CHAPTER 11

Offenses Against Property

ARTICLE 1

General Provisions

**SECTION 16‑11‑10.** "Dwelling house" defined in case of burglary, arson and other criminal offenses.

 With respect to the crimes of burglary and arson and to all criminal offenses which are constituted or aggravated by being committed in a dwelling house, any house, outhouse, apartment, building, erection, shed or box in which there sleeps a proprietor, tenant, watchman, clerk, laborer or person who lodges there with a view to the protection of property shall be deemed a dwelling house, and of such a dwelling house or of any other dwelling house all houses, outhouses, buildings, sheds and erections which are within two hundred yards of it and are appurtenant to it or to the same establishment of which it is an appurtenance shall be deemed parcels.

HISTORY: 1962 Code Section 16‑301; 1952 Code Section 16‑301; 1942 Code Section 1140; 1932 Code Section 1140; Cr. C. '22 Section 34; Cr. C. '12 Section 179; Cr. C. '02 Section 146; G. S. 2483; R. S. 143; 1866 (13) 405.

**SECTION 16‑11‑20.** Making, mending or possessing tools or other implements capable of being used in crime.

 It is unlawful for a person to make or mend, cause to be made or mended, or have in his possession any engine, machine, tool, false key, picklock, bit, nippers, nitroglycerine, dynamite cap, coil or fuse, steel wedge, drill, tap‑pin, or other implement or thing adapted, designed, or commonly used for the commission of burglary, larceny, safecracking, or other crime, under circumstances evincing an intent to use, employ, or allow the same to be used or employed in the commission of a crime, or knowing that the same are intended to be so used.

 A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16‑302; 1952 Code Section 16‑302; 1942 Code Section 1165; 1932 Code Section 1165; Cr. C. '22 Section 58; Cr. C. '12 Section 195; 1907 (25) 580; 1993 Act No. 184, Section 26.

**SECTION 16‑11‑30.** Possession of master keys and nonowner key sets.

 (A) As used in this section:

 (1) "Master key" means a key which unlocks more than one locking device.

 (2) "Nonowner key sets" means a set of keys designed to open locking devices in a group of products, machines, or vehicles of a particular manufacturer, which differ in configuration from the keys issued by the manufacturer at the time of sale for the locking devices.

 (B) A person who has in his possession, actual or constructive, while engaged in the commission of a crime against the person or property of another, a master key or nonowner key set as defined in subsection (A), or if a master key is used in the commission of any such offense against the laws of this State, he is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

HISTORY: 1962 Code Section 16‑303; 1968 (55) 2587; 1993 Act No. 184, Section 168.

ARTICLE 3

Arson and Other Offenses Involving Fire

**SECTION 16‑11‑110.** Arson.

 (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a building, structure, or any property specified in subsections (B) and (C), whether the property of the person or another, which results, either directly or indirectly, in death or serious bodily injury to a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less than thirty years.

 (B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, church or place of worship, public or private school facility, manufacturing plant or warehouse, building where business is conducted, institutional facility, or any structure designed for human occupancy including local and municipal buildings, whether the property of the person or another, is guilty of the felony of arson in the second degree and, upon conviction, must be imprisoned not less than three nor more than twenty‑five years.

 (C) A person commits a violation of the provisions of this subsection who wilfully and maliciously:

 (1) causes an explosion, sets fire to, burns, or causes a burning which results in damage to a building or structure other than those specified in subsections (A) and (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 a burning that results in damage to a building or structure other than those specified in subsections (A) and (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 the person or another.

 A person who violates the provisions of this subsection is guilty of the felony of arson in the third degree and, upon conviction, must be imprisoned not more than fifteen years.

 (D) For purposes of this section, "damage" means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.

HISTORY: 1962 Code Section 16‑311; 1952 Code Section 16‑311; 1942 Code Section 1132; 1932 Code Section 1132; 1928 (35) 1226; 1982 Act No. 449, 1996 Act No. 356, Section 1; 1997 Act No. 113, Section 1; 2002 Act No. 224, Section 2, eff May 1, 2002; 2010 Act No. 273, Section 3, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 1, eff April 21, 2016.

Editor's Note

2002 Act No. 224, Section 5, provides as follows:

"This act takes effect upon approval by the Governor and applies to offenses committed on or after the effective date."

Effect of Amendment

2016 Act No. 154, Section 1, rewrote (A), (B), and (C).

**SECTION 16‑11‑125.** Making false claim or statement in support of claim to obtain insurance benefits for fire or explosion loss.

 Any person who wilfully and knowingly presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, for the payment of a fire loss or loss caused by an explosion, upon any contract of insurance or certificate of insurance which includes benefits for such a loss, or prepares, makes, or subscribes to a false or fraudulent account, certificate, affidavit, or proof of loss, or other documents or writing, with intent that such documents may be presented or used in support of such claim, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than five years or both in the discretion of the court.

 The provisions of this section are supplemental to and not in lieu of existing law relating to falsification of documents and penalties therefor.

HISTORY: 1982 Act No. 401; 1989 Act No. 148, Section 24.

**SECTION 16‑11‑130.** Burning personal property to defraud insurer.

 Any person who (a) wilfully and with intent to injure or defraud an insurer sets fire to or burns or causes to be burned or (b) aids, counsels, or procures the burning of any goods, wares, merchandise, or other chattels or personal property of any kind, whether the property of himself or of another, which is at the time insured by any person against loss or damage by fire is guilty of a felony and, upon conviction, must be imprisoned for not less than one nor more than five years.

HISTORY: 1962 Code Section 16‑313; 1952 Code 16‑313; 1942 Code Section 1135; 1932 Code Section 1135; 1928 (35) 1226; 1989 Act No. 148, Section 25.

**SECTION 16‑11‑140.** Burning of crops, fuel or lumber.

 It is unlawful for a person to (a) wilfully 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.

HISTORY: 1962 Code Section 16‑314; 1952 Code Section 16‑314; 1942 Code Section 1134; 1932 Code Section 1134; 1928 (35) 11993 Act No. 184, Section 91; 1997 Act No. 113, Section 2.

**SECTION 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.

HISTORY: 1962 Code Section 16‑315; 1967 (55) 265.

**SECTION 16‑11‑160.** Carrying fire on lands of another without permit.

 It shall be unlawful for any person to carry a lighted torch, chunk or coals of fire in or under any mill or wooden building or over and across any of the enclosed or unenclosed lands of another person at any time without the special permit of the owner of such lands, mill or wooden building, whether any damage result therefrom or not. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a term not to exceed thirty days or to a fine not to exceed one hundred dollars.

HISTORY: 1962 Code Section 16‑316; 1952 Code Section 16‑316; 1942 Code Section 1181; 1932 Code Section 1181; Cr. C. '22 Section 71; Cr. C. '12 Section 216; Cr. C. '02 Section 161; R. S. 158; 1891 (20) 1045.

**SECTION 16‑11‑170.** Wilfully burning lands of another.

 It is unlawful for a person to wilfully 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.

HISTORY: 1962 Code Section 16‑317; 1952 Code Section 16‑317; 1942 Code Section 1208; 1932 Code Section 1208; Cr. C. '22 Section 96; Cr. C. '12 Section 215; Cr. C. '02 Section 160; G. S. 2497; R. S. 157; 1787 (5) 125; 1857 (12) 617; 1891 (20) 1195; 1919 (31) 59; 1940 (41) 1820; 1956 (49) 1609; 1960 (51) 1602; 1993 Act No. 184, Section 27.

**SECTION 16‑11‑180.** Negligently 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.

HISTORY: 1962 Code Section 16‑318; 1952 Code Section 16‑318; 1942 Code Section 1208‑1; 1940 (41) 1820; 1958 (50) 1596; 1987 Act No. 113 Section 1.

**SECTION 16‑11‑190.** Attempts to burn.

 It is unlawful for a person to wilfully 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 not more than five years or fined not more than ten thousand dollars.

HISTORY: 1962 Code Sections 16‑319; 1952 Code Section 16‑319; 1942 Code Section 1136; 1932 Code Section 1136; 1928 (35) 1226; 1982 Act No. 449, Section 2; 1993 Act No. 184, Section 169.

**SECTION 16‑11‑200.** Placing or distributing combustible materials and the like in buildings and property as constituting attempt.

 The placing or distributing of any inflammable, explosive or combustible materials or substance or any device in any building or property mentioned in Sections 16‑11‑110 to 16‑11‑140 in an arrangement or preparation with intent eventually wilfully and maliciously to set fire to or burn the same or to procure the setting fire to or burning of the same shall for the purposes of Section 16‑11‑190 constitute an attempt to burn such building or property.

HISTORY: 1962 Code Section 16‑320; 1952 Code Section 16‑320; 1942 Code Section 1137; 1932 Code Section 1137; 1928 (35) 1226.

ARTICLE 5

Burglary, Housebreaking, Robbery and the Like

**SECTION 16‑11‑310.** Definitions.

 For purposes of Sections 16‑11‑311 through 16‑11‑313:

 (1) "Building" means any structure, vehicle, watercraft, or aircraft:

 (a) Where any person lodges or lives; or

 (b) Where people assemble for purposes of business, government, education, religion, entertainment, public transportation, or public use or where goods are stored. Where a building consists of two or more units separately occupied or secured, each unit is deemed both a separate building in itself and a part of the main building.

 (2) "Dwelling" means its definition found in Section 16‑11‑10 and also means the living quarters of a building which is used or normally used for sleeping, living, or lodging by a person.

 (3) "Enters a building without consent" means:

 (a) To enter a building without the consent of the person in lawful possession; or

 (b) To enter a building by using deception, artifice, trick, or misrepresentation to gain consent to enter from the person in lawful possession.

HISTORY: 1962 Code Section 16‑331; 1952 Code Section 16‑331; 1942 Code Section 1138; 1932 Code Section 1138; Cr. C. '22 Section 32; Cr. C. '12 Section 177; Cr. C. '02 Section 144; G. S. 2481; R. S. 141; 1883 (18) 290; 1985 Act No. 159, Section 1.

**SECTION 16‑11‑311.** Burglary; first degree.

 (A) A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and either:

 (1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

 (a) is armed with a deadly weapon or explosive; or

 (b) causes physical injury to a person who is not a participant in the crime; or

 (c) uses or threatens the use of a dangerous instrument; or

 (d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or

 (2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or

 (3) the entering or remaining occurs in the nighttime.

 (B) Burglary in the first degree is a felony punishable by life imprisonment. For purposes of this section, "life" means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen years.

HISTORY: 1985 Act No. 159, Section 2; 1995 Act No. 83, Section 17.

**SECTION 16‑11‑312.** Burglary; second degree.

 (A) A person is guilty of burglary in the second degree if the person enters a dwelling without consent and with intent to commit a crime therein.

 (B) A person is guilty of burglary in the second degree if the person enters a building without consent and with intent to commit a crime therein, and either:

 (1) When, in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

 (a) Is armed with a deadly weapon or explosive; or

 (b) Causes physical injury to any person who is not a participant in the crime; or

 (c) Uses or threatens the use of a dangerous instrument; or

 (d) Displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or

 (2) The burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or

 (3) The entering or remaining occurs in the nighttime.

 (C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

 (2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one‑third of the term of the sentence.

HISTORY: 1985 Act No. 159, Section 2; 2010 Act No. 273, Section 11, eff June 2, 2010.

**SECTION 16‑11‑313.** Burglary; third degree.

 (A) A person is guilty of burglary in the third degree if the person enters a building without consent and with intent to commit a crime therein.

 (B) Burglary in the third degree is a felony punishable by imprisonment for not more than five years for conviction on a first offense and for not more than ten years for conviction of a second offense according to the discretion of the Court.

HISTORY: 1985 Act No. 159, Section 2.

**SECTION 16‑11‑325.** Common law robbery classified as felony; penalty.

 The common law offense of robbery is a felony. Upon conviction, a person must be imprisoned not more than fifteen years.

HISTORY: 1993 Act No. 184, Section 9, eff January 1, 1994.

**SECTION 16‑11‑330.** Robbery and attempted robbery while armed with deadly weapon.

 (A) A person who commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum term of not less than ten years or more than thirty years, no part of which may be suspended or probation granted. A person convicted under this subsection is not eligible for parole until the person has served at least seven years of the sentence.

 (B) A person who commits attempted robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

HISTORY: 1962 Code Section 16‑333; 1952 Code Section 16‑333; 1942 Code Section 1140‑1; 1941 (42) 86; 1966 (54) 2102; 1975 (59) 743; 1993 Act No. 184, Section 170,; 1995 Act No. 7, Part I Section 4; 1996 Act No. 362, Section 1; 1996 Act No. 441, Section 1.

**SECTION 16‑11‑340.** Required placards in retail establishments as to consequences of conviction of armed robbery.

 The South Carolina Department of Revenue, with funds already appropriated to the department, shall print and distribute to each business establishment in this State, to which has been issued a retail sales tax license, a cardboard placard not less than eight inches by eleven inches which shall bear the following inscription in letters not less than three‑fourths inch high:

 "BY ACT OF THE SOUTH CAROLINA GENERAL ASSEMBLY ANY PERSON CONVICTED OF ARMED ROBBERY SHALL SERVE A SENTENCE OF NO LESS THAN SEVEN YEARS AT HARD LABOR WITHOUT PAROLE."

 Such placard shall be prominently displayed in all retail establishments to which they are issued.

HISTORY: 1975 (59) 743; 1993 Act No.181, Section 273.

**SECTION 16‑11‑345.** Cardboard placards.

 The cardboard placard described in Section 16‑11‑340 also shall be provided to operators of motor vehicles being used for the transportation of passengers for hire by the Department of Revenue. The size of the placard for this purpose shall be approximately two and one‑half inches by five and one‑half inches with appropriately sized letters. The placard shall be prominently displayed in the operator's vehicle.

HISTORY: 1994 Act No. 444, Section 2.

**SECTION 16‑11‑350.** Train robbery by stopping train.

 Any person or persons who (a) may stop, cause to be stopped, impede or cause to be impeded any locomotive engine or any car on any railroad in this State by force or threats or by intimidation of those in charge thereof or otherwise for the purpose of taking therefrom or causing to be delivered up to such persons or person anything of value to be appropriated to his or their own use or (b) may conspire together so to do shall be guilty of train robbery and, on conviction thereof, shall be punished by confinement in the Penitentiary not less than two years nor more than twenty years.

HISTORY: 1962 Code Section 16‑334; 1952 Code Section 16‑334; 1942 Code Section 1151; 1932 Code Section 1151; Cr. C. '22 Section 45; Cr. C. '12 Section 192; 1902 (23) 1095.

**SECTION 16‑11‑360.** Robbery after entry upon train.

 Any and all persons who may hereafter enter upon any locomotive engine or car on any railroad in this State and by threats, the exhibition of deadly weapons or the discharge of any pistol or gun on or near any such engine or car induce or compel any person on such engine or car to submit and deliver up or allow to be taken therefrom or from him or them anything of value shall be guilty of train robbery and, on conviction thereof, shall be punished by imprisonment in the Penitentiary not less than ten years nor more than twenty years.

HISTORY: 1962 Code Section 16‑335; 1952 Code Section 16‑335; 1942 Code Section 1152; 1932 Code Section 1152; Cr. C. '22 Section 46; Cr. C. '12 Section 193; 1902 (23) 1095.

**SECTION 16‑11‑370.** Robbery of operators of motor vehicles for hire.

 A person who, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, robs or attempts the robbery of a person engaged in the performance of his duties as an operator of a motor vehicle being used for the transportation of passengers for hire is guilty of a felony and, upon conviction, must be sentenced as provided by Section 16‑11‑330.

HISTORY: 1962 Code Section 16‑335.1; 1962 (52) 2180; 1994 Act No. 444, Section 1.

**SECTION 16‑11‑380.** Entering bank, depository or building and loan association with intent to steal; theft or solicitation of person using automated teller machine.

 (A) It is unlawful for a person to enter a building or part of a building occupied as a bank, depository, or building and loan association with intent to steal money, securities for money, or property, either by force, intimidation, or threats.

 (B) It is unlawful for a person to steal money, securities for money, or property, either by force, intimidation, or threats, from a person who is using or who has just finished using a bank night depository, an automated teller machine (ATM), or another automated banking device, as defined in Section 16‑14‑10, or in the vicinity of a bank depository, an ATM, or another automated banking device.

 (C) It is unlawful for a person to beg, panhandle, or solicit money from, or otherwise harass, a person using, who has just finished using, or who is in the vicinity of a bank night depository, an ATM, or another automated banking device.

 (D) A person who violates the provisions of:

 (1) subsection (A) is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years;

 (2) subsection (B) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than twenty years, or both; and

 (3) subsection (C) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

 (E) A separate location code, premise code, or designation for a bank night depository, an ATM, or other automated banking device offense must be added to the South Carolina Incident Based Reporting System. Law enforcement personnel are required to use this location code, premise code, or designation when completing incident reports for all criminal activity occurring at or in the vicinity of a bank night depository, an ATM, or another automated banking device in accordance with the provisions of this section.

 (F) To the extent that this section applies to bank night depositories, ATMs, and other automated banking devices, it applies only to these devices which are not located in a building or structure and those to which banking customers have access when they are outside a building or structure. A building or structure does not include an enclosure erected solely for the purpose of containing an otherwise outdoor or detached ATM or automated banking device. However, the provisions of this section do apply to drive‑through banking terminals.

 (G) As used in this section, "vicinity" means within the sight of a reasonable person.

HISTORY: 1962 Code Section 16‑336; 1952 Code Section 16‑336; 1942 Code Section 1141; 1932 Code Section 1141; Cr. C. '22 Section 35; Cr. C. '12 Section 180; 1908 (25) 1112; 1956 (49) 1743; 1993 Act No. 184, Section 171; 2007 Act No. 72, Section 2, eff June 13, 2007.

**SECTION 16‑11‑390.** Safecracking.

 It is unlawful for a person to use explosives, tools, or any other implement in or about a safe used for keeping money or other valuables with intent to commit larceny or any other crime.

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

HISTORY: 1962 Code Section 16‑337; 1952 Code Section 16‑337; 1942 Code Section 1150; 1932 Code Section 1150; Cr. C. '22 Section 44; Cr. C. '12 Section 191; 1904 (14) 396; 1907 (25) 580; 1955 (49) 65; 1993 Act No. 184, Section 172.

ARTICLE 6

Protection of Persons and Property Act

**SECTION 16‑11‑410.** Citation of article.

 This article may be cited as the "Protection of Persons and Property Act".

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

**SECTION 16‑11‑420.** Intent and findings of General Assembly.

 (A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.

 (B) The General Assembly finds that it is proper for law‑abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

 (C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.

 (D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.

 (E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

**SECTION 16‑11‑430.** Definitions.

 As used in this article, the term:

 (1) "Dwelling" means a building or conveyance of any kind, including an attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging there at night.

 (2) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

 (3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

 (4) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

**SECTION 16‑11‑440.** Presumption of reasonable fear of imminent peril when using deadly force against another unlawfully entering residence, occupied vehicle or place of business.

 (A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

 (1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

 (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

 (B) The presumption provided in subsection (A) does not apply if the person:

 (1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

 (2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

 (3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

 (4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.

 (C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16‑1‑60.

 (D) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16‑1‑60.

 (E) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

**SECTION 16‑11‑450.** Immunity from criminal prosecution and civil actions; law enforcement officer exception; costs.

 (A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known that the person is a law enforcement officer.

 (B) A law enforcement agency may use standard procedures for investigating the use of deadly force as described in subsection (A), but the agency may not arrest the person for using deadly force unless probable cause exists that the deadly force used was unlawful.

 (C) The court shall award reasonable attorneys' fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (A).

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

ARTICLE 7

Trespasses and Unlawful Use of Property of Others

**SECTION 16‑11‑510.** Malicious injury to animals and other personal property.

 (A) It is unlawful for a person to wilfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels 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, or both, if the injury to the property or the property loss is worth ten 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, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, not more than thirty days, or both.

HISTORY: 1962 Code Section 16‑381; 1952 Code Section 16‑381; 1942 Code Section 1183; 1932 Code Section 1183; Cr. C. '22 Section 73; Cr. C. '12 Section 222; Cr. C. '02 Section 170; G. S. 2500; R. S. 165; 1712 (2) 478, 521; 1857 (12) 605; 1861 (12) 903; 1892 (21) 115; 1894 (21) 824; 1964 (53) 1724; 1981 Act No. 76, Section 1; 1993 Act No. 171, Section 3; 1993 Act No. 184, Section 104; 1998 Act No. 272, Section 1; 2010 Act No. 273, Section 16.A, eff June 2, 2010.

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

 (A) It is unlawful for a person to wilfully 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, or both, if the injury to the property or the property loss is worth ten 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, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

 (3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 16‑382; 1952 Code Section 16‑382; 1942 Code Section 1184; 1932 Code Section 1184; Cr. C. '22 Section 74; Cr. C. '12 Section 223; Cr. C. '02 Section 171; G. S. 2501; R. S. 166; 1857 (12) 605; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824; 1935 (39) 262; 1964 (53) 1724; 1981 Act No. 76, Section 2; 1993 Act No. 171, Section 4; 1993 Act No. 184, Section 105; 1998 Act No. 272, Section 2; 2010 Act No. 273, Section 16.B, eff June 2, 2010.

**SECTION 16‑11‑523.** Obtaining nonferrous metals unlawfully; disruption of communication or electrical service.

 (A) For purposes of this section, "nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead‑acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

 (B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

 (C) A person who violates a provision of this section is guilty of a:

 (1) misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than five thousand dollars; or

 (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

 (D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

 (2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

 (E) A person who violates the provisions of this section and the violation results in disruption of communication or electrical service to critical infrastructure or more than ten customers of the communication or electrical service is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

 (F) If a person is convicted of violating the provisions of this section and the person has been issued a permit pursuant to Section 16‑17‑680, the permit must be revoked.

 (G)(1) A public or private owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

 (2) A public or private owner of personal or real property is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the owner when the owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

 (3) This subsection does not create or impose a duty of care upon a owner of personal or real property that would not otherwise exist under common law.

HISTORY: 2008 Act No. 260, Section 2, eff June 4, 2008; 2009 Act No. 26, Section 1, eff June 2, 2009; 2010 Act No. 273, Section 16.C, eff June 2, 2010; 2011 Act No. 68, Section 1, eff August 17, 2011; 2012 Act No. 242, Section 1, eff December 15, 2012.

**SECTION 16‑11‑525.** Commissioners deemed owners of Housing Authority property for certain purposes; exemption from liability.

 For the sole purpose of determining whether or not any public housing authority property has been maliciously injured as the offense of malicious mischief is defined in Section 16‑11‑520, and as to whether or not there has been a trespass upon the property as this offense is defined under Section 16‑11‑600, in all prosecutions under these penal statutes and other statutes of a like nature, the members of the board of commissioners of each state, county, or municipal housing authority in this State, in their official capacity, are deemed to be the owners and possessors of all property of each particular housing authority under their jurisdiction. Nothing in this section may be construed to create personal liability for a commissioner for loss, injury, or damage to the person or property of any other person or entity who suffers injury while on or adjacent to housing authority property as a tenant, an invitee, or a trespasser.

HISTORY: 1994 Act No. 419, Section 1.

**SECTION 16‑11‑530.** Malicious injury to real property; school trustees deemed owners of school property.

 For the purpose of determining whether or not any school property has been maliciously injured as the offense of malicious mischief is defined in Section 16‑11‑520 and as to whether or not there has been a trespass upon such property as this offense is defined in Section 16‑11‑600 and for all prosecutions under these penal statutes and other statutes of a like nature, the trustees of the respective school districts in this State in their official capacity shall be deemed to be the owners and possessors of all school property.

HISTORY: 1962 Code Section 16‑383; 1952 Code Section 16‑383; 1942 Code Section 1184; 1932 Code Section 1184; Cr. C. '22 Section 74; Cr. C. '12 Section 223; Cr. C. '02 Section 171; G. S. 2501; R. S. 166; 1857 (12) 605; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824; 1935 (39) 262.

**SECTION 16‑11‑535.** Malicious injury to place of worship.

 Whoever shall wilfully, unlawfully, and maliciously vandalize, deface, damage, or destroy or attempt to vandalize, deface, damage, or destroy any place, structure, or building of worship or aid, agree with, employ, or conspire with any person to do or cause to be done any of the acts mentioned above is guilty of a felony and, upon conviction, must be imprisoned not less than six months nor more than ten years or fined not more than ten thousand dollars, or both.

HISTORY: 1986 Act No. 485; 1996 Act No. 356, Section 2.

**SECTION 16‑11‑560.** Burning or cutting untenanted or unfinished buildings.

 It is unlawful for a person to maliciously, unlawfully, and wilfully burn or cause to be burned, cut or cause to be cut, or destroyed any untenanted or unfinished house or building or any frame of timber of another person made and prepared for or towards the making of a house, so that the house is not suitable for the purposes for which it was prepared.

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

HISTORY: 1962 Code Section 16‑384; 1952 Code Section 16‑384; 1942 Code Section 1182; 1932 Code Section 1182; Cr. C. '22 Section 72; Cr. C. '12 Section 217; Cr. C. '02 Section 162; G. S. 2845; R. S. 159; 1712 (2) 478; 1887 (19) 794; 1911 (27) 129; 1993 Act No. 184, Section 173.

**SECTION 16‑11‑570.** Injury or destruction of buildings or crops by tenant.

 It is unlawful for a tenant to wilfully and maliciously cut, deface, mutilate, burn, destroy, or otherwise injure a dwelling house, outhouse, erection, building, or crops in his possession.

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

HISTORY: 1962 Code Section 16‑385; 1952 Code Section 16‑385; 1942 Code Section 1182; 1932 Code Section 1182; Cr. C. '22 Section 72; Cr. C. '12 Section 217; Cr. C. '02 Section 162; G. S. 2845; R. S. 159; 1712 (2) 478; 1887 (19) 794; 1911 (27) 129; 1993 Act No. 184, Section 174.

**SECTION 16‑11‑580.** Cutting, removing, or transporting forest products without consent of landowner; fraudulently acquiring forest products; penalties.

 (A) It is unlawful for a person to knowingly and wilfully:

 (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 but 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 and not more than twenty 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.

HISTORY: 1962 Code Section 16‑385.1; 1960 (51) 1706; 1963 (53) 37; 2004 Act No. 273, Section 1, eff July 16, 2004 and applicable to offenses committed on or after that date; 2012 Act No. 225, Section 1, eff July 1, 2012.

**SECTION 16‑11‑590.** Destruction of sea oat or Venus's flytrap plants.

 It shall be unlawful for any person to cut, collect, break or otherwise destroy sea oat plants, Venus's‑flytrap plants or any part on public property or on private property without the owner's consent. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or imprisoned not more than thirty days nor less than five days. Each violation shall constitute a separate offense.

HISTORY: 1962 Code Section 16‑385.2; 1961 (52) 427; 1980 Act No. 417.

**SECTION 16‑11‑600.** Entry on another's pasture or other lands after notice; posting notice.

 Every entry upon the lands of another where any horse, mule, cow, hog or any other livestock is pastured, or any other lands of another, after notice from the owner or tenant prohibiting such entry, shall be a misdemeanor and be punished by a fine not to exceed one hundred dollars, or by imprisonment with hard labor on the public works of the county for not exceeding thirty days. When any owner or tenant of any lands shall post a notice in four conspicuous places on the borders of such land prohibiting entry thereon, a proof of the posting shall be deemed and taken as notice conclusive against the person making entry, as aforesaid, for the purpose of trespassing.

HISTORY: 1962 Code Section 16‑386; 1952 Code Section 16‑386; 1942 Code Section 1190; 1932 Code Section 1190; Cr. C. '22 Section 81; Cr. C. '12 Section 241; Cr. C. '02 Section 186; G. S. 2507; R. S. 176; 1866 (13) 406; 1883 (18) 43; 1898 (22) 811; 1954 (48) 1705.

**SECTION 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; for gathering fruit, wild flowers, cultivated flowers, shrubbery, straw, turf, vegetables or herbs; or for cutting timber on such land, without the consent of the owner or manager, shall be deemed guilty of a misdemeanor and upon conviction 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.

HISTORY: 1962 Code Section 16‑387; 1952 Code Section 16‑387; 1942 Code Section 1191; 1932 Code Section 1191; Cr. C. '22 Section 82; Cr. C. '12 Section 242; 1905 (24) 906; 1927 (35) 377; 1979 Act No. 62 Section 1.

**SECTION 16‑11‑615.** Payment of treble damages; discharge from further penalty.

 In all criminal prosecutions for violation of the provisions of Sections 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.

HISTORY: 1985 Act No. 33.

**SECTION 16‑11‑617.** Entry on another's land for purpose of cultivating marijuana.

 It is unlawful for a person to enter on the land of another for the purpose of cultivating or attempting to cultivate marijuana. The provisions of this section are cumulative to other provisions of law. To constitute a violation of this section, a minimum of twenty‑five marijuana plants must be cultivated. A person violating the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years and fined not more than five thousand dollars.

HISTORY: 1986 Act No. 486; 1993 Act No. 184, Section 28.

**SECTION 16‑11‑620.** Entering premises after warning or refusing to leave on request; jurisdiction and enforcement.

 Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premises of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business, or on the premises of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction, be fined not more than two hundred dollars or be imprisoned for not more than thirty days.

 All municipal courts of this State as well as those of magistrates may try and determine criminal cases involving violations of this section occurring within the respective limits of such municipalities and magisterial districts. All peace officers of the State and its subdivisions shall enforce the provisions hereof within their respective jurisdictions.

 The provisions of this section shall be construed as being in addition to, and not as superseding, any other statutes of the State relating to trespass or entry on lands of another.

HISTORY: 1962 Code Section 16‑388; 1960 (51) 1729; 1981 Act No. 76, Section 3; 1996 Act No. 279, Section 1.

**SECTION 16‑11‑625.** Public library trespass; warning; appeal; penalties.

 (A)(1) A person who enters a public library, without legal cause or good excuse, after having been warned not to do so by the library director, the branch manager, or the acting branch manager of the library in consultation with the library director is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or be imprisoned not more than thirty days.

 (2) A copy of the warning provided for by subsection (A)(1) must be given to the person in writing, in the presence of a law enforcement officer, and must state:

 (a) the alleged criminal law violation or the alleged violation of the library's code of conduct promulgated by the library's board of trustees under the authority provided by Section 4‑9‑37(b);

 (b) the duration of the prohibition to return; and

 (c) the procedure by which the person may appeal the warning to the library board of trustees. The person receiving notice of trespass wishing to appeal the notice must submit a request for a hearing to the board within five business days of receiving the notice. The board of trustees of the library must then provide a hearing within ten business days of the request for an appeal.

 (B) A violation of the provisions of this section is triable in the appropriate municipal or magistrates court with jurisdiction over the offense. Any law enforcement officer of this State or a subdivision of this State may enforce the provisions of this section within their respective jurisdictions.

 (C) The provisions of this section must be construed as in addition to, and not as superseding, another statute relating to trespass or unlawful entry on lands of another.

HISTORY: 2014 Act No. 296 (S.813), Section 1, eff August 27, 2014.

**SECTION 16‑11‑630.** Refusing to leave certain public premises during hours when they are regularly closed.

 Any person who, during those hours of the day or night when the premises owned or occupied by a state, county or municipal agency are regularly closed to the public, shall refuse or fail, without justifiable cause, to leave those premises upon being requested to do so by a law enforcement officer or guard, watchman or custodian responsible for the security or care of the premises, shall be deemed guilty of a misdemeanor and upon conviction, be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16‑388.1; 1968 (56) 657.

**SECTION 16‑11‑640.** Unlawful entry into enclosed places.

 It shall be unlawful for any person not an occupant, owner or invitee to enter any private property enclosed by walls or fences with closed gates between the hours of six P.M. and six A.M. The provisions of this section shall not apply to any justifiable emergency entry or to premises which are not posted with clearly visible signs prohibiting trespass upon the enclosed premises. The provisions of this section are supplemental to existing law relating to trespass and punishment therefor. Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16‑388.2; 1974 (58) 2636.

**SECTION 16‑11‑650.** Removing, destroying or leaving down fences; penalties; magistrate court jurisdiction; easement holder's rights.

 (A) A person, other than the owner or a person acting under the authority of the owner, who wilfully and knowingly removes, destroys, or leaves down any portion of a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who wilfully and knowingly leaves open or removes a gate or leaves down bars or other structure intended for the same purpose is guilty of a misdemeanor and must be punished by a fine of one thousand dollars or imprisonment for thirty days, or both.

 (B) The magistrates court is vested with jurisdiction to hear and dispose of these cases.

 (C) Nothing in this section shall affect an easement holder's right and ability to maintain such easement and rights of way consistent with the provisions of the document granting such easement.

HISTORY: 1962 Code Section 16‑389; 1952 Code Section 16‑389; 1942 Code Section 1222; 1932 Code Section 1222; Cr. C. '22 Section 110; Cr. C. '12 Section 229; Cr. C. '02 Section 176; G. S. 1190; R. S. 171; 1881 (17) 593; 1903 (24) 111; 1921 (32) 200; 2009 Act No. 56, Section 1, eff upon approval (became law without the Governor's signature on June 3, 2009).

**SECTION 16‑11‑660.** Traveling outside of road on cultivated lands.

 It shall be a misdemeanor for any person wilfully to walk, drive or ride or to allow his team to travel outside of the road on the cultivated lands of another, punishable as provided in Section 16‑11‑650; provided, that in case any person charged with this misdemeanor be brought before or reported to a magistrate he may discharge himself from any further proceedings therein by paying such fine within the above limits as the magistrate may impose.

HISTORY: 1962 Code Section 16‑390; 1952 Code Section 16‑390; 1942 Code Section 1224; 1932 Code Section 1224; Cr. C. '22 Section 112; Cr. C. '12 Section 232; Cr. C. '02 Section 178; G. S. 1192; R. S. 173; 1881 (17) 593.

**SECTION 16‑11‑670.** Pleading satisfaction in prosecutions under Sections 16‑11‑650 and 16‑11‑660.

 In all criminal prosecutions for violation of the provisions of Sections 16‑11‑650 and 16‑11‑660 the defendant may plead, as a matter of defense, the full satisfaction of all reasonable demands of the person aggrieved by such violation, and upon such plea being legally established and upon payment of all costs accrued up to the time of such plea he shall be discharged from further penalty.

HISTORY: 1962 Code Section 16‑391; 1952 Code Section 16‑391; 1942 Code Section 1225; 1932 Code Section 1225; Cr. C. '22 Section 113; Cr. C. '12 Section 233; Cr. C. '02 Section 179; G. S. 1193; R. S. 173; 1881 (17) 594.

**SECTION 16‑11‑680.** Altering and removing landmarks.

 If any person shall knowingly, wilfully, 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.

HISTORY: 1962 Code Section 16‑392; 1952 Code Section 16‑392; 1942 Code Section 1166; 1932 Code Section 1166; Cr. C. '22 Section 59; Cr. C. '12 Section 197; 1902 (23) 1094.

**SECTION 16‑11‑690.** Failure to return boat, flat or tool used for mining phosphate.

 Any person being entrusted with any boat, flat or tools for gathering phosphate rock by the owner thereof for the purpose of mining or gathering phosphate rock who shall fail to return the same to the owner within two days after being required by such owner so to do shall be guilty of a misdemeanor and, upon conviction thereof before a court of competent jurisdiction, shall be fined in the sum of not more than fifty dollars or imprisoned not more than thirty days, in the discretion of the court. It shall be a complete defense to any indictment or prosecution instituted under this section if the defendant shall make it appear that his failure to return the property was due to his inability so to return the same, such inability not being the result of the defendant's act, or that the agreed time in which such property was to be returned had not expired at the time of his failure to return the same.

HISTORY: 1962 Code Section 16‑393; 1952 Code Section 16‑393; 1942 Code Section 1205; 1932 Code Section 1205; Cr. C. '22 Section 93; Cr. C. '12 Section 254; Cr. C. '02 Section 195; 1900 (23) 445.

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

 (A) A person, from a vehicle or otherwise, may not dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by Section 44‑96‑40(46), upon public or private property or waters in the State including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:

 (1) on property 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; or

 (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 pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

 (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 two hundred dollars or imprisoned for not more than thirty days for a first or second conviction, or fined five hundred dollars or imprisoned for not more than thirty days for a third or subsequent conviction. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter‑gathering labor for a first conviction, sixteen hours of litter‑gathering labor for a second conviction, and twenty‑four hours of litter‑gathering labor for a third or subsequent conviction, or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.

 (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 one thousand 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. This item 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 pursuant to the provisions of this item, the court also shall impose a minimum of five hours of litter‑gathering labor or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.

 (3) The court, instead 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, under the supervision of the court, as it may order because of physical or other incapacities not to exceed one hour for each five dollars of fine imposed.

 (4) In addition to 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 of the property upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

 (D) A 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, up to one hundred hours.

 (E)(1) A 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 of 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 in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or two hundred dollars, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party's court costs and attorney's fees.

 (5) A fine imposed pursuant to this subsection must not be suspended, in whole or in part.

 (F)(1) When the penalty for a violation of this section includes litter‑gathering labor in addition to a fine or imprisonment, the litter‑gathering portion of the penalty is mandatory and must not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter‑gathering portion of the penalty that must be equal to the amount of five dollars an hour of litter‑gathering labor. Probation must not be granted instead of the litter‑gathering requirement, except for a person's physical or other incapacities.

 (2) Funds collected pursuant to this subsection instead of the mandatory litter‑gathering labor must be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter‑gathering supervision.

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

 (H) A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.

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

HISTORY: 1962 Code Section 16‑396; 1952 Code Section 33‑551; 1949 (46) 466; 1953 (48) 160; 1957 (50) 269; 1959 (51) 140; 1966 (54) 2290; 1967 (55) 209, 478; 1971 (57) 853; 1972 (57) 2563; 1973 (58) 205; 1978 Act No. 496 Section 7; 1987 Act No. 135 Section 1; 1988 Act No. 530, Sections 1, 3; 1991 Act No. 63, Section 2; 1992 Act No. 307, Section 1; 1993 Act No. 184, Section 92; 1994 Act No. 288, Section 1; 1994 Act No. 497, Part II, Section 36U; 1999 Act No. 100, Part II, Section 106; 2000 Act No. 387, Part II, Section 54B; 2000 Act No; 387, Part II, Section 92A; 2004 Act No. 306, Section 1, eff September 8, 2004.

Editor's Note

Section 44‑67‑30(4), referenced in (C)(2), was repealed by 2015 Act No. 8.

**SECTION 16‑11‑710.** Acceptance of cash bond in lieu of immediate court appearance in litter control prosecutions.

 When any person is charged with a violation of 16‑11‑700 or any county ordinance relating to litter control, any officer authorized to enforce such law or ordinance may accept a cash bond in lieu of requiring an immediate court appearance. Such bond shall not exceed the maximum fine provided for a conviction of the offense charged and may be forfeited to the court by the enforcement officer if the person charged fails to appear in court.

HISTORY: 1962 Code Section 16‑396.1; 1975 (59) 317.

**SECTION 16‑11‑720.** Dumping trash in or along shoreline of Lake Greenwood; penalties.

 (1) It shall be unlawful for any person to dump, leave or throw any rubbish, trash, garbage, cans, bottles, containers, paper, oil, grease or other similar substances or dead animals into the waters or along the shoreline of Lake Greenwood.

 (2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16‑396.1; 1971 (57) 490.

**SECTION 16‑11‑725.** Rummaging through or stealing household garbage for purposes of committing identity theft; penalty; exception for officers of the law.

 (A) It is unlawful for a person to rummage through or steal another person's household garbage or litter, as defined in Section 44‑67‑30(4), for the purpose of committing financial identity fraud or identity fraud or identity theft as defined in Sections 16‑13‑510 and 37‑20‑110.

 (B)(1) A person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars for the first violation and one thousand dollars for each subsequent violation.

 (2) A person who knowingly and wilfully violates the provisions of this section is guilty of a Class F felony and, upon conviction, must be imprisoned not more than five years and fined not more than one thousand dollars, or both.

 (C) A conviction pursuant to the provisions of this section and the possession of identifying information as defined in Section 16‑13‑510 is prima facie evidence of financial identity fraud, identity fraud, or identity theft pursuant to Sections 16‑13‑510 and 37‑20‑110.

 (D) This section does not prohibit a duly constituted officer of the law from performing his official duties in ferreting out offenders or suspected offenders against violating the laws of this State or a county or municipality for the purpose of apprehending the suspected violator. The provisions of this section must not be construed to give an officer any additional rights or powers upon private property but must be construed as preserving only his previous powers.

HISTORY: 2008 Act No. 190, Section 5, eff December 31, 2008.

Editor's Note

Section 44‑67‑30(4), referenced in (A), was repealed by 2015 Act No. 8.

**SECTION 16‑11‑730.** Malicious injury to or interference with microwave radio or television facilities; unauthorized use of facilities.

 Any person who shall (1) wilfully or maliciously break, injure or otherwise destroy or damage any of the posts, wires, towers or other materials or fixtures employed in the construction or use of any line of a television coaxial cable, or a microwave radio system or a community antenna television system or (2) wilfully or maliciously interfere with such structure so erected or (3) in any way attempt to lead from its uses or make use of the electrical signal or any portion thereof properly belonging to or in use or in readiness to be made use of for the purposes of using said electrical signal from any television coaxial cable company or microwave system or a community antenna television system or owner of such property shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16‑397; 1964 (53) 1742.

**SECTION 16‑11‑740.** Malicious injury to telegraph, telephone or electric utility system.

 It is unlawful for a person, without the consent of the owner, to wilfully:

 (1) destroy, damage, or in any way injure a telegraph, telephone, electric utility system, satellite dish, or cable television system, including poles, cables, wires, fixtures, antennas, amplifiers, or other apparatus, equipment, or appliances;

 (2) obstruct, impede, or impair their services or transmissions or;

 (3) aid, agree with, employ, or conspire with a person to do or cause to be done any of the acts mentioned in this section.

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

HISTORY: 1962 Code Section 16‑399; 1969 (56) 651; 1989 Act No. 21, Section 1; 1993 Act No. 184, Section 29.

**SECTION 16‑11‑750.** Unlawful injury or interference with electric lines.

 It shall be unlawful for any person within this State, wilfully and wantonly and without the consent of the owner, (a) to take down, remove, injure, obstruct, displace or destroy any line erected or constructed for the transmission of electrical current or any poles, towers, wires, conduits, cables, insulators or support upon which wires or cables may be suspended or any part of any such line or appurtenances or apparatus connected therewith, (b) to sever any wire or cable thereof or in any manner interrupt the transmission of electrical current over and along any such line, (c) to take down, remove, injure or destroy any house, shop, building or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current or (d) to wantonly or wilfully cause injury to any of the property mentioned in this section by means of fire. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned not longer than one year, or both fined and imprisoned, in the discretion of the court. But nothing herein contained shall operate to prevent any person from removing any such wires or apparatus affixed to his private property without his consent.

HISTORY: 1962 Code Section 24‑453; 1952 Code Section 24‑453; 1942 Code Section 1202; 1932 Code Section 1202; Cr. C. '22 Section 91; Cr. C. '12 Section 252; 1902 (23) 1102; 1904 (24) 443; 1908 (25) 1078.

**SECTION 16‑11‑755.** Operation of certain motor vehicles on utility rights of way unlawful; penalties.

 (1) It shall be unlawful for any person other than the landowner or someone who specifically acts with his permission, or an employee or agent of the utility which owns the utility right‑of‑way concerned to operate a mini‑bike, motor‑bike, motorcycle, jeep, dune buggy, automobile, truck or other power driven vehicle on the land which constitutes the utility right‑of‑way if the utility, after obtaining permission of the landowner in writing, posts signs at conspicuous places on such right‑of‑way which read substantially as follows:

"NO TRESPASSING

 It is unlawful to operate a mini‑bike, motor‑bike, motorcycle, jeep, dune buggy, automobile, or truck upon this right‑of‑way. Violators will be subject to a fine of two hundred dollars."

 (2) The prohibition of trespass as provided for in this section does not contradict or in any manner diminish the property rights of the owner of the land subject to the easement or of the utility's rights in its easement.

 (3) Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars for each offense.

HISTORY: 1979 Act No. 86 Section 1.

**SECTION 16‑11‑760.** Parking on private property without permission; removal of vehicles; lien for towing and storage; sale of vehicles; penalty for violation.

 (A) It is unlawful for a person to park a vehicle, as defined in Section 56‑5‑5630, on the private property of another without the owner's consent. If the property is for commercial use, the owner must post a notice in a conspicuous place on the borders of the property near each entrance prohibiting parking. Proof of the posting is considered notice conclusive against the person making entry.

 (B) A vehicle found parked on private property may be towed and stored at the expense of the registered owner or lienholder, and charges for towing, storing, preserving the vehicle, and expenses incurred if the owner and lienholder are notified pursuant to Section 29‑15‑10 constitute a lien against the vehicle, provided that the towing company makes notification to the law enforcement agency pursuant to Section 56‑5‑2525.

 (C) If the vehicle is not claimed by the owner, lienholder, or his agent, the vehicle must be sold pursuant to Section 29‑15‑10 by a magistrate in the county in which the vehicle was towed or stored.

 (D) A person violating the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than one hundred dollars or imprisoned for not more than thirty days. This punishment is in addition to the other remedies authorized in this section.

HISTORY: 1962 Code Section 46‑807; 1958 (50) 1670; 1966 (54) 2075; 1987 Act No. 185 Section 1; 2003 Act No. 71, Section 2, eff June 25, 2003; 2004 Act No. 269, Section 10, eff July 6, 2004.

**SECTION 16‑11‑770.** Illegal graffiti vandalism; penalty; removal or restitution.

 (A) As used in this section, "illegal graffiti vandalism" means an inscription, writing, drawing, marking, or design that is painted, sprayed, etched, scratched, or otherwise placed on structures, buildings, dwellings, statues, monuments, fences, vehicles, or other similar materials that are on public or private property and that are publicly viewable, without the consent of the owner, manager, or agent in charge of the property.

 (B) It is unlawful for a person to engage in the offense of illegal graffiti vandalism and, upon conviction, for a:

 (1) first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not less than thirty days nor more than ninety days;

 (2) second offense, within ten years, is guilty of a misdemeanor and must be fined not more than two thousand five hundred dollars or imprisoned not more than one year; and

 (3) third or subsequent offense within ten years of a first offense, is guilty of a misdemeanor and must be fined not more than three thousand dollars or imprisoned not more than three years.

 (C) In addition to the penalties provided in subsection (B), a person convicted of the offense of illegal graffiti vandalism also may be ordered by the court to remove the illegal graffiti, pay the cost of the removal of the graffiti, or make further restitution in the discretion of the court.

HISTORY: 2007 Act No. 82, Section 9, eff June 12, 2007.

**SECTION 16‑11‑780.** Prohibition on entering certain lands to discover, uncover, move, remove, or attempt to remove archaeological resource; definitions; penalty; exception.

 (A) As used in this section:

 (1) "Archaeological resource" means all artifacts, relics, burial objects, or material remains of past human life or activities that are at least one hundred years old and possess either archaeological or commercial value, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carving, intaglios, graves, or human skeletal materials.

 (2) "Archaeological value" means the value of the data associated with the archaeological resource. This value may be appraised in terms of the costs of the retrieval of the scientific information that would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

 (3) "Commercial value" means the fair market value of the archaeological resource. When a violation has resulted in damage to the archaeological resource, the fair market value may be determined using the condition of the archaeological resource prior to the violation, to the extent its prior condition can be ascertained.

 (4) "Cost of restoration and repair" means the sum of the costs incurred for emergency restoration or repairs to an archaeological resource, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

 (a) reconstruction of the archaeological resource;

 (b) stabilization of the archaeological resource;

 (c) ground contour reconstruction and surface stabilization;

 (d) physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

 (e) examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining resources that cannot be otherwise conserved; or

 (f) preparation of reports relating to any of the activities described in this section.

 (5) "Posted lands" means lands where the State has complied with the notice or warning requirement which must either be posted or given to an offender pursuant to Section 16‑11‑600.

 (B) The court may call upon the Office of the State Archaeologist to provide evidence to assist in determining, calculating, or computing archaeological value, commercial value, or the cost of restoration and repair of an archaeological resource.

 (C) It is unlawful for a person to wilfully, knowingly, or maliciously enter upon the lands of another or the posted lands of the State and disturb or excavate a prehistoric or historic site for the purpose of discovering, uncovering, moving, removing, or attempting to remove an archaeological resource. Each unlawful entry and act of disturbance or excavation of a prehistoric or historic site constitutes a separate and distinct offense.

 (D) For a first offense, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined, imprisoned, or both, pursuant to the jurisdiction of magistrates as provided in Section 22‑3‑550.

 (E) For a second offense for violating this section on the same property as the first offense or on another posted property, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or more than three thousand dollars or imprisoned not more than three years, or both.

 (F) For a third or subsequent offense for violating this section on the same property as the first offense or on another posted property, 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, or both.

 (G) For the purposes of subsections (E) and (F) of this section, a second, third, or subsequent offense on the same property as the first offense or on another posted property must include no offense that occurs more than ten years after conviction for the first offense.

 (H) All equipment and conveyances including, but not limited to, trailers, motor vehicles, and watergoing vessels that were used in connection with felony violations of this section are subject to forfeiture to the State in the same manner as equipment and conveyances are subject to forfeiture pursuant to Section 44‑53‑520, if the offender either owns the equipment or conveyance or is a resident of the equipment or conveyance owner's household.

 (1) All equipment and conveyances subject to confiscation and forfeiture under this section may be confiscated by any law enforcement officer as provided in this section. The confiscating officer shall deliver the confiscated property immediately to the county or municipality where the offense occurred. The county or municipality shall notify the registered owner of the confiscated 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 court. The confiscation hearing must be held within ten days from the date of receipt of the request. The confiscated property must be returned to the registered owner if the registered owner shows by a preponderance of the evidence that he did not know the confiscated property was used in the commission of the crime, that he did not give permission for the confiscated property to be used in the commission of the crime, and that the confiscated property had not been used for a previous violation of this section on the posted land where this offense occurred or other posted land.

 (2) The county or municipality in possession of the confiscated property shall provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

 (3) Forfeiture of property is subordinate in priority to all valid liens and encumbrances.

 (4) A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

 (I) The landowner, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover the greater of the archaeological resource's archaeological value or commercial value, and the cost of restoration and repair of the site where the archaeological resource was located, plus attorney's fees and court costs.

 (J) Nothing contained in this section shall limit or interfere with a landowner's lawful use of his property or with the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

 (K) Nothing contained in this section shall limit or interfere with:

 (1) a landowner's lawful use of his property;

 (2) the lawful acts of a landowner's employee, agent, or independent contractor acting in the scope of and in the course of his employment, agreement, or contract;

 (3) the lawful acts of a utility worker acting in the scope of and in the course of his employment; or

 (4) the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

HISTORY: 2010 Act No. 255, Section 1, eff June 11, 2010.

ARTICLE 8

Theft of Cable Television Service Act

**SECTION 16‑11‑810.** Short title.

 This article may be cited as the Theft of Cable Television Service Act.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑815.** Definitions.

 As used in this article, "cable television service" includes (1) services provided by or through the facilities of any cable television system or closed circuit coaxial cable communication system, and (2) any transmission service used in connection with any cable television system or similar closed circuit coaxial cable communication system.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑820.** Use of service without authorization or payment; presumption arising from connection of device to cable or closed circuit system.

 It is unlawful for any person knowingly to obtain or use cable television service without the authorization of, or payment to, the operator of the service. It is permissible to infer that the existence of any connection, wire, conductor, or other device whatsoever, between facilities of a cable television system or closed circuit coaxial cable communication system and the premises occupied by the person which makes possible the use of cable television service by any person without that use being specifically authorized by, or compensation paid to, the operator of cable television service indicates that the occupant of the premises has violated this section. If any person pays the amount charged for service provided by the operator of the cable television system, whether or not the amount billed is in conformity with the established charges for the service, the person is not guilty of any offense hereunder by reason of the use of the service.

HISTORY: 1984 Act No. 407; 1987 Act No. 95 Section 2.

**SECTION 16‑11‑825.** Unauthorized connection or use of device to cable television system.

 It is unlawful for any person to make or use a connection not authorized by the operator of a cable television service, whether physical, electrical, mechanical, electronic, induction, or otherwise, or to attach any unauthorized device, or permit the attachment of any unauthorized connection or device to any cable, wire, or other component of a cable television system or service or to a television set connected into the system or service, for the purpose of permitting the reception and viewing of signals which are intended to be received and viewed only upon payment to the operator of the cable television system of the lawful charge therefor.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑830.** Aiding or abetting another person in obtaining cable service without payment.

 It is unlawful for any person to assist, instruct, aid or abet, or attempt to assist, instruct, aid or abet any other person in obtaining any cable television service without payment of the lawful charge therefor.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑835.** Sale, lease, or advertising of equipment for avoidance of cable service charge.

 It is unlawful for any person, firm, or corporation to advertise, promote the sale of, sell, rent, install, or use any instrument, apparatus, equipment, or device, or plans or instructions for making or assembling the same, designed or adapted to avoid the lawful charge for any cable television service.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑840.** Unauthorized device designed to decode or descramble cable television signal.

 It is unlawful for any person, without the express authorization of a franchised or other duly licensed cable television system, knowingly and wilfully to manufacture, import into this State, distribute, sell, offer to sell, possess for sale, advertise for sale, or install any device, or any plan or kit for a device or for a printed circuit, designed in whole or in part to decode, descramble, or otherwise make intelligible any encoded, scrambled, or other nonstandard signal carried by that cable television system. For the purposes of this section, "encoded, scrambled, or other nonstandard signal" includes, but is not limited to, any type of signal not intended to produce an intelligible program or service without the aid of a decoder, descrambler, filter, trap, or similar device.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑845.** Use, sale, or installation of converter for unauthorized reception of intelligible signals.

 It is unlawful for any person (a) to use a converter or similar device for the reception of intelligible signals without the authorization of the operator of the cable television system, (b) to sell a converter or similar device to any other person with knowledge that the person intends to use it for the reception of intelligible signals without the authorization of the operator of the cable television system or, (c) to install a converter or similar device for any other person with knowledge that the person intends to use it for the reception of intelligible signals without the authorization of the operator of the cable television system. This section does not prohibit the manufacture, distribution, or sale of any television receiver in which a converter has been incorporated by the manufacturer.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑850.** Receipt of signals from air by use of satellite dish or antenna.

 Nothing in this article makes it unlawful to receive or capture signals from the air by use of a satellite dish, antenna, or otherwise.

HISTORY: 1984 Act No. 407.

**SECTION 16‑11‑855.** Penalties.

 Any person who violates any section of this article is guilty of a misdemeanor and upon conviction for a first offense must be fined not more than two hundred dollars or imprisoned for not more than thirty days and for a second and subsequent offense fined not more than one thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1984 Act No. 407.

ARTICLE 9

Bootleg and Counterfeit Records, Tapes, and Recordings

**SECTION 16‑11‑910.** Prohibitions relative to sound recordings; application of section.

 (A) It is unlawful for a person to:

 (1) knowingly and wilfully transfer or cause to be transferred, for commercial advantage or private financial gain, without the consent of the owner, any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, the article on which such sounds are transferred;

 (2) advertise, offer for sale or resale, or sell or resell, or cause the sale or resale, or rent or cause the rental of, or possess for any of these purposes any article described in item (1) with the knowledge that the sounds on it have been transferred without the consent of the owner;

 (3) offer or make available for a fee, rental, or other form of compensation, directly or indirectly, any equipment or machinery with the knowledge that it will be used by another to reproduce, without the consent of the owner, a phonograph record, disc, wire, tape, film, or other article on which sounds have been transferred. The provisions of this item do not apply to reproduction in the home for private use and with no purpose of otherwise capitalizing commercially on the reproduction; or

 (4) transport for commercial advantage or private financial gain within this State or cause to be transported within this State an article with the knowledge that the sounds on it have been transferred without the consent of the owner.

 A person who violates this section, upon conviction, must be punished as provided for in Section 16‑11‑920.

 (B) As used in this section:

 (1) "Person" means an individual, partnership, corporation, company, association, any communications media including, but not limited to, radio or television, broadcasters or licensees, newspapers, magazines, or other publications, or media which offer facilities for the purposes stated in this chapter, or other legal entity.

 (2) "Owner" means the person who owns the original fixed sounds embodied in the master phonograph record, master disc, master tape, master film, or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films, or other articles on which sound is or can be recorded and from which the transferred recorded sounds are directly or indirectly derived.

 (3) "Fixed" means embodied in a tangible medium of expression when its embodiment in an article, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

 (4) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

 This section neither enlarges nor diminishes the right of parties in private litigation nor does it apply to the transfer by a radio or television broadcaster of any sounds (other than from the sound tract of a motion picture) intended for, or in connection with, broadcast transmission or related uses or for archival purposes. An owner of a record, disc, wire, tape, film, or other article or device which is transferred unlawfully or used in violation of this section has a cause of action in the circuit court of this State against the party committing the violation for all damages resulting therefrom, including actual, compensatory, incidental, and punitive.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.

**SECTION 16‑11‑911.** Definitions; unlawful recording of motion pictures.

 (A) As used in this section:

 (1) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

 (2) "Audiovisual recording device" means any device, camera, or audio or video recorder with the capability of recording, transferring, or transmitting sounds or images of a motion picture in part or in whole, including any device now existing or later developed.

 (3) "Person" means an individual, partnership, corporation, company, association, or other legal entity.

 (4) "Motion picture theater" means a movie theater, screening room, or other venue used primarily for the exhibition of a motion picture but does not include the lobby or other common areas, a personal residence, or retail establishment.

 (5) "Theater owner" means the owner, operator, or lessee of a motion picture theater and includes an employee or agent of the owner, operator, or lessee.

 (B) It shall be unlawful for any person to knowingly and wilfully operate an audiovisual recording device in a motion picture theater, with intent to record a motion picture, without written consent from the theater owner.

 (C) In any action brought by reason of having been delayed by a theater employee or agent on or near the premises of a theater establishment for the purpose of investigation concerning the unlawful operation of an audiovisual recording device, it shall be a defense to such action if:

 (1) the person was delayed in a reasonable manner and for a reasonable time to permit such investigation; and

 (2) reasonable cause existed to believe that the person delayed had committed the crime of unlawful operation of a recording device.

 (D) This section does not prevent any lawfully authorized investigative agency, law enforcement agency, protective services agency, or intelligence‑gathering agency of the local, state, or federal government from operating an audiovisual recording device in a motion picture theater where a motion picture is being exhibited as part of a lawfully authorized investigative, protective, law enforcement, or intelligence‑gathering activity.

HISTORY: 2005 Act No. 64, Section 1, eff May 23, 2005.

**SECTION 16‑11‑915.** Prohibitions relative to live performances; persons considered proper witnesses; application of section.

 (A) It is unlawful for a person to:

 (1) advertise or offer for sale or resale, or sell or resell, or cause the sale or resale, or rent or cause the rental of, or transport or cause to be transported, or possess for any of these purposes for commercial advantage or private financial gain any article containing a live performance with the knowledge that the live performance has been fixed without the consent of the owner of the live performance; or

 (2) record or fix or cause to be recorded or fixed on an article with the intent to sell for commercial advantage or private financial gain, the live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner of the live performance. The provisions of this item (2) shall not apply to reproduction in the home for private use and with no purpose of otherwise capitalizing commercially on the reproduction.

 A person who violates this section, upon conviction, must be punished as provided for in Section 16‑11‑920.

 (B) As used in this section:

 (1) "Person" means an individual, partnership, corporation, company, association, or other legal entity.

 (2) "Owner", in the absence of a written agreement or operation of law to the contrary, is presumed to be the performer of the live performance.

 (3) "Fixed" means embodied in a tangible medium of expression when its embodiment in an article, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

 (4) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or a copy or reproduction which duplicates in whole or in part, the original.

 (5) "Live performance" means the recitation, rendering, or playing of a series of images or musical, spoken, or other sounds in any audible sequence.

 (C) For the purposes of this section, a person who is authorized to maintain custody and control over business records which reflect whether or not the owner consented to having the live performance recorded or fixed is a proper witness in any proceeding regarding the issue of consent.

 (D) A witness called pursuant to this section is subject to all rules of evidence relating to the competency of a witness to testify and the relevance and admissibility of the testimony offered.

 (E) This section neither enlarges nor diminishes the rights and remedies of parties in private litigation nor does it apply to the transfer by a radio or television broadcaster of any such sounds, other than from the sound tract of a motion picture, intended for, or in connection with, broadcast transmission or related uses or for archival purposes.

HISTORY: 1989 Act No. 92, Section 1.

**SECTION 16‑11‑920.** Penalties.

 (A) A person who violates the provisions of Section 16‑11‑911 is guilty of a misdemeanor and, upon conviction:

 (1) for a first offense, must be fined not more than five thousand dollars or imprisoned not more than one year, or both;

 (2) for a second offense, must be fined not more than ten thousand dollars or imprisoned not more than two years, or both;

 (3) for a third and each subsequent offense, must be fined not more than fifteen thousand dollars or imprisoned not more than three years, or both.

 (B) A person who violates the provisions of Section 16‑11‑910 or 16‑11‑915 is guilty of a felony and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years, or both, if the offense:

 (1) involves at least one thousand unauthorized articles embodying sound or sixty‑five unauthorized audio visual articles during any one hundred eighty‑day period; or

 (2) is a second or subsequent conviction under Section 16‑11‑910 or 16‑11‑915.

 (C) A person who violates the provisions of Section 16‑11‑910 or 16‑11‑915 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than two years, or both, if the offense involved:

 (1) more than one hundred but less than one thousand unauthorized articles embodying sound during any one hundred eighty‑day period; or

 (2) more than ten but less than sixty‑five unauthorized audiovisual articles during any one hundred eighty‑day period.

 (D) A person who violates the provisions of Section 16‑11‑910 or 16‑11‑915 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and not more than ten thousand dollars for a second or subsequent offense if the offense or both offenses involve not more than:

 (1) twenty‑five unauthorized articles embodying sound during any one hundred eighty‑day period; or

 (2) ten unauthorized audiovisual articles during any one hundred eighty‑ day period.

 (E) A person who violates any other provision of Section 16‑11‑910 or 16‑11‑915 is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty‑five thousand dollars or imprisoned not more than one year, or both.

 (F) If a person is convicted of a violation of Section 16‑11‑910, 16‑11‑911, or 16‑11‑915, the court shall order the forfeiture and destruction or other disposition of all:

 (1) infringing articles;

 (2) implements, devices, and equipment used or intended to be used in the manufacture of the infringing articles.

These penalties are not exclusive but are in addition to other penalties provided by law.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1; 1993 Act No. 184, Section 93; 2005 Act No. 64, Section 2, eff May 23, 2005.

**SECTION 16‑11‑930.** Illegal distribution of recordings without name and address of manufacturer and designation of featured artist.

 It is unlawful for a person to manufacture or knowingly sell, distribute, circulate, or cause to be sold, distributed, or circulated, advertise, resell or offer for sale or resale, or cause the sale or resale, or rent or cause the rental, or transport or cause to be transported, or possess for any of these purposes for commercial advantage or private financial gain, a phonograph record, tape, album of phonograph records or tapes, or any other article without the actual name and street address of the manufacturer, and the name of the actual performer or group prominently disclosed on the outside cover, box, or jacket containing the record, tape, album of records or tapes, or any other article. A person who violates this section, upon conviction, must be punished as provided for in Section 16‑11‑940. A law enforcement officer in this State, when charging a person with a violation of this section, if possible at the time of arrest, shall confiscate any records, tapes, albums, or other articles and, upon conviction of the person, the records, tapes, albums, or other articles must be destroyed.

 As used in this section:

 (1) "Person" means an individual, partnership, corporation, association, or other legal entity.

 (2) "Manufacturer" means a person who actually transfers or causes the transfer of any sound or images recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded or assembles and transfers any product containing such transferred sounds or images as a component of it.

 (3) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.

**SECTION 16‑11‑940.** Penalties for violations of Section 16‑11‑930.

 (A) A person who violates the provisions of Section 16‑11‑930 is guilty of a felony and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years, or both, if the offense involves at least one thousand unauthorized articles embodying sound or at least sixty‑five unauthorized audio‑visual articles, or is a second or subsequent conviction under Section 16‑11‑930.

 (B) A person violating the provisions of Section 16‑11‑930 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than two years, or both, if the offense involves more than one hundred but less than one thousand unauthorized articles embodying sound or more than ten but less than sixty‑five unauthorized audio‑visual articles.

 (C) A person violating the provisions of Section 16‑11‑930 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and not more than ten thousand dollars for a second or subsequent offense if the offense or both offenses involve not more than twenty‑five unauthorized articles embodying sound or not more than ten unauthorized audio‑visual articles.

 (D) A person violating the provisions of Section 16‑11‑930 is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty‑five thousand dollars or imprisoned not more than one year, or both, in any other case.

 (E) If a person is convicted of a violation of Section 16‑11‑930, the court shall order the forfeiture and destruction or other disposition of all:

 (1) infringing articles;

 (2) implements, devices, and equipment used or intended to be used in the manufacture of the infringing articles.

 The penalties provided in this section are not exclusive and are in addition to any other penalties provided by law.

 (F) Each violation of Section 16‑11‑930 constitutes a separate offense.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1; 1993 Act No. 184, Section 94.

**SECTION 16‑11‑950.** Exceptions.

 The provisions of this article do not apply to sounds or calls of wild birds or animals.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.