

Fifty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1296

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 20.1-01-26, subsection 26 of section 20.1-02-05,
2 subsection 5 of section 20.1-03-37, and sections 20.1-03-39, 20.1-06-12, 20.1-12-09,
3 20.1-14-03, and 20.1-16-01 of the North Dakota Century Code, relating to suspension of game
4 and fish hunting, trapping, and fishing privileges; and to repeal chapter 20.1-15 of the North
5 Dakota Century Code, relating to hunting while intoxicated.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 20.1-01-26 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **20.1-01-26. Suspension of hunting, trapping, or fishing privileges - Surrender and**
10 **return of license.** In addition to the penalty provided upon conviction under this title, the court
11 may suspend the defendant's hunting, trapping, or fishing privileges for up to three years.
12 Notwithstanding any other provision of law, the court or the department may not suspend an
13 individual's hunting, trapping, or fishing privileges unless that individual has been convicted of a
14 felony. The court may not suspend the defendant's privileges for a noncriminal violation ~~if the~~
15 ~~defendant has not been convicted for a violation of this title in the last three years. Upon~~
16 ~~conviction for a violation of section 20.1-01-18, the court shall suspend the defendant's hunting,~~
17 ~~fishing, and trapping privileges for a period of at least one year, two years for the second~~
18 ~~conviction, and three years for the third or subsequent conviction.~~ At the time of the
19 suspension, the court shall determine whether the defendant must successfully complete the
20 hunter education course provided for in section 20.1-03-01.1, as prescribed by the proper state
21 or provincial natural resources or wildlife management agency, before the defendant may
22 purchase a new or obtain the return of a valid hunting license.

23 Upon imposition of the suspension, the court shall take any hunting, trapping, or fishing
24 license or permit held by the defendant and forward it, together with a certified copy of the

suspension order, to the director. Except as otherwise provided in this section, upon expiration of the suspension, the director shall return the person's license or permit if it is still valid. No person may purchase, or attempt to purchase, a hunting, trapping, or fishing license or permit during a suspension period. If the court so ordered, no person who has had a hunting license suspended may purchase or attempt to purchase a hunting license nor may the director return a valid hunting license until the person has successfully completed the course provided for in section 20.1-03-01.1 and as prescribed by the proper state or provincial natural resources or wildlife management agency. A certificate of completion for a similar course issued by any other state or province of Canada is sufficient to meet this requirement. The person shall file proof of that completion with the court.

For the purpose of this section, the term "conviction" ~~includes an admission or adjudication of a noncriminal violation~~ means conviction of a felony.

SECTION 2. AMENDMENT. Subsection 26 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

26. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the license holder is convicted of a felony ~~or found to have violated any provision of this title.~~

SECTION 3. AMENDMENT. Subsection 5 of section 20.1-03-37 of the North Dakota Century Code is amended and reenacted as follows:

5. The director may not issue a license to an individual who has been convicted of a state or federal felony criminal game or fish violation in the last three years or whose license to hunt or fish is under suspension or revocation. As used in this chapter, "conviction" means ~~a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of a sentence in accordance with subsection 3 of section~~

1 ~~12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4~~
2 ~~of section 12.1-32-02 or an equivalent statute~~ conviction of a felony. The term
3 does not include a finding of guilt which is reversed on appeal.

4 **SECTION 4. AMENDMENT.** Section 20.1-03-39 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **20.1-03-39. Guides and outfitters restrictions - Administrative sanctions.**

- 7 1. The license of a guide or outfitter may be denied, revoked, or suspended, or placed
8 on probation by the director if:
- 9 a. ~~The licensee, while carrying out the business of guiding or outfitting, engages~~
10 ~~in conduct detrimental to the image and professional integrity of the guiding~~
11 ~~and outfitting industry;~~
 - 12 b. ~~The licensee willfully and substantially misrepresented that person's facilities,~~
13 ~~prices, equipment, services, or hunting or fishing opportunities as a guide or~~
14 ~~outfitter;~~
 - 15 c. ~~The licensee has been convicted of an offense not listed in subsection 2~~
16 ~~which is determined by the director to have a direct bearing on the licensee's~~
17 ~~ability to serve the public as a guide or outfitter;~~
 - 18 d. ~~The licensee is addicted to the use of intoxicating liquors, narcotics, or~~
19 ~~stimulants to the extent the licensee's performance of professional duties is~~
20 ~~affected; or~~
 - 21 e. ~~The licensee has become not qualified, or has violated any rule for the~~
22 ~~licensing of a guide or outfitter by the director~~ the licensee is convicted of a
23 felony.
- 24 2. The license of a guide or outfitter may be revoked if:
- 25 a. ~~The licensee is convicted of violating state or federal criminal law pertaining to~~
26 ~~hunting, fishing, or trapping;~~
 - 27 b. ~~The licensee acted as a hunting guide or hunting outfitter on land owned or~~
28 ~~private land enrolled by the department for the purposes of hunting or on land~~
29 ~~for which the department pays in lieu of tax payments; or~~

e. ~~The licensee provided guiding or outfitting services to a person that had not obtained the appropriate license for the species sought by that person the licensee is convicted of a felony.~~

3. ~~For the purpose of administrative sanctions, an outfitter is liable if a guide intentionally violates a state or federal criminal law pertaining to hunting, fishing, or trapping if the outfitter knowingly aids in the violation or knows of the violation but fails to report the violation to the department within a reasonable time. A guide is liable if a client violates a state or federal criminal law pertaining to hunting, fishing, or trapping if the guide knowingly aids in the violation or knows of the violation and the guide or client fail to report the violation to the department within a reasonable time.~~

4. ~~Notwithstanding chapters 45-11 and 47-25, another person may not use a name, business name, fictitious name, trade name, internet address, world wide web uniform resource identifier, place of business, or telephone number of an outfitter who has been convicted of a violation felony at least three years from the time of the conviction except on permission from the director after a determination by the director that the new business is significantly separate from the previous business.~~

SECTION 5. AMENDMENT. Section 20.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

20.1-06-12. Regulations governing private fish hatcheries. Any person operating a private fish hatchery is not subject to fishing seasons, limits, legal size restrictions, or other methods of taking fish as provided in any governor's proclamation. The director may adopt rules governing the operation of private fish hatcheries. No license is required of any person for taking fish by angling at a licensed private fish hatchery operated in accordance with the rules of the director. The hatchery operator shall furnish to each person taking fish a written certificate in the form the director prescribes, giving the number and description of the fish taken and other information as the director requires, whereupon the fish may be possessed, shipped, or transported within the state in like manner as fish taken by residents under a license. The director shall issue an annual license to operate the hatchery during a calendar year or a portion of a year upon application and payment of the appropriate fee by the owner or operator.

1 The license may be suspended for ~~noncompliance with the director's regulations~~ conviction of a
2 felony.

3 **SECTION 6. AMENDMENT.** Section 20.1-12-09 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **20.1-12-09. Revocation of permit.** The director, after due notice to the shooting
6 preserve operator and a hearing thereon, may revoke or suspend the permit of any operator for
7 ~~any violation of this chapter or of the rules of the director~~ conviction of a felony.

8 **SECTION 7. AMENDMENT.** Section 20.1-14-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **20.1-14-03. Departmental authority.** The department shall make such rules
11 governing the issuance and use of falconry licenses and prescribe the fee for the licenses as it
12 deems proper and necessary and in compliance with federal regulations. The department may
13 revoke any falconry license and seize the raptors held pursuant thereto if the licensee:

- 14 1. ~~Fails to provide proper care for the raptors in the licensee's possession.~~
15 2. ~~Allows raptors in the licensee's possession to become a public nuisance.~~
16 3. ~~Violates any of the provisions of this chapter or any rules made pursuant thereto.~~
17 4. ~~Fails to comply with any statute, rule, or regulation applicable to the hunting of the~~
18 ~~game taken or to be taken~~ is convicted of a felony.

19 **SECTION 8. AMENDMENT.** Section 20.1-16-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **20.1-16-01. Interstate wildlife violator compact.** The interstate wildlife violator
22 compact is entered with all states legally joining the compact, in the form substantially as
23 follows:

24 **ARTICLE 1. FINDINGS, DECLARATION OF POLICY, AND PURPOSE**

- 25 1. The participating states find that the following provisions apply:
- 26 a. Wildlife resources are managed in trust by the respective states for the benefit
27 of all residents and visitors.
- 28 b. The protection of the wildlife resources of a state is materially affected by the
29 degree of compliance with state statutes, laws, ordinances, regulations, and
30 administrative rules relating to the management of such resources.

- c. The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.
- d. Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management and restoration laws, ordinances, regulations, and administrative rules of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
- e. Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
- f. The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
- g. In most instances, a person who is cited for a wildlife violation in a state other than that person's own state:
 - (1) Is required to post collateral or a bond to secure appearance for a trial at a later date;
 - (2) Is taken into custody until the collateral or bond is posted; or
 - (3) Is taken directly to court for an immediate appearance.
- h. The purpose of the enforcement practices set forth in subdivision g is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to proceed after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.
- i. In most instances, a person receiving a wildlife citation in that person's home state is permitted to accept the citation from the officer at the scene of the violation and immediately proceed after agreeing or being instructed to comply with the terms of the citation.
- j. The practices described in subdivision g cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post

- 1 collateral, furnish a bond, stand trial, or pay a fine and is thus compelled to
2 remain in custody until some alternative arrangement is made.
- 3 k. The enforcement practices described in subdivision g consume an undue
4 amount of law enforcement time.
- 5 2. It is the policy of the participating states to:
- 6 a. Promote compliance with the statutes, laws, ordinances, regulations, and
7 administrative rules relating to management of wildlife resources in their
8 respective states;
- 9 b. Recognize the suspension of wildlife license privileges of any person whose
10 license privileges have been suspended by a participating state and may treat
11 such suspension as if it had occurred in their state;
- 12 c. Allow a violator, except as provided in subsection 2 of article 3, to accept a
13 wildlife citation and proceed without delay, whether or not a resident of the
14 state in which the citation was issued, provided that the violator's home state
15 is party to this compact;
- 16 d. Report to the appropriate participating state, as provided in the compact
17 manual, any conviction recorded against any person whose home state was
18 not the issuing state;
- 19 e. Allow the home state to recognize and treat convictions recorded against its
20 residents, which convictions occurred in a participating state, as though they
21 occurred in the home state;
- 22 f. Extend cooperation to its fullest extent among the participating states for
23 enforcing compliance with the terms of a wildlife citation issued in one
24 participating state to a resident of another participating state;
- 25 g. Maximize effective use of law enforcement personnel and information; and
26 h. Assist court systems in the efficient disposition of wildlife violations.
- 27 3. The purpose of this compact is to:
- 28 a. Provide a means through which participating states may join in a reciprocal
29 program to effectuate the policies enumerated in subsection 2 in a uniform
30 and orderly manner; and

- b. Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE 2. DEFINITIONS

As used in this compact and sections 20.1-16-02 through 20.1-16-05, unless the context requires otherwise, the following definitions apply:

1. "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document that is issued to a person by a wildlife officer or other peace officer for a wildlife violation and that contains an order requiring the person to respond.
2. "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
3. "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.
4. "Conviction" means a conviction, ~~including any court conviction, for any offense that is related to the preservation, protection, management, or restoration of wildlife and that is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court of a felony.~~
5. "Court" means a court of law, including magistrate's court and the justice of the peace court.
6. "Home state" means the state of primary residence of a person.
7. "Issuing state" means the participating state which issues a wildlife citation to the violator.
8. "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any

wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

9. "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

10. "Participating state" means any state that enacts legislation to become a member of this wildlife compact.

11. "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

12. "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.

13. "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

14. "Terms of the citation" means those conditions and options expressly stated in the citation.

15. "Wildlife" means all species of animals including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" for purposes of this compact are based on state or local law.

16. "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

17. "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

18. "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE 3. PROCEDURES FOR ISSUING STATE

1. When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and may not require such person to post collateral to secure appearance, subject to the exceptions noted in subsection 2, if the officer receives the recognizance of such person that the person will comply with the terms of the citation.
2. Personal recognizance is acceptable:
 - a. If not prohibited by state or local law or the compact manual; and
 - b. If the violator provides adequate proof of identification to the wildlife officer.
3. Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report must be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.
4. Upon receipt of the report of conviction or noncompliance pursuant to subsection 3, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

ARTICLE 4. PROCEDURE FOR HOME STATE

1. Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and may initiate a suspension action in accordance with the home state's suspension procedures and may suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.
2. Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state may enter such conviction in its records and may treat such conviction as though it occurred in the home state for

the purposes of the suspension of license privileges if the violation resulting in a suspension could have been the basis for suspension of license privileges in the home state.

3. The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE 5. RECIPROCAL RECOGNITION OF SUSPENSION

1. All participating states may recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.
2. Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE 6. APPLICABILITY OF OTHER LAWS

Except as expressly required by this compact, nothing herein may be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE 7. COMPACT ADMINISTRATOR - PROCEDURES

1. For the purposes of administering this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board is composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator must be appointed by the head of the licensing authority of each participating state and serves and is subject to removal in accordance with the laws of the state the compact administrator represents. A compact administrator may provide for the discharge of duties and the performance of functions as a board member by an alternate. An alternate is not entitled to serve unless written notification of the identity of the alternate has been given to the board.

2. Each member of the board of compact administrators is entitled to one vote. No action of the board is binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board may be only at a meeting at which a majority of the participating states is represented.
3. The board shall elect annually from its membership a presiding officer and a vice presiding officer.
4. The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and may amend and rescind its bylaws.
5. The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and receive, utilize, and dispose of the same.
6. The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.
7. The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action must be contained in a compact manual.

ARTICLE 8. ENTRY INTO COMPACT AND WITHDRAWAL

1. This compact becomes effective at such time as it is adopted in a substantially similar form by two or more states.
2.
 - a. Entry into the compact must be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the presiding officer of the board.
 - b. The resolution must substantially be in the form and content as provided in the compact manual and must include the following:
 - (1) A citation of the authority from which the state is empowered to become a party to this compact;

- 1 (2) An agreement of compliance with the terms and provisions of this
- 2 compact; and
- 3 (3) An agreement that compact entry is with all states participating in the
- 4 compact and with all additional states legally becoming a party to the
- 5 compact.
- 6 c. The effective date of entry must be specified by the applying state but may not
- 7 be less than sixty days after notice has been given:
- 8 (1) By the presiding officer of the board of the compact administrators; or
- 9 (2) By the secretariat of the board to each participating state that the
- 10 resolution from the applying state has been received.
- 11 3. A participating state may withdraw from participation in this compact by official
- 12 written notice to each participating state, but withdrawal does not become effective
- 13 until ninety days after the notice of withdrawal is given. The notice must be
- 14 directed to the compact administrator of each member state. Withdrawal of any
- 15 state does not affect the validity of this compact as to the remaining participating
- 16 states.

17 ARTICLE 9. AMENDMENTS TO THE COMPACT

- 18 1. This compact may be amended from time to time. Amendments must be
- 19 presented in resolution form to the presiding officer of the board of the compact
- 20 administrators and must be initiated by one or more participating states.
- 21 2. Adoption of an amendment requires endorsement by all participating states and
- 22 becomes effective thirty days after the date of the last endorsement.
- 23 3. Failure of a participating state to respond to the compact presiding officer within
- 24 one hundred twenty days after receipt of a proposed amendment constitutes
- 25 endorsement thereof.

26 ARTICLE 10. CONSTRUCTION AND SEVERABILITY

27 This compact must be liberally construed so as to effectuate the purposes stated herein.

28 The provisions of this compact are severable, and if any phrase, clause, sentence, or provision

29 of this compact is declared to be contrary to the constitution of any participating state or the

30 United States, or the applicability thereof to any government, agency, individual, or

31 circumstance is held invalid, the validity of the remainder of the compact is not affected thereby.

1 If this compact is held contrary to the constitution of any participating state, the compact
2 remains in full force and effect as to the remaining states and in full force and effect as to the
3 participating state affected as to all severable matters.

4 **SECTION 9. REPEAL.** Chapter 20.1-15 of the North Dakota Century Code is
5 repealed.