

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1096

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact sections 20.1-10-01, 20.1-10-02, 20.1-10-03,
2 20.1-10-04, 20.1-10-05, 20.1-10-06, and 20.1-10-07 of the North Dakota Century Code, relating
3 to confiscation of wildlife for game and fish law violations.

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

5 **SECTION 1. AMENDMENT.** Section 20.1-10-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **20.1-10-01. ~~Property~~ Wildlife unlawfully taken, or transported, ~~or used to be~~**
8 **~~confiscated by certain game and fish officials - Procedure.~~** The director, deputy director, or
9 any bonded game warden shall seize all ~~wild birds, wild animals, or fish~~ wildlife, or any part
10 thereof, taken, killed, ~~or~~ possessed, or transported contrary to law, ~~and shall seize all dogs,~~
11 ~~guns, seines, nets, boats, lights, automobiles, vehicles, instrumentalities, appliances, and~~
12 ~~devices unlawfully used, or held with intent to be unlawfully used, in pursuing, taking, or~~
13 ~~attempting to take, concealing, or disposing of wild birds, wild animals, or fish, or any part~~
14 ~~thereof. Property used or held with the intent to be used unlawfully in pursuing, taking,~~
15 ~~attempting to take, concealing, or disposing of wild birds, wild animals, or fish may not be~~
16 ~~confiscated when the violation is a noncriminal offense.~~ All ~~property~~ wildlife, or any part
17 thereof, seized must be held subject to the order of a court of competent jurisdiction. When
18 ~~property~~ wildlife is confiscated, the confiscating officer shall bring the alleged offender before a
19 court of competent jurisdiction for the purpose of determining disposition. However, if the court
20 having nominal jurisdiction over the alleged wrongdoer determines that the value of the
21 confiscated ~~property~~ wildlife exceeds the court's jurisdictional limitations, the matter may, upon
22 the motion of either party, be removed to district court for determination. If the alleged offender
23 desires an attorney, a reasonable time must be given to secure counsel. ~~If it is not feasible to~~
24 ~~bring the alleged offender immediately before the court, the property may not be seized or~~

~~confiscated if the alleged offender gives a receipt to the officer assuring delivery before the court when the matter comes up. The receipt must contain the provisions of this section to advise the alleged offender of the law.~~

SECTION 2. AMENDMENT. Section 20.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-02. Wildlife packed or commingled with contraband must be confiscated.

If any wildlife, or parts thereof, is packed, stored, or contained in the same shipment, bag, or other receptacle or is otherwise commingled, and one or more has been taken in violation of this title, all the entire contents wildlife must be confiscated.

SECTION 3. AMENDMENT. Section 20.1-10-03 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-03. Confiscated ~~property~~ wildlife - Courts having jurisdiction - Requisites for disposition. A court having jurisdiction of an alleged offense ~~against~~ under this title may

order the disposition of all ~~birds, animals, or fish~~ wildlife, or any part thereof, ~~or other property that has been confiscated~~. This order may be entered only after a hearing duly had upon proper notice to the owner and after due and proper finding by the court that the ~~property~~:

- ~~1. Was~~ wildlife was taken, killed, possessed, or being transported contrary to law by the person from whom it was seized.
- ~~2. Was being used in violation of this title at the time it was seized.~~
- ~~3. Had been used in violation of this title within six months previous to the time it was seized.~~

SECTION 4. AMENDMENT. Section 20.1-10-04 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-04. Who to sell confiscated ~~property~~ wildlife - Bills of sale - Disposition of proceeds of sale. All confiscated ~~property~~ wildlife that a court has ordered to be disposed of

by the director must be turned over to the North Dakota wildlife federation to be sold for the highest price obtainable. On any sale of ~~animals, birds, or fish~~ wildlife, or parts thereof, the seller shall issue to each purchaser a bill of sale on forms prepared and furnished by the director. The sale proceeds, after the expenses of the seizure and the sale are deducted, must be remitted to the North Dakota wildlife federation report all poachers fund. The remittance must be accompanied by a complete and certified report of the sale supported by proper

vouchers covering all deductions made for expenses. This report must be filed for record with the director.

SECTION 5. AMENDMENT. Section 20.1-10-05 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-05. Confiscated perishable ~~property~~ wildlife may be sold without court order - Who may sell. Perishable ~~property~~ wildlife confiscated pursuant to this chapter may be sold without a court order by the officer making the seizure for the highest price obtainable. The proceeds of ~~such the~~ sale must be deposited in a court of competent jurisdiction to await disposition by the court.

SECTION 6. AMENDMENT. Section 20.1-10-06 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-06. Search warrants - Issuance - Contents. Whenever any person makes a complaint to any judge having authority to issue warrants in criminal cases that ~~he~~ that person knows or has good reason to believe that any ~~wild animal, bird, or fish~~ wildlife, or any part thereof, taken, killed, or possessed contrary to this title, is concealed in any particular house or place, or in the living quarters of any person, the judge shall examine ~~such the~~ complainant on oath, reduce ~~his the~~ complaint to writing, describing as particularly as possible the place where ~~such wild animal, bird, or fish~~ the wildlife, or part thereof, is alleged to be concealed, and cause ~~such the~~ written complaint to be subscribed by the complainant. If it appears to the judge there is reasonable cause to believe that the facts alleged in the complaint are true, ~~he the~~ judge shall issue a warrant containing the substance of the complaint and the description of the premises. ~~This The~~ warrant must require the officer to whom it is directed forthwith to search ~~such the~~ premises; to seize any ~~wild animal, bird, or fish~~ wildlife, or part thereof, found on ~~such the~~ premises; and to bring ~~them it~~ and the person in whose possession ~~they are~~ it is found, before the judge who issued the warrant, or before some other judge having jurisdiction.

SECTION 7. AMENDMENT. Section 20.1-10-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-10-07. ~~Property~~ Wildlife seized under warrant - Officer's return to describe - Safekeeping - Disposal. Any officer executing a warrant issued pursuant to section 20.1-10-06 ~~shall~~, in ~~his the~~ the officer's return, shall describe the ~~property~~ wildlife seized with as much particularity as possible. The seized ~~property~~ wildlife must be safely kept, upon direction

- 1 of the judge, as long as necessary to use as evidence. If a conviction is obtained, either by trial
- 2 or by plea of guilty, the seized ~~property~~ wildlife must be disposed of under an order of the court
- 3 before whom the prosecution was brought.