

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

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

AN ACT to amend and reenact sections 20.1-01-07, 20.1-02-05, 20.1-02-16.1, 20.1-02-16.5, 20.1-03-12, 20.1-06-13, and 20.1-07-02 of the North Dakota Century Code, relating to agreements with the bureau of reclamation for management of the Heart Butte area and deposit of interest income in the game and fish department private land habitat and access improvement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-07. Hunting big game or small game other than waterfowl or cranes with motor-driven vehicles prohibited - Exception - Motor-driven vehicle use in transporting big game restricted. Except as provided in subsection 44 10 of section 20.1-02-05, no person, while hunting big game or small game, other than waterfowl or cranes, statewide, may use a motor-driven vehicle on any land other than an established road or trail, unless that person has reduced a big game animal to possession and cannot easily retrieve the big game animal, in which case a motor-driven vehicle may be used to retrieve the big game animal, but after retrieval, the motor-driven vehicle must be returned to the established road or trail along the same route it originally departed. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to said road or trail. No person, while hunting big game or small game, statewide, may drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass any such game with the use or aid of any motor-driven vehicle. No person, while hunting big game or small game, other than waterfowl or cranes, statewide, may drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail.

SECTION 2. AMENDMENT. Section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-05. Powers of director. The director may:

1. Fix the salaries and the necessary travel and other expenses of department personnel subject to law and legislative appropriations.
2. Employ any part-time personnel necessary to run the director's office and remove the employees at will. Salaries and necessary traveling and other expenses of these appointees must be authorized, audited, and paid in the same manner as salaries and expenses of state officers.
3. Accept from any person, or gather, or purchase, fish, spawn, or fry, for distribution in state waters.
4. Take alive at any time, under the director's personal supervision or under the personal supervision of any of the director's bonded appointees, any birds or animals for propagation purposes or for exchange with other states and foreign countries for game birds and animals of other species.

5. Order additional protection for any fish with an open season when, after investigation, the director finds danger of extinction, undue depletion in any waters, or to aid in the propagation and protection of immature fish, by prescribing how, how many, where, and when the fish may be taken. The orders have the force of law.
6. Take or cause to be taken at any time from any state public waters any suckers, carp, or pickerel.
7. With the governor's approval, purchase, lease, or condemn real estate, when it is required to carry out this title, and sell it when it is no longer required, in the name of the state.
8. Lease up to ninety-nine years any department land, for the purpose of development and improvement, to any nonprofit corporation, upon consideration of specified improvements to be made by the corporation and other improvements the department and the corporation may agree upon. The lease must provide that all funds received by the corporation through lease of the property be expended upon the leased premises for development and improvements. The corporation has the authority, subject to approval by the director, to sublease the premises for cabin sites and other recreational purposes. Upon termination of the lease, the leased property, together with all improvements, reverts to the department.
- ~~9. With the governor's approval, enter agreements with the bureau of reclamation for the management of lands in the Heart Butte area acquired by the bureau for the construction of dams on lakes or streams. Revenues derived from the management of these lands or received from any federal agency for expenditure upon these lands may not be commingled with other game and fish funds, but must be deposited by the director in a separate account. These funds are appropriated for expenditure for purposes as may be agreed upon by the bureau of reclamation, the United States fish and wildlife service, the national park service, and the director. The authority granted by this subsection is effective only until the lands are resold to the former landowners by the bureau of reclamation.~~
- ~~10.~~ Secure specimens of game birds, animals, and fish for breeding purposes by purchase or otherwise and by exchange with the game commissions or state game wardens of other states or countries.
- ~~44.~~ 10. Issue special permits to shoot wildlife from a stationary motor vehicle upon application from individuals who are physically unable to walk for purposes of hunting or taking wildlife or who have lost the use of an arm at or below the elbow. The application must be accompanied by a physician's statement verifying the person's condition, and if used to hunt on lands controlled by the board of university and school lands, must designate the land on which the individual intends to hunt. The permittee must have permission from the lessee and the commissioner of university and school lands to hunt on lands controlled by the board of university and school lands. A permit issued under this subsection allows the permittee to drive, or to be driven, onto any land for the purposes of hunting wildlife, except that neither any other passenger within the vehicle nor the driver, if someone other than the permittee, may be a hunter, unless the other person is also a permittee. Provided, however, that if the land is privately owned and if the permittee is not going to drive or be driven along an established road or trail, the permittee must first obtain the consent of the owner or lessee to hunt on the land in the manner provided in this title.
- ~~42.~~ 11. Issue to any individual, who is blind, is a paraplegic, or who has lost the use of one or both arms a special permit to hunt game with a crossbow if that individual otherwise complies with and qualifies under the licensing and other provisions of this title. For purposes of this subsection, an individual who is blind means an individual who is totally blind, whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or in whom the widest diameter of the visual field is no greater than twenty degrees.

- ~~43.~~ 12. Issue any resident license prescribed by this title to an individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license; to any individual who is a member of the United States armed forces and who is within the state on duty or leave; to any employee of the United States fish and wildlife service or the conservation department of any state or province of Canada in the state to advise or consult with the department; or to any nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college. Except for a license issued to a nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college, a license may not be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection does not apply to lottery permits, except that the director shall issue a resident deer hunting license to any resident of this state who is a member of the United States armed forces stationed outside this state and who shows proof of North Dakota residence and who pays the appropriate licensing fee. A deer license issued to a member of the United States armed forces under this subsection must be issued without being subject to the lottery for deer hunting licenses.
- ~~44.~~ 13. Adopt rules, and issue permits for the transporting or introducing of fish, fish eggs, small game, big game, or fur-bearers after determining that the fish, fish eggs, birds, or animals have been properly inspected for disease, and that the transplanting or introduction will be in compliance with state laws and rules. No person may transplant or introduce any fish or fish eggs into any of the public waters of this state, or transplant or introduce any species of small game, big game, or fur-bearers into this state without obtaining a permit from the director.
- ~~45.~~ 14. Pursuant to section 4-01-17.1, cooperate with the agriculture commissioner, the United States fish and wildlife service, and other agencies in the destruction of predatory animals, destructive birds, and injurious field rodents. The director may adopt rules in accordance with organized and systematic plans of the department of the interior for the destruction of these birds and animals. The director may determine the necessity and issue permits and rules and regulations therefor for the operation and use of private aircraft to assist in the destruction of the above birds and animals and aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.
- ~~46.~~ 15. Exercise authority to establish programs and rules and administer state and federal funds provided to the state for the preservation and management of resident species determined by the director to be threatened or endangered species of wildlife. The authority exercised must be in compliance with the Endangered Species Act of 1973, Public Law 93-205. Any person who violates rules adopted under this subsection is guilty of a class B misdemeanor.
- ~~47.~~ 16. Provide for the funding of a private land habitat and access improvement program with moneys derived from the interest earned on the game and fish fund and habitat restoration stamp fees. The director shall place these funds in a special fund called the "game and fish department private land habitat and access improvement fund".
- ~~48.~~ 17. Carry out a private land habitat and access improvement program by:
- a. Entering cost-sharing, habitat enhancement, and access agreements with landowners or agencies working on private land to help defray all or a portion of their share of local, state, or federally sponsored conservation practices considered beneficial to fish and wildlife.

- b. Leasing and developing fish and wildlife habitat or sport fishing areas on private land. Public access to leased land may not be prohibited.
 - c. Carrying out practices that will alleviate depredations caused by predatory animals and big game animals.
 - d. Publishing a brochure on an annual basis describing areas funded from the game and fish department private land habitat and access improvement fund which are open to public access in this state.
 - e. Receiving advice from the game and fish advisory board concerning expenditures from the game and fish private land habitat and access improvement fund.
- ~~49.~~ 18. Subject to prior approval of the attorney general, lease or exchange lands under the director's jurisdiction or control which are deemed necessary for the improved management of wildlife resources.
- ~~20.~~ 19. Subject to prior approval of the attorney general, impose any conditions or reservations to the leases or exchanges as the director determines necessary.
- ~~24.~~ 20. Adopt rules and issue permits for conducting fishing contests involving public waters of the state. The director by rule shall define the term "fishing contest" and shall set criteria for which a fishing contest permit is required. The director may deny permits. No person may conduct a fishing contest on public waters without first receiving a permit issued by the director.
- ~~22.~~ 21. Issue duplicates of lost or destroyed game and fish licenses or permits. The procedure for reissuing the licenses or permits and fees to be charged must be prescribed by the director by rule.
- ~~23.~~ 22. Establish noncriminal penalties for any rules adopted by the director. The maximum noncriminal penalty that may be set by the director is a fine of two hundred fifty dollars. Violation of any rule not designated as having a noncriminal penalty is considered a criminal violation as established in the appropriate chapter of this title.
- ~~24.~~ 23. Issue, as a means of encouraging and promoting economic development in this state, complimentary fishing licenses to nonresident visiting dignitaries. The circumstances and conditions of complimentary fishing licenses issued must be determined by the director. The number of complimentary licenses may not exceed fifty licenses per year. The director shall determine the visiting dignitaries to be of national or international stature before they are eligible for complimentary licenses.
- ~~25.~~ 24. Carry out a coyote depredation prevention program by conducting practices that will alleviate depredations caused by coyotes.
- ~~26.~~ 25. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the license holder is convicted of a felony or found to have violated any provision of this title.
- ~~27.~~ 26. Carry out a program that targets waterfowl resting areas within the private lands initiative program which includes payments to private landowners for lease of waterfowl resting areas on private lands that during the term of the lease provides limited public access for the hunting of waterfowl.

SECTION 3. AMENDMENT. Section 20.1-02-16.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-16.1. Game and fish fund - Use - Required balance - Budget section approval. All income of the state game and fish department deposited by the director with the state treasurer must be credited to the state game and fish fund and the fund may be used only by the department. All money derived from the investment of the fund, special accounts, or portions of the fund must be credited to the game and fish department private land habitat and access improvement fund. The department shall spend moneys in the game and fish fund within the limits of legislative appropriations, only to the extent the balance of the fund is not reduced below ten million dollars, unless otherwise authorized by the budget section.

SECTION 4. AMENDMENT. Section 20.1-02-16.5 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-16.5. Motorboat programs and safety account - Use. The director shall deposit all motorboat license fees in a special account within the game and fish fund to be known as the motorboat programs and safety account. Funds placed in the motorboat programs and safety account ~~and interest earned on the account~~ may be used only for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat licensing administration. All money derived from the investment of the account, or portions of the account, must be credited in accordance with section 20.1-02-16.1.

SECTION 5. AMENDMENT. Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-12. Schedule of fees for licenses and permits. The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, eighty-five dollars.
3. For a resident big game hunting license, twenty dollars, except the fee for a licensee under age sixteen is ten dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, for a nonresident big game hunting license, two hundred dollars, and for a nonresident bow license, two hundred dollars, and a nonrefundable five dollar application fee must accompany any lottery license fee under this subsection, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.
5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, thirty-five dollars.
8. For a nonresident short-term seven-day fishing license, twenty dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.

11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
14. For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
18. For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to points within this state other than that person's home or to points outside this state, three dollars.
19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
20. For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, twelve dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, twenty-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
21. To operate watercraft used for hire, the following license fees apply for three years:
 - Class 1. Each craft capable of carrying two adults of average weight, six dollars.
 - Class 2. Each craft capable of carrying three adults of average weight, six dollars.
 - Class 3. Each craft capable of carrying four adults of average weight, six dollars.
 - Class 4. Each craft capable of carrying five adults of average weight, six dollars.
 - Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.
 - Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.
 - Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.
 - Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.

22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
23. For a resident paddlefish tag annual license, three dollars per tag.
24. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
25. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
26. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
27. For an annual license to operate a private fish hatchery, seventy-five dollars.
28. For a resident commercial frog license, fifty dollars.
29. For a nonresident commercial frog license, two hundred dollars.
30. For a resident frog license, three dollars.
31. For a resident husband and wife frog license, five dollars.
32. For a shooting preserve operating permit:
 - a. One hundred dollars, if the shooting preserve consists of an area of six hundred forty acres [259 hectares] or less; or
 - b. One hundred dollars, if the shooting preserve consists of an area of more than six hundred forty acres [259 hectares], plus fifty cents per acre [.40 hectare] for each acre [.40 hectare] over six hundred forty acres [259 hectares].
33. For a nonresident waterfowl hunting license, eighty-five dollars.
34. For a nonresident husband and wife fishing license, forty-five dollars.
35. For a nonresident short-term three-day fishing license, fifteen dollars.
36. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
37. For a combination license, thirty-two dollars.
38. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
39. For a resident swan license, five dollars.
40. For a nonresident swan license, twenty-five dollars.
41. For a resident and nonresident sandhill crane license, five dollars.
42. For a resident commercial clam license, one hundred dollars.
43. For a nonresident commercial clam license, one thousand dollars.
44. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
45. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.

46. For a bighorn sheep license issued to a nonresident, five hundred dollars.
47. For a nonresident reciprocal trapping license, two hundred fifty dollars.
48. For a nonresident spring white goose license, fifty dollars.
49. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

The fees for these licenses and permits, ~~except for motorboat license fees,~~ must be deposited with the state treasurer and credited to the game and fish fund. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

SECTION 6. AMENDMENT. Section 20.1-06-13 of the North Dakota Century Code is amended and reenacted as follows:

20.1-06-13. Property rights - Fish wild by nature. Any person, firm, corporation, or limited liability company raising and owning any lawfully possessed fish, wild by nature, has the same property rights therein as enjoyed by owners of domestic fish. They are, however, subject to all rules adopted by the director regarding the introduction and release into the state of the fish, as provided in subsection ~~44~~ 13 of section 20.1-02-05.

SECTION 7. AMENDMENT. Section 20.1-07-02 of the North Dakota Century Code is amended and reenacted as follows:

20.1-07-02. Property rights - Wild fur-bearing animals. Any person, firm, corporation, or limited liability company raising and owning any protected fur-bearing animal, or in possession of the pelt of any wild animal lawfully obtained, has the same property rights therein as enjoyed by owners of domestic animals. They are, however, subject to all rules adopted by the director in regard to the introduction and release into the state of the animals, as provided in subsection ~~44~~ 13 of section 20.1-02-05.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1138.

House Vote: Yeas 90 Nays 1 Absent 3

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State