

South Carolina Department of Natural Resources



Robert H. Boyles, Jr.
Director

FOR OFFICIAL USE ONLY

DNR GUIDANCE ON THE ENFORCEMENT OF EXECUTIVE ORDER 2020-16

With regard to the practical application of this Executive Order, DNR would offer the following guidance, understanding that each law enforcement agency has the discretion to enforce the laws of the State of South Carolina as the agency deems appropriate:

Per the Governor's Executive Order 2020-16 Section C stating:

I hereby order and direct that any and all public piers, docks, wharfs, boat ramps, and boat landings providing public access to the public waters of this State, to include any adjacent or associated public parking lots or other public facilities, shall be closed to public access for recreational purposes for the duration of the State of Emergency. Subject to any further clarification, guidance, rules, regulations, or restrictions issued or promulgated by the South Carolina Department of Natural Resources ("DNR"), as authorized herein below, I further direct that the beaching or rafting of boats, whether on a sandbar, lakeshore, riverbank, or island, is prohibited for the duration of the State of Emergency. Vessels must remain underway at all times unless exigent circumstances exist. Anchoring to fish is allowed; however, rafting is prohibited under all circumstances. This Section does not apply to individuals possessing a current, valid commercial fishing license or permit to the extent such individuals may seek to utilize or rely upon public piers, docks, wharfs, boat ramps, or boat landings in connection with commercial fishing activities.

As stated in S.C. Code Ann. 50-21-10 (27) "waters of the state" is defined as waters within the territorial limits of the State but not private lakes or ponds

S.C. Code Ann. § 16-7-20 provides for additional enforcement authorization for these Emergency Provisions. It states, "[a]ll law enforcement officers of the State or any of its subdivisions who may be called to duty in the area designated by the Governor in his proclamation, when engaged in the performance of duties in such area, shall have the full powers of constable at all places within such area and may pursue and arrest offenders against the laws of this State or the provisions of the proclamation."

This Executive Order should be enforced in conjunction with the Governor's original Executive order 2020-10 related to the congregation of non-familial groups of three or more:

In any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: (1)(a) violate a provision in the proclamation including, but not limited to, any curfew set forth by the

proclamation; (b) congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or (c) willfully fail or refuse to comply with any lawful order or direction of any law enforcement officer.

In the event a law enforcement officer encounters a violation of Section 1 of Executive Order 2020-16 Section (C), **the officer should affirmatively notify all involved in the commission of the violation and provide a direct order to immediately cease the violating conduct. After such direct notice, any continued non-compliance would violate S.C. Code Ann. § 16-7-10 as this conduct would violate a provision of the Governor’s proclamation (Executive Order 2020-16) and would constitute a willful failure or refusal to comply with any lawful order or direction of any law enforcement officer.**

Persons found to be violating the above terms of an executive order should be charged accordingly under either 16-7-10(b) or (c) generally:

SECTION 16-7-10. Illegal acts during state of emergency.

(A) In any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to:

(1)(a) violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation;

(b) congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or

(c) willfully fail or refuse to comply with any lawful order or direction of any law enforcement officer.

A person violating the provisions of this item is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

The focus under this order is on restricting the public access for “recreational purposes.” Access is allowed for commercial purposes and/or commercial fishing license holders (in their possession) and utilizing the public boat ramp or landing in connection with “commercial fishing activities.”

Recreational fishing from the shore, banks and other areas not subject to closure by this Order is permitted as normally allowed by law and with a valid recreation fishing license.

It is not recommended that affected landings or boat ramps be physically barricaded or shut off to allow for emergency use by first responders and for commercial activity. We do recommend posting signage at each landing to notify the public of the closure and Executive Order.