

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1050  
(Legislative Council)  
(Judiciary B Committee)

AN ACT to create and enact sections 20.1-03-36.1, 20.1-03-36.2, 20.1-03-38, 20.1-03-39, and 20.1-03-40 of the North Dakota Century Code, relating to the licensing of guides and outfitters; to amend and reenact sections 20.1-01-02, 20.1-02-05, 20.1-03-07.1, 20.1-03-11.2, 20.1-03-12, 20.1-03-36, and 20.1-03-37 of the North Dakota Century Code, relating to guides and outfitters and nonresident waterfowl hunters; to provide a penalty; to provide for application; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 20.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-02. Definitions.** In this title, unless the context ~~or subject matter~~ otherwise requires:

1. "Afield" means being away from one's home or camp. The term does not include driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance.
2. "Any part thereof" or "the parts thereof" includes the hide, horns, or hoofs of any animal specified and the plumage, skin, and every other part of any bird specified.
3. "Associated equipment" means:
  - a. Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;
  - b. Any accessory or equipment for, or appurtenance to, a boat; and
  - c. Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but
  - d. Excluding radio equipment.
4. "Big game" means deer, moose, elk, bighorn sheep, mountain goats, and antelope.
5. "Boat" means any vessel:
  - a. Manufactured or used primarily for noncommercial use;
  - b. Leased, rented, or chartered to another for the latter's noncommercial use; or
  - c. Engaged in the carrying of six or fewer passengers.
6. "Confiscate" or "confiscated" means to hold subject to the order of a court of competent jurisdiction.
7. "Consideration" means something of value given or done in exchange for something of value given or done by another.

8. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.
9. "Department" means the game and fish department.
- 8- 10. "Deputy director" means the deputy director of the department.
- 9- 11. "Director" means the director of the department.
- 40- 12. "Endangered species" means any species whose prospects of survival or recruitment within the state are in jeopardy due to any of the following factors:
- a. The destruction, drastic modification, or severe curtailment of its habitat.
  - b. Its overutilization for scientific, commercial, or sporting purposes.
  - c. The effect on it of disease, pollution, or predation.
  - d. Other natural or manmade factors affecting its prospects of survival or recruitment within the state.
  - e. Any combination of the foregoing factors.
- The term also includes any species classified as endangered pursuant to the Endangered Species Act of 1973, Public Law 93-205.
- 44- 13. "Established road or trail" means any public highway or road, improved or otherwise, dedicated for public ingress or egress, or any other road or trail normally used for travel but does not include temporary trails across cultivated land used for agricultural purposes.
- 42- 14. "Fur-bearers" includes mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, and red or gray foxes.
- 43- 15. "Game birds" includes all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.
- 44- 16. "Guide" or "outfitter" means any resident an individual who holds that person out to the public as a guide or outfitter, and who provides, for compensation, transportation, equipment, arrangement of lodging, or that person's own or another's personal services for the primary purpose of assisting a person or persons to locate or catch fish or to locate, pursue, or hunt small game, big game, or fur bearers. Nonresidents are not entitled to act as guides or outfitters in this state is employed by or contracts with a licensed outfitter to help the outfitter furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed.
- 45- 17. "Gun dogs" includes any dog used to hunt protected wildlife.
- 46- 18. "Harmful wild birds" includes blackbirds, magpies, English sparrows, and starlings.
- 47- 19. "Harmless wild birds" includes all wild birds not defined herein as "harmful wild birds" or "game birds".
- 48- 20. "Hunt" or "hunting" means shooting, shooting at, pursuing, taking, attempting to take, or killing any game animals and game birds; searching for or attempting to locate or flush any game animals and game birds; luring, calling, or attempting to attract game animals and game birds; hiding for the purpose of taking or attempting to take game animals and game birds; and walking, crawling, or advancing toward wildlife while possessing implements or

equipment useful in the taking of game animals or game birds. The term does not include possessing or using photographic equipment.

- ~~19.~~ 21. "Manufacturer" means any person engaged in:
- a. The manufacture, construction, or assembly of boats or associated equipment.
  - b. The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.
  - c. The importation into the state for sale of boats, associated equipment, or components thereof.
- ~~20.~~ 22. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion. The term does not include a vessel having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.
- ~~21.~~ 23. "Motor-driven vehicle" means any land vehicle, with or without wheels, that is propelled by any motor.
- ~~22.~~ 24. "Operate" means to navigate or otherwise use a motorboat or a vessel.
- ~~23.~~ 25. "Outfitter" means an individual who, while engaging in any of the acts enumerated in this subsection in any manner, advises or otherwise holds the individual's business operation out to the public for hire or consideration; provides facilities or services for consideration; or maintains, leases, or otherwise uses equipment or accommodations for consideration for the conduct of outdoor recreational activities, including hunting animals or birds and fishing on lakes, reservoirs, rivers, and streams. An outfitter may act as a guide. The term does not include a person holding title or an equitable interest in business operations if the primary purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities.
26. "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.
- ~~24.~~ 27. "Passenger" means every person carried on board a vessel other than:
- a. The owner or the owner's representative.
  - b. The operator.
  - c. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.
  - d. Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that person's carriage.
- ~~25.~~ 28. "Person" includes every partnership, association, corporation, and limited liability company. No violation of this title may be excused because it was done as the agent or employee of another, nor because it was committed by or through an agent or employee of the person charged.

- ~~26~~. 29. "Personal watercraft" means a motorboat that is powered by an inboard motor powering a water jet pump or by an inboard or outboard marine engine and which is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in a conventional manner of sitting or standing inside a motorboat.
- ~~27~~. 30. "Possession" means control, actual possession, and constructive possession of the article or thing specified.
- ~~28~~. 31. "Private fish hatchery" means a body of water, whether natural or artificial, and any other facilities used, maintained, or operated by any private person, firm, corporation, or limited liability company for the propagation and production of fish for sale or planting in other waters. Except in the case of trout, walleye, northern pike, and crappie, which may be raised in a private fish hatchery without the director's approval, the director may, by rule, regulate the species of fish which may be raised in a private fish hatchery. No waters stocked by any state or federal governmental agency may be considered a private fish hatchery.
- ~~29~~. 32. "Public waters" means waters to which the general public has a right to access.
- ~~30~~. 33. "Resident" means any person who has actually lived within this state or maintained that person's home therein for at least six months immediately preceding the date that residence is to be determined. A "nonresident" is any person who has not done so.
- ~~31~~. 34. "Resident species" means any species nearly all of whose individuals in this state are located within this state for at least three-fourths of annual cycle of the species.
- ~~32~~. 35. "Retrieve" means to have taken possession and made ready for transportation.
- ~~33~~. 36. "Sell" and "sale" means any sale or offer to sell, or possession with intent to sell, use, or dispose of, the article or thing specified, contrary to law.
- ~~34~~. 37. "Shooting preserve" or "preserve" means any privately owned or leased acreage [hectare] on which hatchery-raised game birds are released to be hunted for a fee over an extended season.
- ~~35~~. 38. "Sinkbox" or "sunken device" means a raft or any type of low floating device having a depression that affords a hunter a means of concealing that person below the surface of the water.
- ~~36~~. 39. "Slow or no wake speed" means the slowest possible speed necessary to maintain steerage.
- ~~37~~. 40. "Small game" includes all game birds and tree squirrels.
- ~~38~~. 41. "Species" includes any subspecies of wildlife and any other group of wildlife of the same species or smaller tax in common spatial arrangement that interbreed when mature.
- ~~39~~. 42. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future and includes any species classified as threatened pursuant to the Endangered Species Act of 1973, Public Law 93-205.
- ~~40~~. 43. "Undocumented vessel" means a vessel which does not have a valid marine document as a vessel of the United States.
- ~~41~~. 44. "Vessel" means any watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- ~~42~~. 45. "Waterfowl" includes all varieties of geese, brant, swans, ducks, rails, and coots.

- ~~43.~~ 46. "Waters" when not qualified means waters not open to the general public.
- ~~44.~~ 47. "Waters of the state" means all waters of this state, including boundary waters. This title extends to and is in force and effect over, upon, and in all such waters.
- ~~45.~~ 48. "Wildlife" means any member of the animal kingdom including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals as defined by section 36-01-00.1 or birds or animals held in private ownership.

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

**20.1-02-05. Powers of director.** The director may:

1. Fix the salaries and the necessary travel and other expenses of department personnel subject to law and legislative appropriations.
2. Employ any part-time personnel necessary to run the director's office and remove the employees at will. Salaries and necessary traveling and other expenses of these appointees must be authorized, audited, and paid in the same manner as salaries and expenses of state officers.
3. Accept from any person, or gather, or purchase, fish, spawn, or fry, for distribution in state waters.
4. Take alive at any time, under the director's personal supervision or under the personal supervision of any of the director's bonded appointees, any birds or animals for propagation purposes or for exchange with other states and foreign countries for game birds and animals of other species.
5. Order additional protection for any fish with an open season when, after investigation, the director finds danger of extinction, undue depletion in any waters, or to aid in the propagation and protection of immature fish, by prescribing how, how many, where, and when the fish may be taken. The orders have the force of law.
6. Take or cause to be taken at any time from any state public waters any suckers, carp, or pickerel.
7. With the governor's approval, purchase, lease, or condemn real estate, when it is required to carry out this title, and sell it when it is no longer required, in the name of the state.
8. Lease up to ninety-nine years any department land, for the purpose of development and improvement, to any nonprofit corporation, upon consideration of specified improvements to be made by the corporation and other improvements the department and the corporation may agree upon. The lease must provide that all funds received by the corporation through lease of the property be expended upon the leased premises for development and improvements. The corporation has the authority, subject to approval by the director, to sublease the premises for cabin sites and other recreational purposes. Upon termination of the lease, the leased property, together with all improvements, reverts to the department.
9. With the governor's approval, enter ~~into~~ agreements with the bureau of reclamation for the management of lands in the Heart Butte area acquired by the bureau for the construction of dams on lakes or streams. Revenues derived from the management of these lands or received from any federal agency for expenditure upon these lands may not be commingled with other game and fish funds, but must be deposited by the director in a

separate account. These funds are ~~hereby~~ appropriated for expenditure for purposes as may be agreed upon by the bureau of reclamation, the United States fish and wildlife service, the national park service, and the director. The authority ~~herein~~ granted by this subsection is effective only until the lands are resold to the former landowners by the bureau of reclamation.

10. Secure specimens of game birds, animals, and fish for breeding purposes by purchase or otherwise and by exchange with the game commissions or state game wardens of other states or countries.
11. Issue special permits to shoot wildlife from a stationary motor vehicle upon application from individuals who are physically unable to walk for purposes of hunting or taking wildlife or who have lost the use of an arm at or below the elbow. The application must be accompanied by a physician's statement verifying the person's condition, and if used to hunt on lands controlled by the board of university and school lands, must designate the land on which the individual intends to hunt. The permittee must have permission from the lessee and the commissioner of university and school lands to hunt on lands controlled by the board of university and school lands. A permit issued under this subsection allows the permittee to drive, or to be driven, onto any land for the purposes of hunting wildlife, except that neither any other passenger within the vehicle nor the driver, if someone other than the permittee, may be a hunter, unless the other person is also a permittee. Provided, however, that if the land is privately owned and if the permittee is not going to drive or be driven along an established road or trail, the permittee must first obtain the consent of the owner or lessee to hunt on the land in the manner provided in this title.
12. Issue to any ~~person~~ individual, who is a paraplegic or who has lost the use of one or both arms, a special permit to hunt game with a crossbow if that ~~person~~ individual otherwise complies with and qualifies under the licensing and other provisions of this title.
13. Issue any resident license prescribed by this title to ~~a person~~ an individual who has come to the state with a bona fide intention of becoming a resident, even though that ~~person~~ individual has not been a resident of this state for the required time period immediately preceding the application for the license, or to any ~~person~~ individual who is a member of the United States armed forces and who is within the state on duty or leave, or to any employee of the United States fish and wildlife service or the conservation department of any state or province of Canada in the state to advise or consult with the department. No license may be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection does not apply to lottery permits, except that the director shall issue a resident deer hunting license to any resident of this state who is a member of the United States armed forces stationed outside this state and who shows proof of North Dakota residence and who pays the appropriate licensing fee. A deer license issued to a member of the United States armed forces under this subsection must be issued without being subject to the lottery for deer hunting licenses.
14. Adopt rules, and issue permits for the transporting or introducing of fish, fish eggs, small game, big game, or fur-bearers after determining that the fish, fish eggs, birds, or animals have been properly inspected for disease, and that the transplanting or introduction will be in compliance with state laws and rules. No person may transplant or introduce any fish or fish eggs into any of the public waters of this state, or transplant or introduce any species of small game, big game, or fur-bearers into this state without obtaining a permit from the director.
15. Pursuant to section 4-01-17.1, cooperate with the agriculture commissioner, the United States fish and wildlife service, and other agencies in the destruction of predatory animals, destructive birds, and injurious field rodents. The director ~~is hereby authorized to~~ may adopt rules in accordance with organized and systematic plans of the department of the

interior for the destruction of these birds and animals. The director may determine the necessity and issue permits and rules and regulations therefor for the operation and use of private aircraft to assist in the destruction of the above birds and animals and aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

16. Exercise authority to establish programs and rules and administer state and federal funds provided to the state for the preservation and management of resident species determined by the director to be threatened or endangered species of wildlife. The authority exercised must be in compliance with the Endangered Species Act of 1973, Public Law 93-205. Any person who violates rules ~~established~~ adopted under this subsection is guilty of a class B misdemeanor.
17. ~~Subject to chapter 28 32, adopt rules for the licensing of guides or outfitters and may require records and reports as the director determines necessary. The director may, after due hearing as provided in chapter 28 32, revoke or refuse to renew the license of a person who violates the rules or fails to provide the records and reports.~~
- ~~48.~~ Provide for the funding of a private land habitat and access improvement program with moneys derived from the interest earned on the game and fish fund and habitat restoration stamp fees. The director shall place these funds in a special fund called the "game and fish department private land habitat and access improvement fund".
- ~~49.~~ 18. Carry out a private land habitat and access improvement program by:
  - a. Entering ~~into~~ cost-sharing, habitat enhancement, and access agreements with landowners or agencies working on private land to help defray all or a portion of their share of local, state, or federally sponsored conservation practices considered beneficial to fish and wildlife.
  - b. Leasing and developing fish and wildlife habitat or sport fishing areas on private land. Public access to leased land may not be prohibited.
  - c. Carrying out practices that will alleviate depredations caused by predatory animals and big game animals.
  - d. Publishing a brochure on an annual basis describing areas funded from the game and fish department private land habitat and access improvement fund which are open to public access in this state.
  - e. Receiving advice from the game and fish advisory board concerning expenditures from the game and fish private land habitat and access improvement fund.
- ~~20.~~ 19. Subject to prior approval of the attorney general, lease or exchange lands under the director's jurisdiction or control which are deemed necessary for the improved management of wildlife resources.
- ~~24.~~ 20. Subject to prior approval of the attorney general, impose any conditions or reservations to the leases or exchanges as the director determines necessary.
- ~~22.~~ 21. Adopt rules and issue permits for conducting fishing contests involving public waters of the state. The director by rule shall define the term "fishing contest" and shall set criteria for which a fishing contest permit is required. The director may deny permits. No person may conduct a fishing contest on public waters without first receiving a permit issued by the director.
- ~~23.~~ 22. Issue duplicates of lost or destroyed game and fish licenses or permits. The procedure for reissuing the licenses or permits and fees to be charged must be prescribed by the director by rule.

- ~~24.~~ 23. Establish noncriminal penalties for any rules adopted by the director. The maximum noncriminal penalty that may be set by the director is a fine of two hundred fifty dollars. Violation of any rule not designated as having a noncriminal penalty is considered a criminal violation as established in the appropriate chapter of this title.
- ~~25.~~ 24. Issue, as a means of encouraging and promoting economic development in this state, complimentary fishing licenses to nonresident visiting dignitaries. The circumstances and conditions of complimentary fishing licenses issued must be determined by the director. The number of complimentary licenses may not exceed fifty licenses per year. The director shall determine the visiting dignitaries to be of national or international stature before they are eligible for complimentary licenses.
- ~~26.~~ 25. Carry out a coyote depredation prevention program by conducting practices that will alleviate depredations caused by coyotes.
- ~~27.~~ 26. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates ~~provided under subsection 53 of section 20.1-03-12~~ 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.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-07.1. Nonresident waterfowl hunting license required.** Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that ~~person~~ individual first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, ~~any period of seven consecutive days,~~ or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. ~~A license authorizing one 7-day hunting period allows hunting statewide.~~ A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

**SECTION 4. AMENDMENT.** Section 20.1-03-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-11.2. ~~Certified guides and Hunting outfitters - White-tailed deer licenses - Fees.~~** The governor shall make one-half of the antlered white-tailed deer licenses and permits allocated to nonresidents under subsection 4 of section 20.1-03-11, up to a maximum of one hundred licenses, available to ~~certified guides or~~ hunting outfitters licensed in this state. A ~~certified guide or~~ hunting outfitter may not purchase or obtain more than five white-tailed deer licenses under this section in any one year. A ~~certified guide or~~ hunting outfitter shall pay the fee required for a white-tailed deer license sold to ~~guides or~~ outfitters and provided by them to nonresidents for each license purchased under this section. A ~~certified guide or~~ hunting outfitter may provide to nonresidents, for compensation, big game guiding and outfitting services and one white-tailed deer license per nonresident as provided in this section to hunt white-tailed deer in the manner, at the places, and during the times the governor prescribes by proclamation.

**SECTION 5. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:



**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, seventy-five dollars.
3. For a resident big game hunting license, twenty dollars, except the fee for a licensee under age sixteen is ten dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. For a nonresident big game hunting license, one hundred fifty-five dollars, and for a nonresident bow license, one hundred fifty-five dollars, and a nonrefundable five dollar application fee must accompany any lottery license fee under this subsection, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, twenty-five dollars.
8. For a nonresident short-term seven-day fishing license, fifteen dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
14. For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
18. For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to points within this state other than that person's home or to points outside this state, three dollars.
19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
20. For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, twelve dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, twenty-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.

21. To operate watercraft used for hire, the following license fees apply for three years:
  - Class 1. Each craft capable of carrying two adults of average weight, six dollars.
  - Class 2. Each craft capable of carrying three adults of average weight, six dollars.
  - Class 3. Each craft capable of carrying four adults of average weight, six dollars.
  - Class 4. Each craft capable of carrying five adults of average weight, six dollars.
  - Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.
  - Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.
  - Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.
  - Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.
22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
23. For a license to erect, have, and maintain on the ice in this state a fishhouse used or to be used to protect one while ice fishing or a dark house used or to be used for spearfishing, ten dollars for each unit.
24. For a resident paddlefish tag annual license, three dollars per tag.
25. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
26. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
27. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
28. For an annual license to operate a private fish hatchery, seventy-five dollars.
29. For a resident commercial frog license, fifty dollars.
30. For a nonresident commercial frog license, two hundred dollars.
31. For a resident frog license, three dollars.
32. For a resident husband and wife frog license, five dollars.
33. For a shooting preserve operating permit:
  - a. One hundred dollars, if the shooting preserve consists of an area of six hundred forty acres [259 hectares] or less; or
  - b. One hundred dollars, if the shooting preserve consists of an area of more than six hundred forty acres [259 hectares], plus fifty cents per acre [.40 hectare] for each acre [.40 hectare] over six hundred forty acres [259 hectares].
34. ~~For an annual license to guide for both hunting and fishing, one hundred fifty dollars.~~
35. ~~For an annual license to guide only for hunting, one hundred dollars.~~
36. ~~For an annual license to guide only for fishing, one hundred dollars.~~

- ~~37.~~ For a nonresident waterfowl hunting license, ten dollars.
- ~~38.~~ 35. For a nonresident husband and wife fishing license, thirty-five dollars.
- ~~39.~~ 36. For a nonresident short-term three-day fishing license, ten dollars.
- ~~40.~~ 37. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
- ~~41.~~ 38. For a combination license, twenty-seven dollars.
- ~~42.~~ 39. For a white-tailed deer license sold to ~~certified guides or~~ hunting outfitters and provided by them to nonresidents, two hundred fifty dollars.
- ~~43.~~ 40. For a resident swan license, five dollars.
- ~~44.~~ 41. For a nonresident swan license, twenty-five dollars.
- ~~45.~~ 42. For a resident and nonresident sandhill crane license, five dollars.
- ~~46.~~ 43. For a resident commercial clam license, one hundred dollars.
- ~~47.~~ 44. For a nonresident commercial clam license, one thousand dollars.
- ~~48.~~ 45. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
- ~~49.~~ 46. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
- ~~50.~~ 47. For a bighorn sheep license issued to a nonresident, five hundred dollars.
- ~~51.~~ 48. For a nonresident reciprocal trapping license, two hundred fifty dollars.
- ~~52.~~ 49. For a nonresident spring white goose license, fifty dollars.
- ~~53.~~ 50. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

The fees for these licenses and permits, except for motorboat license fees, must be deposited with the state treasurer and credited to the game and fish fund.

**SECTION 6. AMENDMENT.** Section 20.1-03-36 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-36. ~~Certified guides~~ Guides and outfitters —Requirements to be licensed.** An individual may not be issued a certified guide license without first providing the director:

- ~~1. Proof that the individual is covered by general liability insurance against loss or expense due to accident or injury from guiding or outfitting services, at a minimum of one hundred thousand dollars per individual and three hundred thousand dollars per incident;~~
- ~~2. Proof that the individual is currently certified in adult cardiopulmonary resuscitation or its equivalent; and~~
- ~~3. Proof that the individual is currently certified in standard first aid or its equivalent. An individual may not act as a guide or outfitter or advertise or otherwise represent to the public as a guide or outfitter without first securing a license in accordance with this chapter and the rules of the director.~~

**SECTION 7.** Section 20.1-03-36.1 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-36.1. Fee for license.**

1. The annual fee to receive a hunting guide license is one hundred dollars for a resident and four hundred dollars for a nonresident.
2. The annual fee to receive a fishing outfitter license is one hundred dollars for a resident and four hundred dollars for a nonresident. The annual fee to receive a fishing outfitter license is fifty dollars for a resident and two hundred dollars for a nonresident if the individual applying for the license has paid for a hunting guide or outfitter license for the same year.
3. The annual fee for a resident to receive a hunting outfitter license is two hundred fifty dollars for under ten thousand acres [4046.86 hectares] and five hundred dollars for ten thousand acres [4046.86 hectares] and over on which the outfitter provides services. The annual fee for a nonresident to receive a hunting outfitter license is two thousand dollars. The acreage must be presented by the county with a list of lessors by county in every application for outfitter licensure. The annual permit fee for day leasing is two hundred dollars. The acreage day leased by county for the preceding year must be provided to receive a day leasing permit.
4. A license is not required for a person to provide services on real property that person owns or leases for the primary pursuit of bona fide agricultural interests or for a nonprofit organization registered with the secretary of state. The director shall determine the number of acres by county exempted from licensure by this subsection and shall publish the results. The director shall provide written information to the public on the possible liability exposure for outfitting under this subsection and on the benefits of liability insurance and proper training.

**SECTION 8.** Section 20.1-03-36.2 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-36.2. Licenses.**

1. Each licensee shall carry the license while afield and show the license to any law enforcement officer upon request.
2. Hunting guide and fishing outfitter licenses are not transferable.
3. Guide and outfitter licenses expire on December thirty-first of each year unless revoked at earlier date.
4. The department shall deposit in the game and fish department private habitat and access improvement fund any funds collected under section 20.1-03-36.1 or this section from hunting guides and outfitters which are not used for the administration of this chapter.

**SECTION 9. AMENDMENT.** Section 20.1-03-37 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-37. ~~Guides and outfitters~~ Rules Restrictions License qualifications.**

1. An individual ~~may not:~~
1. ~~Act as a guide or outfitter or advertise or otherwise represent to the public that the individual is a guide or outfitter without first securing a license in accordance with this title and the applicable rules of the director;~~
2. ~~Act as a certified guide or outfitter or advertise or otherwise represent to the public that the individual meets the qualifications of being certified without first complying with section 20.1-03-36;~~

- ~~3. Act as a hunting guide or outfitter on land owned by or private land enrolled by the department for the purpose of hunting;~~
- ~~4. Provide guiding or outfitting services to a person who has not obtained the appropriate license for the species sought by that person; or~~
- ~~5. Willfully and substantially misrepresent that person's facilities, prices, equipment, services, or hunting or fishing opportunities as a guide or outfitter who is eighteen years of age or more may apply for a guide or outfitter license.~~
2. An applicant for a hunting guide license and an outfitter acting as a guide shall provide the director proof that the individual is certified in adult cardiopulmonary resuscitation or its equivalent and in standard or first aid or its equivalent.
3. An applicant for a hunting outfitter or fishing outfitter license shall provide to the director proof that the individual and the individual's business operation are covered by general liability insurance against loss or expense due to accident or injury from outfitting services, at a minimum of one hundred thousand dollars per individual and three hundred thousand dollars per accident.
4. An individual must hold a hunting guide license for two years to be eligible to apply for a hunting outfitter license.
5. The director may not issue a license to an individual who been convicted of a state or federal 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 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt which is reversed on appeal.
6. If an application is for a business association, the applicant must be an agent of the association to be held personally responsible for the conduct of the licensed outfitter's operations, in addition to the association.
7. An applicant for a hunting guide license must have legally hunted for part of each of any three years in a manner directly contributing to the individual's experience and competency as a guide.

**SECTION 10.** Section 20.1-03-38 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-38. Licensing by the department.**

1. The director may license guides and outfitters and may adopt rules to regulate guides and outfitters. If the director requests a trade secret or proprietary information, the director shall request the information on a separate form, and that information is confidential and is not a public record subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The director may release this information, however, if it is aggregated so as not to identify any guide, outfitter, or client. Before engaging in rulemaking activities with respect to guides and outfitters, the director shall appoint a committee composed of guides, outfitters, and interested individuals and shall consult with the committee when preparing rules.
2. The director shall periodically inspect or cause to be inspected all outfitter businesses. All records, facilities, and equipment kept or used by the outfitter are open to inspection by the director or a game warden.

3. The director shall perform a background search for criminal and game and fish violations on each applicant on initial application and on each renewal.
4. The director may not issue a license to an individual to be a hunting guide or hunting outfitter unless the individual is proficient in the application of state and federal laws on the hunting of wild game. The director shall create and administer a written examination to test proficiency of hunting guides and outfitters in these laws. The director shall administer examinations at least twice a year; however, an examination may not be given within ninety days after the previous examination.

**SECTION 11.** Section 20.1-03-39 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-39. Restrictions - Administrative sanctions.**

1. The license of a guide or outfitter may be denied, revoked, or suspended, or placed on probation by the director if:
  - a. The licensee, while carrying out the business of guiding or outfitting, engages in conduct detrimental to the image and professional integrity of the guiding and outfitting industry;
  - b. The licensee willfully and substantially misrepresented that person's facilities, prices, equipment, services, or hunting or fishing opportunities as a guide or outfitter;
  - c. The licensee has been convicted of an offense not listed in subsection 2 which is determined by the director to have a direct bearing on the licensee's ability to serve the public as a guide or outfitter;
  - d. The licensee is addicted to the use of intoxicating liquors, narcotics, or stimulants to the extent the licensee's performance of professional duties is affected; or
  - e. The licensee has become not qualified, or has violated any rule for the licensing of a guide or outfitter by the director.
2. The license of a guide or outfitter may be revoked if:
  - a. The licensee is convicted of violating state or federal criminal law pertaining to hunting, fishing, or trapping;
  - b. The licensee acted as a hunting guide or hunting outfitter on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments; or
  - c. The licensee provided guiding or outfitting services to a person that had not obtained the appropriate license for the species sought by that person.
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 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 12.** Section 20.1-03-40 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-40. Penalty.** Any individual providing guide or outfitter services without a license is guilty of a class B misdemeanor. Each client guided is subject to separate and distinct offenses. In addition to this penalty, the director may initiate civil action in a court of competent jurisdiction as necessary to enforce this chapter or any rule adopted under this chapter, including an injunction to restrain a violation, without proof of actual damages sustained by any person. Any individual guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual who commits for remuneration or compensation an act of fraud involving hunting or fishing or any individual who illegally takes or causes death to fish or wildlife for remuneration or compensation may be prosecuted for theft, fraud, or conspiracy under title 12.1 and is, upon conviction, liable for the higher amount between the actual compensation received or the value of the fish or wildlife illegally taken or killed.

**SECTION 13. APPLICATION - EFFECTIVE DATE.** Licenses issued by the director under section 20.1-02-05 are valid for the term of issuance and an individual with this license is entitled to a one-time irrevocable decision to be an outfitter before the term of the license ends regardless of any experience requirement in this Act.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1050.

House Vote:      Yeas    68      Nays    20      Absent    6

Senate Vote:    Yeas    41      Nays    6      Absent    0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State