

GAME, FISH, PREDATORS, AND BOATING

CHAPTER 169

SENATE BILL NO. 2352

(Senators Oehlke, Cook, Nelson)
(Representatives Delzer, D. Johnson)

AN ACT to create and enact a new subsection to section 20.1-01-02 and a new section to chapter 20.1-01 of the North Dakota Century Code, relating to hunting through the internet; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁸ **SECTION 1.** A new subsection to section 20.1-01-02 of the North Dakota Century Code is created and enacted as follows:

"Hunt through the internet" means to hunt wildlife in real time using internet services to remotely control actual firearms and to remotely discharge live ammunition allowing a person who is not physically present to take wildlife. The term includes using any remotely controlled device to hunt the animal such as a hand-held communication device, cellular telephone, or global-positioning device.

SECTION 2. A new section to chapter 20.1-01 of the North Dakota Century Code is created and enacted as follows:

Hunting through the internet prohibited - Penalty.

1. A person may not:
 - a. Hunt through the internet;
 - b. Host a hunt through the internet;
 - c. Import, export, or possess wildlife or any part thereof which has been taken by a hunt through the internet; or
 - d. Otherwise enable another person to hunt through the internet.
2. A person who violates this section is guilty of a class C felony.

Approved April 19, 2011
Filed April 20, 2011

⁶⁸ Section 20.1-01-02 was also amended by section 1 of Senate Bill No. 2227, chapter 173.

CHAPTER 170

HOUSE BILL NO. 1454

(Representatives Damschen, Weisz)

AN ACT to amend and reenact sections 20.1-01-08 and 20.1-01-09 and subsection 3 of section 20.1-05-04 of the North Dakota Century Code, relating to the taking of beaver.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-08 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-08. Hunting with artificial light prohibited - Exception.

It is unlawful for an individual to pursue, shoot, kill, take or attempt to take any wildlife between sunset of one day and sunrise of the next, with the aid of a spotlight or any other artificial light. This section does not make it unlawful for an individual to use a lantern, spotlight, or other artificial light to assist the person in pursuing and shooting on the person's premises any coyote, fox, skunk, mink, raccoon, beaver, weasel, owl, rabbit, or other predatory animal or bird, attacking and attempting to destroy the person's poultry, livestock, or other property. It is permissible to use an artificial light with a power source of not more than six volts while hunting afoot for raccoon or beaver during the open season on the animal. A red or amber filter must be placed on any artificial light used in the hunting of raccoon or beaver, except when taking a raccoon treed or at bay.

SECTION 2. AMENDMENT. Section 20.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-09. Types of guns lawfully usable in taking raccoon and beaver with flashlight - Penalty.

In the killing, shooting, pursuing, taking or in attempting to take raccoon or beaver with the use of a flashlight with a power source of not over six volts, it is illegal to use a rifle or handgun capable of firing a shell larger than a twenty-two caliber [5.59 millimeter] long rifle shell, or a shotgun larger than four-ten gauge [10.41 millimeters]. An individual who violates this section is guilty of a class 1 noncriminal offense.

SECTION 3. AMENDMENT. Subsection 3 of section 20.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

3. Engage in the practice commonly known as shining for deer. An individual who shines any area commonly frequented by big game animals with any artificial light, between the hours of sunset and sunrise, is in violation of this section. However, an individual may use a flashlight with a power source of not over six volts to take raccoon or beaver.

Approved April 4, 2011
Filed April 4, 2011

CHAPTER 171

HOUSE BILL NO. 1393

(Representatives Kilichowski, Porter, Hanson)
(Senators Lyson, Uglem, Schneider)

AN ACT to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to legal weapons for hunting purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Crossbow legal weapon.

Notwithstanding any other provision of law, an individual may use a crossbow during the duration of any deer gun season the individual possesses the appropriate deer gun license.

Approved April 19, 2011

Filed April 20, 2011

CHAPTER 172

HOUSE BILL NO. 1415

(Representatives S. Meyer, Anderson, DeKrey, Metcalf)
(Senators Hogue, Lyson)

AN ACT to create and enact a new subsection to section 20.1-02-04 of the North Dakota Century Code, relating to the duty of the game and fish director to issue deer licenses to the wounded warrior project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-02-04 of the North Dakota Century Code is created and enacted as follows:

Issue four any deer licenses annually to the wounded warrior project for distribution. A license issued under this subsection is valid from the opening of the youth deer season through the close of the deer season.

Approved April 11, 2011
Filed April 11, 2011

CHAPTER 173

SENATE BILL NO. 2227

(Senators Wanzek, Klein, Warner)
(Representatives Brandenburg, DeKrey, Weisz)

AN ACT to create and enact two new subsections to section 20.1-01-02, 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 definitions and powers of the director of the game and fish department; to amend and reenact subsection 17 of section 20.1-02-05 and sections 20.1-02-28 and 20.1-05-02 of the North Dakota Century Code, relating to the private land habitat and access improvement program, the deerproof hay yard program, and culpability requirement for unlawfully taking big game; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁹ **SECTION 1.** Two new subsections to section 20.1-01-02 of the North Dakota Century Code are created and enacted as follows:

"Crops" means any plant that has been harvested, collected, or stored as livestock feed, fodder, or fuel.

"Depredation" means damage to or destruction of private property.

⁷⁰ **SECTION 2.** A new subsection to section 20.1-02-05 of the North Dakota Century Code is created and enacted as follows:

Authorize individuals with valid antlerless deer licenses to take deer on private lands determined by the director to be severely impacted by deer. Before authorizing individuals under this subsection, the director must attempt other measures and determine them to be ineffective. A landowner dissatisfied with a decision of the director under this subsection may submit the decision to the agricultural mediation service for mandatory mediation. A decision of an agricultural mediation service negotiator is subject to review by the credit review board. A decision of the credit review board under this subsection is final. The director may authorize individuals to take deer under this subsection between December first of a year through January fifteenth of the following year.

⁷¹ **SECTION 3. AMENDMENT.** Subsection 17 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

17. Carry out a private land habitat and access improvement program by:

⁶⁹ Section 20.1-01-02 was also amended by section 1 of Senate Bill No. 2352, chapter 169.

⁷⁰ Section 20.1-02-05 was also amended by section 3 of Senate Bill No. 2227, chapter 173.

⁷¹ Section 20.1-02-05 was also amended by section 2 of Senate Bill No. 2227, chapter 173.

- 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~~Except for purposes of subdivision i, 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 department private land habitat and access improvement fund.
- f. Working with livestock producers experiencing chronic deer depredation problems to develop site-specific deer depredation management plans.
- g. Giving first consideration to producers impacted by deer foraging on stored winter forage when purchasing winter deer management supplies.
- h. Making available the sum of one million dollars from each biennial game and fish department appropriation to be used to provide feeding and other winter management practices to alleviate depredation caused by big game animals. Any unexpended funds under this subdivision, up to two million dollars, are not subject to section 54-44.1-11 and may be carried forward for expenditure in future bienniums.
- i. Making available the sum of one hundred thousand dollars from each biennial game and fish department appropriation to be used for food plots on private property for the purpose of providing winter feed. These food plots are not subject to public access considerations.

SECTION 4. 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 and construction cost-share assistance to landowners for the establishment of deerproof hay yards to protect crops, hay, or feed on private property with deer depredation problems. A landowner 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. For winter management program purposes of this section, a person may not willfully hunt, harass, chase, pursue, take, attempt to take, possess, transport, ship, convey by common carrier, sell, barter, or exchange a deer except as provided in this title.

SECTION 5. A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Deer reduction programs.

The director or the director's designee may authorize an individual to euthanize injured, sick, or emaciated deer under conditions determined by the director. The director may authorize targeted deer reduction programs to alleviate deer depredation.

SECTION 6. AMENDMENT. Section 20.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

20.1-05-02. Big game animals protected.

~~No~~Except as otherwise provided in section 20.1-02-28, a person may not hunt, harass, chase, pursue, take, attempt to take, possess, transport, ship, convey by common or private carrier, sell, barter, or exchange ~~any~~a big game animal except as provided in this title.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 17, 2011
Filed May 17, 2011

CHAPTER 174

HOUSE BILL NO. 1407

(Representatives D. Johnson, Hofstad, Weisz)
(Senators Taylor, Oehlke)

AN ACT to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to hunting of Canada geese by nonresidents; to provide for a study; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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 July 31, 2013) 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. 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 and two 7-day hunting period restrictions do not apply to nonresidents hunting in Richland and Sargent Counties or in Benson, Ramsey, or Towner Counties during the early September Canada goose season.

(Effective after July 31, 2013) 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. 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.

SECTION 2. GAME AND FISH STUDY. The game and fish department shall conduct a study of goose hunting in this state. The department must track the number of resident and nonresident goose hunters and the number of geese taken by county. The department shall report its findings to the legislative management by September 1, 2012.

Approved April 4, 2011

Filed April 4, 2011

CHAPTER 175

HOUSE BILL NO. 1181

(Representatives Nathe, Headland)
(Senators Freborg, Hogue, Schaible, Stenehjem)

AN ACT to amend and reenact subsection 1 of section 20.1-03-11 of the North Dakota Century Code, relating to youth antelope and deer hunting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷² **SECTION 1. AMENDMENT.** Subsection 1 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual may not hunt, kill, take, or attempt to take any big game without having the appropriate big game hunting license and a locking seal bearing a number corresponding to the number of the big game hunting license or stamp. The locking seal must be issued as an integral part of the big game hunting license. Except as otherwise provided in this subsection, an individual may not apply for or be issued a big game hunting license if that individual's fourteenth birthday does not occur on or before the opening date of the respective big game hunting season provided, however, that an individual who is under fourteen years of age and who will be eligible to hunt on the opening date of or during the regular deer hunting season may hunt during the youth deer season. This age limitation does not apply to applicants for big game licenses for hunting by bow and arrow. Each violation of this section is a distinct and separate offense. The following provisions govern youth deer and antelope hunting:
 - a. An individual whose twelfth birthday occurs on or before the opening date of or during the youth deer hunting season but is younger than fourteen years of age is entitled to receive a statewide white-tailed antlerless deer permit but may hunt only in the youth deer hunting season.
 - b. An individual whose twelfth birthday occurs on or before the opening date of or during the antelope hunting season but is younger than fourteen years of age is entitled to apply for an antelope permit.
 - c. An individual hunting under subdivision a or b must be accompanied by the individual's parent, guardian, or other individual authorized by the individual's parent or guardian. As used in this section, "accompanied" means to stay within a distance that permits uninterrupted visual contact and unaided verbal communication.

Approved April 4, 2011
Filed April 4, 2011

⁷² Section 20.1-03-11 was also amended by section 1 of House Bill No. 1180, chapter 176.

CHAPTER 176

HOUSE BILL NO. 1180

(Representatives Drovdal, Schatz)
(Senator Nodland)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷³ **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. 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; and 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

⁷³ Section 20.1-03-11 was also amended by section 1 of House Bill No. 1181, chapter 175.

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 weighted lottery as prescribed in the governor's proclamation. ~~A person who receives a license under this subsection is eligible to 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.~~ 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~~fewer 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.

Approved March 28, 2011

Filed March 28, 2011

CHAPTER 177

HOUSE BILL NO. 1288

(Representatives Kasper, Headland, Mueller)
(Senators Fischer, Hogue, Olafson)

AN ACT to repeal section 2 of chapter 207 of the 2009 Session Laws, relating to licensing of outfitters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 2 of chapter 207 of the 2009 Session Laws is repealed.

Approved March 29, 2011
Filed March 29, 2011