

GAME, FISH, PREDATORS, AND BOATING

CHAPTER 204

SENATE BILL NO. 2041

(Legislative Council)
(Natural Resources Committee)

HUNTING ON INDIAN LAND

AN ACT to create and enact a new subsection to section 20.1-01-02 and a new section to chapter 20.1-03 of the North Dakota Century Code, relating to hunting on Indian land; and to amend and reenact sections 20.1-04-06 and 20.1-05-03 of the North Dakota Century Code, relating to transportation of game and fish taken on Indian lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1.** A new subsection to section 20.1-01-02 of the North Dakota Century Code is created and enacted as follows:

"Indian land" means land within the exterior boundaries of an Indian reservation held in trust by the federal government for the benefit of an Indian tribe or an Indian and land within the exterior boundaries of an Indian reservation owned in fee by an Indian tribe or an Indian.

SECTION 2. A new section to chapter 20.1-03 of the North Dakota Century Code is created and enacted as follows:

General game license not required for hunting on Indian land. An individual hunting on Indian land pursuant to a tribal hunting license is not required to possess a state license to hunt on such land.

SECTION 3. AMENDMENT. Section 20.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-06. Possession limit of game birds. ~~No~~ A person may not possess, control, ship, transport, or store, can, or otherwise preserve, more than the number authorized in the governor's proclamation of any species of game bird mentioned in this chapter. However, properly tagged game birds legally taken out of state or taken on Indian land may be possessed, transported, or shipped in state.

¹¹⁷ Section 20.1-01-02 was also amended by section 1 of House Bill No. 1276, chapter 221, section 1 of Senate Bill No. 2100, chapter 205, and section 1 of Senate Bill No. 2338, chapter 229.

SECTION 4. AMENDMENT. Section 20.1-05-03 of the North Dakota Century Code is amended and reenacted as follows:

20.1-05-03. Season for taking and transporting big game - Bag limit. A person having a big game hunting license as prescribed in this title may take, kill, and transport, during the open or lawful season, one big game animal in this state. The open or lawful season on deer and antelope begins at twelve noon central standard time and on elk, moose, and bighorn sheep begins one-half hour before sunrise on any designated Friday as established by gubernatorial proclamation in accordance with this title. This section does not prohibit the transportation, shipment, or possession within this state of properly tagged big game legally taken in other states or taken on Indian land.

Approved April 6, 2005
Filed April 6, 2005

CHAPTER 205

SENATE BILL NO. 2100

(Natural Resources Committee)

(At the request of the Game and Fish Department)

RESIDENCY FOR GAME AND FISH PURPOSES

AN ACT to amend and reenact subsection 33 of section 20.1-01-02 of the North Dakota Century Code, relating to the definition of resident for game and fish purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁸ **SECTION 1. AMENDMENT.** Subsection 33 of section 20.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

33. "Resident" means any person who has actually lived within this state or maintained that person's ~~home~~ residence therein for at least six months immediately preceding the date that residence is to be determined. A person's residence is the place where the person remains when not called elsewhere for special or temporary purposes. A resident can only have one residence and a residence cannot be lost until another is gained. A residence or home is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. A rental property, vacant lot, or house, cabin, or premises used primarily for business or recreational pursuits may not be considered a residence. A "nonresident" is any person who has not ~~done so~~ actually lived within this state or maintained that person's residence within this state for at least six months immediately preceding the date that residence is to be determined.

Approved March 8, 2005

Filed March 8, 2005

¹¹⁸ Section 20.1-01-02 was also amended by section 1 of House Bill No. 1276, chapter 221, section 1 of Senate Bill No. 2041, chapter 204, and section 1 of Senate Bill No. 2338, chapter 229.

CHAPTER 206

HOUSE BILL NO. 1239

(Representatives Porter, DeKrey, Haas, Herbel)
(Senators Freborg, Urlacher)

OFFROAD HUNTING

AN ACT to amend and reenact section 20.1-01-07 of the North Dakota Century Code, relating to offroad hunting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁹ **SECTION 1. AMENDMENT.** Section 20.1-01-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-07. Hunting big game or small game other than waterfowl or cranes with motor-driven vehicles prohibited - Exception - Motor-driven vehicle use in transporting big game restricted. Except as provided in subsection 11 of section 20.1-02-05 and as otherwise provided in this section, ~~no~~ a person, other than the landowner, without the written permission of the landowner or a lessee who actively farms or ranches that land, while hunting big game or small game, other than waterfowl or cranes, statewide, may not use a motor-driven vehicle on any land other than an established road or trail, unless that person has reduced a big game animal to possession and cannot easily retrieve the big game animal, in which case a motor-driven vehicle may be used to retrieve the big game animal, but after retrieval, the motor-driven vehicle must be returned to the established road or trail along the same route it originally departed. A person may not use a motor-driven vehicle on any land other than an established road or trail to hunt upland game during the deer gun season. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to said road or trail. No person, while hunting big game or small game, statewide, may drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass any such game with the use or aid of any motor-driven vehicle. ~~No~~ A person, other than the landowner, without the written permission of the landowner or a lessee who actively farms or ranches that land, while hunting big game or small game, other than waterfowl or cranes, statewide, may not drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail. The provisions of this section relating to hunting big game or small game while using a motor-driven vehicle on any land other than an established road or trail without the written permission of the landowner or a lessee who actually farms or ranches that land do not apply to the hunting of big game during an open and lawful season for small game.

Approved April 11, 2005
Filed April 12, 2005

¹¹⁹ Section 20.1-01-07 was also amended by section 1 of House Bill No. 1138, chapter 207.

CHAPTER 207

HOUSE BILL NO. 1138

(Natural Resources Committee)

(At the request of the Game and Fish Department)

GAME AND FISH FUND AND HEART BUTTE MANAGEMENT

AN ACT to amend and reenact sections 20.1-01-07, 20.1-02-05, 20.1-02-16.1, 20.1-02-16.5, 20.1-03-12, 20.1-06-13, and 20.1-07-02 of the North Dakota Century Code, relating to agreements with the bureau of reclamation for management of the Heart Butte area and deposit of interest income in the game and fish department private land habitat and access improvement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁰ **SECTION 1. AMENDMENT.** Section 20.1-01-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-07. Hunting big game or small game other than waterfowl or cranes with motor-driven vehicles prohibited - Exception - Motor-driven vehicle use in transporting big game restricted. Except as provided in subsection 44 10 of section 20.1-02-05, no person, while hunting big game or small game, other than waterfowl or cranes, statewide, may use a motor-driven vehicle on any land other than an established road or trail, unless that person has reduced a big game animal to possession and cannot easily retrieve the big game animal, in which case a motor-driven vehicle may be used to retrieve the big game animal, but after retrieval, the motor-driven vehicle must be returned to the established road or trail along the same route it originally departed. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to said road or trail. No person, while hunting big game or small game, statewide, may drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass any such game with the use or aid of any motor-driven vehicle. No person, while hunting big game or small game, other than waterfowl or cranes, statewide, may drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail.

¹²¹ **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:

¹²⁰ Section 20.1-01-07 was also amended by section 1 of House Bill No. 1239, chapter 206.

¹²¹ Section 20.1-02-05 was also amended by section 1 of House Bill No. 1189, chapter 210, section 1 of House Bill No. 1220, chapter 208, and section 1 of Senate Bill No. 2334, chapter 209.

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 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 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 granted by this subsection is effective only until the lands are resold to the former landowners by the bureau of reclamation.~~

- ~~40.~~ 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.
- ~~44.~~ 10. 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.
- ~~42.~~ 11. Issue to any individual, who is blind, 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 individual otherwise complies with and qualifies under the licensing and other provisions of this title. For purposes of this subsection, an individual who is blind means an individual who is totally blind, whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or in whom the widest diameter of the visual field is no greater than twenty degrees.
- ~~43.~~ 12. Issue any resident license prescribed by this title to an individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license; to any individual who is a member of the United States armed forces and who is within the state on duty or leave; 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; or to any nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college. Except for a license issued to a nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college, a license may not 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.

- ~~44.~~ 13. 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.
- ~~45.~~ 14. 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 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.
- ~~46.~~ 15. 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 adopted under this subsection is guilty of a class B misdemeanor.
- ~~47.~~ 16. 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".
- ~~48.~~ 17. Carry out a private land habitat and access improvement program by:
- a. Entering 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.
- ~~49.~~ 18. 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.
- ~~20.~~ 19. Subject to prior approval of the attorney general, impose any conditions or reservations to the leases or exchanges as the director determines necessary.
- ~~24.~~ 20. 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.
- ~~22.~~ 21. 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.
- ~~23.~~ 22. 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.
- ~~24.~~ 23. 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.
- ~~25.~~ 24. Carry out a coyote depredation prevention program by conducting practices that will alleviate depredations caused by coyotes.
- ~~26.~~ 25. 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.

- ~~27.~~ 26. Carry out a program that targets waterfowl resting areas within the private lands initiative program which includes payments to private landowners for lease of waterfowl resting areas on private lands that during the term of the lease provides limited public access for the hunting of waterfowl.

¹²² **SECTION 3. AMENDMENT.** Section 20.1-02-16.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-16.1. Game and fish fund - Use - Required balance - Budget section approval. All income of the state game and fish department deposited by the director with the state treasurer must be credited to the state game and fish fund and the fund may be used only by the department. All money derived from the investment of the fund, special accounts, or portions of the fund must be credited to the game and fish department private land habitat and access improvement fund. The department shall spend moneys in the game and fish fund within the limits of legislative appropriations, only to the extent the balance of the fund is not reduced below ten million dollars, unless otherwise authorized by the budget section.

SECTION 4. AMENDMENT. Section 20.1-02-16.5 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-16.5. Motorboat programs and safety account - Use. The director shall deposit all motorboat license fees in a special account within the game and fish fund to be known as the motorboat programs and safety account. Funds placed in the motorboat programs and safety account ~~and interest earned on the account~~ may be used only for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat licensing administration. All money derived from the investment of the account, or portions of the account, must be credited in accordance with section 20.1-02-16.1.

¹²³ **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, eighty-five dollars.

¹²² Section 20.1-02-16.1 was also amended by section 9 of House Bill No. 1018, chapter 18.

¹²³ Section 20.1-03-12 was also amended by section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

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. Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, for a nonresident big game hunting license, two hundred dollars, and for a nonresident bow license, two hundred 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. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.
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, thirty-five dollars.
8. For a nonresident short-term seven-day fishing license, twenty 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 resident paddlefish tag annual license, three dollars per tag.
24. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
25. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
26. 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.
27. For an annual license to operate a private fish hatchery, seventy-five dollars.

28. For a resident commercial frog license, fifty dollars.
29. For a nonresident commercial frog license, two hundred dollars.
30. For a resident frog license, three dollars.
31. For a resident husband and wife frog license, five dollars.
32. 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].
33. For a nonresident waterfowl hunting license, eighty-five dollars.
34. For a nonresident husband and wife fishing license, forty-five dollars.
35. For a nonresident short-term three-day fishing license, fifteen dollars.
36. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
37. For a combination license, thirty-two dollars.
38. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
39. For a resident swan license, five dollars.
40. For a nonresident swan license, twenty-five dollars.
41. For a resident and nonresident sandhill crane license, five dollars.
42. For a resident commercial clam license, one hundred dollars.
43. For a nonresident commercial clam license, one thousand dollars.
44. 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.
45. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
46. For a bighorn sheep license issued to a nonresident, five hundred dollars.
47. For a nonresident reciprocal trapping license, two hundred fifty dollars.
48. For a nonresident spring white goose license, fifty dollars.

49. 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. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

SECTION 6. AMENDMENT. Section 20.1-06-13 of the North Dakota Century Code is amended and reenacted as follows:

20.1-06-13. Property rights - Fish wild by nature. Any person, firm, corporation, or limited liability company raising and owning any lawfully possessed fish, wild by nature, has the same property rights therein as enjoyed by owners of domestic fish. They are, however, subject to all rules adopted by the director regarding the introduction and release into the state of the fish, as provided in subsection ~~44~~ 13 of section 20.1-02-05.

SECTION 7. AMENDMENT. Section 20.1-07-02 of the North Dakota Century Code is amended and reenacted as follows:

20.1-07-02. Property rights - Wild fur-bearing animals. Any person, firm, corporation, or limited liability company raising and owning any protected fur-bearing animal, or in possession of the pelt of any wild animal lawfully obtained, has the same property rights therein as enjoyed by owners of domestic animals. They are, however, subject to all rules adopted by the director in regard to the introduction and release into the state of the animals, as provided in subsection ~~44~~ 13 of section 20.1-02-05.

Approved March 8, 2005
Filed March 8, 2005

CHAPTER 208

HOUSE BILL NO. 1220

(Representatives Weisz, DeKrey, Herbel)

CROSSBOW USE BY HANDICAPPED INDIVIDUALS

AN ACT to amend and reenact subsection 12 of section 20.1-02-05 of the North Dakota Century Code, relating to use of crossbows by handicapped individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁴ **SECTION 1. AMENDMENT.** Subsection 12 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue to any individual, who is blind, 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 individual otherwise complies with and qualifies under the licensing and other provisions of this title. Battery-powered and electronic-lighted sight pins and telescopic sights not exceeding a maximum power of four by thirty-two millimeters may be attached to crossbows used for hunting under this subsection. However, an individual who is blind and who receives a special permit to hunt game with a crossbow under this subsection may hunt only on a preserve or area approved by the director. For purposes of this subsection, an individual who is blind means an individual who is totally blind, whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or in whom the widest diameter of the visual field is no greater than twenty degrees.

Approved March 15, 2005
Filed March 16, 2005

¹²⁴ Section 20.1-02-05 was also amended by section 2 of House Bill No. 1138, chapter 207, section 1 of House Bill No. 1189, chapter 210, and section 1 of Senate Bill No. 2334, chapter 209.

CHAPTER 209

SENATE BILL NO. 2334

(Senators Hacker, Erbele, Freborg, Heitkamp)
(Representatives Brandenburg, Kretschmar)

NONRESIDENT STUDENT HUNTING

AN ACT to amend and reenact subsection 13 of section 20.1-02-05 of the North Dakota Century Code, relating to hunting by nonresident students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁵ **SECTION 1. AMENDMENT.** Subsection 13 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

13. Issue any resident license prescribed by this title to an individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license; to any individual who is a member of the United States armed forces and who is within the state on duty or leave; 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; or to any nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college. Except for a license issued to a nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college, a license may not 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.

Approved March 16, 2005
Filed March 17, 2005

¹²⁵ Section 20.1-02-05 was also amended by section 2 of House Bill No. 1138, chapter 207, section 1 of House Bill No. 1189, chapter 210, and section 1 of House Bill No. 1220, chapter 208.

CHAPTER 210

HOUSE BILL NO. 1189

(Representatives Porter, DeKrey, Martinson, Nelson)
(Senators Lyson, Tollefson)

PRIVATE LAND ACCESS PROGRAM

AN ACT to create and enact a new subsection to section 20.1-02-05 and a new section to chapter 20.1-02 of the North Dakota Century Code, relating to establishing a private land access program; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁶ **SECTION 1.** A new subsection to section 20.1-02-05 of the North Dakota Century Code is created and enacted as follows:

Carry out a private land access improvement program by entering leases with private landowners to provide access for hunting on private land. To be eligible for funding under this subsection, state funds for each lease must be supplemented by local funds. Public access to lands leased under this subsection may not be prohibited.

SECTION 2. A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Private land access program - Guidelines.

1. In the implementation of the private land access program provided for under section 1 of this Act, the department shall develop hunter-access partnerships with communities under the following guidelines:
 - a. Use current department hunter-access improvement programs, agreements, and payment rates.
 - b. Pay one hundred percent of the standard program payment.
 - c. Hunter-access tracts obtained through community partnerships must meet minimum department habitat criteria and standards.
 - d. Land must be open to public access and posted as open by the department and may include information identifying the community partner.
 - e. Land must be identified in the annual private land open to sportsmen guide.

¹²⁶ Section 20.1-02-05 was also amended by section 2 of House Bill No. 1138, chapter 207, section 1 of House Bill No. 1220, chapter 208, and section 1 of Senate Bill No. 2334, chapter 209.

- f. If the local match meets one-third of the total cost of the contract, local communities may decide if the land is open to nonresidents during normally closed times.
2. The community shall offer additional incentive payments based on the community's negotiations with potential landowner cooperators to attract and influence additional interest and signups in areas selected by the community.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the game and fish fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the game and fish department for the purpose of entering leases with private landowners to provide access for hunting purposes, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2007, and after that date is ineffective.

Approved April 22, 2005
Filed April 25, 2005

CHAPTER 211

HOUSE BILL NO. 1395

(Representatives Hanson, Mueller, Nelson, Porter)

GAME AND FISH ADVISORY BOARD COMPENSATION

AN ACT to amend and reenact section 20.1-02-24 of the North Dakota Century Code, relating to compensation of the members of the state game and fish advisory board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-24 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-24. Compensation. Each member of the advisory board is entitled to be paid a per diem of ~~fifty~~ sixty-two dollars and fifty cents for each day of service in going to, attending, and returning from the meetings required by section 20.1-02-25 to be held in that person's respective district and the meetings of the advisory board. Each member is entitled to be reimbursed for necessary and actual expenses at the rates and in the manner provided by law for other state officers. The compensation and expenses must be paid out of department appropriations.

Approved March 15, 2005

Filed March 16, 2005

CHAPTER 212**HOUSE BILL NO. 1062**

(Representatives Porter, DeKrey, Carlson, Norland)
(Senators Cook, Dever)

DEERPROOF HAY YARD PROGRAM PARTICIPATION

AN ACT to amend and reenact section 20.1-02-28 of the North Dakota Century Code, relating to eligibility to participate in the deerproof hay yard program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-28 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-28. Deerproof hay yard program. Within legislative appropriations, the director shall provide for a deerproof hay yard program. The deerproof hay yard program must provide materials and supplies at no cost to landowners for the establishment of deerproof hay yards to protect hay or feed on private property with deer depredation problems. ~~The director may not discriminate against or penalize any landowner applying for or participating in the deerproof hay yard program on the basis of that~~ A landowner allowing who allows commercial hunting for big game on a majority of acres owned and operated in exchange for compensation and who posts a majority of the acres owned and operated by that person to prohibit big game hunting is not eligible to participate in the deerproof hay yard program. The department shall establish a prorated repayment system over a three-year period.

Approved April 8, 2005
Filed April 12, 2005

CHAPTER 213

HOUSE BILL NO. 1100

(Natural Resources Committee)

(At the request of the Game and Fish Department)

GAME AND FISH RECORD PROTECTION

AN ACT to provide for protection of game and fish department records of personal information obtained from the public and records of sensitive biological data.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Protection of personal information of the public. The following records, regardless of form or characteristic, of or relating to the game and fish department are exempt under section 44-04-18 and section 6 of article XI of the Constitution of North Dakota:

1. A record that would identify the name, address, or electronic mail address of an individual participating in a wildlife harvest survey.
2. A record that would identify population distributions or locations of pallid sturgeon, bighorn sheep, moose, elk, eagles, sage grouse, prairie chickens, and any species of wildlife listed as threatened or endangered under the federal Endangered Species Act of 1973 [Pub. L. 93-205; 87 Stat. 884; 16 U.S.C. 1531 et seq.], as amended.
3. Telemetry radio frequencies or global positioning system coordinates of monitored species, denning sites, nest locations of raptors, and the specific location of wildlife capture sites used for wildlife research or management.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 214

SENATE BILL NO. 2367

(Senators Krauter, Andrist, Lyson, Wardner)
(Representatives Gulleeson, Nelson)

NONRESIDENT SMALL GAME HUNTING LICENSES

AN ACT to amend and reenact subsection 1 of section 20.1-03-07 of the North Dakota Century Code, relating to nonresident small game hunting licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁷ **SECTION 1. AMENDMENT.** Subsection 1 of section 20.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

1. Hunt, catch, take, or kill any small game without a nonresident small game license. The nonresident small game license entitles the nonresident to hunt small game for any period of ~~ten~~ fourteen consecutive days or any two periods of ~~five~~ seven consecutive days each. The hunting period for which the license is valid must be designated on the license. A nonresident small game license is not required to hunt waterfowl under section 20.1-03-07.1. A nonresident may purchase more than one nonresident small game license per year.

Approved March 21, 2005

Filed March 21, 2005

¹²⁷ Section 20.1-03-07 was also amended by section 1 of House Bill No. 1402, chapter 222.

CHAPTER 215

SENATE BILL NO. 2256

(Senators Klein, Erbele, O'Connell)
(Representatives DeKrey, Devlin, Weisz)

NONRESIDENT WATERFOWL HUNTING LICENSES AND FEES

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident waterfowl hunting license fees; and to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to nonresident waterfowl hunting licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁸ **SECTION 1. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-07.1. (Effective through December 31, 2007) Nonresident waterfowl hunting license required. Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. The Except as otherwise provided in this section, the nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen 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 two 7-day hunting periods allows hunting in a specified zone during each period. Upon payment of the fee for a statewide nonresident waterfowl hunting license, a nonresident may hunt waterfowl in any zone. Forty dollars of the fee for a statewide nonresident waterfowl license must be used for the private land open to sportsmen program. 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. The fourteen-day, seven-day, and two 7-day hunting period restrictions do not apply to nonresidents hunting in Richland and Sargent Counties during the early September Canada goose season.

(Effective after December 31, 2007) Nonresident waterfowl hunting license required. Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. The Except as otherwise provided in this section, the nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen 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 two

¹²⁸ Section 20.1-03-07.1 was also amended by section 1 of Senate Bill No. 2220, chapter 216.

7-day hunting periods allows hunting in a specified zone during each period. Upon payment of the fee for a statewide nonresident waterfowl hunting license, a nonresident may hunt waterfowl in any zone. Forty dollars of the fee for a statewide nonresident waterfowl license, must be used for the private land open to sportsmen program. 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.

¹²⁹ **SECTION 2.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For a statewide nonresident waterfowl hunting license, one hundred twenty-five dollars.

Approved April 18, 2005
Filed April 20, 2005

¹²⁹ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

CHAPTER 216

SENATE BILL NO. 2220 (Senator Fairfield)

NONRESIDENT CRANE HUNTING

AN ACT to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to crane hunting by nonresidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁰ **SECTION 1. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-07.1. (Effective through December 31, 2007) Nonresident waterfowl hunting license required. Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen 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 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. The fourteen-day, seven-day, and two 7-day hunting period restrictions do not apply to nonresidents hunting in Richland and Sargent Counties during the early September Canada goose season.

(Effective after December 31, 2007) Nonresident waterfowl hunting license required. Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen 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 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

¹³⁰ Section 20.1-03-07.1 was also amended by section 1 of Senate Bill No. 2256, chapter 215.

manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

Approved March 25, 2005

Filed March 25, 2005

CHAPTER 217

SENATE BILL NO. 2369

(Senators Heitkamp, Lyson, Tollefson)
(Representatives Amerman, Nelson, Wall)

NONRESIDENT FISHING LICENSES AND FEES

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident fishing license fees; and to amend and reenact section 20.1-03-10 of the North Dakota Century Code, relating to nonresident fishing licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-10 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-10. Contents of nonresident general game, fishing, or reciprocal trapping licenses - Licenses not transferable - Nonresident short-term fishing license. A nonresident general game, fishing, or reciprocal trapping license is not transferable. Each license must:

1. Describe the licensee.
2. Designate the licensee's place of residence.
3. Have printed upon it in large figures the year for which it is issued.
4. Have printed upon it in large letters the words "nonresident license" and "nontransferable".
5. Have connected to it detachable shipping tags as the director may deem advisable.
6. Be issued in the name of the director.

In addition to the regular nonresident fishing license, a nonresident short-term fishing ~~license~~ licenses may be issued. ~~This license is~~ These licenses are valid up to ~~seven~~ ten days from the date of issue.

¹³¹ **SECTION 2.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

¹³¹ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2294, chapter 224.

For a nonresident short-term ten-day fishing license, twenty-five dollars.

Approved March 21, 2005
Filed March 21, 2005

CHAPTER 218

HOUSE BILL NO. 1238

(Representatives Porter, Kempenich, Nelson, Norland)
(Senators Heitkamp, Lyson)

GRATIS AND PREFERENTIAL DEER LICENSES

AN ACT to amend and reenact subsection 3 of section 20.1-03-11 of the North Dakota Century Code, relating to gratis and preferential landowner licenses to hunt deer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³² **SECTION 1. AMENDMENT.** Subsection 3 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~A resident who~~ An individual who is a resident, corporation, limited liability company, limited liability partnership, limited partnership, or partnership that has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and ~~who that~~ actively farms or ranches that land or a ~~person who~~ an individual, corporation, limited liability company, limited liability partnership, limited partnership, or partnership that holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt deer without charge, or if that ~~person entity~~ is a nonresident upon payment of the fee requirement for a nonresident big game license, upon filing a signed application describing that land. If the license is issued to a corporation, limited liability company, limited liability partnership, limited partnership, or partnership, only one license may be issued and the license must be issued in the name of an individual shareholder, member, or partner. The land must be within a unit open for the hunting of deer. The license must include a legal description of the eligible land described in the completed application and may be used to hunt deer only upon that land. A license issued under this subsection is valid for the deer bow, deer gun, and muzzleloader seasons until filled. However, ~~a person an individual, that person's individual's~~ an individual, that person's individual's spouse, and their children who have a license issued under this subsection may hunt together on land described in any of the affidavits making them eligible for the license. Family members hunting together under this provision shall hunt within the same unit within which the land described in the affidavit making them eligible for the license is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. ~~A person~~ An individual who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with that ~~person individual,~~ person individual, but no more than one license may be issued under this subsection for any qualifying land. ~~A person~~ An individual

¹³² Section 20.1-03-11 was also amended by section 1 of House Bill No. 1193, chapter 219, and section 1 of House Bill No. 1366, chapter 220.

transferring eligibility under this subsection may not receive a license under this subsection for the season for which the eligibility was transferred. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license.

Approved April 11, 2005

Filed April 12, 2005

CHAPTER 219

HOUSE BILL NO. 1193 (Representatives Drovdal, Porter) (Senators Fischer, Lyson, Urlacher)

ELK PREFERENTIAL LANDOWNER LICENSES

AN ACT to amend and reenact subsection 7 of section 20.1-03-11 and section 20.1-08-04.6 of the North Dakota Century Code, relating to preferential landowner licenses to hunt elk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³³ **SECTION 1. AMENDMENT.** Subsection 7 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

7. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt elk upon filing a signed application describing that land and payment of the fee requirement for a resident big game license. The land must be within a unit open for the hunting of elk. The license must include a legal description of the eligible land described in the completed application and may be used to hunt elk within the district or unit in which the land described in the completed application is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. ~~A resident transferring eligibility under this subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the raffle under section 20.1-08-04.6.~~ If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The governor's proclamation may restrict the districts or units for which preferential licenses may be issued under this subsection. However, the governor shall give primary consideration to allowing preferential licenses under this subsection to be issued to persons owning or leasing land in the following areas: that portion of township one hundred forty-seven north, range ninety-five west which is north and west of state highway 22; township one hundred forty-six north, range ninety-six west; township one hundred forty-seven north, range ninety-six west; township one hundred forty-eight north, range ninety-six west; township one hundred forty-six north, range ninety-seven west; township one hundred forty-seven north, range ninety-seven west; township one hundred

¹³³ Section 20.1-03-11 was also amended by section 1 of House Bill No. 1238, chapter 218, and section 1 of House Bill No. 1366, chapter 220.

forty-eight north, range ninety-seven west of the fifth principal meridian, in Dunn County; the west one-half of township one hundred forty-nine north, range ninety-five west; township one hundred forty-nine north, range ninety-six west, and township one hundred forty-nine north, range ninety-seven west of the fifth principal meridian, in McKenzie County; and other areas within a district or unit open for hunting of elk as prescribed in the governor's proclamation. The number of licenses issued under this subsection for each designated district or unit for hunting elk may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for each district or unit. If the number of applications for licenses to be issued under this subsection in a district or unit exceeds the maximum number of such licenses allocated to that district or unit, the licenses to be issued must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this subsection is ~~not eligible to apply for a license to hunt elk in future years but is eligible to participate in the raffle under section 20.1-08-04.6~~ participate in a weighted lottery with other landowners who have received licenses under this section. The director shall issue any licenses not issued to an individual who has not previously received a license under this section to individuals who have received a license under this section in a weighted lottery giving preference each year to those individuals who have not received a second license. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting an elk under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. A person who receives a second license under this subsection is not eligible to participate in the raffle under section 20.1-08-04.6. Licenses to hunt elk may not be issued under this subsection when the total number of licenses prescribed in the governor's proclamation is less than twenty. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The director may issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt national park upon payment of the fee requirement for a resident big game license. The provisions of this section governing the number of licenses issued for each designated district or unit for hunting elk do not apply to special elk depredation management licenses and a person who receives such a license under this subsection is eligible to apply for a license to hunt elk in future years and is eligible to participate in the raffle under section 20.1-08-04.6.

¹³⁴ **SECTION 2. AMENDMENT.** Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

¹³⁴ Section 20.1-08-04.6 was also amended by section 4 of House Bill No. 1366, chapter 220, and section 1 of House Bill No. 1419, chapter 226.

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle. The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. Except for landowners who receive a license under subsection 7 of section 20.1-03-11 and landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11, and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime.

Approved March 30, 2005

Filed March 31, 2005

CHAPTER 220

HOUSE BILL NO. 1366

(Representatives Hunskor, DeKrey, Hanson, Nelson)
(Senators Fischer, Tollefson)

LICENSE DENIAL FOR PREVIOUS VIOLATIONS

AN ACT to amend and reenact subsections 7 and 8 of section 20.1-03-11 and sections 20.1-08-04.1, 20.1-08-04.2, and 20.1-08-04.6 of the North Dakota Century Code, relating to limitations for individuals convicted of certain big game hunting violations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁵ **SECTION 1. AMENDMENT.** Subsections 7 and 8 of section 20.1-03-11 of the North Dakota Century Code are amended and reenacted as follows:

7. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt elk upon filing a signed application describing that land and payment of the fee requirement for a resident big game license. The land must be within a unit open for the hunting of elk. The license must include a legal description of the eligible land described in the completed application and may be used to hunt elk within the district or unit in which the land described in the completed application is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility under this subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the raffle under section 20.1-08-04.6. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The governor's proclamation may restrict the districts or units for which preferential licenses may be issued under this subsection. However, the governor shall give primary consideration to allowing preferential licenses under this subsection to be issued to persons owning or leasing land in the following areas: that portion of township one hundred forty-seven north, range ninety-five west which is north and west of state highway 22; township one hundred forty-six north, range ninety-six west; township one hundred forty-seven north, range ninety-six west; township one hundred forty-eight north, range ninety-six west; township one hundred forty-six north, range ninety-seven west; township one hundred

¹³⁵ Section 20.1-03-11 was also amended by section 1 of House Bill No. 1193, chapter 219, and section 1 of House Bill No. 1238, chapter 218.

forty-seven north, range ninety-seven west; township one hundred forty-eight north, range ninety-seven west of the fifth principal meridian, in Dunn County; the west one-half of township one hundred forty-nine north, range ninety-five west; township one hundred forty-nine north, range ninety-six west, and township one hundred forty-nine north, range ninety-seven west of the fifth principal meridian, in McKenzie County; and other areas within a district or unit open for hunting of elk as prescribed in the governor's proclamation. The number of licenses issued under this subsection for each designated district or unit for hunting elk may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for each district or unit. If the number of applications for licenses to be issued under this subsection in a district or unit exceeds the maximum number of such licenses allocated to that district or unit, the licenses to be issued must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the raffle under section 20.1-08-04.6. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting an elk under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. A person who receives a second license under this subsection is not eligible to participate in the raffle under section 20.1-08-04.6. Licenses to hunt elk may not be issued under this subsection when the total number of licenses prescribed in the governor's proclamation is less than twenty. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The director may issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt national park upon payment of the fee requirement for a resident big game license. The provisions of this section governing the number of licenses issued for each designated district or unit for hunting elk do not apply to special elk depredation management licenses and a person who receives such a license under this subsection is eligible to apply for a license to hunt elk in future years and is eligible to participate in the raffle under section 20.1-08-04.6. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this subsection.

8. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt moose without charge upon filing a signed application describing that land. The land must be within a unit open for the hunting of moose. The license must include a legal description of the eligible land described in the completed application and may be used to hunt moose only upon that land. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or a legal

dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility under this subsection is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the raffle under section 20.1-08-04.2. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The number of licenses issued under this subsection for a district or unit may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for that district or unit. If the number of eligible persons who apply for a license under this subsection exceeds the number of licenses available under this subsection, the licenses must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this subsection and who is successful in harvesting a moose is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the raffle under section 20.1-08-04.2. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting a moose under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, an additional license to hunt moose in future years. A person who receives a second license under this subsection is not eligible to participate in the raffle under section 20.1-08-04.2. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The governor's proclamation may restrict the area of land within a unit open for the hunting of moose for which a preferential license is issued under this subsection. If the proclamation restricts the area for issuance of preferential licenses, an applicant must own or lease land within the restricted area to be eligible to apply for a license to hunt moose upon payment of the fee required for a resident big game license. The license may be used to hunt moose within the entire unit in which the land described in the completed application is located. A successful applicant from a restricted area may not return an unused license to regain eligibility for a license to hunt moose in future years. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this subsection.

SECTION 2. AMENDMENT. Section 20.1-08-04.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.1. Governor's proclamation concerning the hunting of bighorn sheep - License recipients not eligible to apply again. The governor may by proclamation provide for a season to hunt bighorn sheep in such manner, number, places, and times as the governor prescribes. Licenses to hunt bighorn sheep must be issued by lottery; however, the governor may by proclamation auction to the highest bidder, whether resident or nonresident, a license to hunt bighorn sheep in such manner, number, places, and times as the governor prescribes. Upon payment of the nonrefundable application fee required by section 20.1-03-12.2, a nonresident may participate in the lottery. One license to hunt bighorn sheep may be issued to a nonresident participating in the lottery. If a nonresident is issued a license to hunt bighorn sheep, no other nonresident may be issued a license to hunt bighorn sheep through the lottery. If all of the licenses to hunt bighorn sheep made

available through the lottery are issued to residents, then a nonresident is not eligible to be issued a license to hunt bighorn sheep through the lottery. Each person who has received a license to hunt bighorn sheep is not eligible to apply for another bighorn sheep license. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

SECTION 3. AMENDMENT. Section 20.1-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.2. Governor's proclamation concerning the hunting of moose - Raffle. The governor may by proclamation provide for a season to hunt moose in a manner, number, places, and times as the governor prescribes. Licenses to hunt moose must be issued by lottery, except as provided under subsection 8 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation one license per year to hunt moose in a manner, places, and times as the governor prescribes. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. The person who receives the license from the raffle may not transfer the license. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Fifty percent of all net proceeds must be used for elk management or other wildlife and in conservation-related projects in this state as described under rocky mountain elk foundation policies and objectives. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall submit reports concerning the raffle as the director requires. A person may only receive one license to hunt moose issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

¹³⁶ **SECTION 4. AMENDMENT.** Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle. The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the

¹³⁶ Section 20.1-08-04.6 was also amended by section 2 of House Bill No. 1193, chapter 219, and section 1 of House Bill No. 1419, chapter 226.

raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. Except for landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11 and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

Approved March 15, 2005

Filed March 16, 2005

CHAPTER 221

HOUSE BILL NO. 1276 (Representatives Porter, S. Kelsh) (Senators Freborg, Wardner)

GUIDES AND OUTFITTERS LICENSING AND QUALIFICATIONS

AN ACT to create and enact two new sections to chapter 20.1-03 of the North Dakota Century Code, relating to powers of the game and fish director and guiding on prohibited lands; to amend and reenact subsection 25 of section 20.1-01-02 and sections 20.1-03-37, 20.1-03-38, 20.1-03-39, and 20.1-03-40 of the North Dakota Century Code, relating to licensing and qualifications of guides and outfitters; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁷ **SECTION 1. AMENDMENT.** Subsection 25 of section 20.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "Outfitter" means ~~an individual who, while engaging in any of the acts enumerated in this subsection in any manner, advises or otherwise a~~ person that holds the individual's person's business operation out to the public for hire or consideration; provides facilities or services for consideration; or maintains, leases, or otherwise provides compensation for the use of land and which receives compensation from a third party for use of that land; 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.

SECTION 2. Two new sections to chapter 20.1-03 of the North Dakota Century Code are created and enacted as follows:

Director's powers for immediate suspension. If the director determines by clear and convincing evidence that a substantial violation of state or federal criminal hunting, fishing, or trapping laws of this chapter by a guide or outfitter has occurred, the director may suspend, revoke, or deny a guide or outfitter license to the person violating the laws or provisions. In such a case, a hearing must be held within ten days of the director's intended action and the person must be given notice of the hearing. The person may waive the hearing after having been notified of the

¹³⁷ Section 20.1-01-02 was also amended by section 1 of Senate Bill No. 2041, chapter 204, section 1 of Senate Bill No. 2100, chapter 205, and section 1 of Senate Bill No. 2338, chapter 229.

person's right to a hearing, in which case the action of the director takes effect upon signing the waiver. The director may serve notice of the hearing by publication if reasonable efforts to make personal service have failed.

Guiding on prohibited lands. A person may not act as a hunting guide or hunting outfitter on land the person knows is owned by the state unless the appropriate state agency permits or authorizes the guiding or outfitting, on private land enrolled by the department for purposes of hunting, on land in which the department pays in lieu of taxes, on federal lands without being authorized or permitted as required by the appropriate federal agency, or on private lands posted against hunting or trespassing without first informing and obtaining permission from the landowner to conduct guiding or outfitting on the land. If the landowner did not grant the permission in writing, there is a presumption that the permission did not exist.

SECTION 3. 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 license qualifications.

1. An individual 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 unless that individual provides proof to the department that the individual has been exempt under subsection 4 of section 20.1-03-36.1 and has been conducting outfitter or guide service as an exempt individual for at least two years.
5. The director may not issue a license to an individual who has 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, and the applicant must be actively and regularly employed

in and responsible for the management, supervision, and operation of the outfitting business. The department may only issue an outfitter license to a business applicant if the applicant is qualified to conduct the business of outfitting. A corporation or association may qualify for an outfitter license if a majority of stock is owned by licensed outfitters in good standing or landowners who own agricultural land used for the outfitting business, or if a limited liability company, the majority membership interest is owned by licensed outfitters in good standing or by landowners who own agricultural land used for the outfitting business. If a business entity owns, is a leaseholder in land, or provides compensation for the use of land, and directly or indirectly receives remuneration from hunting on that land, the business entity must be licensed under this title unless exempt under subsection 4 of section 20.1-03-36.1. A business entity may not conduct business operations through a subsidiary, contractor, or an agent that would permit the business entity to avoid this chapter. This section does not authorize any act or transaction prohibited by any other law of this state.

7. An applicant for a hunting guide or hunting outfitter license must have legally hunted in this state for part of each of any three years in a manner directly contributing to the individual's experience and competency as a guide. The department may waive this requirement if the applicant proves that the applicant has legally hunted for parts of at least three years in other states and an outfitter employing that individual would suffer an undue hardship without that individual.

SECTION 4. AMENDMENT. Section 20.1-03-38 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-38. Licensing guides and outfitters by the department - Rules - Inspections.

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. Records may not be deceptive and must be kept in a manner and location that is readily accessible to the director or a game warden during normal business hours.
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 5. AMENDMENT. Section 20.1-03-39 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-39. Guides and outfitters 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~~ this section 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. ~~f.~~ The licensee is convicted of violating state or federal criminal law pertaining to hunting, fishing, or trapping, or if the director finds by clear and convincing evidence that such a violation has occurred;
 - 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~~
 - e. ~~g.~~ The licensee provided guiding or outfitting services to a person that had not obtained the appropriate license for the species sought by that person; or
 - h. A licensed outfitter utilized any unlicensed person to perform outfitter or guide services on behalf of the outfitter. This subsection applies to outfitters regardless of whether the person who

performed the service is otherwise exempt under subsection 4 of section 20.1-03-36.1.

- ~~3.~~ 2. For the purpose of administrative sanctions, an outfitter is liable if a guide ~~intentionally~~ violates a criminal provision of this chapter or 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 while guiding on behalf of the outfitter. It is an affirmative defense if the outfitter reported the violation to the department or law enforcement when the outfitter discovered the violation or has not had more than two independent violations by a guide working on behalf of the outfitter in the previous three-year period and the outfitter did not aid in or attempt to conceal evidence of the violation. 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. 3. 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 and the new business does not employ, contract with, or receive assistance from any person who has been prohibited from guiding or outfitting.

SECTION 6. AMENDMENT. Section 20.1-03-40 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-40. Penalty. Any ~~individual~~ person providing guide or outfitter services without a license, or while under suspension, revocation, or denial is guilty of a class ~~B~~ A misdemeanor. The court must suspend an individual's hunting, trapping, and fishing privileges for at least one year under section 20.1-01-26 if an individual provided guide or outfitter services without a license, or while under suspension, revocation, or denial, or guided on prohibited lands. Unless otherwise specified, other violations of this chapter are 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.

CHAPTER 222

HOUSE BILL NO. 1402

(Representatives Drovdal, DeKrey, S. Meyer)
(Senators Lyson, Urlacher)

WILD TURKEY HUNTING BY NONRESIDENTS

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident wild turkey permit fees; and to amend and reenact subsection 1 of section 20.1-03-07, subsection 11 of section 20.1-03-12, and section 20.1-04-07 of the North Dakota Century Code, relating to hunting of wild turkeys by nonresidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 20.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

1. Hunt, catch, take, or kill any small game without a nonresident small game license. The nonresident small game license entitles the nonresident to hunt small game for any period of ten consecutive days or any two periods of five consecutive days each. The hunting period for which the license is valid must be designated on the license. A nonresident small game license is not required to hunt waterfowl under section 20.1-03-07.1 or wild turkeys under section 20.1-04-07. A nonresident may purchase more than one nonresident small game license per year.

¹³⁹ **SECTION 2. AMENDMENT.** Subsection 11 of section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

11. For a resident wild turkey permit, eight dollars.

¹⁴⁰ **SECTION 3.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

¹³⁸ Section 20.1-03-07 was also amended by section 1 of Senate Bill No. 2367, chapter 214.

¹³⁹ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

¹⁴⁰ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

For a nonresident wild turkey permit, eighty dollars.

SECTION 4. AMENDMENT. Section 20.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-07. Governor's proclamation concerning the taking of wild turkeys. The governor may, by proclamation, provide for a permit season to take wild turkeys in manner, number, places, and times deemed in the state's best interests. The governor shall make available to residents and nonresidents any permits remaining after the resident fall drawing.

Approved April 14, 2005

Filed April 18, 2005

CHAPTER 223

HOUSE BILL NO. 1137

(Natural Resources Committee)

(At the request of the Game and Fish Department)

BAIT LICENSES

AN ACT to amend and reenact section 20.1-06-14 of the North Dakota Century Code, relating to live bait wholesalers and retailers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴¹ **SECTION 1. AMENDMENT.** Section 20.1-06-14 of the North Dakota Century Code is amended and reenacted as follows:

20.1-06-14. Minnow Live bait wholesalers and retailers - License. The director shall adopt rules to control and supervise the operations of minnow or other live bait wholesalers and retailers. The director shall issue a license to each wholesaler when the wholesaler has complied with the director's rules and has paid the appropriate annual license fee. The director shall also issue a minnow or other live bait retailer's license to any person upon payment of license to each retailer when the retailer has complied with the director's rules and has paid the appropriate license fee. ~~No~~ A person may not take, possess, purchase, transport, or sell minnows or other live bait at wholesale or retail without first obtaining the appropriate license. The director may require each retailer or wholesaler to submit reports as the director may deem necessary.

Approved March 7, 2005

Filed March 8, 2005

¹⁴¹ Section 20.1-06-14 was also amended by section 3 of Senate Bill No. 2294, chapter 224.

CHAPTER 224

SENATE BILL NO. 2294

(Senators Heitkamp, Erbele, Thane)
(Representatives Guleson, Wall, Williams)

BAIT VENDOR LICENSES AND FEES

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to license fees for nonresident wholesale bait vendor licenses; to amend and reenact subsections 25 and 45 of section 20.1-03-12 and section 20.1-06-14 of the North Dakota Century Code, relating to the regulation and licensing of wholesale bait vendors; to provide for transition; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴² **SECTION 1. AMENDMENT.** Subsections 25 and 45 of section 20.1-03-12 of the North Dakota Century Code are amended and reenacted as follows:

25. For an annual resident license to sell minnows or other live bait at wholesale, ~~thirty~~ fifty dollars.
45. For an annual class B nonresident license to sell minnows or other live bait at wholesale, two hundred fifty dollars.

¹⁴³ **SECTION 2.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For an annual class A nonresident license to sell minnows or other live bait at wholesale, five hundred dollars.

¹⁴⁴ **SECTION 3. AMENDMENT.** Section 20.1-06-14 of the North Dakota Century Code is amended and reenacted as follows:

20.1-06-14. Minnow bait wholesalers and retailers - License. The director shall adopt rules to control and supervise the operations of minnow or other live bait

¹⁴² Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

¹⁴³ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2290, chapter 227, section 1 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

¹⁴⁴ Section 20.1-06-14 was also amended by section 1 of House Bill No. 1137, chapter 223.

wholesalers. The director shall issue a license to each wholesaler when the wholesaler has complied with the director's rules and has paid the appropriate annual license fee. The director ~~shall~~ also ~~shall~~ issue a minnow or other live bait retailer's license to any person upon payment of the appropriate license fee. ~~No~~ A person may not sell minnows or other live bait at wholesale or retail without first obtaining the appropriate license. The director may require each retailer or wholesaler to submit reports as the director may ~~deem~~ determine necessary. Licenses for wholesalers issued under this section authorize the following:

1. The annual resident license to sell minnows or other live bait at wholesale entitles the licensee to ten tags to mark bait-trapping equipment. A tag must be affixed to each trap used by the licensee. Upon request, the director shall issue additional tags to a licensee at a cost of five dollars per tag. A licensee may not import or export bait without first obtaining a permit from the director.
2. The annual class B nonresident license to sell minnows or other live bait at wholesale entitles a nonresident to import or export bait. A nonresident holding an annual class B nonresident license to sell minnows or other live bait at wholesale may not trap bait.
3. The annual class A nonresident license to sell minnows or other live bait at wholesale entitles the licensee to ten tags to mark bait-trapping equipment. A tag must be affixed to each trap used by the licensee. Upon request, the director shall issue additional tags to a licensee at a cost of five dollars per tag. The annual class A nonresident license to sell minnows or other live bait at wholesale entitles the licensee to trap in state waters with the permission of the director and permits the import and export of approved bait with the permission of the director. A nonresident may hold a class A license under this section if the nonresident's state of residence provides the same privilege for residents of North Dakota.

SECTION 4. TRANSITION. The department may issue a license under this Act for the remainder of 2005 at a prorated fee.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 18, 2005

Filed April 20, 2005

CHAPTER 225

HOUSE BILL NO. 1102

(Natural Resources Committee)

(At the request of the Game and Fish Department)

DEPREDATING ANIMAL DISPOSITION

AN ACT to amend and reenact section 20.1-07-04 of the North Dakota Century Code, relating to the destruction and disposition of depredating fur-bearing animals; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-07-04 of the North Dakota Century Code is amended and reenacted as follows:

20.1-07-04. Depredating fur-bearing animals - Destruction and disposition. A landowner or tenant or that person's agent may catch or kill any wild fur-bearing animal that is committing depredations upon that person's poultry, domestic animals, or crops- ~~A, except a~~ landowner or tenant or that person's agent shall notify and obtain the approval of the director before catching or killing a black bear. ~~Except as provided in this section, a~~ A landowner or tenant or that person's agent may not commercialize in, sell, or ship an animal or the pelt or any part of an animal caught or killed under this section if caught or killed during the closed season. ~~The landowner or tenant or that person's agent may possess a black bear killed under this section.~~ A person catching or killing a black bear or mountain lion under this section shall report the capture or killing to the department within twenty-four hours and the entire animal must be turned over to the department.

SECTION 2. GAME AND FISH DEPARTMENT TO ASSESS STATUS OF MOUNTAIN LIONS - REPORT TO LEGISLATIVE COUNCIL. The game and fish department, in cooperation with tribal authorities, shall assess the status of mountain lions in North Dakota. The department shall report its findings to the legislative council before July 1, 2006.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 226

HOUSE BILL NO. 1419

(Representatives Hunskor, Froseth, D. Johnson)
(Senators Cook, Lyson, O'Connell)

ELK DEPREDATION HUNTING LICENSES

AN ACT to amend and reenact section 20.1-08-04.6 of the North Dakota Century Code, relating to special licenses to take elk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁵ **SECTION 1. AMENDMENT.** Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle. The governor ~~may~~ by proclamation may provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor ~~may~~ by proclamation may make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. An owner of farmed elk who is experiencing elk depredation problems may contact the director. Upon investigation, the director may issue special elk depredation management licenses. The governor by proclamation shall establish a procedure to issue elk depredation management licenses in a timely manner. Except for landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11 and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime.

Approved April 12, 2005
Filed April 13, 2005

¹⁴⁵ Section 20.1-08-04.6 was also amended by section 2 of House Bill No. 1193, chapter 219, and section 4 of House Bill No. 1366, chapter 220.

CHAPTER 227

SENATE BILL NO. 2290

(Senators Heitkamp, Erbele, Tollefson)
(Representatives Amerman, Carlson, Gulleeson)

PRIVATE SHOOTING PRESERVES

AN ACT to amend and reenact subsection 32 of section 20.1-03-12 and sections 20.1-12-04, 20.1-12-05, and 20.1-12-06 of the North Dakota Century Code, relating to the operation and regulation of private shooting preserves.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁶ **SECTION 1. AMENDMENT.** Subsection 32 of section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

32. For a shooting preserve operating permit:

- a. ~~One, one~~ hundred dollars, if the shooting preserve consists of an area of ~~six hundred forty acres~~ [250 hectares] or less; or
- b. ~~One hundred dollars, if the shooting preserve consists of an area of more than six hundred forty acres~~ [250 hectares], plus ~~fifty thirty~~ cents per acre [.40 hectare] for each acre [.40 hectare] ~~over six hundred forty acres~~ [250 hectares].

SECTION 2. AMENDMENT. Section 20.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

20.1-12-04. Types of game that may be hunted on shooting preserve - Identification of game. Game birds that may be stocked on a shooting preserve and hunted under this chapter must be artificially propagated pheasants, quail, partridges, turkeys, prairie chickens, and any other species allowed by the director. The director shall determine the minimum stock of each species to be hunted and released on the permit area during the shooting preserve season. All game birds propagated, possessed, or released on a shooting preserve must be marked prior to release as prescribed by the director by rule. All mallard ducks released on a shooting preserve must have the right hind toenails clipped before the birds attain the age of four weeks have one front toe or one hind toe on either foot removed back to the first joint, including the nail, before becoming six weeks of age. An antipecking device affixed to the bird before it is six weeks old and worn by the bird until it is at least fifteen weeks old is acceptable in lieu of toe clipping if the antipecking device leaves a permanent, easily identifiable mark through the nares.

¹⁴⁶ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1138, chapter 207, section 2 of House Bill No. 1402, chapter 222, section 3 of House Bill No. 1402, chapter 222, section 2 of Senate Bill No. 2256, chapter 215, section 1 of Senate Bill No. 2294, chapter 224, section 2 of Senate Bill No. 2294, chapter 224, and section 2 of Senate Bill No. 2369, chapter 217.

SECTION 3. AMENDMENT. Section 20.1-12-05 of the North Dakota Century Code is amended and reenacted as follows:

20.1-12-05. Operation of shooting preserve - Season - Search of premises permitted. Any guest of a shooting preserve operator may harvest any game bird within the defined limits of the shooting preserve, subject to this chapter. The shooting preserve operator may establish that person's own restrictions on the age, sex, and number of each game bird that may be taken by each guest, and the fee to be paid by each guest. The exterior boundaries of each shooting preserve must be clearly defined ~~and posted~~ with signs ~~erected~~ around the extremity at intervals of three hundred ~~feet~~ yards [91.44 274.32 meters] or less. Each shooting preserve operator and that person's guest shall comply with and be subject to chapter 20.1-01. Shooting preserve operators may restrict or set the hours during which game birds may be hunted, subject to gubernatorial proclamation. The season for shooting preserves may be all or part of the nine-month period beginning August first and ending April thirtieth of the following year. All permits must be issued upon the express condition that the permittee agrees that any law enforcement officer or any representative of the director may enter and search the premises or any part thereof at any reasonable time to ensure compliance with state laws and the director's rules.

SECTION 4. AMENDMENT. Section 20.1-12-06 of the North Dakota Century Code is amended and reenacted as follows:

20.1-12-06. Game birds to be tagged. Each shooting preserve operator shall tag all game birds harvested by guests before the birds are consumed or removed from the shooting preserve premises. The director shall provide tags to shooting preserve operators, at nominal cost to them. Once affixed, tags must remain attached until the game birds are prepared for consumption. If a wild upland bird of the same species hunted on the shooting preserve is taken accidentally by a client out of the regular hunting season proclaimed by the governor, or is taken by a client not in possession of a proper small game license, the client may keep the bird. At no time following release may a shooting preserve operator allow the number of wild and released birds harvested to exceed one hundred percent of the number of birds that have been released. All birds must be healthy when released. The total percent of harvested wild birds kept by clients may not exceed twenty-five percent of the birds harvested during the season. Other than those wild birds allowed to be retained by a client, the shooting preserve operator shall deliver to the department all wild birds harvested.

Approved April 5, 2005

Filed April 6, 2005

CHAPTER 228

SENATE BILL NO. 2141

(Transportation Committee)

(At the request of the Game and Fish Department)

BOATING UNDER THE INFLUENCE

AN ACT to amend and reenact subsection 2 of section 20.1-13-07, section 20.1-13.1-07, subsection 5 of section 20.1-13.1-08, and section 20.1-13.1-09 of the North Dakota Century Code, relating to boating under the influence; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 20.1-13-07 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~No~~ A person may ~~not~~ operate ~~any~~ a motorboat or vessel, or manipulate any water skis, a surfboard, or similar device ~~while intoxicated or under the influence of any narcotic drug, barbiturate, or marijuana.~~ if any of the following apply:
 - a. That person has an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of the test within two hours after the operating of a motorboat or vessel.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely operating a motorboat or vessel.
 - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely operating a motorboat or vessel.

The fact that a person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominantly caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

SECTION 2. AMENDMENT. Section 20.1-13.1-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13.1-07. Administrative sanction for operating motorboat or vessel while having certain drug concentrations.

1. After the receipt of the certified report of a game warden or a law enforcement officer and if no written request for hearing has been received from the arrested person under section 20.1-13.1-08, or if that

hearing is requested and the findings, conclusion, and decision from the hearing confirm that the game warden or law enforcement officer had probable cause to arrest the person and chemical test results show that the arrested person was operating a motorboat or vessel while having an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a test within two hours after operating a motorboat or vessel, the director shall prohibit the person from operating any motorboat or vessel in this state as follows:

4. a. For ninety-one days if the person's record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 20.1-13-07 or the person has not been prohibited from operating a motorboat or vessel under this chapter.
 2. b. For three hundred sixty-four days if the person's record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 20.1-13-07 or the person has once been prohibited from operating a motorboat or vessel under this chapter.
 3. c. For two years if the person's record shows that within the five years preceding the date of the arrest, the person has twice been prohibited from operating a motorboat or vessel under this chapter, or for a violation of section 20.1-13-07, or any combination thereof, and the prohibitions resulted from at least two separate arrests.
2. A person who is prohibited from operating a motorboat or a vessel under subdivision a of subsection 1 shall serve the prohibition within the time period between May first and October first. If the person is unable to serve the full prohibition within this time period in a single year, the person shall serve the remaining portion of the prohibition during the same time period in subsequent years.

¹⁴⁷ **SECTION 3. AMENDMENT.** Subsection 5 of section 20.1-13.1-08 of the North Dakota Century Code is amended and reenacted as follows:

5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver by issuing to the person a copy of the decision within ten days of the conclusion of the hearing. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person that the person is prohibited from operating a motorboat or vessel in this state. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing.

SECTION 4. AMENDMENT. Section 20.1-13.1-09 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁷ Section 20.1-13.1-08 was also amended by section 5 of House Bill No. 1088, chapter 195.

20.1-13.1-09. Judicial review. Any person who has been prohibited from operating a motorboat or vessel by the decision of the hearing officer under section 20.1-13.1-08 may appeal within seven days after the date of the hearing officer issued the decision under section 20.1-13.1-08 as shown by the date of the hearing officer's decision, notwithstanding section 28-32-42, by serving on the director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a chemical test was made or in the county in which the administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the director and to the hearing officer who rendered the decision. Neither the director nor the court may stay the decision pending decision on appeal. Within fifteen days after receipt of the notice of appeal, the director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. This record is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the director or hearing officer. The court may direct that the matter be returned to the director or hearing officer for rehearing and the presentation of additional evidence.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on May 1, 2005.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 6, 2005

Filed April 6, 2005

CHAPTER 229

SENATE BILL NO. 2338

(Senators Traynor, Tollefson, Wardner)
(Representatives Nelson, Porter)

AQUATIC NUISANCE SPECIES CONTROL

AN ACT to create and enact five new subsections to section 20.1-01-02 and a new chapter to title 20.1 of the North Dakota Century Code, relating to prevention and control of aquatic nuisance species; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁸ **SECTION 1.** Five new subsections to section 20.1-01-02 of the North Dakota Century Code are created and enacted as follows:

"Aquatic nuisance species" means any nonindigenous, obligate aquatic species of plant or animal which is injurious to native and desirable aquatic species or which has a negative effect on aquatic habitats, environment, or the economy of the state.

"Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state.

"Native aquatic species" means an animal or plant species that is naturally present and reproducing within this state or which naturally expands from its historic range into this state.

"Nonnative species" means a species that is not a native species.

"Transport" means to cause or attempt to cause a species to be carried or moved into or within the state and includes accepting or receiving the species for transportation or shipment. The term does not include the unintentional transport of a species while on a specific water of the state or to a connected water of the state where the species being transported is already present.

SECTION 2. A new chapter to title 20.1 of the North Dakota Century Code is created and enacted as follows:

Prevention and control of aquatic nuisance species. The director, to prevent and control aquatic nuisance species, shall:

¹⁴⁸ Section 20.1-01-02 was also amended by section 1 of House Bill No. 1276, chapter 221, section 1 of Senate Bill No. 2041, chapter 204, and section 1 of Senate Bill No. 2100, chapter 205.

1. Prepare a statewide management plan for aquatic nuisance species to be approved by the governor.
2. Organize an aquatic nuisance species committee, as provided for in the statewide management plan, composed of the director or the director's designee; representatives of the department of agriculture commissioner, state water commission, parks and recreation department, state department of health, and tourism division; up to five private entities or individuals; and a representative of tribal entities. The director or the director's designee is the chairman of the aquatic nuisance species committee.
3. Develop and adopt the state's list of aquatic nuisance species after consulting with the aquatic nuisance species committee. The list must be updated annually.
4. Provide for a permitting system to import listed aquatic nuisance species into or move those species within the state.
5. Develop rules to prevent the movement of aquatic nuisance species into or within the state.
6. Conduct aquatic nuisance species education and prevention efforts.
7. Provide for the partnership of the federal government, state agencies, and private or public organizations to fund aquatic nuisance species prevention efforts.

Compensation and expenses of appointive members of the aquatic nuisance committee. Each appointive member of the committee is entitled to receive sixty-two dollars and fifty cents compensation per day and to reimbursement for expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the committee or, at the discretion of the member, may receive either per diem compensation or expenses in those amounts while otherwise engaged in official business of the department, including time of travel between home and the place at which the member performs such duties.

Management plan. The statewide management plan must address:

1. Coordinated detection efforts and prevention of illegal introductions;
2. Coordinated dissemination of information concerning aquatic nuisance species among resource management agencies and organizations and impacted entities;
3. A coordinated education and awareness campaign;
4. Coordinated control of selected invasive species of aquatic plants and wild animals on lands and public waters;
5. A reasonable and workable inspection requirement for watercraft and equipment working on waters of the state, including those participating in organized events on the waters of the state;
6. Closure of points of access to infested waters, if the director determines closure is necessary;

7. Maintenance of public access to infested waters which are reasonably free of aquatic nuisance species; and
8. Notice to travelers of the penalties for violation of laws relating to aquatic nuisance species.

Inspection of watercraft. The director shall train and authorize personnel to inspect watercraft and associated equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.

Infested waters - Restricted activities. The director shall designate a water of the state as an infested water if the director determines that the water contains a population of an aquatic nuisance species that may spread to other waters if use of the water and related activities is not regulated to prevent this spread. In determining which waters are infested with a nuisance species, the director shall consider:

1. The extent of a species distribution within the state;
2. The likely means of spread for a species; and
3. Whether rules specific to infested waters containing a specific species will effectively reduce that species' spread.

Prohibited activities. A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited aquatic nuisance species except:

1. Under a permit issued by the director;
2. When being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
3. When being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
4. When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
5. When being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or
6. As the director otherwise may prescribe by rule.

Standard. The director may issue a permit under this chapter only if the director determines that the permitted activity does not pose an unreasonable risk of harm to natural resources or their use in the state. The director may deny, issue with conditions, modify, or revoke a permit issued under this chapter as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to natural resources or their use in the state.

Seizure. The director may seize or dispose of any specimens of prohibited aquatic nuisance species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in this state.

Penalty. A person who violates this chapter is guilty of a class B misdemeanor.

Approved March 25, 2005

Filed March 25, 2005