

**§ 113-269. Robbing or injuring hatcheries and other aquaculture operations.**

(a) The definitions established in G.S. 106-758 are incorporated by reference into this section. For the purposes of this section, a shellfish lease issued pursuant to G.S. 113-202 is defined as an aquaculture facility only when it has been amended pursuant to G.S. 113-202.1 to authorize use of the water column and when it is or has been regularly posted and identified in accordance with the rules of the Marine Fisheries Commission.

(b) It is unlawful for any person without the authority of the owner of an aquaculture facility to take fish or aquatic species being cultivated or reared by the owner from an aquaculture facility.

(c) It is unlawful for any person to receive or possess fish or aquatic species stolen from an aquaculture facility while knowing or having reasonable grounds to believe that the fish or aquatic species are stolen.

(d) It is unlawful for any person to willfully destroy or injure an aquaculture facility or aquatic species being reared in an aquaculture facility.

(e) Violation of subsections (b) or (c) for fish or aquatic species valued at more than four hundred dollars (\$400.00) is punishable under G.S. 14-72. Violation of subsections (b) or (c) for fish or aquatic species valued at four hundred dollars (\$400.00) or less is a Class 1 misdemeanor.

(f) Violation of subsection (d) is a Class 1 misdemeanor.

(g) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with G.S. 15A-1343, restitution to the victim for the amount of damage to the aquaculture facility or aquatic species or for the value of the stolen fish or aquatic species.

(h) The district attorney shall dismiss any case brought pursuant to subsections (b) and (c) if defendant produces a notarized written authorization for taking fish or aquatic species from the aquaculture facility or if the fish or aquatic species taken from a shellfish lease aquaculture facility was not a shellfish authorized for cultivation on the lease. (1989, c. 281, s. 1; 1993, c. 539, ss. 850, 851; 1994, Ex. Sess., c. 24, s. 14(c).)