

2011 HOUSE JUDICIARY

HB 1380

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1380
January 26, 2011
13429

Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1380. Rep. Keiser is not coming. This is really a simple bill (see attachment 1). Last session we passed a law and the way the law read it, it drew some discussion on the floor because it had the words "foreign corporation" in it, but we were making it legal for non-profits like Rocky Mountain Elk Foundation, etc. to legally come under ND's state gaming statutes so that they could hold their raffles. These statewide organizations were a part of the larger national organization could get their one license to hunt elk that they could raffle off and make a lot of money for the organization. The National Wild Turkey Federation is in a different section of the code than the rest of the big game was. This bill brings the turkeys under the same law that we passed last session so that the Turkey Federation can have their raffle and sell tickets and make money for their organization. Is there any further testimony in support of HB 1380?

Keith Lauer, Director of the Gaming Division, AG's Office: I think your explanation is very accurate. Last session we added three out-of-state organizations that were allowed to do other types of charitable gaming in the state, even though their primary or business addresses were outside the state of ND, this does add the National Wild Turkey Federation which is located in South Carolina, to also do those same types of activities.

Rep. Delmore: Can they only raffle turkeys.

Keith Lauer: No, they can do all the game types, but typically what those chapters do are raffles. So when they do these raffles they may cash raffles, guns, etc. to raffle off.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to HB 1380?

House Judiciary Committee

HB1380

1/26/11

Page 2

Rep. Boehning: I move a Do Pass.

Rep. Beadle: Seconded.

12 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Maragos

Date: 1/26/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1380

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Boehning Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg		
Rep. Beadle	✓		Rep. Hogan		
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1380: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1380 was placed on the
Eleventh order on the calendar.

2011 SENATE JUDICIARY

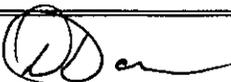
HB 1380

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1380
3/23/11
Job #16029

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to the definition of eligible organization for charitable gaming purposes

Minutes:

Senator Nething – Chairman

Keith Lauer – Attorney General's Office – Gaming Division – His office is neutral on the bill. He explains that last session bill 1194 and it allowed two out of state organizations that don't have their principle offices in ND to be able to conduct gaming in the state. It was the Rocky Mountain Elk Foundation and the Minnesota Wisconsin Chapter of the Foundation of North American Wild Sheep. He said both organizations are out of the state but they do get Governors Proclamations. He explains the Wild Turkey Federation thought they were being included in that bill but they were not. So they want to be added so their local chapters can do fund raising activities using games of chance. He mentions other groups that get proclamations are the N. American Wild Life Enforcement Memorial Museum, and the Mule Deer Foundation which is Salt Lake City, Utah. He explains the 5 proclamations by the Governor.

Senator Lyson – Asks if the proceeds stay in ND.

Lauer – Replies that a fair amount of it stays in ND.

Senator Nething - Asks about the turkey raffle for a license.

Lauer – Said yes it is for a raffle of the license and that is separate from getting their name ultimately into the gaming statute as another organization to conduct primary games of chance in the state of ND. He explains some of the rules and what the net proceeds are used for.

Senator Nething- Asks if what we're doing is to tie 20.104 chapter to 5306.101.

Lauer – Responds yes, same thing as done last session just adding one proclamation.

Senator Nelson – Asks about what happens to the money spent on a raffle for a license.

Lauer – He says the Governor makes a proclamation to one of these groups, 10% can go for expenses, and 90% has to go to programs in our state.

Opposition – 0

Neutral – 0

Close the hearing 1380

Committee work

Senator Olafson moves a do pass

Senator Lyson seconded

Roll call vote – 5 yes, 1 no

Senator Sitte will carry

Date: 3/23/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1380

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Olafson Seconded By Senator Lyson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman		X	Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Senator Sitte

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1380: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1380 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1380

1

Representative Kersen

Hi, my name is Roger Collins from Baldwin, ND and representing the North Dakota State Chapter of the National Wild Turkey Federation. Because you were a co-sponsor of House Bill No. 1194 during the 2009 Legislative session relating to subsection 7 of section 53-06.1-01, I am asking you to consider again co-sponsoring a minor amendment to that subsection. Pertinent proposed amendment language, and supportive background/rationale is attached. I understand that Monday, January 17 is an initial cutoff date for bills. I hope to talk to you in person at the Capitol on Friday, January 14, but if not I will be calling to follow up on this issue with you. If you have any questions, please call me anytime at 701-391-0040. Thank you.

Roger L. Collins

Roger L. Collins

_____ **BILL NO.** _____
(Representatives _____)
(Senators _____)

A Bill for an ACT to amend and reenact subsection 7 of section 53-06.1-01 of the North Dakota Century Code, relating to raffles conducted by certain organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 53-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in NorthDakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-08 or 20.1-04 and may not conduct a game other than a raffle under chapter 20.1-08 or 20.1-04.

Background/rationale: for a Bill for an Act to amend and reenact subsection 7 of section 53-06.1-01 of the North Dakota Century Code, relating to raffles conducted by certain organizations

In North Dakota, charitable or non-profit organizations like the National Wild Turkey Federation (NWTF), Rocky Mountain Elk Foundation (RMEF), Mule Deer Foundation (MDF), etc., who hold raffles in conjunction with banquets or other events must have either a State Gaming License or a local city/county permit. The State Gaming License for an organization would cover all chapter banquets and activities in the state that included a raffle.

The NWTF out of Edgefield, SC, is registered with the Secretary of States Office. Because the NWTF headquarters is domiciled outside the state, NWTF is considered a Foreign Non-Profit entity. In general, Foreign Non-Profits are not eligible for a State Gaming License.

However, during the 2009 legislative session, a new law (House Bill No. 1194, copy attached) was passed that provided an exemption to non-profits to acquire a State Gaming License if certain requirements were met, including “. . . authorized to conduct a raffle under chapter 20.1-08 . . . “. The MDF, RMEF, and several others fell under the exemption because they were referenced in Chapter 20.1-08 (Governor’s Proclamations, copy attached) whereas the NWTF did not fall under the exemption because the reference to the NWTF and Governor’s Proclamation for wild turkeys inadvertently was placed in a different chapter, Chapter 20.1-04 (Birds, Regulations, copy attached). Because of this oversight, the NWTF proposes an amendment to subsection 7 of section 53-06.1-01 of the North Dakota Century Code, relating to raffles conducted by certain organizations so that we will be brought back under the exemption as well.

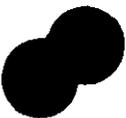
On January 12 and 13, 2011, respectively, I met with the North Dakota Game and Fish Department (Paul Schadewald) and the North Dakota Attorney General’s Office, Gaming Division (Keith Lauer) to discuss the most appropriate way to correct this oversight. Both parties suggested that the best and easiest option is just to insert language referencing Chapter 20.1-04 in



subsection 7 of section 53-06.1-01 of the North Dakota Century Code, relating to raffles conducted by certain organizations. Based on their inputs, I have developed a draft of the proposed amendment (attached) and ask for your support to sponsor this amendment.

Thank you for your consideration. If you have any questions, I can be reached at the following:

Roger L. Collins
5100 136th Ave NE
Baldwin, ND 58521
701-391-0040
rlcollins@btinet.net



CHAPTER 451

HOUSE BILL NO. 1194
(Representatives Keiser, DeKrey)
(Senator Lyson)

AN ACT to amend and reenact subsection 7 of section 53-06.1-01 and subsection 1 of section 53-06.1-03 of the North Dakota Century Code, relating to raffles conducted by certain organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁰ SECTION 1. AMENDMENT. Subsection 7 of section 53-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-08 and may not conduct a game other than a raffle under chapter 20.1-08.

¹⁷¹ SECTION 2. AMENDMENT. Subsection 1 of section 53-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by the attorney general, an organization that has its license suspended or revoked, or has relinquished or not renewed its license and not disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more closely related organizations may have a license or permit at one time. A college or university fraternity, sorority, or club is not closely related to an educational organization. An organization shall apply for a permit as follows:
 - a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools, or a charity local permit to conduct only raffles, bingo, sports pools, paddlewheels,

¹⁷⁰ Section 53-06.1-01 was also amended by section 1 of Senate Bill No. 2215, chapter 450.

¹⁷¹ Section 53-06.1-03 was also amended by section 1 of House Bill No. 1367, chapter 452.

twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed two thousand five hundred dollars and total prizes of all games that do not exceed twelve thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.

- b. An organization shall apply to the governing body of the city or county in which the proposed site is located. Application must be made on a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each permit. A permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
- c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization that has a local permit may use the net income from the gaming activity for any purpose that does not violate this chapter or gaming rules.
- d. An organization that has a charity local permit is restricted to one event per year and:
 - (1) May not pay remuneration to employees for personal services;
 - (2) Shall use chips as wagers;
 - (3) Shall redeem a player's chips for merchandise prizes or cash;
 - (4) Shall disburse net income to eligible uses referenced by subsection 2 of section 53-06.1-11.1; and
 - (5) Shall file a report prescribed by the attorney general with the governing body and attorney general.

Approved April 28, 2009
Filed May 1, 2009

CHAPTER 20.1-08 GOVERNOR'S PROCLAMATIONS

20.1-08-01. Orders and proclamations have force of law - Penalty. Any order or proclamation issued by the governor pursuant to this chapter has the force of law. Any person who violates a provision of such order or proclamation for which a noncriminal penalty is not provided for in the order or proclamation is guilty of a class B misdemeanor. The maximum noncriminal penalty that may be set in an order or proclamation is a fine of two hundred fifty dollars.

20.1-08-02. Governor may vary statutory open and closed season by order or proclamation. Whenever the governor, after investigation and recommendation by the director, finds:

1. That any species of wildlife for which an open season is provided, are in danger of depletion or extinction, or when necessary for proper protection during the propagating period, the governor may, by order, provide protection for that species additional to that provided by law.
2. That any species of wildlife have become sufficient in numbers to warrant an open season, or to be detrimental, or a nuisance to the farmers of the state, the governor may, by order, declare an open season thereon, or may extend the open season provided by law.
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, the governor may, by order, declare an open season thereon, or may extend the open season provided by law.
4. That due to climatic conditions a hunting season may create a fire hazard, the governor may, by order, close or postpone, and reopen, any hunting season in areas where these conditions exist, upon reasonable notice through the media. The emergency closing or postponement and reopening can be accomplished without complying with section 20.1-08-05.

20.1-08-03. Limitations on governor's powers. The governor may not establish bag limits on upland game birds which exceed fifteen birds in the aggregate.

20.1-08-04. Contents of governor's order or proclamation relating to the taking of big game, small game, fish, and fur-bearers - Special permits.

1. A gubernatorial order or proclamation under this chapter must prescribe, as to each species of wildlife named therein, the following:
 - a. In what manner they may be taken.
 - b. In what numbers they may be taken and possessed and may limit the numbers by sex.
 - c. In what places they may be taken.
 - d. At what times they may be taken and possessed.
2. The governor in the governor's proclamation or order may determine the number of resident and nonresident big game licenses to be issued for the taking of each species, age, or sex. When a limited number of big game licenses or special permits are to be issued, the governor shall by order or proclamation declare the manner of issuance of the licenses and permits. The governor may by proclamation

or order determine the time period for which a recipient of a big game license or special permit obtained by lottery is ineligible to apply for the same type of license or special permit.

3. In addition to the regular big game hunting licenses, the governor, by order or proclamation, may authorize the issuance of special permits to hunt big game in certain restricted areas. When acting pursuant to this subsection, the governor shall designate in the proclamation:
 - a. The species of big game which can be hunted.
 - b. The boundaries of the restricted area.
 - c. The number of special permits to be issued.
 - d. The procedure to determine which applicants should receive the special permits.
 - e. The manner and times in which the big game may be taken.

Special permits issued under this subsection shall be issued in strict compliance with the governor's proclamation.

20.1-08-04.1. Governor's proclamation concerning the hunting of bighorn sheep - Minnesota-Wisconsin chapter of the foundation for North American wild sheep raffle or auction - Certain license recipients not eligible to apply again. The governor may by proclamation provide for a season to hunt bighorn sheep in the manner, number, places, and times as the governor prescribes. Licenses to hunt bighorn sheep must be issued by lottery; however, the governor may by proclamation make available to the Minnesota-Wisconsin chapter of the foundation for North American wild sheep a license to hunt bighorn sheep in the manner, places, and times as the governor prescribes. Upon payment of the nonrefundable application fee required by section 20.1-03-12.2, a nonresident may participate in the state lottery. One license to hunt bighorn sheep may be issued to a nonresident participating in the state lottery. If a nonresident is issued a license to hunt bighorn sheep, no other nonresident may be issued a license to hunt bighorn sheep through the state lottery. If all of the licenses to hunt bighorn sheep made available through the state lottery are issued to residents, then a nonresident is not eligible to be issued a license to hunt bighorn sheep through the state lottery. The Minnesota-Wisconsin chapter of the foundation for North American wild sheep shall hold either a raffle or an auction under rules adopted by the director with residents and nonresidents eligible to participate. Ten percent of gross raffle proceeds may be retained by the Minnesota-Wisconsin chapter of the foundation for North American wild sheep and ninety percent of gross raffle proceeds must be remitted to the department. All auction proceeds must be remitted to the department. Individuals who receive a license through the raffle or auction may not transfer the license. Individuals may participate in the state lottery and the raffle or auction; however, individuals may not receive more than one license in any one year. An individual may only receive one license to hunt bighorn sheep through the state lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.2. Governor's proclamation concerning the hunting of moose - Raffle. The governor may by proclamation provide for a season to hunt moose in a manner, number, places, and times as the governor prescribes. Licenses to hunt moose must be issued by lottery, except as provided under subsection 8 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation one license per year to hunt moose in a manner, places, and times as the governor prescribes. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. The person who receives the license from the

raffle may not transfer the license. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Fifty percent of all net proceeds must be used for elk management or other wildlife and in conservation-related projects in this state as described under rocky mountain elk foundation policies and objectives. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall submit reports concerning the raffle as the director requires. A person may only receive one license to hunt moose issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.3. Governor's proclamation concerning fishhouses. The governor may by proclamation prescribe those areas where a fishhouse, used or to be used while ice fishing, or a dark house, used or to be used for spearfishing, is permitted. Such proclamation may set forth the dates during which fishhouses or dark houses may be used or that date by which fishhouses or dark houses must be removed from the ice.

20.1-08-04.4. Governor's proclamation concerning underwater spearfishing. The governor shall by proclamation provide for a season for resident underwater spearfishing for game fish in this state in a manner as the governor shall prescribe.

20.1-08-04.5. Governor's proclamation concerning the hunting of deer with muzzleloading firearms. The governor shall by proclamation provide for a muzzleloading firearm season following the regular deer hunting season to hunt deer with muzzleloading firearms in the manner, number, places, and times as the governor prescribes. Licenses to hunt deer with muzzleloading firearms must be issued by the director by lottery as prescribed by the director. The director shall issue two percent of the total white-tailed deer gun licenses available each year to hunters with muzzleloading firearms. Of the two percent, one-half of the licenses issued may be for antlered white-tailed deer.

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle. The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. An owner of farmed elk who is experiencing elk depredation problems may contact the director. Upon investigation, the director may issue special elk depredation management licenses. The governor by proclamation shall establish a procedure to issue elk depredation management licenses in a timely manner. Except for landowners who receive a license under subsection 7 of section 20.1-03-11 and landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11, and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.7. Governor's proclamation concerning the hunting of predators. Notwithstanding any other provision of law, the governor may provide by proclamation for the taking of any wildlife, whether protected or unprotected, determined by the governor to be a harmful predator, in a manner and number, at any place, and during any time, including after dark, as the governor prescribes.

20.1-08-04.8. Governor's proclamation concerning the hunting of mule deer - Mule deer foundation raffle and auction. By proclamation, the governor may make available to the mule deer foundation one license per year to hunt mule deer in the manner, places, and times as the governor prescribes. The mule deer foundation shall hold a raffle or by proclamation the governor may auction to the highest bidder, whether resident or nonresident, a license to hunt mule deer in the manner, places, and times the governor prescribes. If an individual receives a mule deer license through the raffle or the auction, the individual is not eligible to apply for a mule deer license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle and all proceeds of the auction must be used for mule deer management and related projects in North Dakota. The mule deer foundation shall submit reports concerning the raffle as the director requires.

20.1-08-04.9. Small game proclamation - Pheasants. The governor, in the governor's proclamation, shall prohibit a nonresident from hunting for the first seven days of the pheasant season on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments.

20.1-08-04.10. Governor's proclamation concerning restrictions on cervidae carcass importation due to chronic wasting disease. The governor, through proclamation or executive order, may restrict the importation and disposition of the carcass or carcass parts of any animal in the family cervidae taken from any areas within states or provinces that have documented cases of chronic wasting disease in wild populations or taken from captive hunt or farm facilities.

20.1-08-04.11. Governor's executive order or proclamation declaring animal health emergency. In accordance with chapter 37-17.1, the governor may declare an animal health emergency upon determining that the wildlife of this state are at risk from diseases imported by foreign animals, a foreign animal disease, bioterrorism event, or an emerging animal disease. Upon the declaration of an animal health emergency the governor, after consultation with the state veterinarian or board of animal health, may order the sampling, destruction, and disposition of wildlife populations, as the governor deems necessary to abate the animal health emergency.

20.1-08-04.12. Governor's proclamation concerning the hunting of antelope - North Dakota hunter educators association raffle. By proclamation, the governor may make available to the North Dakota hunter educators association one license per year to hunt antelope in the manner, places, and times as the governor prescribes. The North Dakota hunter educators association shall hold a raffle under rules adopted by the director. Only residents are eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle must be used for sponsoring mentored hunts for youth who may otherwise not have the means to go afield to hunt; establishing a statewide network of shooting locations for youth to become familiar with archery equipment and firearms under the supervision of a certified volunteer hunter education instructor; and purchasing advertising in news media during hunting season concerning firearms safety and hunting ethics and the promotion of safe and responsible hunting. If an individual receives an antelope license through the raffle, the individual is not eligible to apply for an antelope license through the game and fish department that year. The North Dakota hunter educators association shall submit reports concerning the raffle as the director requires.

20.1-08-04.13. Governor's proclamation concerning once-in-a-lifetime big game hunts for terminally ill children - Rules. By proclamation, the governor may make available annually to one organization up to eight deer licenses and four antelope licenses to hunt the species indicated on the license in the manner, places, and times as the governor prescribes.

The organization shall make one license available to each qualified child to hunt the species of big game indicated on the license as provided in the governor's proclamation. A qualified child receiving a license under this section must comply with hunter education requirements and, if under the age of eighteen, must be accompanied by an adult twenty-one years of age or older. The director may adopt rules to implement this section. As used in this section, "organization" means a nonprofit organization qualified under Internal Revenue Code section 501(c)(3) with the principal purpose of granting hunting and fishing adventures for children who have been diagnosed with a terminal illness by a licensed physician and "qualified child" means a terminally ill individual who is of legal age to hunt the species for which the license is valid but under twenty-one years of age, is a resident, and is sponsored by an organization that provides to the department supporting documentation demonstrating compliance with this section.

20.1-08-05. Proclamation to be published - Exceptions - Period proclamation is in effect. Except as provided in subsection 4 of section 20.1-08-02, a summary of each order or proclamation issued by the governor pursuant to this chapter must be published once in the official newspaper of each county affected thereby. The summary must include a list of the species that may be harvested, the date that the season for each species opens and closes, the daily and possession limits for each species, any changes in regulations from the previous year, and any changes in units opened or closed to hunting or fishing from the previous year. The summary must also list the address and telephone number of the game and fish department and state that a copy of the complete legal proclamation may be obtained from the department. No order or proclamation becomes effective until after the department prints each complete proclamation or order and distributes a copy to each county auditor affected thereby.

CHAPTER 20.1-04 BIRDS, REGULATIONS

20.1-04-01. General penalty. Any person violating a provision of this chapter for which a penalty is not specifically provided is guilty of a class B misdemeanor.

20.1-04-02. Game birds protected. No person may hunt, take, kill, possess, convey, ship, or cause to be shipped, by common or private carrier, sell, or barter any game bird or any part thereof taken in this state, except as provided in this title.

20.1-04-02.1. Game bird parts - Decorative purposes. Nothing in this title prohibits the use of any part of a legally taken game bird for decorative purposes or in the making of art works for private use or sale, except that any part of any legally taken migratory bird may not be sold or bartered except as provided under federal regulations.

20.1-04-03. Harmless wild birds protected - Imported songbirds as domestic pets may be possessed and sold. No person, without a permit issued by the director, shall kill, catch, take, ship, cause to be shipped, purchase, offer, or expose for sale, sell, have in that person's possession or under that person's control, any harmless wild bird, or any part thereof, irrespective of whether the harmless wild bird was captured or killed in or out of this state. Imported songbirds used and to be used as domestic pets may be bought, sold, shipped, or possessed at any time.

20.1-04-04. Nests and eggs of protected birds protected. No person, without a permit issued by the director, may take, have in that person's possession or under that person's control, or needlessly break up or destroy, or in any manner interfere with, the nest or the eggs of any kind of bird, the killing of which is prohibited.

20.1-04-05. Golden eagle, bald eagle protected. No person may take, kill, hunt, possess, sell, purchase, pursue, shoot at, disturb, capture, or destroy any golden eagle, bald eagle, or any nest or egg thereof, within North Dakota.

20.1-04-06. Possession limit of game birds. A person may not possess, control, ship, transport, or store, can, or otherwise preserve, more than the number authorized in the governor's proclamation of any species of game bird mentioned in this chapter. However, properly tagged game birds legally taken out of state or taken on Indian land may be possessed, transported, or shipped in state.

20.1-04-07. Governor's proclamation concerning the taking of wild turkeys - National wild turkey federation raffle - Youth spring wild turkey licenses. By proclamation the governor may provide for a permit season to take wild turkeys in the manner, number, places, and times deemed in the state's best interests; however:

1. By proclamation the governor may make available to the national wild turkey federation one license per year to hunt wild turkeys in the spring in the manner, places, and times as the governor prescribes. The national wild turkey federation shall hold a raffle or may auction to the highest bidder, whether resident or nonresident, a license to hunt wild turkeys. If an individual receives a wild turkey license through the raffle or the auction, the individual is not eligible to apply for a wild turkey license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Ten percent of the net proceeds of the raffle or auction may be retained by the local, state, or national wild turkey federation entity conducting the raffle or auction. All remaining net proceeds must be deposited in the national wild turkey federation superfund and used for wild turkey management and related projects in this state. The national wild turkey federation shall submit reports concerning the raffle or auction as the director requires.

2. By proclamation the governor also may allow individuals who are first-time youth spring wild turkey hunters to receive one spring wild turkey license valid for the regular spring wild turkey season. To be eligible to receive a spring wild turkey license, an individual must be fifteen years of age or younger on the opening day of the spring wild turkey season and have never received a spring wild turkey license.

The governor shall make available to residents and nonresidents any permits remaining after the resident fall drawing.

20.1-04-08. Red, yellow, or orange color to be displayed by hunters of wild turkeys - Exception. Repealed by S.L. 1983, ch. 276, § 1.

20.1-04-09. Guns lawfully usable in pursuing or taking game birds - Penalty. Repealed by S.L. 1991, ch. 246, § 1.

20.1-04-10. Shell-holding capacity of shotguns used in taking game birds restricted - Plugs authorized - Penalty. Repealed by S.L. 1999, ch. 224, § 1.

20.1-04-11. Blinds, boats, and decoys lawfully usable in taking ducks and geese. Wild ducks and geese may be taken:

1. In the open or from a stationary natural or artificial blind or other place of concealment on land or water, except a sinkbox.
2. From a floating craft, excluding a sinkbox, if such craft is beached, or fastened within or tied immediately alongside any type of fixed hunting blind, or from such craft resting at anchor if authorized by governor's proclamation.
3. With the aid of artificial decoys. The use, directly or indirectly, of live duck or goose decoys is not permitted.

A motorboat, sailboat, or other craft may be used to pick up dead or injured birds.

20.1-04-12. When gun dogs not to be trained or permitted to run loose - Exceptions - Penalty. No person, classified as a professional trainer, between April first and July fourteenth of each year, both dates inclusive, may train or run any gun dog or allow any such dog to run loose. For purposes of this section, a professional trainer is any person who trains any breed of gun dog for remuneration which is the basis for the person's livelihood. This section does not prohibit the running of gun dog field trials, nor does this section prohibit the training of an individual's personal gun dog during that period provided that:

1. Landowner permission is secured by the trainer;
2. The trainer is present;
3. No native game birds are killed or captured; and
4. The training is not on a designated game management area or designated waterfowl production area.

Any person who violates this section is guilty of a class 2 noncriminal offense.

20.1-04-12.1. Gun dog activities - Permit required - Fee.

1. The director shall issue a permit for the following gun dog activities:
 - a. The training exercises of a resident or nonresident professional trainer;

- b. The training exercises of a nonresident amateur trainer who brings more than four gun dogs into the state; and
 - c. Hosting field trials that use live wild birds.
2. The application for the permit must be in a form prescribed by the director and must be accompanied by the appropriate fee.
3. Upon the receipt of the completed application and fee the director shall issue a permit for a specified period of time and shall require the permit holder to submit an annual report.
4. The fees for the permits are:
 - a. For a resident professional gun dog trainer for training exercises or hosting field trials, ten dollars.
 - b. For a nonresident professional gun dog trainer for training exercises or hosting field trials, one hundred dollars.
 - c. For a permit to a nonresident amateur who brings more than four gun dogs into this state, twenty-five dollars.
5. For purposes of this section, a professional trainer is a person who trains any breed of gun dog for remuneration that is the basis for that person's livelihood.

20.1-04-12.2. Gun dog training area - Permit. Notwithstanding section 20.1-04-12, a professional trainer may apply to and obtain from the department a permit designating a specific training area, not to exceed forty acres [16.19 hectares], as an exempt training area.

1. In the exempt training area, a professional trainer may train or run any gun dog or allow the gun dog to run loose at any time.
2. The fee for the permit may not exceed ten dollars per year.

20.1-04-13. When harmful wild birds may be killed. Any person may kill any harmful wild bird in this state during daylight hours.

20.1-04-14. Use of propane exploders - Penalty. Any propane exploder or similar noisemaking device designed to ward off blackbirds which is located within one hundred sixty rods [804.67 meters] of an inhabited dwelling may only be used during the period between sunrise and sunset. Any person who violates this section is guilty of a class 2 noncriminal offense.

20.1-04-15. Pheasant season - Opening. The open or lawful season on pheasant and the open or lawful season on duck may not commence on the same weekend. Except as otherwise provided in this section for the opening of pheasant season for youth, the open or lawful season on pheasant may not open earlier than one-half hour before sunrise and the season may not commence earlier than the first Saturday of October of any given year. The governor, in the governor's proclamation, may provide a pheasant hunting season for youth.