

prisonment and fine, but if the violation is committed after a conviction of such person under this act has become final such person shall be subject to imprisonment for not more than two years or a fine of not more than one thousand dollars, or both such imprisonment and fine.

Approved March 18, 1949.

GAME, FISH, AND PREDATORS

CHAPTER 175

Senate Bill No. 39
(Legislative Research Committee)
(at the Request of the Game and Fish Department)

SHINING FOR RACCOON LEGALIZED

AN ACT

To amend and reenact sections 20-0105, 20-0106 and subsection 4 of 20-0503 of the North Dakota Revised Code of 1943, making it legal to shine for raccoon.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0105. HUNTING WITH ARTIFICIAL LIGHT PROHIBITED; EXCEPTION.) Any person who shall 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 of any kind, shall be guilty of a misdemeanor, but nothing in this section shall be construed to make it unlawful for any person to use a lantern, spotlight, or other artificial light to assist him in pursuing and shooting on his premises any coyote, fox, skunk, mink, raccoon, weasel, owl, rabbit, or other predatory animal or bird, attacking and attempting to destroy such person's poultry livestock, or other property, providing, however, that it shall be permissible to use a flashlight of not more than two cells in the aggregate of three volts for the purpose of aiding in the taking of raccoon during the open season on such animal.

SECTION 2. AMENDMENT.) Section 20-0106 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0106. HOURS FOR HUNTING GAME BIRDS AND PROTECTED ANIMALS.) No person during the time elapsing between actual sunset of one day and one-half hour before sunrise of the next day, shall hunt, pursue, catch, shoot at, or in any manner molest, any game bird or protected animal within the borders of this state. The provisions of this section shall not apply to the trapping of fur-bearing animals by the holder of a lawfully issued trapping license, nor to the taking of racoon as permitted by section 20-0105. The hours and manner of hunting game birds and game animals may be restricted further by a proclamation issued by the governor pursuant to the provisions of chapter 8 of this title.

SECTION 3. AMENDMENT.) Subsection 4 of section 20-0503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0503. USING DOGS, HORSES, ARTIFICIAL PLATFORMS, BLINDS, AND ARTIFICIAL LIGHTS IN TAKING BIG GAME UNLAWFUL.)

4. Engage in the practice commonly known as shining for deer, and any person or persons, who shall shine any area, plot, or territory commonly frequented by big game animals with, or by reason of, any artificial light, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section, except that any person using a flashlight of not over two cells in the aggregate of three volts as an aid in the taking of raccoon shall not be deemed to have violated this section.

SECTION 4.) In the killing, shooting, pursuit, taking or in attempting to take raccoon with the use of a flashlight of not over two cells in the aggregate of three volts it shall be illegal to use a rifle capable of firing a shell larger than a twenty two long rifle shell, or a shotgun larger than a 410 gauge. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Approved March 8, 1949.

CHAPTER 176

Senate Bill No. 47
(Legislative Research Committee
at the request of the Game and Fish Department)

POLICE POWERS OF GAME AND FISH COMMISSIONER,
DEPUTY COMMISSIONER AND BONDED APPOINTEES

AN ACT

To amend and reenact section 20-0217 of the North Dakota Revised Code of 1943, relating to the police powers of the game and fish commissioner, deputy commissioner and bonded appointees of the commissioner.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0217 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0217. POLICE POWERS OF COMMISSIONER, DEPUTY COMMISSIONER, AND BONDED APPOINTEES OF COMMISSIONER.) The commissioner, deputy commissioner, and any bonded appointees of the commissioner shall have the power:

1. Of a peace officer for the purpose of enforcing the provisions of this title and any other laws of this state or regulations thereunder relating to game birds, game animals, fish, and other wildlife;
2. To make arrests upon view and without warrant for any violation committed in his presence of any of the provisions of this title and any other laws of this state or regulations thereunder, relating to game birds, game animals, fish, and other wildlife;
3. To enter and inspect any hotel, restaurant, cold storage warehouse, plant, ice house, or any building used for the storage of dressed meat, game, or fish for the purpose of determining whether game or fish, or parts thereof, are kept or stored therein in violation of any of the provisions of this title;
4. To open, enter, and examine, without warrant, all buildings, camps, tents, vessels, boats, wagons, automobiles or other vehicles, cars, crates, boxes, and other receptacles and places when he has reason to believe that game or fish, or parts thereof, or green furs which have been taken or are held or possessed in violation of any of the provisions of this title may be found. The right to enter and search without a warrant, however, shall not apply

- to the entry or search of the dwelling house or living quarters of any person or of a sealed railroad car;
5. To open and examine any package in the possession of a common carrier which he suspects or has reason to believe contains game or fish, or parts thereof, taken or held in violation of any of the provisions of this title, or which is falsely labeled in violation of any of such provisions. Every such common carrier, and every agent, servant, or employee thereof, shall permit any such officer to open and examine any such package. Any package so opened and not confiscated shall be restored to its original condition by the officer making the examination;
 6. To enter, without warrant, upon the premises of any dealer or trader in green furs for the purpose of inspecting any warehouse, storerooms, or other places used for storage purposes, and may call for and inspect records of buying, shipping, or selling of green furs. The right to enter and search without a warrant, however, shall not apply to the entry or search of the dwelling house or the living quarters of any person or of a sealed railroad car;
 7. To seize and hold, subject to the order of the court having jurisdiction of the offense, any green furs obtained illegally; and
 8. To inspect all premises used for the purpose of propagating and domesticating protected game birds or protected animals.

Approved February 26, 1949.

CHAPTER 177

Senate Bill No. 44

(Legislative Research Committee)

(at the request of the Game and Fish Department)

LICENSES TO HUNT, TRAP, OR FISH

AN ACT

To amend and reenact sections 20-0301 and 20-0306 of the North Dakota Revised Code of 1943, relating to requirements for licenses to hunt, trap, or fish and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0301 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0301. LICENSES TO HUNT, TRAP, OR FISH REQUIRED OF RESIDENTS; PENALTY.) No resident of this state, except as otherwise provided in section 30-0307, shall:

1. Hunt, catch, take, or kill any game bird without having a resident hunting license as prescribed in this chapter;
2. Trap, catch, attempt to catch, take, or kill any protected fur-bearing animal without having a resident trapping license as prescribed in this chapter; or
3. Catch, attempt to catch, take or kill any fish without having a resident fishing license as prescribed in this chapter.

Any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. Each violation of this section shall constitute a distinct and separate offense.

SECTION 2. AMENDMENT.) Section 20-0306 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0306. LICENSES TO HUNT, TRAP, OR FISH REQUIRED OF NON-RESIDENTS; PENALTY.) No non-resident of this state except as otherwise provided in section 20-0307, shall:

1. Hunt, catch, take, or kill any game bird without having a hunting license as prescribed in this chapter;
2. Trap, catch, attempt to catch, take or kill any protected fur-bearing animal without having a non-resident trapping license as prescribed in this chapter; or
3. Catch, attempt to catch, take, or kill any fish without having a non-resident fishing license as prescribed in this chapter.

Any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. Each violation of this section shall be a distinct and separate offense.

SECTION 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1949.

CHAPTER 178

Senate Bill No. 41
(Legislative Research Committee
at the request of the Game and Fish Department)

COMMERCIAL FISHING LICENSE FEES

AN ACT

To amend and reenact section 20-0314 of the North Dakota Revised Code of 1943, relating to fees for commercial fishing licenses, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0314 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0314. COMMERCIAL FISHING LICENSES; WHO TO ISSUE; WHO MAY OBTAIN; FEES.) A commercial fishing license may be issued by the commissioner to any person having a regular resident or non-resident fishing license. The fees for commercial fishing licenses shall be as follows:

1. For each hoop net or trap to be used, the sum of five dollars;
2. For the first fifty feet, or fraction thereof, of net or seine to be used, the sum of five dollars and for each additional fifty feet, or fraction thereof, of net or seine to be used, the sum of five dollars; and
3. For each ten hooks or fraction thereof to be attached to each set line or throw line which is to be used, the sum of one dollar.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 26, 1949.

CHAPTER 179

House Bill No. 124
(Lillehaugen, Starck and Williams)

GOING AFIELD WITH GUN, ETC., WHILE INTOXICATED
UNLAWFUL; GAME WARDEN'S AUTHORITY; PENALTY

AN ACT

Making it unlawful to go afield with a gun or firearms while intoxicated; extending to game wardens the authority to enforce the act; and providing penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. GOING AFIELD WITH GUN OR OTHER FIREARM WHEN INTOXICATED, PROHIBITED.) No person shall go afield a any time, with a gun or other firearm, when intoxicated or under the influence of intoxicating liquors. Upon conviction of a person for violating this act, the license to hunt of such person shall become void, and the justice of peace, county court judge or district judge before whom such conviction is had, shall take the license from the person so convicted, and mark it revoked, and send it to the state game and fish department at the state capitol in Bismarck.

If the conviction is reversed on appeal, the license so revoked shall be restored to the defendant.

SECTION 2. AUTHORITY OF GAME WARDENS.) Game wardens, including special wardens, shall have the authority of a general peace officer in the enforcement of the provisions of this act.

SECTION 3. PENALTY.) Any person violating the provisions of this act, as a first offense, shall be punishable by a fine of not more than ten (\$10.00) dollars. Any subsequent offense shall be punishable by a fine of not more than one hundred (\$100.00) dollars, and such person so convicted shall be ineligible to be licensed to hunt in the state of North Dakota for a period of two (2) years from and after such conviction.

Approved February 28, 1949.

CHAPTER 180

House Bill No. 236
(Stevens)

COMMENCEMENT DEER HUNTING SEASON; TIME OF DAY

AN ACT

Fixing the time of the day for the commencement of the deer hunting season, and prescribing a penalty for the violation thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. TIME OF DAY FOR COMMENCEMENT OF DEER HUNTING SEASON.) The time of the day at which the deer hunting season shall open shall be at twelve o'clock noon on the first day of such deer hunting season.

SECTION 2. PENALTY.) Any person who shall violate the provisions of Section 1 of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or by both such fine and imprisonment.

Approved March 9, 1949.

CHAPTER 181

Senate Bill No. 130
(Committee on Natural Resources)

SEALS TO BE ATTACHED TO BIG GAME CARCASSES

AN ACT

To amend and reenact subsection 2 of section 20-0507 of the North Dakota Revised Code of 1943, relating to the attaching of seals to the carcasses of big game animals and the manner of so doing, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) That subsection 2 of section 20-0507 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0507. SEALS TO BE ATTACHED TO CARCASSES OF BIG GAME ANIMALS; WHEN; COMMISSIONER TO FURNISH SEALS.)

2. Affix to the carcass of such animal, before it is transported in any manner, or offered for transportation, a metal locking seal bearing his big game hunting license number. Such seal shall be attached around the leg bone and under the tendon of such leg bone in such a manner as not to be lost or removed. Failure to attach such seal in the manner provided by this section shall be a misdemeanor and be punishable as provided by section 20-0508 of this title.

SECTION 2. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1949.

CHAPTER 182

Senate Bill No. 131
(Committee on Natural Resources)

PROTECTED FISH, CREEL AND POSSESSION LIMIT

AN ACT

To amend and reenact sections 20-0604 and 20-0605 of the North Dakota Revised Code of 1943, relating to creel limit on pike, the size of protected fish that may be taken.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0604 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0604. CREEL AND POSSESSION LIMIT OF PROTECTED FISH.)

1. Five bass, trout, or landlocked salmon, nor more than five of any or all of the same combined;
2. Five wall-eyed pike or northern pike, nor more than five of both combined;

SECTION 2. AMENDMENT.) Section 20-0605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0605. SIZE OF PROTECTED FISH THAT MAY BE TAKEN; SMALL FISH TO BE RETURNED UNHARMED; PENALTY.) No person, at any time, shall take, catch, kill, or have in his possession or under his control any:

1. Bass, trout or landlocked salmon, of any species, that is less than ten inches in length;
2. Crappie, of any species, that is less than six inches in length;
3. Sunfish, of any species, that is less than five inches in length; or
4. Pike, of any species, that is less than fourteen inches in length.

Any person catching any protected fish that is under the legal size limit immediately shall return the same to the water from which it was taken with as little harm as possible to such fish.

Approved March 19, 1949.

CHAPTER 183

Senate Bill No. 132
(Committee on Natural Resources)

MANNER OF TAKING FUR-BEARING ANIMALS

AN ACT

To amend and reenact section 20-0705 of the North Dakota Revised Code of 1943, relating to the methods of taking fur-bearing animals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.- Section 20-0705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0705. MANNER OF TAKING BEAVERS, SKUNKS, MINKS, WEASELS, AND RACCOONS RESTRICTED; DESTRUCTION OF PROPERTY OF OTHERS UNLAWFUL.) It shall be unlawful:

1. To catch or kill badgers by pouring or running water into the burrow or retreat;
2. In any way to molest or destroy the natural burrow, den, or retreat of the raccoon;
3. For any person trapping or taking skunks, badgers, minks,

- weasels, or raccoons to destroy, damage or injure the personal or real property of another; or
4. For any person trapping or taking of any protected fur-bearing animal, except the skunk, to damage or molest the natural burrow or retreat of the animal or to use dogs in the taking or catching of mink.

Except it shall not in any way repeal the meaning of section 20-0706.

Approved March 7, 1949.

CHAPTER 184

Senate Bill No. 43

(Legislative Research Committee)

(at the Request of the Game and Fish Department)

OPEN SEASON ON GAME BIRDS, FISH AND GAME ANIMALS; VARIATIONS BY GOVERNOR'S ORDER OR PROCLAMATION

AN ACT

To amend and reenact sections 20-0501, 20-0502, 20-0801, 20-0802 and 20-0803 of the North Dakota Revised Code of 1943 and section 20-0703 of the 1947 Supplement to the North Dakota Revised Code of 1943, relating to open seasons on game birds, fish, and game animals and the variation of such open seasons by order or proclamation by the governor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 20-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0501. BIG GAME ANIMALS PROTECTED.) No person shall hunt, pursue, take, attempt to take, possess, transport, ship, convey by common or private carrier, sell, barter, or exchange any big game animals except as provided in this title.

SECTION 2. AMENDMENT.) Section 20-0502 of the North Dakota Revised Code of 1943 is hereby amend and reenacted to read as follows:

20-0502. SEASON FOR TAKING AND TRANSPORTING DEER; BAG LIMIT ON DEER.) Any person having a big game hunting license as prescribed in this title may take, kill, and transport one deer, in this state, during the open or lawful season therefor which shall be between the twentieth day of November and the following

thirtieth day of November, both days inclusive, of each year, unless changed by proclamation of the governor in accordance with the provisions of this title.

SECTION 3. AMENDMENT.) Section 20-0703 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0703. SEASON FOR TAKING VARIOUS PROTECTED FUR-BEARING ANIMALS.) The open or lawful seasons for the taking or trapping of the various kinds of fur-bearing animals, unless changed by proclamation of the governor in accordance with the provisions of this title, shall be as follows:

1. Muskrats for fur between the first day of December of each year and the following January thirty-first, both dates inclusive;
2. Badgers between the first day of November each year and the following twenty-eighth day of February, both dates inclusive;
3. Minks and weasels between the fifteenth day of November of each year and the following fifteenth day of February, both dates inclusive;
4. Raccoons between the first day of October of each year and the following fifteenth day of February, both dates inclusive; and
5. Skunks between the first day of October of each year and the following twenty-eighth day of February, both dates inclusive.

SECTION 4. AMENDMENT.) Section 20-0801 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0801. GOVERNOR MAY VARY STATUTORY OPEN AND CLOSED SEASON BY ORDER OR PROCLAMATION.) Whenever the governor, after investigation and recommendation by the commissioner, finds:

1. That any species of game birds, fish, or game animals for which an open season is provided, are in danger of depletion or extinction, or when necessary for proper protection during the propagating period, he, by order, may provide protection for such species additional to that provided by law;
2. That any species of game birds, fish, or game animals have become sufficient in numbers to warrant an open season, or to be detrimental, or a nuisance to the farmers of the state, he, by order, may declare an open season thereon, or may extend the open season provided by law; or;

3. That any species of fur-bearing animals have become sufficient in numbers to warrant an open season or have become a menace to other species of wildlife in the state, he, by order, may declare an open season thereon or may extend the open season provided by law.

SECTION 5. AMENDMENT.) Section 20-0802 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0802. LIMITATIONS ON GOVERNOR'S POWERS.) The governor may not establish:

1. A bag limit on upland game birds which exceeds fifteen birds in the aggregate;
2. A bag limit on migratory waterfowl which is less than the federal bag limit thereon;
3. A possession limit which exceeds a two days' bag limit; or
4. An open season on any game bird that begins before the fifteenth day of September or that ends not later than the first day of March of the following year.

SECTION 6. AMENDMENT.) Section 20-0803 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0803. CONTENTS OF GOVERNOR'S ORDER OR PROCLAMATION RELATING TO THE TAKING OF GAME BIRDS, FISH, AND GAME ANIMALS.) An order or proclamation issued by the governor pursuant to the provisions of this chapter shall prescribe, as to each species of game birds, fish, or game animals named therein, the following:

1. In what manner the same may be taken;
2. In what numbers the same may be taken and possessed and may limit such numbers by sex;
3. In what places the same may be taken; and
4. At what times the same may be taken and possessed.

The governor, in his order or proclamation, may provide for the number of big game permits or licenses to be issued for the taking of each species and the manner in which such permits or licenses shall be issued for big game only.

Approved March 8, 1949.