

Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

HOUSE BILL NO. 1188
(Representatives Porter, Damschen, DeKrey, Hanson)
(Senators Hogue, Lyson)

AN ACT to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to exploitation of wildlife; to amend and reenact section 20.1-01-26 of the North Dakota Century Code, relating to suspension of hunting, trapping, or fishing privileges; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-26 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-26. Suspension of hunting, trapping, or fishing privileges - Surrender and return of license. In addition to the penalty provided upon conviction under this title, the court may suspend the defendant's hunting, trapping, or fishing privileges for up to three years; however, if the defendant is convicted of an offense under section 2 of this Act, the court may suspend the defendant's hunting, trapping, or fishing privileges for up to the life of the defendant but not less than five years. The court may not suspend the defendant's privileges for a noncriminal violation if the defendant has not been convicted for a violation of this title in the last three years. Upon conviction for a violation of section 20.1-01-18, the court shall suspend the defendant's hunting, fishing, and trapping privileges for a period of at least one year, two years for the second conviction, and three years for the third or subsequent conviction. At the time of the suspension, the court shall determine whether the defendant must successfully complete the hunter education course provided for in section 20.1-03-01.1, as prescribed by the proper state or provincial natural resources or wildlife management agency, before the defendant may purchase a new or obtain the return of a valid hunting license.

Upon imposition of the suspension, the court shall take any hunting, trapping, or fishing license or permit held by the defendant and forward it, together with a certified copy of the suspension order, to the director. Except as otherwise provided in this section, upon expiration of the suspension, the director shall return the person's license or permit if it is still valid. No person may purchase, or attempt to purchase, a hunting, trapping, or fishing license or permit during a suspension period. If the court so ordered, no person who has had a hunting license suspended may purchase or attempt to purchase a hunting license nor may the director return a valid hunting license until the person has successfully completed the course provided for in section 20.1-03-01.1 and as prescribed by the proper state or provincial natural resources or wildlife management agency. A certificate of completion for a similar course issued by any other state or province of Canada is sufficient to meet this requirement. The person shall file proof of that completion with the court.

For the purpose of this section, the term "conviction" includes an admission or adjudication of a noncriminal violation.

SECTION 2. A new section to chapter 20.1-01 of the North Dakota Century Code is created and enacted as follows:

Exploitation of wildlife - Penalty.

1. A person is guilty of exploitation of wildlife if that person intentionally:
 - a. Commits five or more title 20.1 class A misdemeanor offenses within a two-year period;

- b. Commits seven or more title 20.1 misdemeanor offenses within a two-year period;
 - c. Furnishes assistance, management, or supervision to an individual who commits or assists in the commission of seven or more title 20.1 misdemeanor offenses within a two-year period; or
 - d. Commits a title 20.1 misdemeanor offense after having been previously convicted of seven or more title 20.1 misdemeanor offenses within a ten-year period.
2. Violation of this section is a class C felony and, in addition to other penalties imposed by law, is subject to section 20.1-01-26. The defendant being over a daily or possession limit of fish, small game, or waterfowl is not sufficient as a predicate offense for a conviction under subdivision b or c of subsection 1 unless the state proves that the conduct occurred over more than three days or the person takes or possesses more than four times a daily limit and the state alleges and proves beyond a reasonable doubt that the minimum number of predicate offenses required were committed intentionally. Except for a charge under subdivision d of subsection 1, the state may not charge an individual for both the predicate offense and a charge under this section. A conviction from another state or a federal court for an offense similar to one prescribed in title 20.1 may be used as a conviction under this section.

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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1188.

House Vote: Yeas 91 Nays 2 Absent 1

Senate Vote: Yeas 39 Nays 7 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State