

# GAME AND FISH

## CHAPTER 270

HOUSE BILL NO. 1304  
(Representatives Timm, Hill)  
(Senator Kelsh)

### FISHING GUIDE OR OUTFITTER

AN ACT to amend and reenact subsection 13 of section 20.1-01-02 of the North Dakota Century Code, relating to the definition of guides or outfitters under the game and fish laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 13 of section 20.1-01-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. "Guide" or "outfitter" means any resident who holds himself out to the public as a guide or outfitter, and who provides, for compensation ~~in excess of five hundred dollars a year~~, transportation, equipment, arrangement of lodging, or his own or another's personal services for the primary purpose of assisting a person or persons to locate or catch fish or to locate, pursue, or hunt small game, big game, or fur-bearers. Nonresidents shall not be entitled to act as guides or outfitters in this state.

Approved March 14, 1985

## CHAPTER 271

HOUSE BILL NO. 1339  
(O'Connell, R. Solberg, L. Hanson)

## SNARING GAME ANIMALS OR COYOTES

AN ACT to create and enact a new section to chapter 20.1-07 of the North Dakota Century Code, relating to the use of snares in taking coyotes; and to amend and reenact section 20.1-01-05 of the North Dakota Century Code, relating to the use of snares for taking game animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 20.1-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-05. Unauthorized methods of taking game birds and game animals. Except as otherwise provided in this title, no person, for the purpose of catching, taking, killing, or raising any game birds or game animals shall:

1. Set, lay, or prepare any trap, snare, artificial light, net, birdlime, swivel gun, or any other device, except that the use of snares for taking coyotes is allowed under section 2 of this Act;
2. Drag, in any manner, any wire, rope, or other contrivance;
3. Use or cause to be used, except for transportation, any floating device or apparatus operated by electricity, steam, or gasoline, or any other floating vessel;
4. Use a firearm with any kind or type of silencer on it; or
5. Carry any firearm while in or on a motor vehicle with a cartridge in the chamber.

SECTION 2. A new section to chapter 20.1-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

\* NOTE: Section 20.1-01-05 was also amended by section 2 of House Bill No. 1069, chapter 683.

Use of snares for taking coyotes - Restrictions - Identification - Snare standards.

1. The governor shall establish by proclamation an upland snaring season for the taking of coyotes.
2. No person may set or lay any snare for the purpose of taking coyotes on land belonging to another private person without receiving written permission from that person.
3. A person using a snare for the purpose of taking coyotes shall permanently affix with a metal or plastic tag that person's name, address, and telephone number to each snare being used.
4. The commissioner shall establish and publish in pamphlet form safety standards for snares used for the taking of coyotes, which will prevent the accidental holding of deer and other appropriate animals. These standards must be followed by any person using a snare pursuant to this section.

Approved March 27, 1985

## CHAPTER 272

HOUSE BILL NO. 1070  
(Legislative Council)  
(Interim Judiciary "B" Committee)

## NONCRIMINAL GAME AND FISH OFFENSES

AN ACT to create and enact three new sections to chapter 20.1-01 and a new subsection to section 20.1-02-05 of the North Dakota Century Code, relating to noncriminal game and fish violations; to amend and reenact sections 20.1-01-09, 20.1-01-10, 20.1-01-25, 20.1-01-26, 20.1-03-01.2, 20.1-03-16, 20.1-03-23, 20.1-03-27, 20.1-04-09, 20.1-04-10, 20.1-04-12, 20.1-04-14, 20.1-05-06, 20.1-06-07, 20.1-07-05, 20.1-08-01, 20.1-10-01, 20.1-13-02, subsection 13 of section 20.1-13-03, sections 20.1-13-03.1, 20.1-13-03.2, 20.1-13-04, subsection 7 of section 20.1-13-05, section 20.1-13-07, subsection 6 of section 20.1-13-10, sections 20.1-13-17 and 27-07.1-17 of the North Dakota Century Code, relating to noncriminal game and fish violations and the suspension of hunting, trapping, or fishing privileges; and to provide penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-09. Types of guns lawfully usable in taking raccoon with flashlight - Penalty. In the killing, shooting, ~~pursuit~~ pursuing, taking or in attempting to take raccoon with the use of a flashlight of not over two cells in the aggregate of four volts, it is illegal to use a rifle or handgun capable of firing a shell larger than a twenty-two caliber [5.59 millimeter] long rifle shell, or a shotgun larger than four-ten gauge [10.41 millimeters]. Any person who violates this section is guilty of a class 1 noncriminal offense.

SECTION 2. AMENDMENT. Section 20.1-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-10. Hours for hunting game birds and protected animals - Penalty. No person during the time elapsing between actual sunset of one day and one-half hour before sunrise of the next day, shall

hunt, pursue, catch, shoot at, or in any manner molest any game bird or protected animal in this state. This section ~~shall~~ does not apply to the trapping of fur-bearing animals by the holder of a lawfully issued trapping license, nor to the taking of raccoon as permitted by section 20.1-01-08. The hours and manner of hunting upland game birds and protected animals may be restricted further by gubernatorial proclamation issued pursuant to chapter 20.1-08. Any person who violates this section is guilty of a class 1 noncriminal offense.

**SECTION 3. AMENDMENT.** Section 20.1-01-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-01-25. Deposit of refuse unlawful - Penalty.** The deposit of litter, refuse, rubbish, bottles, cans, or other waste materials, on or in the vicinity of any game refuge, lake, river, public park, or recreation area is prohibited. Police officers, sheriffs, deputies, and game and fish department personnel shall enforce this section. Any person who violates this section is guilty of a class 1 noncriminal offense.

**SECTION 4. AMENDMENT.** Section 20.1-01-26 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 two 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 six months. 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 such 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 commissioner. Upon Except as otherwise provided in this section, upon expiration of the suspension, the commissioner shall return the defendant's person's license or permit if it is still valid. No person shall 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 commissioner 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 5. A new section to chapter 20.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Certain game and fish violations noncriminal - Procedures. Any person who has been cited for a noncriminal offense under this title may appear before a court of competent jurisdiction and pay the statutory fee at or prior to the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. A person appearing at the time scheduled in the citation may make a statement in explanation of that person's action and the judge may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, that person has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the judge must be identical to the statutory fee established by section 8 of this Act. Within ten days after forfeiture of bond or payment of the statutory fee, the judge shall certify to the commissioner admission of the violation.

This section does not allow a halting officer to receive the statutory fee or bond.

SECTION 6. A new section to chapter 20.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Hearing procedures.

1. If a person cited for a violation that is designated as a noncriminal offense in this title does not choose to follow one of the procedures set forth in section 5 of this Act, that person may request a hearing on the issue of the commission of the violation charged. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the court an appearance bond equal to the statutory fee for the violation charged.

3. The state must prove the commission of a charged violation at the hearing under this section by a preponderance of the evidence. If, after a hearing, the court finds that the person had committed a noncriminal violation of this title or related proclamations or rules, the court shall notify the department within ten days of the date of hearing.

SECTION 7. A new section to chapter 20.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Amount of statutory fees. The fees required for a noncriminal disposition pursuant to section 5 or 6 of this Act are as follows:

1. For a class 1 noncriminal offense, a fee of fifty dollars.
2. For a class 2 noncriminal offense, a fee of twenty-five dollars.

SECTION 8. A new subsection to section 20.1-02-05 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Establish noncriminal penalties for any rules adopted by the commissioner. The maximum noncriminal penalty that may be set by the commissioner 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.

SECTION 9. AMENDMENT. Section 20.1-03-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-01.2. Instruction required before issuance of hunting license - Age limits - Penalty. No person born after December 31, 1961, except as provided in section 20.1-03-01.3, shall be issued any hunting license in this state unless he submits or exhibits the certificate of completion earned by him for successful completion of the course of instruction required by sections 20.1-03-01.1 through 20.1-03-01.3. A certificate of completion issued by any other state or province of Canada shall be is valid for all purposes. Any person who violates this section is guilty of a class 2 noncriminal offense.

SECTION 10. AMENDMENT. Section 20.1-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-16. Records required of licensed taxidermists - Contents - Inspection of records and unmounted specimens by game officials - Penalty. Each person having a license to practice taxidermy shall keep a

record showing the name of every person who furnished him with a green or unmounted specimen, and the species of each such specimen. The licensee, upon request, shall exhibit such the record and all unmounted specimens in his possession to the commissioner, the deputy commissioner, or any bonded game warden. Anyone violating this section shall be guilty of an infraction. Any person who violates this section is guilty of a class 1 noncriminal offense.

SECTION 11. AMENDMENT. Section 20.1-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-23. Records to be kept by licensed dealers in green furs - Report to commissioner - Penalty. Each person licensed to engage in the business of buying or shipping green furs shall keep a true and correct record of each purchase of such furs made by him that person. Such The record shall must show:

1. The date of the purchase.
2. The name and address of the seller.
3. The kind and number of furs involved in the purchase.
4. The amount of money paid to the seller for the furs purchased.
5. Such Any additional information as the commissioner may require.

The information contained in such the record shall must be furnished to the commissioner on forms prepared by him the commissioner and under such rules and regulations as he the commissioner may adopt. Any person who violates this section is guilty of a class 1 noncriminal offense.

SECTION 12. AMENDMENT. Section 20.1-03-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-27. Licenses to be carried on person - Licenses to be shown officers upon demand - Penalty. Any person holding a hunting, trapping, or fishing license required under this title shall carry such the license on his person when hunting, trapping, or fishing. Upon the request or demand of the commissioner, the deputy commissioner, any game warden, or any police officer, he that person shall show such the license immediately to the officer making the request or demand. Any person violating this section shall be guilty of an infraction who violates this section is guilty of a class 2 noncriminal offense.

SECTION 13. AMENDMENT. Section 20.1-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-04-09. Guns lawfully usable in pursuing or taking game birds - Penalty.** No firearm, except a shotgun not larger in bore than ten gauge [19.69 square millimeters], fired from the shoulder, shall be used to hunt or pursue game birds. No person shall use a rifle, pistol, or ball cartridge to hunt or pursue game birds, or to raise or drive game birds from their resting or feeding places, or from any waters of this state. Any person who violates this section is guilty of a class 2 noncriminal offense.

**SECTION 14. AMENDMENT.** Section 20.1-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-04-10. Shell holding capacity of shotguns used in taking game birds restricted - Plugs authorized - Penalty.** Any automatic or repeating shotgun authorized for the taking of game birds shall not be capable of holding more than three shells. A one-piece metal or wooden plug may be used to reduce the shell-holding capacity if such the plug is incapable of being removed through the loading end of the shotgun. Any person who violates this section is guilty of a class 2 noncriminal offense.

**SECTION 15. AMENDMENT.** Section 20.1-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**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, shall 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 his livelihood. This section shall does not prohibit the running of gun dog field trials, nor shall 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.

**SECTION 16. AMENDMENT.** Section 20.1-04-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**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 shall only be used during the period between sunrise and sunset. Any person who violates any provision of this section is guilty of an infraction a class 2 noncriminal offense.

SECTION 17. AMENDMENT. Section 20.1-05-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-05-06. Big game hunters to wear daylight fluorescent orange garments - Exception - Penalty. Every person, while hunting big game, shall wear a head covering and an outer garment above the waistline, both of daylight fluorescent orange color, totaling four hundred square inches [2580.64 square centimeters] or more of clothing, and both to be worn conspicuously on the person. This section ~~shall~~ does not apply to any person hunting big game with bow and arrow during special bow hunting seasons. Any person violating who violates this section shall be is guilty of an infraction a class 2 noncriminal offense.

SECTION 18. AMENDMENT. Section 20.1-06-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-06-07. Fishhouses - License - Removal - Penalty.

1. No person, except as provided in section 20.1-06-05, shall erect, have, or maintain on the ice in any waters of this state, a fishhouse used or to be used while ice fishing, or a dark house used or to be used for spearfishing, without first obtaining a separate license for each unit used. Licenses shall be issued by the commissioner, for the period of five winter fishing seasons, including the season commencing in the year of purchase. Fishhouse licenses are not transferable and fishhouses that are transferred must be relicensed for a five-year period by the new owner of the fishhouse. Licenses shall be are subject to the rules the commissioner may adopt governing the construction, maintenance, and use of such units. The outside of each licensed unit shall have inscribed on it, in readily distinguishable characters at least six inches [15.24 centimeters] high, the license number and the owner's name. Any person who violates this subsection is guilty of a class 2 noncriminal offense.
2. Each unit shall be removed from the ice by that date established by the governor's proclamation. Failure to remove a unit ~~shall be is~~ deemed an abandonment and the commissioner ~~is authorized to may~~ remove or destroy abandoned units.

SECTION 19. AMENDMENT. Section 20.1-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-07-05. Manner of taking protected fur-bearing animals restricted - Destruction of property of others unlawful - Penalty. It ~~shall be is~~ unlawful to molest or destroy the natural burrow, den, or retreat of any protected fur-bearer, or to damage or injure the property of

another while taking or attempting to take such fur-bearer. The governor, at the advice of the commissioner, may by proclamation determine the manner in which fur-bearing animals may be taken in accordance with this section. Any person who violates this section is guilty of a class 2 noncriminal offense.

**SECTION 20. AMENDMENT.** Section 20.1-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-08-01. Orders and proclamations have force of law - Penalty.** Any order or proclamation issued by the governor pursuant to this chapter ~~shall have~~ has the force of law. Any person violating who violates a provision of such order or proclamation for which a noncriminal penalty is not provided for in the order of 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.

**SECTION 21. AMENDMENT.** Section 20.1-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-10-01. Property unlawfully taken, transported, or used to be confiscated by certain game and fish officials - Procedure.** The commissioner, deputy commissioner, or any bonded game warden shall seize all wild birds, wild animals, or fish, or any part thereof, taken, killed, or possessed, or transported contrary to law, and shall seize all dogs, guns, seines, nets, boats, lights, automobiles, vehicles, instrumentalities, appliances, and devices unlawfully used, or held with intent to be unlawfully used, in pursuing, taking, or attempting to take, concealing, or disposing of wild birds, wild animals, or fish, or any part thereof. Property used or held with the intent to be used unlawfully in pursuing, taking, attempting to take, concealing, or disposing of wild birds, wild animals, or fish may not be confiscated when the violation is a noncriminal offense. All property ~~se~~ seized shall be held subject to the order of a court of competent jurisdiction. When property is confiscated, the confiscating officer shall bring the alleged offender before a court of competent jurisdiction for the purpose of determining disposition. However, if the court having nominal jurisdiction over the alleged wrongdoer determines that the value of the confiscated property exceeds the court's jurisdictional limitations, the matter may, upon the motion of either party, be removed to district court for determination. ~~in event~~ If the alleged offender desires an attorney, a reasonable time shall be given to secure counsel. If it is not feasible to bring the alleged offender immediately before the court, the property shall not be seized or confiscated if the alleged offender gives a receipt to the officer assuring delivery before the court when the matter comes up. The receipt shall contain the provisions of this section to advise the alleged offender of the law.

**SECTION 22. AMENDMENT.** Section 20.1-13-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-13-02. Operation of unnumbered and unlicensed motorboats prohibited - Penalty.** Every motorboat propelled by a motor on the waters of this state, shall be numbered and licensed as prescribed in this chapter. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered and licensed in accordance with this chapter, with applicable federal law, or with a federally approved numbering system of another state, and unless:

1. The certificate of number awarded to such motorboat is in full force and effect.
2. The identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

Any person who violates ~~any provision of~~ this section is guilty of ~~an infraction~~ a class 2 noncriminal offense.

**SECTION 23. AMENDMENT.** Subsection 13 of section 20.1-13-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. Any person who violates ~~any provision of~~ this section is guilty of ~~an infraction~~ a class 2 noncriminal offense.

**SECTION 24. AMENDMENT.** Section 20.1-13-03.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-13-03.1. Manufacture and sale of outboard motors.** No outboard motor manufactured after January 1, 1980, shall be sold or offered for commercial sale by a dealer in this state unless the motor ~~shall~~ have ~~has~~ permanently engraved thereon by the manufacturer an identifying serial number. The serial mark shall be of a permanent nature so as to prevent or discourage the removal, defacing, alteration, or destruction thereof. Any person ~~violating who~~ violates this section ~~shall~~ is guilty of ~~an infraction~~ a class 2 noncriminal offense.

**SECTION 25. AMENDMENT.** Section 20.1-13-03.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-13-03.2. Outboard motor - Serial number removed - Penalty.** No person may possess, repair, or sell an outboard motor, acquired after January 1, 1980, from which the serial number has been removed. Any person ~~violating who~~ violates this section ~~shall~~ is guilty of ~~an infraction~~ a class 2 noncriminal offense.

SECTION 26. AMENDMENT. Section 20.1-13-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-13-04. Rules and regulations - Licensing watercraft for hire - Annual inspection - Penalty. The commissioner, to promote the public safety, shall adopt rules and regulations to license watercraft used for hire, or furnished with cottages let for hire, and to prescribe the safety equipment, construction, and manner of operation of such craft. The commissioner shall provide for annual inspection of all watercraft used for hire to determine if rules and regulations governing such watercraft have been complied with, and may issue licenses to operate such watercraft. It shall be the commissioner's duty to The commissioner shall issue, along with each license, some evidence that the craft has been inspected and conforms to the standards governing such craft. No person shall operate watercraft used for hire or furnished with cottages let for hire without a current year's license. Any person who violates any provision of this section is guilty of an infraction a class 2 noncriminal offense.

SECTION 27. AMENDMENT. Subsection 7 of section 20.1-13-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Any person who violates any provision of this section is guilty of an infraction a class 2 noncriminal offense.

SECTION 28. AMENDMENT. Section 20.1-13-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-13-07. Prohibited operation - Penalty.

1. No person ~~shall~~ may operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.
2. No person ~~shall~~ may operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate, or marijuana.
3. No person under twelve years of age ~~shall~~ may operate a motorboat propelled by over a ten horsepower motor unless the operator is accompanied by a person eighteen years of age or older. Any person who violates this subsection is guilty of a class 2 noncriminal offense.
4. No person of twelve through fifteen years of age ~~shall~~ may operate a motorboat propelled by over a ten horsepower motor unless the operator is accompanied by a person eighteen years of age or older or the operator has taken

and passed a boating course approved by the department. Any person who violates this subsection is guilty of a class 2 noncriminal offense.

5. No person may cause or knowingly permit a minor under sixteen years of age to operate a motorboat propelled by over a ten horsepower motor unless the minor is otherwise authorized to do so by this section.

**SECTION 29. AMENDMENT.** Subsection 6 of section 20.1-13-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Any person who violates ~~any provision of~~ this section is guilty of ~~an infraction~~ a class 2 noncriminal offense.

**SECTION 30. AMENDMENT.** Section 20.1-13-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20.1-13-17. Conformity with applicable federal boat and associated equipment safety standards - Penalty.** No boat or associated equipment manufactured after July 1, 1973, not excluding any boat or associated equipment manufactured after July 1, 1973, whose owner is this state or a political subdivision thereof, shall be used on the waters of this state unless the boat and associated equipment conform with applicable federal boat and associated equipment safety standards as provided in the Federal Boat Safety Act of 1971, [Pub. L. 92-75; 85 Stat. 213; 46 U.S.C. 1451 et seq.], and acts amendatory thereto. Any person who violates this section is guilty of a class 2 noncriminal offense.

**\* SECTION 31. AMENDMENT.** Section 27-07.1-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-07.1-17. Jurisdiction of county courts.** A county court of any county of this state shall have jurisdiction in the following types of cases:

1. Civil cases with not more than ten thousand dollars in controversy. The jurisdiction of the county court extends to the following actions:
  - a. A garnishment action when the sum for which judgment is demanded in such action does not exceed ten thousand dollars.
  - b. An attachment action when the amount of damages claimed does not exceed ten thousand dollars.
  - c. An action for claim and delivery of property when the value of the property together with the sum, if any,

**\* NOTE:** Section 27-07.1-17 was also amended by section 1 of Senate Bill No. 2118, chapter 338.

demanding as damages does not exceed ten thousand dollars.

- d. An action for eviction from real property irrespective of value when the amount demanded therein for rents and profits or damages does not exceed ten thousand dollars.
2. Criminal misdemeanor, infraction, and noncriminal traffic and game and fish cases.
3. Small claims cases.
4. Probate, guardianship, and other testamentary cases pursuant to title 30.1.
5. Trusts pursuant to title 30.1 and title 59.
6. Preliminary hearings and arraignments in felony criminal cases.
7. Commitment proceedings pursuant to chapter 25-03.1.
8. Any other cases, except proceedings conducted pursuant to chapter 27-20, as assigned by the presiding district judge of the judicial district in which the county is located; provided, however, that any party is entitled to have any matter assigned pursuant to this subsection heard by a district judge if a written request therefor is filed with the presiding district judge within three days after receiving notice of the assignment, and, provided further, that the trial of a criminal matter may not be assigned to a county judge who presided at the preliminary hearing except where a preliminary hearing has been waived.

Approved April 4, 1985

## CHAPTER 273

HOUSE BILL NO. 1623  
(Lloyd, Stofferahn)

## SERVICEMEN'S DEER HUNTING LICENSES

AN ACT to amend and reenact subsection 13 of section 20.1-02-05 of the North Dakota Century Code, relating to the issuance of resident deer hunting licenses for members of the United States armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 13 of section 20.1-02-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. Issue any resident license prescribed by this title to a person who has come to the state with a bona fide intention of becoming a resident, even though he has not been a resident of this state for the required time period immediately preceding the application for the license, or to any person who is a member of the United States armed forces and who is within the state on duty or leave, or 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. No license shall be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection shall not apply to lottery permits, except that the commissioner 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.

Approved March 22, 1985

## CHAPTER 274

HOUSE BILL NO. 1079  
(Legislative Council)  
(Interim Natural Resources Committee)

## WILDLIFE AREA ACQUISITION — GARRISON DIVERSION MITIGATION

AN ACT to amend and reenact sections 20.1-02-18, 20.1-02-18.1, and 20.1-02-18.2 of the North Dakota Century Code, relating to the acquisition of migratory bird refuges and waterfowl production areas by the federal government; and to repeal section 20.1-02-17.2, relating to the requirement that lands acquired by the game and fish department qualify as Garrison Diversion Project mitigated acres.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18. State's conditional consent to United States' acquisition of areas for migratory bird reservations - State retains jurisdiction. North Dakota consents, subject to the approval of the governor for each proposed acquisition, along with the conditions of sections 20.1-02-18.1 and 20.1-02-18.2, to the United States acquiring, by purchase, gift, devise, or lease, land or water in this state as the United States may deem necessary to establish migratory bird reservations in accordance with the federal Migratory Bird Conservation Act [Pub. L. 70-770; 45 Stat. 1222; 16 U.S.C. 715 et seq.]. North Dakota reserves such full and complete jurisdiction and authority over all such areas of land or water so acquired by the United States as is not incompatible with the administration, maintenance, protection, and control of such areas by the United States under the terms of said Act of Congress.

SECTION 2. AMENDMENT. Section 20.1-02-18.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.1. Federal wildlife area acquisitions - Submission to county commissioners, opportunity for public comment, and impact analysis required. The governor, the game and fish commissioner, or their designees, responsible under federal law for final approval of land, wetland,

and water acquisitions by the United States department of the interior, its bureaus or agencies, for waterfowl production areas, wildlife refuges or other wildlife or waterfowl purposes, shall submit the proposed acquisitions to the board of county commissioners of the county or counties in which the land, wetland, and water areas are located for the board's recommendations. ~~An affirmative recommendation by the board must be obtained prior to final approval of all such proposed acquisitions, whether by transfer of title, lease, easement, or servitude.~~

The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice shall be published once each week for two successive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice shall set forth the substance of the proposed action, and shall include a legal description of the proposed acquisitions. The board of county commissioners shall make its recommendations within sixty days after receipt of an acquisition proposal.

A detailed impact analysis from the federal agency involved shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. Such analysis shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisitions. The department of the interior shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the office of intergovernmental assistance which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the office of intergovernmental assistance. Upon expiration of the thirty-day period, all comments received by the office of intergovernmental assistance shall be forwarded to the federal agency involved and to the state official or agency responsible for final acquisition approval. The federal agency may, after consideration of such comments, file a final impact analysis with the governor, the board of county commissioners, and any other state official or agency responsible for final acquisition approval.

\* SECTION 3. AMENDMENT. Section 20.1-02-18.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.2. Negotiation of leases, easements, and servitudes for wildlife production purposes. A landowner may negotiate the terms of a lease, easement, or servitude for land, wetland, or water areas sought to

\* NOTE: Section 20.1-02-18.2 was also amended by section 1 of House Bill No. 1418, chapter 275.

be acquired by the United States department of the interior, its bureaus or agencies, with moneys from the migratory bird conservation fund [16 U.S.C. 718d] for use as waterfowl production areas, wildlife refuges, or for other wildlife purposes. A landowner may:

1. Negotiate the time period of the lease, easement, or servitude being sought.
2. Restrict a lease, easement, or servitude by legal description to the land, wetland, or water areas being sought, and may drain any after-expanded wetland or water area in excess of the legal description in the lease, easement, or servitude.

Failure by the department of the interior, its bureaus or agencies, to agree to and comply with the above provisions shall nullify North Dakota's consent to the federal Act under section 20-1-02-18-

**SECTION 4. REPEAL.** Section 20.1-02-17.2 of the 1983 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1985

## CHAPTER 275

HOUSE BILL NO. 1418  
(G. Berg, Mertens, O. Hanson)

## FEDERAL WATERFOWL PRODUCTION AREA EASEMENTS

AN ACT to amend and reenact sections 20.1-02-18.2 and 47-05-02.1 of the North Dakota Century Code, relating to the duration of federal waterfowl production area easements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 20.1-02-18.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.2. Negotiation of leases, easements, and servitudes for wildlife production purposes. A landowner may negotiate the terms of a lease, easement, or servitude for land, wetland, or water areas sought to be acquired by the United States department of the interior, its bureaus or agencies, with moneys from the migratory bird conservation fund [16 U.S.C. 718d] for use as waterfowl production areas, wildlife refuges, or for other wildlife purposes. A landowner may:

1. Negotiate the time period of the lease, easement, or servitude being sought; however, the duration of an easement for a waterfowl production area acquired by the federal government, and consented to by the governor or appropriate state agency after July 1, 1985, may not exceed fifty years.
2. Restrict a lease, easement, or servitude by legal description to the land, wetland, or water areas being sought, and may drain any after-expanded wetland or water area in excess of the legal description in the lease, easement, or servitude.

Failure by the department of the interior, its bureaus or agencies, to agree to and comply with the above provisions shall nullify North Dakota's consent to the federal Act under section 20.1-02-18.

\* NOTE: Section 20.1-02-18.2 was also amended by section 3 of House Bill No. 1079, chapter 274.

SECTION 2. AMENDMENT. Section 47-05-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-05-02.1. Regulations governing Requirements of easements, servitudes, or nonappurtenant restrictions on the use of real property. Real property easements, servitudes, or any nonappurtenant restrictions on the use of real property, which become binding after July 1, 1977, shall be subject to the regulations contained in requirements of this section. These regulations shall be requirements are deemed a part of any agreement for such interests in real property whether or not printed in a document of agreement.

1. The area of land covered by the easement, servitude, or nonappurtenant restriction on the use of real property shall be properly described, and shall set out the area of land covered by the interest in real property.
2. The duration of the easement, servitude, or nonappurtenant restriction on the use of real property shall be specifically set out, and in no case shall the duration of any interest in real property regulated by this section exceed ninety-nine years. The duration of an easement for a waterfowl production area acquired by the federal government, and consented to by the governor or the appropriate state agency after July 1, 1985, may not exceed fifty years.
3. No increase in the area of real property subject to the easement, servitude, or nonappurtenant restriction shall be made except by negotiation between the owner of the easement, servitude, or nonappurtenant restriction and the owner of the servient tenement.

Approved March 27, 1985

## CHAPTER 276

SENATE BILL NO. 2338  
(Senator D. Meyer)  
(Representative Murphy)

### LANDOWNER ELK HUNTING LICENSE

AN ACT to create and enact a new subsection to section 20.1-03-11 and a new section to chapter 20.1-08 of the North Dakota Century Code, relating to licenses issued to landowners to hunt elk and the governor's proclamation on the hunting of elk; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-03-11 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Upon execution and filing of an affidavit describing a minimum of one-quarter section [64.75 hectares] of land owned or leased and actively farmed or ranched by any person within a district or unit open for hunting of elk, that person shall receive, upon payment of the fee requirement for a resident big game license, a preferential landowner license to hunt elk within the district or unit in which the land described in the affidavit is located. The governor's proclamation may restrict the districts or units for which preferential licenses may be issued under this section. However, the governor shall give primary consideration to allowing preferential licenses under this section to be issued to persons owning or leasing land in the following areas: township one hundred forty-seven north, range ninety-six west; township one hundred forty-eight north, range ninety-six west; township one hundred forty-seven north, range ninety-seven west; township one hundred forty-eight north, range ninety-seven west of the fifth principal meridian, in Dunn County; and the west one-half of township one hundred forty-nine north, range ninety-five west; township one hundred forty-nine north, range ninety-six west, and the east one-half of township one hundred forty-nine north, range ninety-seven west of the fifth principal meridian, in McKenzie County. The number

of licenses issued under this subsection for each designated district or unit for hunting elk may not be less than one permit, nor exceed fifteen percent of the total licenses prescribed in the governor's proclamation for each district or unit. If the number of applications for licenses to be issued under this subsection in a district or unit exceeds the maximum number of such licenses allocated to that district or unit, the licenses to be issued must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this section is not eligible to apply for a license to hunt elk in future years. License to hunt elk will not be issued under this section when the total number of licenses prescribed in the governor's proclamation is less than twenty. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the affidavit is located, unless the person has sold or otherwise transferred the person's rights to the land described in the affidavit. A person who has applied for a preferential license under this section may not, during the elk hunting season in the year the license is applied for, post as not being open for hunting land owned or leased by the person in the district or unit in which the land described in the affidavit is located.

**SECTION 2.** A new section to chapter 20.1-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Governor's proclamation concerning the hunting of elk - License recipients not eligible to apply again.** The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor shall prescribe. Licenses to hunt elk must be issued by lottery, except as provided under section 1 of this Act, with only residents eligible to apply. A person who has received a license to hunt elk is not eligible to apply for another such license.

**SECTION 3. EXPIRATION DATE.** This Act is effective through June 30, 1987, and after that date is ineffective.

Approved April 15, 1985

## CHAPTER 277

HOUSE BILL NO. 1512  
(Lipsiea)

## BIGHORN SHEEP LICENSE AUCTION

AN ACT to amend and reenact subsections 3 and 4 of section 20.1-03-12 and section 20.1-08-04.1 of the North Dakota Century Code, relating to fees for hunting and fishing licenses and permits and the governor's proclamation concerning the hunting of bighorn sheep.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 4 of section 20.1-03-12 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. For a resident big game hunting license, eighteen dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. For a nonresident big game hunting license, one hundred dollars, and for a nonresident bow license, one hundred dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.

SECTION 2. AMENDMENT. Section 20.1-08-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-08-04.1. Governor's proclamation concerning the hunting of bighorn sheep - License recipients not eligible to apply again. The governor may by proclamation provide for a season to hunt bighorn sheep in such manner, number, places, and times as he shall prescribe. Licenses to hunt bighorn sheep shall be issued by lottery with only residents eligible to apply; however, the governor may by proclamation auction to the highest bidder, whether resident or nonresident, a license to hunt bighorn sheep in such manner, number, places, and times as the governor prescribes. Each person who has received a license to hunt bighorn sheep shall not be eligible to apply for another such license.

Approved March 22, 1985

## CHAPTER 278

HOUSE BILL NO. 1532  
(Rydell, Martinson)

## ELK, MOOSE, BIGHORN SHEEP LICENSE APPLICATION FEES

AN ACT to create and enact a new section to chapter 20.1-03 of the North Dakota Century Code, relating to an application fee for licenses to hunt elk, moose, and bighorn sheep; and to amend and reenact section 20.1-02-17 of the North Dakota Century Code, relating to the use of elk, moose, and bighorn sheep application fees by the game and fish department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-17. Conditional assent to federal aid projects - Proceeds from license fees and application to be used for administration of department. North Dakota assents to the Act of Congress entitled "An Act to provide that the United States shall aid the states in wildlife restoration projects and for other purposes" [Pub. L. 75-415; 50 Stat. 917; 16 U.S.C. 669 et seq.], and the Act of Congress entitled "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes" [Pub. L. 81-681; 64 Stat. 430; 16 U.S.C. 777 et seq.] subject to the conditions of section 20.1-02-17.1. The commissioner may conduct and establish cooperative wildlife and fish restoration projects as defined in these Acts, in compliance with the Acts and with rules and regulations promulgated by the federal agency administering these Acts.

Hunting and fishing license fees and application fees assessed under section 2 of this Act shall only be used for departmental programs and administration.

SECTION 2. A new section to chapter 20.1-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

Elk, moose, and bighorn sheep - Application fee. Each person applying for a license to hunt elk, moose, or bighorn sheep under this chapter shall be assessed a nonrefundable application fee of three dollars for each such application in addition to the fee charged for the issuance of the license under this chapter.

Approved March 22, 1985

## CHAPTER 279

HOUSE BILL NO. 1606  
(Gunsch, R. Hausauer)

### UNDERWATER SPEARFISHING

AN ACT to create and enact a new section to chapter 20.1-08 of the North Dakota Century Code, relating to the governor's proclamation for a season for underwater spearfishing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. 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 for the fishing seasons beginning in 1986 and 1987.

Approved April 4, 1985