Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

HOUSE BILL NO. 1224
(Representatives Nelson, D. Anderson, Mock, Porter)
(Senator Klein)

AN ACT to amend and reenact sections 20.1-01-02 and 20.1-05-04 of the North Dakota Century Code, relating to the possession of handguns and use of dogs in the recovery of big game animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

20.1-01-02. Definitions.

In this title, unless the context otherwise requires:

1. "Afield" means being away from one's home or camp. The term does not include driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance.

2. "Any part thereof" or "the parts thereof" includes the hide, horns, or hoofs of any animal specified and the plumage, skin, and every other part of any bird specified.

3. "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.

4. "Associated equipment" means:

   a. Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;

   b. Any accessory or equipment for, or appurtenance to, a boat; and

   c. Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but

   d. Excluding radio equipment.

5. "Big game" means deer, moose, elk, bighorn sheep, mountain goats, and antelope.

6. "Boat" means any vessel:

   a. Manufactured or used primarily for noncommercial use;

   b. Leased, rented, or chartered to another for the latter's noncommercial use; or

   c. Engaged in the carrying of six or fewer passengers.

7. "Confiscate" or "confiscated" means to hold subject to the order of a court of competent jurisdiction.

8. "Consideration" means something of value given or done in exchange for something of value given or done by another.

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

10. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.

11. "Department" means the game and fish department.

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

13. "Deputy director" means the deputy director of the department.

14. "Director" means the director of the department.

15. "Disabled veteran" means a veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs or has an extra-schedular rating to include individual unemployability that brings the veteran's total disability ratio to one hundred percent as determined by the department of veterans' affairs.

16. "Endangered species" means any species whose prospects of survival or recruitment within the state are in jeopardy due to any of the following factors:

    a. The destruction, drastic modification, or severe curtailment of its habitat.

    b. Its overutilization for scientific, commercial, or sporting purposes.

    c. The effect on it of disease, pollution, or predation.

    d. Other natural or manmade factors affecting its prospects of survival or recruitment within the state.

    e. Any combination of the foregoing factors.

    The term also includes any species classified as endangered pursuant to the Endangered Species Act of 1973, Public Law 93-205.

17. "Established road or trail" means any public highway or road, improved or otherwise, dedicated for public ingress or egress, or any other road or trail normally used for travel but does not include temporary trails across cultivated land used for agricultural purposes.

18. "Fur-bearers" includes mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, and red or gray foxes.

19. "Game birds" includes all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.

20. "Guide" means an individual who is employed by or contracts with a licensed outfitter to help the outfitter furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed.

21. "Gun dogs" includes any dog used to hunt protected wildlife.

22. "Harmful wild birds" includes blackbirds, magpies, English sparrows, and starlings.

23. "Harmless wild birds" includes all wild birds not defined herein as "harmful wild birds" or "game birds".

24. "Hunt" or "hunting" means shooting, shooting at, pursuing, taking, attempting to take, or killing any game animals and game birds; searching for or attempting to locate or flush any game animals and game birds; luring, calling, or attempting to attract game animals and game birds; hiding for the purpose of taking or attempting to take game animals and game birds; and walking, crawling, or advancing toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds. The term does not include possessing or using photographic equipment.

25. "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.

26. "Immediate area" means the surrounding area within one hundred yards [91.44 meters] of the big game animal.

27. "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.

~~27.~~28. "Introduce" means to place, release, or allow the escape of a non-native species into a free-living state.

~~28.~~29. "Manufacturer" means any person engaged in:

a. The manufacture, construction, or assembly of boats or associated equipment.

b. The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

c. The importation into the state for sale of boats, associated equipment, or components thereof.

~~29.~~30. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion. The term does not include a vessel having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.

~~30.~~31. "Motor-driven vehicle" means any land vehicle, with or without wheels, that is propelled by any motor.

~~31.~~32. "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.

~~32.~~33. "Non-native species" means a species that is not a native species.

~~33.~~34. "Operate" means to navigate or otherwise use a motorboat or a vessel.

~~34.~~35. "Outfitter" means a person that holds the person's business operation out to the public for hire or consideration; provides facilities or services for consideration; 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 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.

~~35.~~36. "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

~~36.~~37. "Passenger" means every person carried on board a vessel other than:

a. The owner or the owner's representative.

b. The operator.

c. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

d. Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that person's carriage.

~~37.~~38. "Person" includes every partnership, association, corporation, and limited liability company. No violation of this title may be excused because it was done as the agent or employee of another, nor because it was committed by or through an agent or employee of the person charged.

~~38.~~39. "Personal watercraft" means a motorboat that is powered by an inboard motor powering a water jet pump or by an inboard or outboard marine engine and which is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in a conventional manner of sitting or standing inside a motorboat.

~~39.~~40. "Possession" means control, actual possession, and constructive possession of the article or thing specified.

~~40.~~41. "Private fish hatchery" means a body of water, whether natural or artificial, and any other facilities used, maintained, or operated by any private person, firm, corporation, or limited liability company for the propagation and production of fish for sale or planting in other waters. Except in the case of trout, walleye, northern pike, and crappie, which may be raised in a private fish hatchery without the director's approval, the director may, by rule, regulate the species of fish which may be raised in a private fish hatchery. No waters stocked by any state or federal governmental agency may be considered a private fish hatchery.

~~41.~~42. "Public waters" means waters to which the general public has a right to access.

~~42.~~43. "Resident" means any person who has actually lived within this state or maintained that person's 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 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.

~~43.~~44. "Resident species" means any species nearly all of whose individuals in this state are located within this state for at least three-fourths of annual cycle of the species.

~~44.~~45. "Retrieve" means to have taken possession and made ready for transportation.

~~45.~~46. "Sell" and "sale" means any sale or offer to sell, or possession with intent to sell, use, or dispose of, the article or thing specified, contrary to law.

~~46.~~47. "Shooting preserve" or "preserve" means any privately owned or leased acreage [hectarage] on which hatchery-raised game birds are released to be hunted for a fee over an extended season.

~~47.~~48. "Sinkbox" or "sunken device" means a raft or any type of low floating device having a depression that affords a hunter a means of concealing that person below the surface of the water.

~~48.~~49. "Slow or no wake speed" means the slowest possible speed necessary to maintain steerage.

~~49.~~50. "Small game" includes all game birds and tree squirrels.

~~50.~~51. "Species" includes any subspecies of wildlife and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

~~51.~~52. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future and includes any species classified as threatened pursuant to the Endangered Species Act of 1973, Public Law 93-205.

~~52.~~53. "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.

~~53.~~54. "Undocumented vessel" means a vessel which does not have a valid marine document as a vessel of the United States.

~~54.~~55. "Vessel" means any watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~55.~~56. "Waterfowl" includes all varieties of geese, brant, swans, ducks, rails, and coots.

~~56.~~57. "Waters" when not qualified means waters not open to the general public.

~~57.~~58. "Waters of the state" means all waters of this state, including boundary waters. This title extends to and is in force and effect over, upon, and in all such waters.

~~58.~~59. "Wildlife" means any member of the animal kingdom including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals as defined by section 36-01-00.1 or birds or animals held in private ownership.

SECTION 2. AMENDMENT. Section 20.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

20.1-05-04. Using certain animals and artificial lights in taking big game unlawful.

1. While hunting, pursuing, killing, taking, or attempting to take, or to aid in the hunting or taking of, any big game animal, an individual may not:

   a. Use any animal except:

      (1) Horses;

(2) Mules; or

(3) For the recovery of big game animals, dogs which must be:

(a) ~~The dog must be leashed~~Leashed and under the physical control of a handler at all times; and

(b) ~~The dog must be accompanied~~Accompanied at all times by both a handler and the hunter responsible for the taking of the big game animal~~;~~

~~(c) Individuals involved in the recovery of the big game animal may not carry.~~

b. Carry a firearm or archery equipment while using a dog during the recovery~~;~~ of a big game animal, except a dog handler may carry a handgun during the recovery of a big game animal when in the presence of the dog. A dog handler carrying a handgun may not use the handgun in any manner to assist in the recovery of a big game animal. A dog handler carrying a handgun must have permission from the landowner or individual authorized by the landowner before entering private land for the recovery of a big game animal.

~~(d)~~ If a big game animal is found alive during the recovery, the dog and handler shall leave the immediate area~~; and~~

~~(e)~~. Before the beginning of the recovery, the handler of the dog shall notify the district game warden of the involvement of the dog in the recovery of the big game animal and provide to the district game warden the contact information of all parties involved in the hunt and the location in which the big game animal was tracked.

~~b.~~c. Use artificial light, including a spotlight or automobile or motorcycle headlight, except artificial light may be used in the recovery process of big game animals.

~~c.~~d. Engage in the practice commonly known as shining for deer. An individual who shines an area commonly frequented by big game animals with artificial light, between the hours of sunset and sunrise, is in violation of this section. However, an individual may use an artificial light, night vision, thermal vision, or infrared light with a power source of not more than six volts in the area while hunting afoot to take coyote, fox, raccoon, or beaver.

2. For purposes of this section, "recovery" means the time after a firearm or archery equipment is used in the taking of a big game animal until the expired animal is located.

Speaker of the House	President of the Senate
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1224.

House Vote:	Yeas 91	Nays 0	Absent 3
Senate Vote:	Yeas 46	Nays 1	Absent 0

Chief Clerk of the House

Received by the Governor at _____M. on _____, 2023.

Approved at _____M. on _____, 2023.

Governor

Filed in this office this _____day of _____, 2023,

at _____ o'clock _____M.

Secretary of State