

GAME AND FISH

CHAPTER 152

H. B. No. 172—(Committee on Game and Fish)

KILLING AND TRAPPING BEAVER

An Act to Amend and Re-enact Subsection 1 of Section 1 of Chapter 150, Laws 1931.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Subsection 1 of Section 1 of Chapter 150, Laws 1931 is hereby amended and re-enacted to read as follows:

§ 1. BEAVER.] No person shall kill, take, attempt to take, transport, or sell any beaver or any part thereof at any time, or molest or disturb any beaver except as hereinafter provided.

(1) In the event that beaver shall at any time in any locality become so numerous that in the judgment of the Game and Fish Commissioner of the State of North Dakota a limited number thereof may be taken without unduly depleting the species, or when they cause substantial damage to public or private property such as to seriously prejudice property rights therein, then and in such case the Game and Fish Commissioner, upon receipt of the license fee of \$3.00 may issue to any land owner or his duly authorized agent a license to take beaver, upon the premises of such land owner, including any State Game Refuge, specifying therein the number of beaver, the time when and the place where the same may be taken. Such permit shall not be issued, however, without the written approval of any person or persons holding a lease governing surface rights or occupancy of the land involved.

Approved March 4, 1941.

CHAPTER 153

H. B. No. 240—(Sharpe, Benno and Collette)

**DISPOSITION OF MONEY COLLECTED BY GAME AND FISH
COMMISSIONER — WATER CONSERVATION AND
DAM CONSTRUCTION.**

An Act to repeal Chapter 120 of the 1933 Session Laws of the State of North Dakota as amended by Chapter 145 of the 1935 Session Laws of the State of North Dakota, relating to the disposition of money collected by the Game and Fish Commission; providing for the conservation of water and the construction of dams.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL.] That Chapter 120 of the 1933 Session Laws of the State of North Dakota, as amended by Chapter 145 of the 1935 Session Laws of the State of North Dakota by and the whole thereof is hereby repealed.

Approved March 18, 1941.

CHAPTER 154

H. B. No. 65—(Committee on Game and Fish)

FOXES, PREDATORY ANIMALS

An Act to Amend and Re-enact Section 57 of Chapter 148, Session Laws of 1931, Giving the Governor Certain Powers Relative to Game and Fish, Limiting such Power and Authorizing the Governor to Declare Foxes Predatory Animals, in Certain Areas, and Dispensing with Licenses Relative to Foxes when Declared Predatory.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 57 of Chapter 148 Session Laws of 1931 be amended and re-enacted to read as follows:

§ 57. ADDITIONAL PROTECTION—GOVERNOR'S ORDERS.]

(1) Whenever the Governor, after investigation and recommendation by the Game and Fish Commissioner finds that any species of game birds, fish or animals for which an open season is provided are in danger of undue depletion or extinction or when necessary for the proper protection during the propagating period, he may by an order provide protection for such species, additional to that provided by law, and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken and possessed. Provided, further, that whenever the Governor, after investigation and recommendation by the Game and

Fish Commissioner, finds that any species of game birds, fish or animals has become sufficient in numbers to warrant an open season, he may by order declare an open season thereon, or extend the already open season as now provided by law and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken and possessed. Provided that the bag limit shall not exceed fifteen birds of all upland species, nor be less than the Federal bag limits on migratory waterfowl, and the possession limit shall not exceed two days bag limit nor shall the open season on game birds begin before September 15 or end later than December 1 in any one year. The season shall not be opened on protected animals valuable for fur during the period from April 30 to October 15 of any one year.

(2) The Governor, by such an order upon recommendation by said commissioner, may declare all varieties of foxes predatory in any given area, for any given period of time during any part of the year, when in his judgment foxes have become too numerous or destructive in such area and when and where so declared predatory, no license shall be required to pursue, take or trap foxes.

(3) Any order issued by the Governor pursuant to this section shall have the force of law and the appropriate penalties now prescribed by law for the unlawful killing of game shall follow and be applicable to violations of any such order. Each order so made shall not be valid after the closing of the regular session of the legislature next succeeding its issuance.

(4) PUBLICATION OF ORDERS.] All orders, rules and regulations affecting the entire State as provided for herein shall be published once in the official newspaper in each county affected by such orders. No order, rule or regulation shall take effect until after such publication.

Approved March 4, 1941.

CHAPTER 155

H. B. No. 221—(Culver, Braun of Stark and Gress)

HUNTING SEASON, DEER ETC. LICENSE — TRESPASSING GAME RESERVES

An Act to Amend and Re-enact Sub-section 1 of Section 20 of Chapter 148 of the Session Laws of 1931, as Amended by Section 1 of Chapter 144 of the Session Laws of 1935, Relating to Game and Fish.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Sub-section 1 of Section 20, Chapter 144 of the Session Laws of 1935 relating to Game and Fish, the

propagation and conservation thereof, regulating the hunting, taking and killing thereof, be and the same is hereby amended and re-enacted to read as follows:

§ 20. MOOSE; ELK; ROCKY MOUNTAIN SHEEP AND GOATS; ANTELOPE; DEER; SEASON FOR KILLING; LICENSE.] (1) No person shall hunt, pursue, take or attempt to take, transport, ship or convey by common or private carrier, or sell, or otherwise barter or exchange, any moose, elk, rocky mountain sheep or goat, antelope or deer or any part thereof at any time. Provided that any person, having procured a big game hunting license may take, kill and transport one deer between the 20th day of November and the 30th day of November following, both days inclusive. All deer hunters shall wear red caps.

Deer to be taken only in the daytime, with a gun fired from the shoulder, and any other device or instrumentalities used, or held with the intent to use, in the taking of deer, or as an aid or means in the hunting or taking of deer, is hereby specifically prohibited and declared to be unlawful. No dog or dogs, horses, mules or other animal shall be used in any manner in the hunting of deer or antelope. Deer shall not be shot from any artificial platform, scaffold, blind, or other artificial device. No artificial light, including automobile and motorcycle headlights, and spotlights, shall be used to entrap or entice deer, or as an aid in the taking or hunting of deer; and the practice commonly known as shining for deer is hereby specifically prohibited, and any person or persons, who shall shine any area, plot or territory, commonly frequented by deer, with or by means of any artificial lights, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section. Provided; That any person or persons found between sunset and sunrise in and about the territory frequented by deer and/or antelope or where such deer and/or antelope are frequently and usually found, in possession of any rifles, shot guns, traps, snares, artificial lights or other implements or equipment usually and commonly used in the illegal taking or hunting of such deer and/or antelope, shall be presumed to be possessed of said implements or equipments and to be in said territory unlawfully, and for the purpose of hunting or taking deer and/or antelope contrary to the provisions of this Act and upon conviction shall be subject to all the penalties imposed by this Act for the unlawful taking, hunting or killing of such deer and/or antelope.

Approved March 14, 1941.

CHAPTER 156**H. B. No. 26—(Benno, Swanson, Halvorson, Dalzell)**

HUNTING WITH SPOTLIGHT PROHIBITED**An Act Making it a misdemeanor for any Person to Hunt and Pursue any Wild Life with the Aid of a Spot Light or Any Other Kind of Artificial Light.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Any person who shall shoot and pursue any wild life between sunset of one day and sunrise of the next day, with the aid of a spot light or any other artificial light of any kind shall be guilty of a misdemeanor.

Approved February 18, 1941.

CHAPTER 157**H. B. No. 245—(Swanson and Fitch)**

ILLEGAL HUNTING OF BIG GAME, PENALTIES**An Act to Amend and Re-enact Sections 26 and Sub-Division (2) of Section 20 of Chapter 148, Laws 1931, Providing for Permit Fee and Providing Penalties for the Illegal Hunting of Big Game.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That Section 26 of Chapter 148, Laws 1931 be amended and re-enacted to read as follows:

§ 26. PERMITS.] The Game and Fish Commissioner may issue permits to breed or domesticate any protected birds or animals; permits to any resident hunting licenses to ship not to exceed in any one season twenty-five (25) protected game birds to points other than his home within the State or to points outside of the State; permits to make collections of protected birds and animals for scientific purposes. The Game and Fish Commissioner may also issue permits for shipment within or without the State of any live protected birds or animals, provided the permit is attached to the shipment. A fee of twenty-five (25) cents shall be charged for each such permit. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 2. Sub-division 2 of Section 20 of Chapter 148, Laws 1931 is hereby amended and re-enacted to read as follows:

§ 20. (2) Any person who shall violate any provisions of

sub-division one (1) of this section shall be guilty of a misdemeanor, and shall be punished by fine of not less than fifty dollars (\$50.00) nor more than one Hundred dollars (\$100.00) or by imprisonment in the county jail for not less than twenty (20) nor more than thirty (30) days, or by both such fine and imprisonment.

Approved March 14, 1941.

CHAPTER 158

H. B. No. 249—(Aker, Benno, Swanson and Bymers)

ILLEGAL POSSESSION, GAME, FISH AND GUNS

An Act to Amend and Re-enact Section 10322a51 of the Supplement of 1925 and Chapter 118, Laws 1933 Relative to Going Afield with Guns Before the Hunting Season and Illegal Possession of Game and Fish After the Hunting Season.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Section 10322a51 of the Supplement of 1925 is hereby amended and re-enacted to read as follows:

§ 10322a51. ILLEGAL ACT; PENALTIES FOR GOING AFIELD WITH GUNS.] Any person traveling in any manner in any part of this state off the public highway, outside of the immediate bounds of the inhabited part of any village, town or city in possession of any kind of a shot gun from the first day of July to the opening day of hunting season in each year, shall be presumed to have violated the laws of this state prohibiting unlawful hunting, shooting and taking of game birds. Any person violating the provisions of this section shall be punished by a fine of not less than ten (10) nor more than fifty (50) dollars or by imprisonment in the County jail for not less than ten (10) days nor more than thirty (30) days or by both such fine and imprisonment.

§ 2. Chapter 118, Laws 1933 is hereby amended and re-enacted to read as follows:

Except as herein provided, it shall be unlawful for any person to take, kill or wound, or attempt to take, kill or wound, any protected game bird or game animal, except during the open season or to have in possession, or under control any such bird, animal or protected fish, either alive or dead, or any part thereof except such as are lawfully taken during the open season. It shall be presumed that any game or any part thereof, found in possession of any person after the close of the open season except when held under permit, as herein provided, was taken illegally. It shall be unlawful for any person to knowingly aid or assist in the concealment of any game unlawfully killed or possessed.

Provided, however, that the State Game and Fish Commissioner shall issue a permit to keep a possession limit of game after the closed season thereon until March 1 following the close of the season. Such permit however, shall not extend the time for lawful possession of any game covered by the Federal laws beyond the Federal limit in which the same may be possessed lawfully. Any game so held after the close of the hunting season under permit must be properly tagged to identify the holders permit.

Application for permit to keep game after the close of the hunting season must be made within two days of the close of such season. Possession shall not be illegal within such two days time or if application is made for permit within such time possession shall not be illegal until the Commissioner has refused such permit.

The possession, transportation or control of any protected fish, game bird or game animal or any part thereof contrary to the provisions of this law shall constitute a misdemeanor and shall be punishable by the same penalty as that provided for the illegal killing, catching, taking or hunting thereof.

Approved March 19, 1941.

CHAPTER 159

S. B. No. 129—(Troxel)

ILLEGAL TRESPASS WHILE HUNTING

An Act to amend and re-enact Section 17 of Chapter 148, Laws of 1931, relative to trespassing while hunting.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 17 of Chapter 148, Laws of 1931, is hereby amended and re-enacted to read as follows:

§ 17. HUNTING UPON PREMISES OF ANOTHER ILLEGAL WHEN: It shall be unlawful for any person to enter upon the premises of another for the purpose of hunting or pursuing game birds or to hunt or pursue game birds upon the premises of another without having first obtained permission of the person legally entitled to grant the same; provided, that the owner or tenant of said land or premises shall have placed at a point alongside of the public highway or land posted signs giving notice that no hunting will be permitted on said land or premises, and such signs shall be conspicuously posted at a distance of not more than eighty rods apart, to be readable from the outside of the land. It shall also be unlawful for any person to hunt or pursue game except as hereinafter provided upon the premises of another within forty rods of any occupied residence thereon,

without the consent of the occupant thereof. Any person or persons entering upon the premises of another without permission as provided, who shall at the time of so entering have in his or her possession any gun or firearm shall prima facie be presumed to have entered said premises for the purpose of hunting game within the meaning of this Act; provided, however, that nothing in this Act shall prevent a person from going upon posted land to take game shot or killed on land where such person has lawful right to hunt. It shall not be considered the duty of the Game and Fish Commissioner or any of the game wardens to enforce the provisions of this section.

Approved March 14, 1941.

CHAPTER 160

H. B. No. 237—(Collette, Fuglestad, Benno and Fitch)

RETENTION OF PART OF LICENSE FEES BY COUNTY AUDITORS

An Act Providing for retention by County Auditors of a part of the resident and non-resident hunting license and non-resident fishing license fees, and repealing all Acts and parts of Acts in conflict herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Each County Auditor shall retain as his compensation for the sale of resident hunting licenses, non-resident hunting licenses and non-resident fishing licenses, for each license sold by him, the sum of ten cents for each resident hunting license, the sum of One Dollar (\$1.00) for each non-resident hunting license, and the sum of twenty-five cents for each non-resident fishing license. The entire balance of all license fees collected shall be transmitted to the Game and Fish Commissioner.

§ 2. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 14, 1941.

CHAPTER 161**H. B. No. 170—(Starck)****MUSKRAT PROPAGATION**

An Act Providing for the Establishment of, License fee For, and Setting up Regulations to Govern Muskrat propagation in the State of North Dakota in Captivity, and Repealing all Acts and Parts of Acts in Conflict Herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. RIGHTS OF OWNER AND LESSEE.] The owner or lessee of any lands within the State of North Dakota, suitable for the breeding and propagating of muskrats shall have the right upon complying with the provisions of this Act, to establish, operate and maintain on such lands a muskrat farm, for the purpose of breeding, propagating, trapping and dealing in muskrats raised in captivity.

§ 2. DECLARATION TO BE FILED.] Such owner or lessee desiring to establish, operate and maintain a muskrat farm in conformity with this act, shall file with the State Game and Fish Department a verified declaration describing the lands which such applicant for a license desires to use for the purpose of breeding and propagating muskrats, and setting forth also the title and leasehold of the applicant and the number of acres embraced in said tract.

§ 3. APPLICATION FOR LICENSE.] Upon the filing of such declaration, and making application to the Game and Fish Department for a license to operate a muskrat farm; The Commissioner shall issue a license to the applicant describing such lands, and certifying that the licensee is lawfully entitled to use the same for the breeding, propagating, trapping and dealing in of muskrats thereon.

§ 4. ACQUISITION OF MUSKRATS THEREON.] Thereupon the commissioner shall appoint one man, the applicant one man, and these two shall select a third man to act as a board to go upon the lands embraced within the license, and determine as near as possible the number of muskrats thereon, at the time of granting of the license.

The necessary expenses of all of the members of such board shall be paid by the licensee. Within ten days after the date of such determination, the licensee shall pay to the State Game and Fish Department fifty cents (50¢) for each muskrat so found on such lands. When such payment has been made the licensee shall become the owner of all the muskrats on said lands and of all of their offspring remaining thereon.

If there are no muskrats on the lands embraced within the license, then the licensee may acquire breeding stock by trapping muskrats during an open season in the State of North Dakota, by

buying breeding stock from licensed breeders within the state, or by buying live muskrats from licensed breeders living in any other state.

§ 5. COST OF LICENSE.] The holder of any such license shall pay an annual fee of two dollars and fifty cents (\$2.50) for any such farm of ten acres or under, and an additional fee of ten cents per acre for any additional land actually devoted to muskrat farming.

§ 6. FENCING COST OF SIGNS.] Within thirty days after the date of issuance of any such license the licensee shall erect a fence around the land embraced in such muskrat farm, such fence shall be built with iron posts placed not more than twelve feet apart, and with one and one half inch mesh woven wire not less than three feet high; one foot of the wire to be beneath the ground and two feet above the ground. On top of this woven wire there shall be fastened a strip of tin at least six inches high to prevent muskrats from climbing in or out of this inclosure. On this fence there shall be posted at intervals of not more than four rods apart signs furnished by the Game and Fish Department proclaiming a muskrat farm. For such signs the licensee shall pay the Game and Fish Department ten cents each.

§ 7. RIGHTS OF LICENSEE IN COURT.] Such license shall be prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successors or assigns, for the term of the license to establish and operate a muskrat farm upon said premises, and shall entitle the licensee therein named, successors or assigns, to the exclusive right for and during the said term to breed and propagate muskrats thereon, and to the exclusive and sole ownership of any property in all muskrats caught or taken therefrom. Such license shall expire on the thirty-first day of December of each year, but may be renewed from year to year upon payment by the licensee of annual license fee.

§ 8. TRESPASS.] Any person other than the licensee or his agents who shall hunt or trap muskrats upon any lands described in any such license, shall be liable to the licensee in the sum of twenty five dollars, in addition to all damage which he may do to said farm or the rats and property thereon, but all actions for such trespass shall be brought by such licensee.

§ 9. REPORT REQUIRED.] On or about the first day of March of each year, the licensee shall make a report, verified by affidavit, stating the number of his license and the total number and value of muskrats killed, transported or sold from said muskrat farm. This report shall cover the period from the first day of January to the thirty first day of December of the previous year, and be made upon the blanks furnished by the State Game and Fish Department.

§ 10. TRAPPING FURNISHING TAGS.] Any person or persons operating a muskrat farm under a license granted by the provisions

of this act, shall have the right to trap muskrats on the premises designated on the license for pelting or other purposes, from December first to May first. It shall be the duty of the Game and Fish Commissioner upon receipt of an application from the holder of such a license to operate a muskrat farm, to furnish seals at one cent each, bearing the inscription (N. D. MUSKRAT) each seal to bear a serial number, and one seal shall be attached to each muskrat skin from such farm.

§ 11. Repealing all acts and parts of acts in conflict herewith.

Approved March 4, 1941.

CHAPTER 162

H. B. No. 184—(Ireland and Bjella)

WILDLIFE RESTORATION PROJECTS—EXCHANGE OF LANDS

An Act Authorizing the Board of University and School Lands to transfer and convey certain acreage of State School Lands to the Game and Fish Department in exchange for other land, to be used and maintained for wildlife-restoration projects, and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. EXCHANGE AUTHORIZED.] The Board of University and School Lands is hereby authorized to transfer and convey to the Game and Fish Commissioner of the State of North Dakota for wildlife-restoration projects, not to exceed 640 acres of State School land for any one project in exchange for other land of equal value owned by the State of North Dakota for the benefit and use of the Game and Fish Commissioners of the State of North Dakota or acquired by him for exchange purposes.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1941.