

GAME AND FISH

CHAPTER 274

SENATE BILL NO. 2365
(D. Meyer)

HUNTING DEFINED AND PRIVATE FISH HATCHERIES

AN ACT to amend and reenact section 20.1-01-02 of the North Dakota Century Code, relating to the definition of hunt or hunting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. "Any part thereof" ~~and or~~ "the parts thereof" ~~shall include~~ includes the hide, horns, or hoofs of any animal specified, and the plumage, skin, and every other part of any bird specified.
2. "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.
3. "Big game" ~~shall include~~ means deer, moose, elk, bighorn sheep, mountain goats, and antelope.
4. "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.
5. "Commissioner" means the state game and fish commissioner.

6. "Confiscate" or "confiscated" means to hold subject to the order of a court of competent jurisdiction.
7. "Department" means the state game and fish department.
8. "Deputy commissioner" means the deputy state game and fish commissioner.
9. "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 ~~shall~~ also ~~include~~ includes any species classified as endangered pursuant to the Endangered Species Act of 1973, Public Law 93-205.

10. "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.
11. "Fur-bearers" ~~shall include~~ includes mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, and red or gray foxes.
12. "Game birds" ~~shall include~~ 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.
13. "Guide" or "outfitter" means any resident who holds ~~himself~~ that person out to the public as a guide or outfitter, and who provides, for compensation, transportation, equipment, arrangement of lodging, or ~~his~~ that person's own or another's personal services for the primary purpose of assisting a person or persons to locate or catch fish or to locate, pursue, or hunt small game, big game, or fur-bearers. Nonresidents ~~shall~~ are not be entitled to act as guides or outfitters in this state.
14. "Gun dogs" ~~shall include~~ includes any dog used to hunt protected wildlife.

15. "Harmful wild birds" ~~shall include~~ includes blackbirds, magpies, English sparrows, and starlings.
16. "Harmless wild birds" ~~shall include~~ includes all wild birds not defined herein as "harmful wild birds" or "game birds".
17. "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.
18. "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.
- ~~18-~~ 19. "Motorboat" means any vessel propelled by machinery, whether or not ~~such the~~ such the machinery is the principal source of propulsion, ~~but shall~~. 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.
- ~~19-~~ 20. "Motor-driven vehicle" means any land vehicle, with or without wheels, that is propelled by any motor.
- ~~20-~~ 21. "Operate" means to navigate or otherwise use a motorboat or a vessel.
- ~~21-~~ 22. "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.
- ~~22-~~ 23. "Passenger" means every person carried on board a vessel other than:
 - a. The owner or his 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 ~~his~~ that person's carriage.

~~23-~~ 24. "Person" ~~shall include~~ includes every partnership, association, and corporation. No violation of this title ~~shall~~ 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.

~~24-~~ 25. "Possession" means control, actual possession, and constructive possession of the article or thing specified.

~~25-~~ 26. "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, or corporation for the propagation and production of fish for sale or planting in other waters. ~~The~~ Except in the case of trout, walleye, northern pike, and crappie, which may be raised in a private fish hatchery without the commissioner's approval, the commissioner may, by establishing rules and regulations 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 ~~shall~~ may be considered a private fish hatchery.

~~26-~~ 27. "Public waters" means waters to which the general public has a right to access.

~~27-~~ 28. "Resident" means any person who has actually lived within this state or maintained ~~his~~ that person's home therein for at least six months immediately preceding the date that residence is to be determined. A "nonresident" is any person who has not done so.

~~28-~~ 29. "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.

~~29-~~ 30. "Retrieve" means to have taken possession and made ready for transportation.

~~30-~~ 31. "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.

~~31-~~ 32. "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.

~~32-~~ 33. "Sinkbox" or "sunken device" means a raft or any type of low floating device having a depression ~~which that~~ affords a hunter a means of concealing ~~himself~~ that person below the surface of the water.

~~33-~~ 34. "Small game" ~~shall include~~ includes all game birds and tree squirrels.

- ~~34.~~ 35. "Species" ~~shall include~~ 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.
- ~~35.~~ 36. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future and ~~shall include~~ includes any species classified as threatened pursuant to the Endangered Species Act of 1973, Public Law 93-205.
- ~~36.~~ 37. "Undocumented vessel" means a vessel which does not have a valid marine document as a vessel of the United States.
- ~~37.~~ 38. "Vessel" means any watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- ~~38.~~ 39. "Waterfowl" ~~shall include~~ includes all varieties of geese, brant, swans, ducks, rails, and coots.
- ~~39.~~ 40. "Waters" when not qualified means waters not open to the general public.
- ~~40.~~ 41. "Waters of the state" means all waters of this state, including boundary waters. This title ~~shall extend~~ extends to and ~~shall be~~ is in force and effect over, upon, and in all such waters.
- ~~41.~~ 42. "Wildlife" means any member of the animal kingdom including without limitation 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.

Approved April 6, 1989

Filed April 7, 1989

CHAPTER 275

SENATE BILL NO. 2366
(D. Meyer)

GAME AND FISH VIOLATION TESTIMONY

AN ACT to repeal section 20.1-01-15 of the North Dakota Century Code, relating to joint violators testifying against other participants concerning violation of the state's game and fish laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 20.1-01-15 of the North Dakota Century Code is hereby repealed.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 276

HOUSE BILL NO. 1387
(Representative Halmrast)
(Senator Satrom)

INTERFERENCE WITH HUNTERS

AN ACT to amend and reenact section 20.1-01-31 of the North Dakota Century Code, relating to interference with rights of hunters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-31 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-31. Interference with rights of hunters. No person may intentionally interfere with the lawful taking of wildlife on public or private land by another or intentionally harass, drive, or disturb any wildlife on public or private land for the purpose of disrupting a lawful hunt. This section does not apply to any incidental interference arising from lawful activity by public or private land users or to landowners or operators interfering with hunters on land owned or operated by that individual.

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 277

HOUSE BILL NO. 1084
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

GAME AND FISH COMMISSIONER TERM

AN ACT to amend and reenact section 20.1-02-01 of the North Dakota Century Code, relating to the term of the game and fish commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

20.1-02-01. State game and fish commissioner - Office to be maintained - Appointment - Term - Removal. A state game and fish commissioner shall be appointed by the governor. He shall hold office for a term of ~~two~~ four years beginning on the first day of July ~~of each odd-numbered year, after the~~ governor's election and until his successor is appointed and qualified. He shall be subject to removal by the governor for cause only.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 278

HOUSE BILL NO. 1449
(Halmrast, Schindler, Murphy, Hokana, Nelson)

GAME HABITAT RESTORATION TRUST FUND

AN ACT to establish the small and big game habitat restoration trust fund; to provide for transfers from the game and fish operating fund and from the habitat restoration stamp fund; to provide a continuing appropriation of the interest generated by the fund; and to provide legislative intent regarding the small and big game habitat restoration trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Small and big game habitat restoration trust fund - Advisory committee. The small and big game habitat restoration trust fund is established to further farmer-sportsmen relations and to enhance small and big game habitat by providing funds for the leasing of private land to establish or preserve small and big game habitat, food plot development, and to carry out a private land habitat improvement program by entering into cost-sharing agreements with landowners or agencies working on private land to help defray all or a portion of their share of certain federally sponsored conservation practices considered especially beneficial to small and big game. No more than forty acres [64.76 hectares] per owner or operator may be leased under this program. No land may be purchased with small and big game habitat restoration trust fund moneys, and no funds may be used for administrative purposes. The private land habitat improvement program advisory committee shall advise the commissioner concerning expenditures from the small and big game habitat restoration trust fund. The commissioner shall provide staff services to the advisory committee. All members of the advisory committee must be residents of this state and must serve without remuneration.

SECTION 2. SMALL AND BIG GAME HABITAT RESTORATION TRUST FUND - LEGISLATIVE INTENT. The funds transferred as required in section 3 of this Act must be invested in interest-bearing accounts known as the small and big game habitat restoration trust fund. The fund is established to provide funds from the interest generated by the fund for private land small and big game habitat leasing, food plot development, and small and big game habitat cost-sharing agreements as described in section 1 of this Act. It is the intent of the legislative assembly that expenditures from the principal of the small and big game habitat restoration trust fund commence no later than December 31, 1995.

SECTION 3. TRANSFER. There is hereby authorized the transfer of \$750,000 or so much thereof as constitutes moneys generated by the habitat restoration stamp program, including the habitat restoration stamp print, the interest earned on the habitat restoration stamp program, the interest earned on any unspent habitat restoration program funds, any and all other moneys resulting from the habitat restoration stamp program, and the interest on

this money which was not placed in the habitat restoration stamp fund prior to July 1, 1987, from the game and fish operating fund to the small and big game habitat restoration trust fund. The interest generated by the fund is to be used for the purposes contained in section 1 of this Act.

SECTION 4. TRANSFER. The amount of \$100,000 must be transferred annually from the game and fish operating fund to the small and big game habitat restoration trust fund.

SECTION 5. CONTINUING APPROPRIATION. The interest earned by moneys contained in the small and big game habitat restoration trust fund is hereby appropriated as a standing and continuing appropriation for the purposes of section 1 of this Act.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the 1989 legislative assembly that the small and big game habitat restoration trust fund interest income earned during a biennium must be spent prior to the end of the succeeding biennium.

Approved April 15, 1989
Filed April 17, 1989

CHAPTER 279

HOUSE BILL NO. 1505
(Representatives Solberg, Enget)
(Senator Kinnoin)

GAME AND FISH RESTORATION LAND ACQUISITION

AN ACT to amend and reenact subsections 1 and 2 of section 20.1-02-17.1 and section 20.1-02-18.1 of the North Dakota Century Code, relating to land acquisitions for wildlife and fish restoration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 20.1-02-17.1 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The state game and fish commissioner shall submit proposed wildlife and fish restoration programs or projects and updated segments thereof involving proposed acquisitions by purchase, lease, easement, or servitude of wetlands, water, or land areas by certified mail with return receipt to the board of county commissioners of the county or counties in which the affected areas are located for the board's approval prior to agreement with and approval by the secretary of the interior.
2. The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice ~~shall~~ must be published once each week for two consecutive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice ~~shall~~ must set forth the substance of the proposed action, and ~~shall~~ must include a legal description of the proposed acquisitions. The board of county commissioners shall give its approval or disapproval by certified mail with return receipt within sixty days after receipt of an acquisition proposal.

SECTION 2. AMENDMENT. Section 20.1-02-18.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.1. Federal wildlife area acquisitions - Submission to county commissioners, opportunity for public comment, and impact analysis required. The governor, the game and fish commissioner, or their designees, responsible under federal law for final approval of land, wetland, and water acquisitions by the United States department of the interior, its bureaus or agencies, for waterfowl production areas, wildlife refuges, or other wildlife or waterfowl purposes, shall submit the proposed acquisitions by certified

mail with return receipt to the board of county commissioners of the county or counties in which the land, wetland, and water areas are located for the board's recommendations.

The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice ~~shall~~ must be published once each week for two successive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice ~~shall~~ must set forth the substance of the proposed action, and ~~shall~~ must include a legal description of the proposed acquisitions. The board of county commissioners shall make its recommendations by certified mail with return receipt within sixty days after receipt of an acquisition proposal.

A detailed impact analysis from the federal agency involved ~~shall~~ must be included with the acquisition proposal for board of county commissioner consideration in making recommendations. ~~Such~~ The analysis ~~shall~~ must include, ~~but shall not be limited to,~~ the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which ~~shall~~ must include the fiscal, social, and agricultural impacts of the proposed acquisitions. The department of the interior shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses ~~shall~~ must also be forwarded to the office of intergovernmental assistance which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions ~~shall~~ have thirty days to review the analyses and return their comments to the office of intergovernmental assistance. Upon expiration of the thirty-day period, all comments received by the office of intergovernmental assistance ~~shall~~ must be forwarded to the federal agency involved and to the state official or agency responsible for final acquisition approval. The federal agency may, after consideration of such comments, file a final impact analysis with the governor, the board of county commissioners, and any other state official or agency responsible for final acquisition approval.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 280

SENATE BILL NO. 2160
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

FREE FISHING DAYS

AN ACT to create and enact a new subsection to section 20.1-03-04 of the North Dakota Century Code, relating to when fishing licenses are not required of residents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-03-04 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Residents may fish without a resident fishing license or trout and salmon license stamp on free fishing days. The dates of these free fishing days may be set by proclamation by the governor.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 281

HOUSE BILL NO. 1154
(L. Hanson)

**NONRESIDENT FUR-BEARER AND NONGAME HUNTING
LICENSE FEES**

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to fees for nonresident fur-bearer and nongame hunting licenses; and to amend and reenact subsections 2 and 4 of section 20.1-03-07 of the North Dakota Century Code, relating to nonresidents taking fur-bearers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 2 and 4 of section 20.1-03-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Trap, catch, attempt to catch, take, or kill any protected fur-bearing animal except that nonresidents holding a valid nonresident fur-bearer and nongame hunting license may hunt only fox and coyote.
4. Hunt, catch, take, or kill any unprotected bird or animal without having a nonresident nongame hunting license or nonresident fur-bearer and nongame hunting license.

SECTION 2. A new subsection to section 20.1-03-12 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 282

SENATE BILL NO. 2539

(O'Connell)

(Approved by the Committee on Delayed Bills)

NONRESIDENT MINOR UNLICENSED FISHING

AN ACT to amend and reenact section 20.1-03-08 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 20.1-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-08. When licenses to fish not required of nonresident. Subject to other provisions of this title, any nonresident under the age of ~~twelve~~ sixteen years may fish without a nonresident fishing license if accompanied by an adult possessing a valid fishing license. Any nonresident may fish in the waters of a private fish hatchery without a nonresident fishing license.

Approved April 28, 1989

Filed April 28, 1989

CHAPTER 283

HOUSE BILL NO. 1203
(Committee on Natural Resources)
(At the request of the Office of Management and Budget)

NONRESIDENT SHORT-TERM UPLAND GAME LICENSES

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to the creation of a special three-day hunting license for nonresident upland game hunters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-03-12 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For a nonresident short-term three-day small game hunting license, issued between November fifteenth and the close of the upland game hunting season, thirty dollars.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 284

SENATE BILL NO. 2045
(Legislative Council)
(Interim Judicial Process Committee)

AUDITOR'S GAME AND FISH LICENSE FEES

AN ACT to amend and reenact section 20.1-03-17 of the North Dakota Century Code, relating to fees for issuing game and fish licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 20.1-03-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-17. Issuance of licenses - Who to issue - County auditor may appoint agents to receive service fees - Disposition of proceeds. All hunting, fur-bearer, fishing, and taxidermists' licenses ~~shall~~ must be issued by county auditors, the commissioner, deputy commissioner, and bonded game wardens. The deputy commissioner and each bonded game warden shall send the commissioner all license fees. For each license the county auditor issues, the county auditor shall collect the authorized charges and record them in the county auditor's record of cash received. The county auditor shall retain, as compensation, twenty-five cents for the issuance of each of the first one thousand resident hunting, fishing, or fur-bearer licenses issued each year and fifteen cents for the issuance of each resident hunting, fishing, or fur-bearer license issued in excess of the first one thousand licenses issued each year; one dollar for the issuance of each nonresident hunting or fur-bearer license; twenty-five cents for the issuance of each nonresident fishing license; and ten cents for the issuance of each nonresident general game license.

The county auditor may appoint agents to distribute hunting and fishing licenses or stamps. The agents may charge purchasers a service fee of fifty cents for each license. Service fees ~~shall~~ may be retained by the agent. The remainder of the license fees ~~shall~~ must be returned to the county auditor, for deposit with the county treasurer, at least once each month, and not later than three days after the close of the month. Deposits are to be accompanied by a report showing the amounts received from the sale of each type of license, the amount retained, and the net amounts deposited. The county treasurer shall credit the fees so deposited to a separate account and shall hold the fees, subject to warrant for payment thereof drawn by the county auditor in favor of the commissioner. The commissioner shall deposit all license or stamp fees received with the state treasurer to be credited to the game and fish fund.

Approved April 6, 1989
Filed April 7, 1989

* NOTE: Section 20.1-03-17 was also amended by section 1 of Senate Bill No. 2046, chapter 285.

CHAPTER 285

SENATE BILL NO. 2046
(Legislative Council)
(Interim Judicial Process Committee)

GAME AND FISH LICENSE AGENTS BONDS

AN ACT to create and enact a new section to chapter 26.1-21 of the North Dakota Century Code, relating to the state bonding fund; and to amend and reenact sections 20.1-03-17 and 20.1-03-20 of the North Dakota Century Code, relating to bonds of county auditors and agents appointed by county auditors to distribute hunting and fishing licenses or stamps.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 20.1-03-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-17. Issuance of licenses - Who to issue - County auditor may appoint agents to receive service fees - Disposition of proceeds. All hunting, fur-bearer, fishing, and taxidermists' licenses ~~shall~~ must be issued by county auditors, the commissioner, deputy commissioner, and bonded game wardens. The deputy commissioner and each bonded game warden shall send the commissioner all license fees. For each license the county auditor issues, the county auditor shall collect the authorized charges and record them in the county auditor's record of cash received. The county auditor shall retain, as compensation, fifteen cents for the issuance of each resident hunting, fishing, or fur-bearer license; one dollar for the issuance of each nonresident hunting or fur-bearer license; twenty-five cents for the issuance of each nonresident fishing license; and ten cents for the issuance of each nonresident general game license.

The county auditor may appoint agents to distribute hunting and fishing licenses or stamps. The county auditor may require agents to show evidence of adequate financial security before the agents are appointed. Adequate financial security may be evidenced by a letter of credit, cash deposit, or bond. Agents may be bonded through the state bonding fund. The agents may charge purchasers a service fee of fifty cents for each license. Service fees ~~shall~~ may be retained by the agent. The remainder of the license fees ~~shall~~ must be returned to the county auditor, for deposit with the county treasurer, at least once each month, and not later than three days after the close of the month. Notwithstanding section 26.1-21-11, if a claim against the state bonding fund is not filed within sixty days of the expiration of the reporting period provided in this section, the claim is waived. Deposits are to be accompanied by a report showing the amounts received from the sale of each type of license, the amount retained, and the net amounts deposited. The county treasurer shall credit the fees so deposited to a separate account and shall hold the fees, subject to warrant for payment thereof drawn by the county auditor in favor of the commissioner. The commissioner shall deposit

* NOTE: Section 20.1-03-17 was also amended by section 1 of Senate Bill No. 2045, chapter 284.

all license or stamp fees received with the state treasurer to be credited to the game and fish fund.

SECTION 2. AMENDMENT. Section 20.1-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-20. Bonds of county auditors and agents applicable to duties imposed by ~~provisions of~~ this title. The official bond of each county auditor ~~shall apply~~ and of each agent bonded through the state bonding fund and appointed by the county auditor to distribute hunting and fishing licenses or stamps applies to all ~~the~~ duties required of ~~him~~ county auditors and agents under this title, including the liability for all moneys required to be collected or received by ~~him~~ county auditors and agents under this title for the issuance of licenses.

SECTION 3. A new section to chapter 26.1-21 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Bonds of agents appointed to distribute hunting and fishing licenses or stamps - Premiums - Determination of eligibility. The annual premium for a bond of an agent appointed by a county auditor to distribute hunting and fishing licenses or stamps pursuant to section 20.1-03-17 is ten dollars. The premium must be paid to the state treasurer. The commissioner may reduce or waive the premium if it is determined that funds received pursuant to this section are sufficient to cover potential claims on the bonds of agents appointed to distribute hunting and fishing licenses or stamps. The commissioner shall determine the conditions and qualifications of agents bonded under this section. The amount of coverage afforded under this section is limited to five thousand dollars per agent per year.

Approved April 12, 1989
Filed April 13, 1989

CHAPTER 286

HOUSE BILL NO. 1138
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

COUNTY AUDITOR REPORTS TO GAME AND FISH COMMISSIONER

AN ACT to amend and reenact section 20.1-03-19 of the North Dakota Century Code, relating to reports and remittances to be made by county auditors to the game and fish commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-19. When reports and remittances to be made by county auditors to the commissioner. Each county auditor, ~~annually~~ on the first day of February, ~~May~~, and August of each year, ~~and November~~, and within thirty days after the close of each open season, shall make a complete report of all license sales to the commissioner on forms furnished by ~~him~~ the commissioner, accompanied by a warrant drawn on the county treasurer to cover such report.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 287

HOUSE BILL NO. 1429
(K. Thompson)

WILD TURKEY GUNS

AN ACT to amend and reenact section 20.1-04-09 of the North Dakota Century Code, relating to the taking of wild turkeys.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-04-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-04-09. Guns lawfully usable in pursuing or taking game birds - Penalty. No firearm, except a shotgun not larger in bore than ten gauge [19.69 square millimeters], fired from the shoulder, ~~shall~~ may be used to hunt or pursue game birds. No person ~~shall~~ may use a rifle, pistol, or ball cartridge to hunt or pursue game birds, or to raise or drive game birds from their resting or feeding places, or from any waters of this state. ~~Any~~ However, a person may hunt or pursue wild turkeys with rifles firing a rimfire cartridge no smaller than .22 caliber [5.59 millimeter] long rifle or with muzzleloading long guns. A person who violates this section is guilty of a class 2 noncriminal offense.

Approved March 21, 1989
Filed March 23, 1989

CHAPTER 288

HOUSE BILL NO. 1280
(Representatives Marks, W. Williams, R. Berg)
(Senators O'Connell, Todd, Krauter)

MUZZLELOADER DEER HUNTING LICENSES

AN ACT to amend and reenact section 20.1-08-04.5 of the North Dakota Century Code, relating to the hunting of deer with muzzleloading long guns.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-08-04.5 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-08-04.5. Governor's proclamation concerning the hunting of deer with muzzleloading long guns. The governor shall by proclamation provide for a one-week season following the regular deer hunting season to hunt deer with muzzleloading long guns in such manner, number, places, and times as the governor prescribes. Licenses to hunt deer with muzzleloading long guns must be issued by the commissioner ~~in the order the applications for the licenses are received by lottery as prescribed~~ by the commissioner, with a maximum of ~~five~~ seven hundred licenses issued each season. As used in this section, the term "muzzleloading long gun" means any forty-five or larger caliber long gun loaded through the muzzle.

Approved March 16, 1989
Filed March 16, 1989

CHAPTER 289

SENATE BILL NO. 2314
(Senators Satrom, Dotzenrod, Nalewaja)
(Representatives Halmrast, Goetz, Jensen)

PERSONAL FLOTATION DEVICES FOR CHILDREN

AN ACT to create and enact a new section to chapter 20.1-13 of the North Dakota Century Code, relating to personal flotation devices for children on boats.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 20.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

Personal flotation devices. It is unlawful for any person to operate or to be a passenger on any vessel less than twenty-seven feet [8.2296 meters] in length unless all persons, ten years of age or younger present on the vessel, wear an appropriately sized and properly fastened coast guard-approved type I, II, or III wearable personal flotation device while the vessel is in operation. A personal flotation device is appropriately sized if it is designed to be worn by a person of similar age, size, or weight as the wearer.

Approved April 6, 1989
Filed April 7, 1989