

SENATE BILL NO. 2178

Introduced by

Senators Lyson, O'Connell, Stenehjem

Representatives Carlisle, Drovdal, Rennerfeldt

1 A BILL for an Act to enter the interstate wildlife violator compact; and to provide a penalty.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. Interstate wildlife violator compact.** The interstate wildlife violator
4 compact is entered with all states legally joining the compact, in the form substantially as
5 follows:

6 **ARTICLE 1. FINDINGS, DECLARATION OF POLICY, AND PURPOSE**

7 1. The participating states find that the following provisions apply:

8 a. Wildlife resources are managed in trust by the respective states for the benefit
9 of all residents and visitors.

10 b. The protection of the wildlife resources of a state is materially affected by the
11 degree of compliance with state statutes, laws, ordinances, regulations, and
12 administrative rules relating to the management of such resources.

13 c. The preservation, protection, management, and restoration of wildlife
14 contributes immeasurably to the aesthetic, recreational, and economic
15 aspects of such natural resources.

16 d. Wildlife resources are valuable without regard to political boundaries;
17 therefore, every person should be required to comply with wildlife
18 preservation, protection, management and restoration laws, ordinances,
19 regulations, and administrative rules of the participating states as a condition
20 precedent to the continuance or issuance of any license to hunt, fish, trap, or
21 possess wildlife.

22 e. Violation of wildlife laws interferes with the management of wildlife resources
23 and may endanger the safety of persons and property.

- 1 f. The mobility of many wildlife law violators necessitates the maintenance of
- 2 channels of communication among the various states.
- 3 g. In most instances, a person who is cited for a wildlife violation in a state other
- 4 than that person's own state:
- 5 (1) Is required to post collateral or a bond to secure appearance for a trial
- 6 at a later date;
- 7 (2) Is taken into custody until the collateral or bond is posted; or
- 8 (3) Is taken directly to court for an immediate appearance.
- 9 h. The purpose of the enforcement practices set forth in subdivision g is to
- 10 ensure compliance with the terms of a wildlife citation by the cited person
- 11 who, if permitted to proceed after receiving the citation, could return to the
- 12 person's home state and disregard the person's duty under the terms of the
- 13 citation.
- 14 i. In most instances, a person receiving a wildlife citation in that person's home
- 15 state is permitted to accept the citation from the officer at the scene of the
- 16 violation and immediately proceed after agreeing or being instructed to
- 17 comply with the terms of the citation.
- 18 j. The practices described in subdivision g cause unnecessary inconvenience
- 19 and, at times, a hardship for the person who is unable at the time to post
- 20 collateral, furnish a bond, stand trial, or pay a fine and is thus compelled to
- 21 remain in custody until some alternative arrangement is made.
- 22 k. The enforcement practices described in subdivision g consume an undue
- 23 amount of law enforcement time.
- 24 2. It is the policy of the participating states to:
- 25 a. Promote compliance with the statutes, laws, ordinances, regulations, and
- 26 administrative rules relating to management of wildlife resources in their
- 27 respective states;
- 28 b. Recognize the suspension of wildlife license privileges of any person whose
- 29 license privileges have been suspended by a participating state and treat
- 30 such suspension as if it had occurred in their state;

- 1 c. Allow a violator, except as provided in subsection 2 of article 3, to accept a
- 2 wildlife citation and proceed without delay, whether or not a resident of the
- 3 state in which the citation was issued, provided that the violator's home state
- 4 is party to this compact;
- 5 d. Report to the appropriate participating state, as provided in the compact
- 6 manual, any conviction recorded against any person whose home state was
- 7 not the issuing state;
- 8 e. Allow the home state to recognize and treat convictions recorded against its
- 9 residents, which convictions occurred in a participating state, as though they
- 10 occurred in the home state;
- 11 f. Extend cooperation to its fullest extent among the participating states for
- 12 enforcing compliance with the terms of a wildlife citation issued in one
- 13 participating state to a resident of another participating state;
- 14 g. Maximize effective use of law enforcement personnel and information; and
- 15 h. Assist court systems in the efficient disposition of wildlife violations.
- 16 3. The purpose of this compact is to:
- 17 a. Provide a means through which participating states may join in a reciprocal
- 18 program to effectuate the policies enumerated in subsection 2 in a uniform
- 19 and orderly manner; and
- 20 b. Provide for the fair and impartial treatment of wildlife violators operating within
- 21 participating states in recognition of the violator's right to due process and the
- 22 sovereign status of a participating state.

23 ARTICLE 2. DEFINITIONS

24 As used in this compact and sections 2 through 5 of this Act, unless the context requires
25 otherwise, the following definitions apply:

- 26 1. "Citation" means any summons, complaint, summons and complaint, ticket, penalty
- 27 assessment, or other official document that is issued to a person by a wildlife
- 28 officer or other peace officer for a wildlife violation and that contains an order
- 29 requiring the person to respond.

2. "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
3. "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.
4. "Conviction" means a conviction, including any court conviction, for any offense that is related to the preservation, protection, management, or restoration of wildlife and that is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.
5. "Court" means a court of law, including magistrate's court and the justice of the peace court.
6. "Home state" means the state of primary residence of a person.
7. "Issuing state" means the participating state which issues a wildlife citation to the violator.
8. "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.
9. "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
10. "Participating state" means any state that enacts legislation to become a member of this wildlife compact.
11. "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

- 1 12. "State" means any state, territory, or possession of the United States, the District of
2 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
3 countries.
- 4 13. "Suspension" means any revocation, denial, or withdrawal of any or all license
5 privileges, including the privilege to apply for, purchase, or exercise the benefits
6 conferred by any license.
- 7 14. "Terms of the citation" means those conditions and options expressly stated in the
8 citation.
- 9 15. "Wildlife" means all species of animals including mammals, birds, fish, reptiles,
10 amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are
11 protected or otherwise regulated by statute, law, regulation, ordinance, or
12 administrative rule in a participating state. Species included in the definition of
13 "wildlife" for purposes of this compact are based on state or local law.
- 14 16. "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule
15 developed and enacted for the management of wildlife resources and the uses
16 thereof.
- 17 17. "Wildlife officer" means any individual authorized by a participating state to issue a
18 citation for a wildlife violation.
- 19 18. "Wildlife violation" means any cited violation of a statute, law, regulation,
20 ordinance, or administrative rule developed and enacted for the management of
21 wildlife resources and the uses thereof.

22 ARTICLE 3. PROCEDURES FOR ISSUING STATE

- 23 1. When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation
24 to any person whose primary residence is in a participating state in the same
25 manner as though the person were a resident of the issuing state and may not
26 require such person to post collateral to secure appearance, subject to the
27 exceptions noted in subsection 2, if the officer receives the recognizance of such
28 person that the person will comply with the terms of the citation.
- 29 2. Personal recognizance is acceptable:
- 30 a. If not prohibited by state or local law or the compact manual; and
- 31 b. If the violator provides adequate proof of identification to the wildlife officer.

3. Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report must be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.
4. Upon receipt of the report of conviction or noncompliance pursuant to subsection 3, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

ARTICLE 4. PROCEDURE FOR HOME STATE

1. Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.
2. Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.
3. The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE 5. RECIPROCAL RECOGNITION OF SUSPENSION

1. All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.
2. Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE 6. APPLICABILITY OF OTHER LAWS

Except as expressly required by this compact, nothing herein may be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE 7. COMPACT ADMINISTRATOR - PROCEDURES

1. For the purposes of administering this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board is composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator must be appointed by the head of the licensing authority of each participating state and serves and is subject to removal in accordance with the laws of the state the compact administrator represents. A compact administrator may provide for the discharge of duties and the performance of functions as a board member by an alternate. An alternate is not entitled to serve unless written notification of the identity of the alternate has been given to the board.
2. Each member of the board of compact administrators is entitled to one vote. No action of the board is binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board may be only at a meeting at which a majority of the participating states is represented.
3. The board shall elect annually from its membership a presiding officer and a vice presiding officer.
4. The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and may amend and rescind its bylaws.
5. The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and

services, conditional or otherwise, from any state, the United States, or any governmental agency, and receive, utilize, and dispose of the same.

6. The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

7. The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action must be contained in a compact manual.

ARTICLE 8. ENTRY INTO COMPACT AND WITHDRAWAL

1. This compact becomes effective at such time as it is adopted in a substantially similar form by two or more states.

2. a. Entry into the compact must be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the presiding officer of the board.

b. The resolution must substantially be in the form and content as provided in the compact manual and must include the following:

(1) A citation of the authority from which the state is empowered to become a party to this compact;

(2) An agreement of compliance with the terms and provisions of this compact; and

(3) An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

c. The effective date of entry must be specified by the applying state but may not be less than sixty days after notice has been given:

(1) By the presiding officer of the board of the compact administrators; or

(2) By the secretariat of the board to each participating state that the resolution from the applying state has been received.

3. A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal does not become effective until ninety days after the notice of withdrawal is given. The notice must be

directed to the compact administrator of each member state. Withdrawal of any state does not affect the validity of this compact as to the remaining participating states.

ARTICLE 9. AMENDMENTS TO THE COMPACT

1. This compact may be amended from time to time. Amendments must be presented in resolution form to the presiding officer of the board of the compact administrators and must be initiated by one or more participating states.
2. Adoption of an amendment requires endorsement by all participating states and becomes effective thirty days after the date of the last endorsement.
3. Failure of a participating state to respond to the compact presiding officer within one hundred twenty days after receipt of a proposed amendment constitutes endorsement thereof.

ARTICLE 10. CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of the compact is not affected thereby. If this compact is held contrary to the constitution of any participating state, the compact remains in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

SECTION 2. Department authorization to effect purposes of compact.

1. The department shall enforce the interstate wildlife violator compact and shall do all things within the department's jurisdiction that are appropriate in order to effectuate the purposes and the intent of the compact.
2. The department is authorized on behalf of the state to enter or withdraw from the interstate wildlife violator compact pursuant to the terms of article 8 of the compact.
3. The department is authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms of article 9 of the compact.

SECTION 3. Reciprocal recognition of license suspensions - Suspension of privileges for conviction in participating state - Penalty.

- 1 1. When the department receives notice of the suspension of a person's hunting,
2 trapping, or fishing privileges by a participating state, the department shall
3 determine whether the violation leading to the suspension could have led to the
4 forfeiture of privileges under this state's law. If the department determines that the
5 person's privileges could have been forfeited, the department shall suspend the
6 person's privileges to hunt, trap, or fish in this state for the same period as imposed
7 by the participating state or for the minimum period that would have been imposed
8 under this state's law, whichever period is longer.
- 9 2. When the department receives notice of a conviction of a state resident from the
10 licensing authority of the issuing state, the department shall treat the conviction as
11 if it had occurred in this state and shall determine whether the conviction could
12 have led to the forfeiture of the resident's hunting, trapping, or fishing privileges
13 under state law. If the department determines that the resident's privileges could
14 have been forfeited, the department shall suspend the resident's privileges to hunt,
15 trap, or fish in this state for the minimum period that would have been imposed
16 under state law.
- 17 3. Notice of the suspension must be sent to the person, who must surrender any
18 current North Dakota hunting, trapping, or fishing licenses to the department within
19 ten days.
- 20 4. A person whose privileges have been suspended and who hunts, traps, or fishes in
21 this state, who applies for or purchases any licenses or permits to hunt, trap, or fish
22 in this state, or who refuses to surrender any current hunting, trapping, or fishing
23 licenses as required is guilty of a class B misdemeanor.

24 **SECTION 4. Suspension of privileges for failure to comply with citation issued in**
25 **participating state - Penalty.**

- 26 1. The department shall suspend the hunting, trapping, or fishing privileges of any
27 resident of this state upon notification from the licensing authority of an issuing
28 state that the resident has failed to comply with the terms of a citation issued for a
29 wildlife violation. The suspension remains in effect until the department receives
30 satisfactory evidence of compliance from the issuing state.

2. Notice of the suspension must be sent to the resident, who shall surrender all current North Dakota hunting, trapping, or fishing licenses to the department within ten days.
3. A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a class B misdemeanor.

SECTION 5. Hearing on suspension.

1. Upon suspending the hunting, trapping, or fishing privileges of any person under section 3 or 4 of this Act, the department shall immediately notify the person in writing. The person may, within twenty days of the notice, request a hearing before the department on whether the requirements for suspension have been met. The hearing must be informal.
2. Upon request, the department shall set a hearing as early as practicable.
3. a. The requesting person may present evidence and arguments at the hearing contesting whether:
 - (1) A participating state suspended the person's privileges;
 - (2) There was a conviction in the participating state;
 - (3) The person failed to comply with the terms of a citation issued for a wildlife violation in a participating state; or
 - (4) A conviction in a participating state could have led to the forfeiture of privileges under North Dakota law.b. Grounds other than those listed in subdivision a may not be used to contest the department's decision to suspend the person's privileges.
4. At the hearing, the department, through its authorized agent, may:
 - a. Administer oaths;
 - b. Issue subpoenas for the attendance of witnesses; and
 - c. Admit all relevant evidence and documents, including notifications from participating states.
5. Following the hearing, the department, through its authorized agent, may, based on the evidence, affirm, modify, or rescind the suspension of privileges.