Prescribed Fire Managers are subject to state laws and regulations pertaining to outdoor burning. In cases of violation, certification may be administratively revoked independent of any legal action. In cases where smoke from a prescribed fire may be responsible for damage/injury, the SCFC will investigate and provide a report to DHEC. Contact the law enforcement chief or an investigator for assistance.

TITLE 50, CHAPTER 2 FOREST MANAGEMENT PROTECTION ACT

SECTION 50-2-10. Short title.

This act may be cited as the “South Carolina Forest Management Protection Act.”

SECTION 50-2-20. Purpose.

The purpose of this act is to encourage and protect landowners’ ability to maintain their land for forest use and to conduct forest management activities.

SECTION 50-2-30. Definitions.

- A.** A forestry operation is an area where forest management activities are conducted for the production of timber resources for wood products or providing wildlife habitat, outdoor recreation, or other environmental values. A forestry operation inherently includes lengthy periods between forest management activities and shall be deemed continuously operating so long as the operation supports an actual or developing forest.

- B.** Forest management activities include, but are not limited to, timber harvest, site preparation, controlled burning, tree planting, applications of fertilizers, herbicides, and pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and any other generally accepted forestry practices.

SECTION 50-2-40. Application.

This act shall apply only to forest management activities on forestry operations that are eligible for timberland use value assessment for property tax purposes.

SECTION 50-2-50. Forestry operation as nuisance; established date of operation; local ordinance making forestry operation nuisance null and void.

- A.** No established forestry operation is or may become a nuisance, private or public, if the forestry operation adheres to best management practices as promulgated by the South Carolina Forestry Commission. This section does not apply whenever a nuisance results from the negligent, improper, or illegal operation of a forestry operation.

- B.** For the purposes of this chapter, the established date of operation is the date on which the forestry operation commenced operation. If the operation is expanded subsequently or new technology adopted, the established date of operation for each change is not a separately and independently established date of operation and the commencement of the expanded operation does not divest the forestry operation of a previously established date of operation.

- C.** An ordinance of a county or municipality that makes a forestry operation following best management practices as promulgated by the South Carolina Forestry Commission a nuisance or providing for abatement as a nuisance in derogation of this chapter is null and void. The provisions of this section do not apply whenever a nuisance results from the negligent, illegal, or improper operation of a forestry operation.

LAW ENFORCEMENT NOTE:

This law prevents local ordinances from prohibiting legitimate forestry operations, i.e., burning, harvesting, etc.

SECTION 2: DHEC REGULATIONS

DHEC REGULATION 61-62.2 OPEN BURNING IS PROHIBITED EXCEPT AS PROVIDED BELOW

SECTION I - Exceptions

- A. Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises.
- B. Open burning in connection with the preparation of food for immediate consumption.
- C. Campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth. Fires set for the purpose of human warmth must use only clean wood products (woody vegetation, leaves, or wood which is not coated with stain, paint, glue or other coating material, and not treated lumber).
- D. Fires purposely set in accordance with Smoke Management Guidelines for Vegetative Debris Burning Operations in South Carolina, administered by the South Carolina Forestry Commission and acceptable to the Department to include the following:
 - 1. Prescribed burning of forest lands for specific management practices; and
 - 2. Fires purposely set for agricultural control of diseases, weeds, pests, and for other specific agricultural purposes;
 - 3. Open burning of trees, brush, grass and other vegetable matter for game management purposes.
- E. Open burning in areas other than predominantly residential for the purpose of land clearing or right-of-way maintenance. This will be exempt only if the following minimum conditions are followed:
 - 1. The location of the burning must be a sufficient distance but not less than 1000 feet, from public roadways and all residential, commercial, and industrial sites not a part of the contiguous property on which the burning is conducted;

2. Winds during the time of the burning must be away from any area in which the ambient air may be significantly affected by smoke from the burning if that area contains a public roadway or a residential, commercial, or industrial site;
3. The material to be burned must have been generated on-site and not moved to the site from another location;
4. The amount of dirt on the material being burned must be minimized;
5. No heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth may be burned;
6. The initial burning must be started only between the hours of 9:00 a.m. and 3:00 p.m.; no combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. the following day;
7. No more than two piles 30' x 30' or equivalent may be burned within a six-acre area at one time; and
8. In the case of land clearing, all salvageable timber and pulpwood must be removed.

F. Fires set for the purposes of training firefighting personnel and conducted at permanent firefighter training facilities. Prior Department approval is required in order to obtain the exemption as a permanently established training site. Fires set for the purpose of firefighter training at non-permanent locations must receive Department approval prior to the initiation of any burning activity. Materials used for firefighter training cannot contain asbestos, heavy oils, asphaltic material, plastic or rubber without express written consent from the Department.

G. Open burning on the property where it occurs of residential construction waste from building and construction operations will be exempt only if the following conditions are met:

1. The material being burned is residential construction waste associated with the building and construction of one and two family dwellings only;

2. The location of the burning is at least five hundred (500) feet from any occupied structure other than a dwelling or structure located on the property on which the burning is conducted;
3. Heavy oils, treated wood products, asphaltic materials, items containing natural or synthetic rubber, or any other trade wastes which produce smoke in excess of forty (40) percent opacity are not burned;
4. The burning does not occur during the ozone season (April 1 through October 30); and
5. The burning is conducted only between the hours of 9:00 a.m. and 3:00 p.m.;

H. Open burning, in remote or specified areas:

1. For non-recurring unusual circumstances;
2. For experimental burning for purposes of data gathering and research.

However, prior approval for these types of burning (in subparagraph H above) must be obtained from the Department.

SECTION II - General

- A.** A written report or warning to a person of a violation at one site shall be considered adequate notice of the Regulation and subsequent observed violations at the same or different site will result in appropriate legal action.
- B.** Open burning may be conducted in certain situations if no undesirable levels are or will be created. The authority to conduct open burning under this Regulation does not exempt or excuse the person responsible for the burning from the consequences of or the damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with other applicable laws and with ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this Regulation.

- C. The Department reserves the right to impose other or different restrictions and exemptions on open burning in addition to those enumerated above, whenever in the judgment of the Department such is necessary to realize the purpose of this Regulation.

LAW ENFORCEMENT NOTE:

Forestry Commission officers will investigate smoke complaints associated with outdoor burning. When a violation of Smoke Management Guidelines is identified, a full report will be forwarded to DHEC for possible enforcement. [Only burns covered by Item D (Forestry, Wildlife, and Agriculture) are required to comply with SC Smoke Management Guidelines.]

DHEC REGULATION 61-62.4 HAZARDOUS AIR POLLUTION CONDITIONS

- A. Definitions.** The following words and phrases when used in this regulation shall have the meanings respectively ascribe to them:
1. Hazardous Conditions (or hazardous levels)—Conditions created by the release or discharge into the ambient air of one or more air contaminants which because of the characteristic and/or quantity of material involved may pose an imminent threat to the health of anyone who might come in contact with the material through this release as well as involving substantial risk of injury, to include injury to property or plant and animal life. This includes the indirect threat to human life and property by the creation of traffic hazards;
 2. Traffic Hazards—Impairment of visibility whenever the concentration of dust, fumes, condensed vapor, or any other substance is such that the horizontal visibility at or near ground level is reduced to 2,400 feet or less.
- B. General.** The owner or operator of any source, in addition to complying with all applicable regulations and standards, shall take all steps necessary to protect human health and welfare and otherwise minimize the effects of unintended, short-term or other releases of air contaminants and other substances which produce unintended hazardous conditions.
- C. Traffic Hazards.** The emission of smoke, dust, fumes, condensed vapor, or any other substance which creates a traffic hazard on public roads by impairment of visibility, or intensifies an existing condition to the extent that a traffic hazard is created is prohibited.
- D. Emergency Actions.** In the event that releases of dust, fumes, smoke, gases, mists, vapors or other substances occur in such quantity as to create imminently hazardous levels, the owner or operator of the source shall take all necessary emergency acts to cause the release to cease, to notify nearby residents and occupants, to assist in evacuation if deemed necessary, to notify the Department immediately and to take such other action as responsible officials deem advisable.

E. Cleanup. If releases to the atmosphere of air contaminants result from spillage and cause such concentrations as to produce an imminently hazardous level, cleanup activities shall begin as soon as possible and shall be completed to the satisfaction of the Commissioner.

F. Notification. The affected public, the Department, the South Carolina Disaster Preparedness Agency, and all law enforcement officials having jurisdiction shall be notified promptly by the owner or operator of the source in the event of releases of material which may cause imminently hazardous levels. If traffic hazards are created, notification shall be made to appropriate state or local agencies of the possible existence of such a condition and of the corresponding need for posting of appropriate signs, warning devices or flagmen.

LAW ENFORCEMENT NOTE:

DHEC Regulations have force of law, but enforcement is handled exclusively by DHEC.

SECTION 3: OUTDOOR BURNING

TITLE 48, CHAPTER 35 NOTIFICATION AND PRECAUTIONS LAW

48-35-10. Starting fire in woodlands, grasslands, and other places shall be unlawful unless certain precautions are taken.

It shall be unlawful for any owner or lessee of land or any employee of such owner or lessee or other person to start, or cause to be started, a fire in any woodlands, brushlands, grasslands, ditch banks, or hedgerows or in any debris, leaves or other flammable material adjacent thereto, except under the following conditions:

- a. Proper notification shall be given to the State Forester, or his duly authorized representative or other persons designated by the State Forester. The notice shall contain all information required by the State Forester or his representative;
- b. Such persons shall have cleared around the area to be burned and have immediately available sufficient equipment and personnel to adequately secure the fire and prevent its spread;
- c. The person starting the burning shall supervise carefully the fire started and have it under control prior to leaving the area.

48-35-20. Authorization must be obtained from landowner to conduct burning.

A lessee of any land, or any employee of any landowner or lessee of land, or other person, must receive prior authorization from the landowner to conduct such burning, in addition to complying with the other provisions of this chapter.

48-35-30. Chapter inapplicable to fires within municipalities.

The provisions of this chapter shall not apply to fires which may be started within the corporate limits of any town or city.

48-35-40. Burning prohibited during periods of emergency.

No burning shall be carried out during any period which the Governor has declared that an emergency exists in connection with forest fires.

48-35-50. State Forester may prohibit fires.

The State Forester may direct at any time, when deemed necessary in the interest of public safety, that fires covered by this chapter not be started. The State Forester also may prohibit all open burning regardless of whether a permit or notification is required, including campfires, bonfires, and other fires for recreational purposes. This prohibition shall not apply to fires used for nonrecreational purposes such as those for human warmth or for the preparation of food for immediate consumption.

48-35-60. Penalties.

Any person violating the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction, may be fined not more than two hundred dollars or imprisoned for not more than thirty days for a first offense. For any second or subsequent offense, a fine of not less than five hundred dollars or imprisonment for not more than sixty days, or both may be imposed in the discretion of the court. "Subsequent offense," as used in this section, shall mean an offense committed within ten years of a previous offense.

LAW ENFORCEMENT NOTE:

48-35-10 is the appropriate charge when an escaped fire requires suppression action even if it does not encroach on adjacent property. It may also be an appropriate additional charge in cases of Allowing Fire to Spread (16-11-180).

TITLE 48, CHAPTER 31 GOVERNOR'S BURNING BAN

48-31-10. Proclamation forbidding use of fire in forests or woodlands when conditions are abnormal; annulment of proclamation.

Whenever by reason of drought, low humidity, high winds, and other conditions, the forests and woodlands in the State are in danger of fires, the Governor, upon recommendation of the State Forester, may in the interest of public safety and the preservation of natural resources, have authority by proclamation to forbid the use of fire therein. When the Governor is satisfied that the occasion has passed for maintaining the provisions of the proclamation he shall annul it by another proclamation.

48-31-20. Unlawful starting of fires or throwing of burning materials in protected areas.

During such periods and in such areas as the Governor shall proclaim, it shall be unlawful for any person to build or ignite any fire of any nature, or for any person to throw or cause to be thrown any matches, ashes, tobacco or other burning material on or adjacent to forests, woodlands, brushlands, or grasslands under protection from forest fires. It shall be unlawful to burn or cause to be burned any right of way.

48-31-30. Exception for fires in municipalities and cultivated lands enclosed by firebreaks.

The provisions of this chapter shall not apply to fire which may be started within the corporate limits of any town or city, and to cultivated lands enclosed by firebreaks which will prevent the spread of fire to adjacent forests, woodlands, brushlands, or grasslands.

48-31-40. Penalties.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for not more than thirty days.

TITLE 6, CHAPTER 11, SECTION 105 SPECIAL PURPOSE/PUBLIC SERVICE DISTRICT BURNING BAN

The governing body of a county by ordinance may place an emergency ban on the burning of trash or debris within a special purpose district or public service district in the county providing fire protection services for a specified period of time if circumstances require, except that no ban may be placed on burning conducted for agricultural, forestry, and wildlife purposes as authorized by the South Carolina Forestry Commission.

A person violating such an ordinance is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than two hundred dollars or by imprisonment for a term not exceeding thirty days.

LAW ENFORCEMENT NOTE:

This statute expressly exempts forestry, wildlife, and agriculture burning from the local authority to ban outdoor fires.

For a listing of Special Purpose/Public Service Districts, see SC Code, Title 6, Chapter 11, Section 10. Fire is specifically mentioned in the title of only three of these: Hagley Water, Sewer, and Fire Authority (Georgetown Co.), Belmont Fire and Sanitation District (Greenville Co.), and Kershaw County Fire Prevention Districts. Others may have fire responsibility as well; officers should check provisions of the local law if questions of authority arise.

16-11-180. Allowing fire to spread to lands or property of another.

Any person who carelessly or negligently sets fire to or burns any grass, brush, leaves, or other combustible matter on any lands so as to cause or allow fire to spread or to be transmitted to the lands or property of another, or to burn or injure the lands or property of another, or who causes the burning to be done or who aids or assists in the burning, is guilty of a misdemeanor and upon conviction must be imprisoned for not less than five days nor more than thirty days or be fined not less than twenty-five dollars nor more than two hundred dollars.

For a second or subsequent offense the sentence must be imprisonment for not less than thirty days nor more than one year, or a fine of not less than one hundred dollars nor more than five

hundred dollars, or both, in the discretion of the court.

LAW ENFORCEMENT NOTE:

This statute may be charged in addition to charges under the Precautions Law, 48-35-10.

Allowing Fire to Spread may charged for escaped fires that occur inside corporate limits of a town or city.

SECTION 4: ARSON

16-11-110. Arson.

- A.** A person who willfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures the burning of a building, structure, or any property specified in subsections (B) and (C) whether the property of himself or another, which results, either directly or indirectly, in death or serious bodily injury to a person is guilty of arson in the first degree and, upon conviction, must be imprisoned not less than ten nor more than thirty years.
- B.** A person who willfully and maliciously causes and explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures the burning of a dwelling house, church or place of worship, a public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings, whether the property of himself or another, is guilty of arson in the second degree and, upon conviction, must be imprisoned not less than five nor more than twenty-five years.
- C.** A person who willfully and maliciously:
1. causes an explosion, sets fire to, burns, or causes to be burned a building or structure other than those specified in subsections (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or
 2. aids, counsels, or procures the burning of a building or structure other than those specified subsections (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire; whether the property of himself or another, is guilty of arson in the third degree and, upon conviction, must be imprisoned not less than one and not more than ten years.

LAW ENFORCEMENT NOTE:

First degree arson is charged when a firefighter is killed or injured while working a structure or vehicle arson fire.

16-11-140. Burning of crops and other kinds of personal property.

It is unlawful for a person to (a) willfully and maliciously set fire to or burn or cause to be burned, or (b) aid, counsel, or procure the burning of any:

1. barracks, cock, crib, rick or stack of hay, corn, wheat, oats, barley, or other grain or vegetable product of any kind;
2. field of standing hay or grain of any kind;
3. pile of coal, wood, or other fuel;
4. pile of planks, boards, posts, rails, or other lumber.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

16-11-150. Burning lands of another without consent.

It shall be unlawful for any person without prior written consent of the landowner or his agent to intentionally set fire to lands of another, or to intentionally cause or allow fire to spread to lands of another, whereby any woods, fields, fences or marshes of any other person are burned. Any person violating the provisions of this section shall, upon conviction, be punished as follows:

- a. for the first offense, by a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both;
- b. for a second or subsequent offense, by a fine of not more than five thousand dollars or imprisonment for not more than five years.

LAW ENFORCEMENT NOTE:

In most cases involving someone setting fire to another's woods, fields, etc., the appropriate charge will be Willfully Burning the Lands of Another, 16-11-170.

16-11-170. Willfully burning lands of another.

It is unlawful for a person to willfully and maliciously set fire to or burn any grass, brush, or other combustible matter, causing any woods, fields, fences, or marshes of another person to be set on fire or cause the burning or fire to spread to or to be transmitted to the lands of another, or to aid or assist in such conduct.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. A person convicted under this section is liable to any person who may have sustained damage.

LAW ENFORCEMENT NOTE:

This is the statute for the violation commonly referred to as “Woods Arson.” It is the appropriate charge in most cases where someone illegally sets fire to another’s woods, fields, etc.

16-11-190. Attempts to burn.

It is unlawful for a person to willfully and maliciously attempt to set fire to, burn, or aid, counsel, or procure the burning of any of the buildings or property mentioned in Sections 16-11-110 to 16-11-140 or commit an act in furtherance of burning these buildings.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not more than five years or fined not more than ten thousand dollars.

LAW ENFORCEMENT NOTE:

16-11-550, a law making it illegal to threaten to kill, injure, or intimidate, or to damage or destroy property by means of explosive or incendiary, was repealed effective March 7, 2000.

SECTION 5: DAMAGE TO PROPERTY

16-11-520. Malicious injury to tree, house, outside fence, or fixture; trespass upon real property.

- A.** It is unlawful for a person to willfully and maliciously cut, mutilate, deface, or otherwise injure a tree, house, outside fence, or fixture of another or commit any other trespass upon real property of another.
- B.** A person who violates the provisions of this section is guilty of a:
1. felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount of injury or damage to the property is five thousand dollars or more;
 2. felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount of injury or damage to the property is more than one thousand dollars but less than five thousand dollars;
 3. misdemeanor triable in magistrate's court if the amount of injury or damage to the property is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment of the grand jury.

16-11-610. Entry on another's lands for various purposes without permission.

Any person entering upon the lands of another for the purpose of hunting, fishing, trapping, netting, gathering fruit, wild flowers, cultivated flowers, shrubbery, straw, turf, vegetables or herbs or cutting timber on the same, without the consent of the owner or manager thereof, shall be guilty of a misdemeanor and upon conviction thereof, shall pay a fine of not more than two hundred dollars or be imprisoned at hard labor not more than thirty days, for each and every offense.

LAW ENFORCEMENT NOTE:

This is the appropriate charge for forestry trespass associated with timber cutting, pine straw theft, etc.

16-11-650. Removing, destroying, or leaving down fences.

Any person, other than the owner, who shall remove, destroy or leave down any portion of any fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who shall leave open any gate or leave down any bars or other structure intended for a like purpose shall be guilty of a misdemeanor and shall be punished by a fine of not less than five nor more than thirty dollars or be imprisoned in the county jail not less than five and not more than thirty days.

16-11-680. Altering and removing landmarks.

If any person shall knowingly, willfully, maliciously or fraudulently cut, fell, alter or remove any certain boundary tree or other allowed landmark, such person so offending shall be guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days.

LAW ENFORCEMENT NOTE:

This statute applies to moving corner posts or pins as well as cutting line trees. A person may cut witness trees standing entirely on his side of a property boundary but line trees are considered property of both landowners.

16-11-700. Dumping litter on private or public property prohibited; exceptions; responsibility for removal; penalties.

- A.** No person may dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste as defined by Section 44-96-40(46) upon any public or private property or waters in the State whether from a vehicle or otherwise, including, but not limited to, a public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:
1. when the property is designated by the State for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose;
 2. into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.
- B.** Responsibility for the removal of litter from property or receptacles is upon the person convicted under this section of littering the property or receptacles. However, if there is no conviction, the responsibility is upon the owner of the property or upon the owner of the property where the receptacle is located.

C. 1. A person who violates the provisions of this section in an amount less than fifteen pounds in weight or twenty-seven cubic feet in volume is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days for each offense. In addition to a fine and for each offense under the provisions of this item, the court shall also impose a minimum of five hours of litter-gathering labor or other form of public service as the court may order because of physical or other incapacities, and which is under the supervision of the court.

2. The fine for a deposit of a collection of litter or garbage in an area or facility not intended for public deposit of litter or garbage is two hundred dollars. The provisions of this item apply to a deposit of litter or garbage, as defined in Section 44-67-30(4), in an area or facility not intended for public deposit of litter or garbage, but this does not prohibit a private property owner from depositing litter or garbage as a property enhancement if the depositing does not violate applicable local or state health and safety regulations.

In addition to a fine and for each offense under the provisions of this item the court shall also impose a minimum of five hours of litter-gathering labor or other form of public service as the court may order because of physical or other incapacities, and which is under the supervision of the court.

3. The court, in lieu of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter-gathering labor or other form of public service as it may order because of physical or other incapacities, under the supervision of the court, not to exceed one hour for each five dollars of fine imposed.

4. For a second and subsequent convictions under the provisions of items 1 or 2 of this subsection, a minimum of twenty hours of community service must be imposed in addition to a fine.

5. In addition to any other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by anyone before the date of execution of sentence.

6. Magistrates and municipal courts have jurisdiction to try violations of subsections A, B, C, and D of this section.

- D. Any person who violates the provisions of this section in an amount exceeding fifteen pounds in weight or twenty-seven cubic feet in volume, but not exceeding five hundred pounds or one hundred cubic feet, 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 ninety days. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed.

- E. 1. Any person who violates the provisions of this section in an amount exceeding five hundred pounds in weight or one hundred cubic feet in volume is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned not more than one year, or both. In addition, the court may order the violator to:
 - a. remove or render harmless the litter that he dumped in violation of this subsection;
 - b. repair or restore property damaged by, or pay damages for damage arising out of, his dumping litter in violation of this subsection; or
 - c. perform community public service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection.

- 2. A court may enjoin a violation of this subsection.

- 3. A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than five hundred pounds in weight or more than one hundred cubic feet in volume of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the State.

4. If a person sustains damages arising out of a violation of this subsection that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party three fold the actual damages or two hundred dollars, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

5. No part of a fine imposed pursuant to this section may be suspended.

F. For purposes of the offenses established by this section, litter includes cigarettes and cigarette filters.

LAW ENFORCEMENT NOTE:

The standard Forestry Commission citation form may be used to charge littering and waste tire violations.

44-96-170. Waste Tires

H. . . . a person shall not:

1. maintain a waste tire collection site unless such site is an integral part of the person's permitted waste tire treatment facility or that person has entered into a contract with a permitted waste tire treatment facility for the disposal of waste tires;
2. knowingly dispose of waste tires in this State, unless the waste tires are disposed of at a permitted solid waste disposal facility; or
3. knowingly dispose of or discard waste tires on the property of another in a manner not prescribed by this chapter.
. . . Notwithstanding any other provision of law, a person violating this subsection shall be subject to a fine not to exceed two hundred dollars. This provision may be enforced by a state, county, or municipal law enforcement official, or by the department. Each tire improperly disposed of must constitute a separate violation.

LAW ENFORCEMENT NOTE:

It is illegal to burn or dump old tires. Officers should charge 44-96-170 (H-2) if the activity occurs on the violator's property. If the activity is on someone else's property, the charge is 44-96-170 (H-3). Every tire is a separate violation.

SECTION 56-5-4100. Preventing escape of materials loaded on vehicles

- A.** No vehicle may be driven or moved on any public highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle, except that sand, salt, or other chemicals may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in the cleaning or maintaining of the roadway by the public authority having jurisdiction.
- B.** Trucks, trailers, or other vehicles when loaded with rock, gravel, stone, or other similar substances which could blow, leak, sift, or drop must not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; or, if the load is not level, unless the height of the sides of the load against all four walls does not extend above a horizontal line six inches below their tops, and the highest point of the load does not extend above their tops, when loaded at the loading point; or, if not so loaded, unless the load is securely covered by tarpaulin or some other suitable covering; or unless it is otherwise constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from the vehicle. This subsection also includes the transportation of garbage or waste materials to locations for refuse in this State.

* * *

- E.** Any person who violates the provisions of subsections (B), (C), or (D), is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars.
- F.** The provisions contained in subsections (A), (B), and (C) are not applicable to and do not restrict the transportation of seed cotton, soybeans, tobacco, poultry, livestock or silage, or other feed grain used in the feeding of poultry or livestock or of paper, wastepaper utilized for the manufacture of industrial products, paper products, forest products, or textile products.

LAW ENFORCEMENT NOTE:

Applies to garbage blowing from any vehicle, including authorized garbage collection vehicles. Officers should pay special attention to exclusions in paragraph F.

SECTION 6: TIMBER THEFT/FRAUD

16-11-580. Illegally cutting, removing, or destroying forest products.

A. It is unlawful for a person to knowingly and willfully:

1. cut, destroy, or remove forest products without the consent of the landowner;
2. aid, hire, or counsel another person to cut, destroy, or remove forest products without the consent of the landowner;
3. obtain or acquire forest products under false pretenses or with fraudulent intent; or
4. transport forest products if the person knows that the forest products have been cut, removed, obtained, or acquired from the property of a landowner in violation of the provisions of this subsection.

B. If the value of the forest products is one thousand dollars or less, a person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction:

1. for a first offense, must be fined not more than fifteen hundred dollars or imprisoned for not more than thirty days, or both; and
2. for a second or subsequent offense, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than sixty days or both.

C. If the value of the forest products is more than one thousand dollars or less than five thousand dollars, a person who violates the provisions of subsection (A):

1. for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars and not more than ten thousand dollars or imprisoned for not more than five years, or both; and
2. for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and

not more than twenty thousand dollars or imprisoned for not more than ten years.

- D.** If the value of the forest products is five thousand dollars or more, a person who violates the provisions of subsection (A):
1. For a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years, or both; and
 2. For a second or subsequent offense, is guilty of a felony and upon conviction, must be fined not less than ten thousand dollars or imprisoned for not more than ten years.
- E.** As used in this section, ‘forest products’ include, but are not limited to, timber, trees, logs, lumber, or pine straw or any other products in the forest, whether merchantable or nonmerchantable, and which are located on any land in this State, whether publicly or privately owned.

See also: 16-13-177 for equipment confiscation provisions.

16-11-615. Payment of treble damages; discharge from further penalty.

In all criminal prosecutions for violation of the provisions of 16-11-520, 16-11-580, and 16-11-610, relating to cutting or destroying timber, the defendant may plead the payment of not to exceed exactly three times the fair market value of the timber as determined by a registered forester and upon the plea being legally established and the payment of all costs accrued at the time of the plea he must be discharged from further penalty. If it is necessary to institute civil action to recover the fair market value of the timber, the State, in case of state lands, and the owner, in case of private lands, shall receive damages of not to exceed exactly three times the fair market value of the timber established by a registered forester if judgment is in favor of the State or the owner.

LAW ENFORCEMENT NOTE:

This law does not say that a landowner is entitled to triple stumpage. It merely says that if a defendant in a criminal case offers to pay three times the stumpage value (plus associated costs) the charges are dismissed. The stumpage value must be established by a SC Registered Forester. The value is based on prevailing prices at the time the timber was harvested. The law specifies that in civil cases, an award of triple stumpage is the maximum that may be awarded.

16-13-30. Petit larceny; grand larceny.

- A.** Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of one thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrate's court. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury.
- B.** Larceny of goods, chattels, instruments, or other personalty valued in excess of one thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:
1. five years if the value of the personalty is more than one thousand dollars but less than five thousand dollars;
 2. ten years if the value of the personalty is five thousand dollars or more.

See also: 16-13-177 for equipment confiscation provisions.

LAW ENFORCEMENT NOTE:

16-13-30 is an appropriate charge for pine straw theft.

16-13-177. Confiscation of certain property used in offenses involving timber theft in excess of five thousand dollars.

- A.** In addition to penalties provided by law, when an offense in violation of Section 16-11-580, 16-13-30, 16-13-230, or 16-13-240, involves timber theft valued in excess of five thousand dollars, all motor vehicles, conveyances, tractors, trailers, watercraft, vessels, tools, and equipment of any kind, used or positioned for use, in acquiring, cutting, harvesting, manufacturing, producing, processing, delivering, importing, or exporting timber or timber products that are known by the owner to be used in the commission of the offense may be confiscated and forfeited to the jurisdiction where the offense occurred if the offender is the owner or registered owner of the property and the offender or someone under his direction or control knowingly used the property during the commission of the offense.

- B.** Property subject to forfeiture under this section may be seized or confiscated by any law enforcement officer incident to a lawful arrest or a warrant issued for the purpose by a court of competent jurisdiction pursuant to subsection (A). The confiscating officer must deliver the property immediately to the county or municipality where the offense occurred. The county or municipality must notify the registered owner of the property by certified mail within seventy-two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The forfeiture hearing must be held within ten days from the date of receipt of the request. The property confiscated must be returned to the registered owner unless the Forestry Commission, a county, or a municipality can show by a preponderance of the evidence that the property seized was knowingly used in the commission of the crime. In the event the Commission, a county, or municipality is unable to make such a showing, all property seized under this section must be returned to the owner upon proof of ownership and the posting of a bond in sufficient amount not to exceed ten thousand dollars. The county or municipality in possession of the property must provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.
- C.** Upon conviction of a person owning and using the seized property or upon his plea of *nolo contendere* to an offense subjecting the property to forfeiture, the county or municipality where the offense occurred or the Forestry Commission may initiate an action in circuit court of the county in which the property was seized to accomplish forfeiture by giving notice to registered owners of record, giving these persons notice and an opportunity to appear and show cause why the property should not be forfeited and disposed of as provided in this section. Failure of a person claiming an interest in the property to appear at this after having been given notice constitutes a waiver of the claim. However, the failure to appear does not affect the claim of a lienholder of record. The court, after hearing, may order the property forfeited to the county or municipality and sold as provided in this section or returned to the owner or registered owner. Forfeiture of property is subordinate in priority to all valid liens and encumbrances. A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

- D.** When property is forfeited under this section, the judge must order the property sold at public auction by the seizing agency as provided by law. Notwithstanding any other provision of law, proceeds from the sale may be used by the agency for payment of all proper expenses of the proceeding for the forfeiture and sale of the property, including the expenses of the seizure, maintenance, and custody and other costs incurred by the implementation of this section. The net proceeds of any sale pursuant to this section shall be distributed to the victim of the offense in an amount to be determined by the presiding judge and any remaining proceeds shall be disbursed to the South Carolina Commission on Forestry to be used exclusively for timber theft enforcement, prevention, and awareness.

LAW ENFORCEMENT NOTE:

This law may be applied to violations of 16-11-580, 16-13-130, 16-13-230, 16-13-240, and 48-23-265. Forestry Commission officers must coordinate with the Chief Law Enforcement Officer before applying the provisions of this law.

16-13-230. Breach of trust with fraudulent intent.

- A.** A person committing a breach of trust with a fraudulent intention or a person who hires or counsels another person to commit a breach of trust with a fraudulent intention is guilty of larceny.
- B.** A person who violates the provisions of this section is guilty of a:
1. misdemeanor triable in magistrate's court if the amount is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury;
 2. felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than one thousand dollars but less than five thousand dollars;
 3. felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is five thousand dollars or more.

See also: 16-13-177 for equipment confiscation provisions.

16-13-240. Obtaining signature or property by false pretenses.

A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

1. felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is five thousand dollars or more;
2. felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than one thousand dollars but less than five thousand dollars;
3. misdemeanor triable in magistrate's court if the value of the property is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment of the grand jury.

See also: 16-13-177 for equipment confiscation provisions.

LAW ENFORCEMENT NOTE:

This law applies if a buyer falsely reports that timber is infested with insects or disease in order to obtain cutting rights or to gain a price advantage.

This law should be considered in cases where a buyer offers a knowingly inflated estimate of return in order to purchase timber on a pay-as-cut basis.

48-23-97. Wood load tickets required for certain sales of trees, timber, or wood; exceptions, penalties.

- A.** Except as provided in this section, whenever a timber buyer or timber operator purchases trees, timber, or wood by the load directly from a timber grower and the load is sold by weight, cord, or measure of board feet, the timber buyer or timber operator must furnish the timber grower or seller within thirty days of the completion of the timber harvest a separate, true, and accurate wood load ticket for each and every load of wood removed from the seller's property. At a minimum, each wood

load ticket must include in writing that is clearly legible the following:

1. the ticket number;
2. the name and address of the person, and the location of the facility receiving, weighing, scaling, or measuring the trees, timber, or wood;
3. the date the trees, timber, or wood was received at the facility;
4. the tract name or landowner;
5. county and state of origin;
6. the dealer's name if any;
7. the producer or logging company name;
8. the species of wood;
9. the type of product;
10. the weight or scale information: (a) if the load is measured by weight, the gross, tare, and net weights must be shown; or (b) if the load is measured by scale, the total volume must be shown; and
11. the weight, scale, or amount of wood deducted and the deduction classification.

B. The provisions of this section do not apply to: (1) the sale of wood for firewood only; (2) the landowner harvesting and processing his own timber; and (3) bulk or lump-sum sales for an agreed total price for all timber purchased and sold in one transaction.

C. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than thirty days, or both.

48-23-265. Timber buyer must pay landowner within 45 days; criminal penalties apply.

- A.** 1. A person who purchases forest products directly from a landowner possessing lands in this State, and who has received payment for the forest products from a sale to a third party, must make payment in full to the landowner within forty-five days of the receipt of payment;
2. If the landowner has not received payment within the required forty-five days, the landowner must send written notice, by certified mail or by personal delivery, to the purchaser's last known address stating the landowner's demand for payment. The purchaser violates the provisions of this section and is subject to a criminal penalty if he knowingly and willfully fails to make payment, in full, to the landowner within ten days after receiving this notice;
3. This section does not apply to a written agreement signed between the landowner and the purchaser providing for a means of payment other than the one provided for in this section.
- B.** If the value of the forest products is less than five thousand dollars, a person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be punished:
1. if the value of the forest products is five hundred dollars or less:
 - a. for a first offense, by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than thirty days; or
 - b. for a second or subsequent offense, by a fine of two hundred dollars or by imprisonment for not more than thirty days;
 2. if the value of the forest products is more than five hundred dollars but less than five thousand dollars:
 - a. for a first offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment for not more than thirty days; or
 - b. for a second or subsequent offense, by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or both.

- C.** If the value of the forest products is five thousand dollars or more, a person who violates subsection (A) is guilty of a felony and, upon conviction, must be punished:
1. for a first offense by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than two years, or both; or
 2. for a second or subsequent offense by a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment for not less than thirty days nor more than ten years.
- D.** The court shall order restitution to the victim as a mandatory condition of the sentence imposed.
- E.** If the value of the forest products is five thousand dollars or more, in addition to the penalties provided in this section, all motor vehicles, conveyances, tractors, trailers, watercraft, vessels, tolls, and equipment of any kind used or positioned for use in acquiring, cutting, harvesting, manufacturing, producing, processing, delivering, importing, or exporting the forest products are subject to confiscation and forfeiture pursuant to Section 16-13-177.
- F.** As used in this section, ‘forest products’ include, but are not limited to, timber, trees, logs, lumber, or pine straw or any other products in the forest, whether merchantable or nonmerchantable, and which are located on any land in this State, whether publicly or privately owned.
- G.** As used in this section, ‘conviction’ includes a guilty plea, plea of nolo contendere, or the forfeiture of bail.

See also: 16-13-177 for equipment confiscation provisions.

LAW ENFORCEMENT NOTE:

Officers should note that this law requires full restitution in addition to penalties imposed by the court.

SECTION 7: CONSPIRACY

16-17-410. Conspiracy.

The common law crime known as “conspiracy” is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means.

A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

A person who is convicted of the crime of conspiracy must not be given a greater fine or sentence than he would receive if he carried out the unlawful act contemplated by the conspiracy and had been convicted of the unlawful act contemplated by the conspiracy or had he been convicted of the unlawful acts by which the conspiracy was to be carried out or effected.

LAW ENFORCEMENT NOTE:

Conspiracy may be an added charge where two or more people planned and committed a crime. It may be used as a stand alone charge when a crime was planned but not completed. It is also an appropriate charge when a person helped plan a crime but did not actually participate in the crime itself.

SECTION 8: STATE FORESTS

48-23-70. Unauthorized cutting; destruction of property or scenic values; alcoholic beverages on state forestry lands.

A. It is unlawful for a person to:

1. remove a shrub, tree, or forest product or attempt to do so, from State Commission of Forestry land without the permission of the commission;
2. cut or mutilate a shrub or tree growing on State Commission of Forestry land without the permission of the commission;
3. mutilate or deface real or personal property belonging to or located upon State Commission of Forestry land;
4. destroy scenic values, by dumping rubbish or in any other way whatsoever, within the confines of State Commission of Forestry lands; or
5. consume or display an alcoholic beverage in public on lands of the State Commission of Forestry, except where specifically authorized by the commission. For purposes of this item, “alcoholic beverage” means “alcoholic beverage” as defined in Section 61-6-20, and beer, wine, and all other beverages defined as “nonalcoholic beverages” in Section 61-4-10.

B. A person who violates a provision of subsection (A) is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than two hundred dollars or imprisonment for not more than thirty days, or both.

C. In addition to the penalties provided in subsection (B), a person who is convicted of violating a provision of items (1) through (4) of subsection (A) must make restitution to the State Commission of Forestry in an amount determined by the sentencing court to be necessary to clean up, repair, rebuild, and restore the abused real and personal property of the State Commission of Forestry to its condition before the abuse occurred. The sentencing court must also set the time limits within which the restitution must be paid and retains jurisdiction of the case for the purpose of enforcing the order for restitution until restitution is made.

- D.** A person who fails to pay the amount required within the time established for making restitution may be cited for contempt of court by the sentencing court and punished by a fine of not more than the amount originally required for restitution, or imprisonment for not more than six months, or both.
- E.** A person who is convicted of violating a provision of subsection (A) twice within a three-year period is barred from entering lands belonging to the State Commission of Forestry for a period of one year. A person who enters State Commission of Forestry lands while barred is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days, or both, and his privilege to enter upon lands of the commission is automatically suspended for an additional year.

LAW ENFORCEMENT NOTE:

For any given offense, officers should charge only one statute even though the violation may be covered in several laws. Example: Littering may be charged as either 16-11-700 or 48-23-70 (A-4), but not both.

48-23-200. Rules and regulations of Commission.

The State Commission of Forestry may make such rules and regulations as it deems advisable for the protection, preservation, operation and maintenance, and for the most beneficial service to the general public, of the State forests in this State.

**REGULATIONS PERTAINING TO SC FORESTRY
COMMISSION LANDS**

SC Code of Regulations, 55-1. General Regulations on South Carolina Forestry Commission Lands.

1. Entry onto South Carolina Forestry Commission lands is done wholly and completely at the risk of the individual. The State of South Carolina nor the South Carolina Forestry Commission accepts any responsibility for acts, omissions or activities or conditions on these lands which cause or may cause personal injury or property damage.
2. All persons must obey all special rules and regulations for South Carolina Forestry Commission lands including those found in hunting schedules, maps, brochures, permits, any oral/written instructions issued by South Carolina Forestry Commission personnel or those instructions posted on South Carolina Forestry Commission lands.

3. Trespassing, fishing, hunting, killing, capturing or taking any fish or game, other recreational activities, or attempting such act, are prohibited, except as may be authorized under these rules and regulations, by permit or special authorization. On South Carolina Forestry Commission lands, where an agreement is made between the South Carolina Forestry Commission and the South Carolina Department of Natural Resources to make the lands Wildlife Management Areas as established by Section 50-11-2200 of the South Carolina Code of Laws, hunting and fishing rules and regulations will be regulated by the South Carolina Department of Natural Resources regulation 123-40.
4. On South Carolina Forestry Commission lands, no motor driven land conveyances shall be operated on any road or trail, other than a public road, except by permit or special authorization, unless otherwise specified. Roads or trails which are closed by barricades and/or signs either permanently or temporarily, are off limits to motor driven land conveyances.
5. Motor driven land conveyances shall be operated in a safe manner while on South Carolina Forestry Commission lands.
6. On South Carolina Forestry Commission lands, any person found guilty in a court of law of undesirable or unsafe conduct, may, at the discretion of the Forest Director, forfeit all permits and privileges thereto and/or all future permits dependent upon the seriousness of the offense.
7. On South Carolina Forestry Commission lands, during periods when hunting is not permitted, all weapons must be unloaded and secured in a case, or in the trunk of a vehicle, or in a locked toolbox. During periods when hunting is permitted, all weapons must be unloaded on roads open to vehicular traffic and all weapons, transported in or on a vehicle, must be unloaded. Any weapon with a shell in the chamber or magazine, or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded. Provisions in No. 7 are not applicable to pistols as prescribed in statute 16-23-20 of the South Carolina Code of Laws.
8. On South Carolina Forestry Commission lands, no target practice is permitted except in designated areas.

9. The hours for hunting and fishing shall be published. The said hours may be set short of state and federal regulations.
10. Any attempt to move/flush/drive/pursue game to or into hunters on lands adjoining South Carolina Forestry Commission lands is prohibited.
11. Waiting for game to cross county or state roads on South Carolina Forestry Commission lands is prohibited.
12. Molesting, injuring, poisoning, destroying, or attempting such acts, of any plant or animal life on South Carolina Forestry Commission lands are prohibited except by permit.
13. Entry onto South Carolina Forestry Commission lands constitutes consent to an inspection and search of the person, game bag, or creel and any vehicle, trailer, conveyance or container.
14. On all lands owned by the South Carolina Forestry Commission, the removal of artifacts or ecofacts from the surface or subsurface is prohibited except when approved by the State Historic Preservation Office and carried out in accordance with their guidelines.
15. In accordance with Section 48-23-70(b), 1976 S. C. Code of Laws, as amended, any person violating this section will be guilty of a misdemeanor and upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.
16. The penalty for fishing or hunting on any forest area, other than those times specified by the South Carolina Forestry Commission, shall be as prescribed by § 50-1-90, 1976 South Carolina Code of Laws, as amended.

Except as modified or changed hereby, all prevailing laws, rules and regulations concerning the South Carolina Forestry Commission shall remain in full force and effect.

LAW ENFORCEMENT NOTE:

The provisions 48-23-70 and Regulation 55-1 apply to all SC Forestry Commission properties regardless of whether the properties are designated as State Forests or not.

STATEMENT OF RIGHTS (MIRANDA WARNING)

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to an attorney and have him/her present with you while you are being questioned.
4. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning, if you wish.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements.
6. Do you understand each of these rights I have explained to you?
7. Having these rights in mind, do you wish to talk to us now?