

# GAME, FISH, PREDATORS, AND BOATING

## CHAPTER 225

SENATE BILL NO. 2506  
(Senator Freborg)

### RECREATION LAND REFUSE PENALTY

AN ACT to amend and reenact section 20.1-01-25 of the North Dakota Century Code, relating to depositing refuse on recreation lands; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 20.1-01-25 of the North Dakota Century Code is amended and reenacted 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 willfully violates this section is guilty of a ~~class 1 noncriminal offense~~ an infraction.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 25, 1993  
Filed March 26, 1993

## CHAPTER 226

SENATE BILL NO. 2521  
(Senators O'Connell, Krauter, Marks)  
(Representatives Brown, Schindler, Stenson)

### SPECIAL HUNTING PERMITS

AN ACT to amend and reenact subsection 11 of section 20.1-02-05 of the North Dakota Century Code, relating to powers of the director of the game and fish department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 11 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

11. Issue, at the director's discretion, 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. A permit issued under this subsection allows the permittee to drive, or to be driven, on to 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 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 tenant to hunt on the land in the manner provided in this title.

Approved March 25, 1993  
Filed March 26, 1993

## CHAPTER 227

HOUSE BILL NO. 1514

(Representatives Henegar, A. Carlson, Torgerson)  
(Senators B. Stenehjem, Mathern, Jerome)  
(Approved by the Delayed Bills Committee)

### MOTORBOAT PROGRAMS AND FEES

AN ACT to create and enact two new sections to chapter 20.1-02 of the North Dakota Century Code, relating to the creation of the motorboat programs and safety account; to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to motorboat license fees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

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.

<sup>1</sup> **SECTION 2.** A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Motorboat programs and safety account - Transfer from highway tax distribution fund. On July first of each year the state treasurer shall transfer from the highway tax distribution fund, before allocation of the fund under section 54-27-19, to the motorboat programs and safety account an amount equal to two dollars and fifty cents multiplied by the number of motorboats licensed with the game and fish department as of July first of that year.

**SECTION 3. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

<sup>2</sup> **20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees shall be as follows:

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<sup>1</sup> NOTE: Section 2 was vetoed by the Governor, see chapter 651.

<sup>2</sup> NOTE: Section 20.1-03-12 was also amended by section 6 of House Bill No. 1012, chapter 12; by sections 2 and 3 of House Bill No. 1180, chapter 229; and by section 1 of House Bill No. 1355, chapter 234.

1. For a resident, age nineteen and over small game hunting license, six dollars, and for a resident, under the age of nineteen small game hunting license, three dollars.
2. For a nonresident small game hunting license, fifty dollars.
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.
5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, nine dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee shall be three dollars.
7. For a nonresident fishing license, twenty dollars.
8. For a nonresident short-term seven-day fishing license, thirteen dollars.
9. For a resident husband and wife fishing license, thirteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For resident and nonresident special permits to hunt deer in certain restricted areas, one dollar.
12. For a wild turkey permit, five dollars.
13. For an annual general game license, three dollars.
14. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
15. 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.
16. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by him within this state.
17. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
18. For an annual license to practice taxidermy, four dollars.
19. 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 his home or to points outside of this state, three dollars.

20. For a permit to make collections of protected birds and animals for scientific purposes, two dollars.
21. For a permit to ship live protected birds or animals to points either within or outside this state, two dollars per permit. A permit shall be attached to each shipment.
22. 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, ~~nine~~ 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-one~~ twenty-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, ~~thirty~~ thirty-three dollars. ~~It is the intent of the legislative assembly that the increase in motorboat license fees, as provided by the 1981 and 1989 amendments to this subsection, be used for providing matching funds for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat registration administration.~~
23. To operate watercraft used for hire, the following license fees shall 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.
24. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, six dollars for each hoop-net or trap, two dollars for each setline, and six dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
25. For a license to erect, have, and maintain on the ice in this state a fishhouse used or to be used to protect one while ice fishing or a dark house used or to be used for spearfishing, five dollars for each unit.

26. For an annual license to peddle fish species abounding in waters of this state, three dollars.
27. For an annual license to sell minnows or other live bait at wholesale, thirty dollars.
28. For an annual license to sell minnows or other live bait at retail, eight dollars.
29. For an annual license to operate a private fish hatchery, thirty dollars.
30. For a resident commercial frog license, fifty dollars.
31. For a nonresident commercial frog license, two hundred dollars.
32. For a resident frog license, three dollars.
33. For a resident husband and wife frog license, five dollars.
34. 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].
35. For an annual license to guide, one hundred dollars.
36. For a nonresident waterfowl hunting license, eight dollars.
37. For a nonresident husband and wife fishing license, thirty-five dollars.
38. For a trout and salmon license stamp, four dollars.
39. For a nonresident short-term three-day fishing license, eight dollars.
40. For a nonresident short-term three-day small game hunting license, issued between November fifteenth and the close of the upland game hunting season, thirty dollars.
41. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
42. For a combination license, twenty-five dollars.
43. For a white-tailed deer license sold to guides or outfitters and provided by them to nonresidents, two hundred and fifty dollars.
44. For a resident swan license, five dollars.
45. For a nonresident swan license, twenty dollars.
46. For a resident and nonresident sandhill crane license, five dollars.

47. For a resident commercial clam license, one hundred dollars.
48. For a nonresident commercial clam license, one thousand dollars.
49. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the commissioner a surety bond in the sum of two thousand dollars.

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.

**SECTION 4. EFFECTIVE DATE.** This Act becomes effective only if House Bill No. 1399 is approved by the fifty-third legislative assembly and becomes effective. If this Act takes effect, section 1 of this Act becomes effective on August 1, 1993, section 2 of this Act becomes effective on June 30, 1995, and the increase in motorboat license fees as provided by section 3 of this Act becomes effective on January 1, 1996.

Approved May 5, 1993  
Filed May 6, 1993

## CHAPTER 228

HOUSE BILL NO. 1243  
(Representatives Oban, Belter, Hanson)  
(Senators Tallackson, Nelson, Yockim)

### BOWHUNTER EDUCATION

AN ACT to create and enact a new section to chapter 20.1-03 of the North Dakota Century Code, relating to bowhunter education requirements; to provide a penalty; to provide an effective date; to provide an expiration date; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 20.1-03 of the North Dakota Century Code is created and enacted as follows:

**Additional education requirement for bowhunters - Standards - Penalty.** After July 1, 1997, in addition to successfully completing the course of instruction required by sections 20.1-03-01.1 through 20.1-03-01.3, any person born after August 31, 1981, must satisfactorily complete the course of instruction required by this section before that person may obtain a license to hunt game by bow and arrow in this state. By June 30, 1993, the director shall enter into a memorandum of understanding with the North Dakota bowhunters association specifying the obligations of both the department and the association regarding all aspects of course administration, instruction, and student certification. The director shall issue a certificate of completion to every person satisfactorily completing the course of instruction. A certificate of completion issued by any other state or by any province of Canada that bases its course of instruction upon international bowhunter education program standards satisfies the requirements of this section. A person who purchases or attempts to purchase a license to hunt game by bow and arrow in violation of this section is guilty of a class 2 noncriminal offense.

**SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** Section 1 of this Act expires on July 1, 1993, unless the director of the game and fish department certifies to the governor and the secretary of state, before July 1, 1993, that the director has entered into a memorandum of understanding with the North Dakota bowhunters association as provided in section 1 of this Act. Section 1 of this Act expires on August 1, 1997, unless the director of the game and fish department certifies to the governor and the secretary of state, before August 1, 1997, that the director has entered into a continuing memorandum of understanding with the North Dakota bowhunters association. If a continuing memorandum of understanding has been entered, section 1 of this Act expires August 1, 1999. The secretary of state shall forward a copy of the director's certification or certifications to the legislative council, with a notation indicating the effective date or effective dates of section 1 of this Act.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 19, 1993  
Filed March 19, 1993

## CHAPTER 229

HOUSE BILL NO. 1180  
(Natural Resources Committee)  
(At the request of the Game and Fish Department)

### GAME AND FISH LICENSE FEES

AN ACT to amend and reenact sections 20.1-03-04, 20.1-03-12, and 20.1-03-12.2 of the North Dakota Century Code, relating to licenses and permits for game, fish, predators, and boating; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 20.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-04. When licenses to hunt, fish, or trap not required of residents.** Subject to the provisions of this title:

1. Any resident, or any member of ~~his~~ the resident's family residing customarily with ~~him~~ the resident, may hunt small game, fish, or trap during the open season without a license upon land owned or leased by ~~him~~ the resident.
2. Residents or nonresidents under the age of sixteen years may fish without a ~~resident~~ fishing license.
3. Residents may fish at a private fish hatchery without a resident fishing license.
4. Developmental center at Grafton patients, state industrial school students, school for the deaf students, school for the blind students, state hospital patients, community health and retardation service unit patients under direct therapeutic care, and residents of facilities licensed by the state department of health and consolidated laboratories and the state department of human services may fish without a resident fishing license. Patients of these institutions must be identified. The department shall issue authority to each institution.
5. ~~Repealed by S.L. 1973, ch. 207, § 1.~~
- 6- Residents may fish without a resident fishing license or trout and salmon license stamp on free fishing days. The dates of these free fishing days may be set by proclamation by the governor.
6. Residents under age sixteen may take furbearers without a furbearer license.
7. Residents under age sixteen may take small game or waterfowl without a small game license.

**SECTION 2. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> ~~20.1-03-12.~~ **Schedule of fees for licenses and permits.** The various license and permit fees ~~shall be~~ are as follows:

1. For a resident, age ~~nineteen~~ sixteen and over small game hunting license, six dollars, ~~and for a resident, under the age of nineteen small game hunting license, three dollars.~~
2. For a nonresident small game hunting license, fifty seventy-five dollars.
3. For a resident big game hunting license, ~~eighteen~~ 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. For a nonresident big game hunting license, one hundred fifty-five dollars, and for a nonresident bow license, one hundred fifty-five 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.
5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, nine dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee ~~shall be~~ is three dollars.
7. For a nonresident fishing license, twenty dollars.
8. For a nonresident short-term seven-day fishing license, thirteen dollars.
9. For a resident husband and wife fishing license, thirteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
- ~~11. For resident and nonresident special permits to hunt deer in certain restricted areas, one dollar.~~
- ~~12-~~ For a wild turkey permit, five eight dollars.
- ~~13-~~ 12. For an annual general game license, three dollars.
- ~~14-~~ 13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
- ~~15-~~ 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

<sup>1</sup> NOTE: Section 20.1-03-12 was also amended by section 6 of House Bill No. 1012, chapter 12; by section 1 of House Bill No. 1355, chapter 234; and by section 3 of House Bill No. 1514, chapter 227.

comparable license in that person's state of residence, or fifty dollars, whichever is greater.

- ~~16.~~ 15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by ~~him~~ that person within this state.
- ~~17.~~ 16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
- ~~18.~~ 17. For an annual license to practice taxidermy, ~~four~~ twenty-five dollars.
- ~~19.~~ 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 ~~his~~ that person's home or to points outside of this state, three dollars.
- ~~20.~~ 19. For a permit to make collections of protected birds and animals for scientific purposes, ~~two~~ ten dollars.
- ~~21.~~ For a permit to ship live protected birds or animals to points either within or outside this state, two dollars per permit. A permit shall be attached to each shipment.
- ~~22.~~ 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, nine 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-one dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty dollars. It is the intent of the legislative assembly that the increase in motorboat license fees, as provided by the 1981 and 1989 amendments to this subsection, be used for providing matching funds for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat registration administration.
- ~~23.~~ 21. To operate watercraft used for hire, the following license fees shall 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.
- ~~24-~~ 22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, ~~six fifteen~~ dollars for each hoop-net or trap, ~~two dollars for each setline,~~ and ~~six fifteen~~ dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
- ~~25-~~ 23. For a license to erect, have, and maintain on the ice in this state a fishhouse used or to be used to protect one while ice fishing or a dark house used or to be used for spearfishing, ~~five~~ ten dollars for each unit.
- ~~26-~~ 24. For an annual license to peddle fish species abounding in waters of this state, three dollars.
- ~~27-~~ 25. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
- ~~28-~~ 26. For an annual license to sell minnows or other live bait at retail, ~~eight fifteen~~ dollars, except the fee is seventy-five dollars if white suckers are sold.
- ~~29-~~ 27. For an annual license to operate a private fish hatchery, ~~thirty~~ seventy-five dollars.
- ~~30-~~ 28. For a resident commercial frog license, fifty dollars.
- ~~31-~~ 29. For a nonresident commercial frog license, two hundred dollars.
- ~~32-~~ 30. For a resident frog license, three dollars.
- ~~33-~~ 31. For a resident husband and wife frog license, five dollars.
- ~~34-~~ 32. For a shooting preserve operating permit:
- One hundred dollars, if the shooting preserve consists of an area of six hundred forty acres [259 hectares] or less; or
  - 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].
- ~~35-~~ 33. For an annual license to guide for both hunting and fishing, one hundred fifty dollars.
34. For an annual license to guide only for hunting, one hundred dollars.
35. For an annual license to guide only for fishing, one hundred dollars.

36. For a nonresident waterfowl hunting license, ~~eight~~ ten dollars.
37. For a nonresident husband and wife fishing license, thirty-five dollars.
38. For a trout and salmon license stamp, four dollars.
39. For a nonresident short-term three-day fishing license, eight dollars.
40. ~~For a nonresident short-term three-day small game hunting license, issued between November fifteenth and the close of the upland game hunting season, thirty dollars.~~
- 41- For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
- 42- 41. For a combination license, twenty-five dollars.
- 43- 42. For a white-tailed deer license sold to guides or outfitters and provided by them to nonresidents, two hundred and fifty dollars.
- 44- 43. For a resident swan license, five dollars.
- 45- 44. For a nonresident swan license, ~~twenty~~ twenty-five dollars.
- 46- 45. For a resident and nonresident sandhill crane license, five dollars.
- 47- 46. For a resident commercial clam license, one hundred dollars.
- 48- 47. For a nonresident commercial clam license, one thousand dollars.
- 49- 48. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the commissioner a surety bond in the sum of two thousand dollars.

The fees for these licenses and permits must be deposited with the state treasurer and credited to the game and fish fund.

<sup>2</sup> SECTION 3. AMENDMENT. Subsections 7, 8, 19, 26, and 39 of section 20.1-03-12 of the North Dakota Century Code are amended and reenacted as follows:

7. For a nonresident fishing license, ~~twenty~~ twenty-five dollars.
8. For a nonresident short-term seven-day fishing license, ~~thirteen~~ fifteen dollars.
19. 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 ~~his~~ that person's home or to points outside ~~of~~ this state, three dollars. For a resident certificate fee, one dollar, and for a nonresident certificate

<sup>2</sup> NOTE: Section 20.1-03-12 was also amended by section 6 of House Bill No. 1012, chapter 12; by section 1 of House Bill No. 1355, chapter 234; and by section 3 of House Bill No. 1514, chapter 227.

fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

26. For an annual license to peddle fish species abounding in waters of this state a resident or nonresident paddlefish tag annual license, three dollars per tag.
39. For a nonresident short-term three-day fishing license, ~~eight~~ ten dollars.

**SECTION 4. AMENDMENT.** Section 20.1-03-12.2 of the North Dakota Century Code is amended and reenacted as follows:

<sup>3</sup> **20.1-03-12.2. Hunting license and permit application fees.** Each ~~person~~ resident applying for a license or permit to hunt elk, moose, or bighorn sheep, ~~or~~ antelope under this chapter must be assessed a nonrefundable application fee of three dollars for each license or permit application in addition to the fee charged for the issuance of the license or permit under this chapter.

**SECTION 5. EFFECTIVE DATE.** Section 3 of this Act becomes effective on April 1, 1994.

Approved April 14, 1993  
Filed April 15, 1993

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<sup>3</sup> NOTE: Section 20.1-03-12.2 was also amended by section 2 of House Bill No. 1355, chapter 234.

## CHAPTER 230

HOUSE BILL NO. 1083  
(Natural Resources Committee)  
(At the request of the Game and Fish Department)

### FISHING LICENSE EXEMPTIONS

AN ACT to create and enact a new subsection to section 20.1-03-04 of the North Dakota Century Code, relating to times when residents may fish without a license; and to amend and reenact section 20.1-03-08 of the North Dakota Century Code, relating to times when nonresidents may fish without a license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 20.1-03-04 of the North Dakota Century Code is created and enacted as follows:

Residents who are enrolled as students or serving as certified instructors during official aquatics education program events of the game and fish department may be granted free fishing privileges by discretion of the director.

**SECTION 2. AMENDMENT.** Section 20.1-03-08 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-08.** When licenses to fish not required of nonresident. Subject to other provisions of this title, any nonresident under the age of sixteen years may fish without a nonresident fishing license if accompanied by an adult possessing a valid fishing license. Any nonresident may fish in the waters of a private fish hatchery without a nonresident fishing license. Nonresidents approved by the department and serving as instructors at official aquatics education events may fish without a license at the discretion of the director.

Approved March 11, 1993  
Filed March 12, 1993

## CHAPTER 231

SENATE BILL NO. 2476

(Senator Andrist)

(Representatives Coats, Rennerfeldt, Torgerson)

**GUIDE OR OUTFITTER DEER LICENSES**

AN ACT to amend and reenact subsection 4 of section 20.1-03-11 and section 20.1-03-11.2 of the North Dakota Century Code, relating to nonresident deer licenses and white-tailed deer licenses provided to guides and outfitters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 4 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~The number of nonresident deer licenses and permits issued for the season to hunt deer with guns shall not exceed one~~ One percent of the total deer licenses and permits to hunt deer with guns to be issued in any unit or subunit as described in the governor's proclamation must be allocated for nonresidents.

**SECTION 2. AMENDMENT.** Section 20.1-03-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-11.2. Guides and outfitters - White-tailed deer licenses - Fees.** The governor shall make ~~any one-half of the antlered~~ white-tailed deer licenses ~~remaining after the second sale and permits allocated to nonresidents under subsection 4 of section 20.1-03-11, up to a maximum of one hundred licenses,~~ available to guides or outfitters licensed in this state. ~~The first one hundred of any such remaining licenses, or all such licenses if less than one hundred remain, must be for antlered deer only.~~ A guide or outfitter may not purchase or obtain more than five white-tailed deer licenses under this section in any one year. A guide or outfitter shall pay the fee required for a white-tailed deer license sold to guides or outfitters and provided by them to nonresidents for each license purchased under this section. A guide or outfitter may provide to nonresidents, for compensation, big game guiding and outfitting services and one white-tailed deer license per nonresident as provided in this section to hunt white-tailed deer in the manner, at the places, and during the times the governor prescribes by proclamation.

Approved April 7, 1993  
Filed April 8, 1993

## CHAPTER 232

HOUSE BILL NO. 1268  
(Representatives Brown, Drovdal, Byerly)  
(Senators Dotzenrod, Nalewaja, Urlacher)

### LANDOWNER ELK HUNTING LICENSES

AN ACT to amend and reenact subsection 7 of section 20.1-03-11 of the North Dakota Century Code, relating to licenses issued to landowners to hunt elk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 7 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

7. A person who leases land for agricultural purposes and who actively farms or ranches that land or a landowner is entitled to receive, upon payment of the fee requirement for a resident big game license and filing an affidavit describing a minimum of a quarter section [64.75 hectares] of land that is leased for agricultural purposes or owned by that person and which is within a district or unit open for hunting of elk, 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 subsection. However, the governor shall give primary consideration to allowing preferential licenses under this subsection to be issued to persons owning or leasing land in the following areas: that portion of township one hundred forty-seven north, range ninety-five west which is north and west of state highway twenty-two; township one hundred forty-six north, range ninety-six west; 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 township one hundred forty-nine north, range ninety-seven west of the fifth principal meridian, in McKenzie County; and other areas within a district or unit open for hunting of elk as prescribed in the governor's proclamation. 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 subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the rocky mountain elk foundation raffle under section 20.1-08-04.6.

Licenses to hunt elk may not be issued under this subsection 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.

Approved March 22, 1993  
Filed March 23, 1993

## CHAPTER 233

HOUSE BILL NO. 1495  
(Representatives Wilkie, A. Olson, Sveen)  
(Senators Lindaas, O'Connell, Sand)

### LANDOWNER MOOSE HUNTING

AN ACT to create and enact a new subsection to section 20.1-03-11 of the North Dakota Century Code, relating to licenses issued to landowners to hunt moose; and to amend and reenact section 20.1-08-04.2 of the North Dakota Century Code, relating to the governor's proclamation concerning the hunting of moose.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** If House Bill No. 1277 does not become effective, a new subsection to section 20.1-03-11 of the North Dakota Century Code is created and enacted as follows:

A person who leases land for agricultural purposes and who actively farms or ranches that land or a landowner is entitled to receive, upon paying the fee for a resident big game license and filing an affidavit describing a minimum of a quarter section [64.75 hectares] of land that is leased for agricultural purposes or owned by that person and which is within a district or unit open for hunting of moose, a preferential landowner license to hunt moose. The license must include a description of the land described in the affidavit and may be used to hunt moose only upon that land. If a license under this subsection is issued for a district or unit, at least one license must be issued under this subsection for that district or unit for hunting moose. The number of licenses issued under this subsection for a district or unit may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for that district or unit. If the number of eligible persons who apply for a license under this subsection exceeds the number of licenses available under this subsection, the licenses must be issued by lottery as prescribed in the governor's proclamation. A license to hunt moose may not be issued under this subsection for a district or unit open for the hunting of moose when the total number of licenses allocated to that district or unit is less than ten. A person who receives a license under this subsection is not eligible to apply for a license to hunt moose in future years.

**SECTION 2.** If House Bill No. 1277 is approved by the fifty-third legislative assembly and becomes effective, a new subsection to section 20.1-03-11 of the North Dakota Century Code is created and enacted as follows:

A person who leases land for agricultural purposes and who actively farms or ranches that land or a landowner is entitled to receive, upon paying the fee for a resident big game license and filing an affidavit describing a minimum of a quarter section [64.75 hectares] of land that is leased for agricultural purposes or owned by that person and which is within a

district or unit open for hunting of moose, a preferential landowner license to hunt moose. The license must include a description of the land described in the affidavit and may be used to hunt moose only upon that land. If a license under this section is issued for a district or unit, at least one license must be issued under this subsection for that district or unit for hunting moose. The number of licenses issued under this subsection for a district or unit may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for that district or unit. If the number of eligible persons who apply for a license under this subsection exceeds the number of licenses available under this subsection, the licenses must be issued by lottery as prescribed in the governor's proclamation. A license to hunt moose may not be issued under this subsection for a district or unit open for the hunting of moose when the total number of licenses allocated to that district or unit is less than ten. A person who receives a license under this subsection is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the North Dakota game warden association raffle under section 20.1-08-04.2.

**SECTION 3. AMENDMENT.** If House Bill No. 1277 does not become effective, section 20.1-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-08-04.2. Governor's proclamation concerning the hunting of moose - License recipients not eligible to apply again.** The governor may by proclamation provide for a season to hunt moose in ~~such a~~ manner, number, places, and times as ~~he~~ the governor shall prescribe. Licenses to hunt moose must be issued by lottery, except as provided under section 1 of this Act, with only residents eligible to apply. Each person who has received a license to hunt moose is not eligible to apply for another such license.

**SECTION 4. AMENDMENT.** If House Bill No. 1277 is approved by the fifty-third legislative assembly and becomes effective, section 20.1-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **20.1-08-04.2. Governor's proclamation concerning the hunting of moose - License recipients not eligible to apply again.** The governor may by proclamation provide for a season to hunt moose in ~~such a~~ manner, number, places, and times as he the governor shall prescribe. Licenses to hunt moose must be issued by lottery, except as provided under section 2 of this Act, with only residents eligible to apply. Each person who has received a license to hunt moose is not eligible to apply for another such license.

Approved April 8, 1993  
Filed April 9, 1993

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<sup>1</sup> NOTE: Section 20.1-08-04.2 was also amended by section 1 of House Bill No. 1277, chapter 235.

## CHAPTER 234

HOUSE BILL NO. 1355  
 (Representatives A. Carlson, R. Berg, Austin)  
 (Senator Nalewaja)

**BIGHORN SHEEP LICENSES**

AN ACT to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to game and fish license fees; and to amend and reenact sections 20.1-03-12.2 and 20.1-08-04.1 of the North Dakota Century Code, relating to hunting license and permit application fees and participation by nonresidents in the bighorn sheep license lottery.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>1</sup> SECTION 1. A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For a bighorn sheep license issued to a nonresident, five hundred dollars.

SECTION 2. AMENDMENT. Section 20.1-03-12.2 of the North Dakota Century Code is amended and reenacted as follows:

<sup>2</sup> 20.1-03-12.2. **Hunting license and permit application fees.** Each person applying for a license or permit to hunt elk, moose, ~~bighorn sheep~~, or antelope and each resident applying for a license or permit to hunt bighorn sheep under this chapter must be assessed a nonrefundable application fee of three dollars for each license or permit application in addition to the fee charged for the issuance of the license or permit under this chapter. Each nonresident applying for a license or permit to hunt bighorn sheep under this chapter must be assessed a nonrefundable application fee of one hundred dollars in addition to the fee charged for the issuance of a license or permit to hunt bighorn sheep under this chapter.

SECTION 3. AMENDMENT. Section 20.1-08-04.1 of the North Dakota Century Code is amended and reenacted 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~~ the governor prescribes. Licenses to hunt bighorn sheep must 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,

<sup>1</sup> NOTE: Section 20.1-03-12 was also amended by section 6 of House Bill No. 1012, chapter 12; by sections 2 and 3 of House Bill No. 1180, chapter 229; and by section 3 of House Bill No. 1514, chapter 227.

<sup>2</sup> NOTE: Section 20.1-03-12.2 was also amended by section 4 of House Bill No. 1180, chapter 229.

a license to hunt bighorn sheep in such manner, number, places, and times as the governor prescribes. Upon payment of the nonrefundable application fee required by section 20.1-03-12.2, a nonresident may participate in the lottery. One license to hunt bighorn sheep may be issued to a nonresident participating in the lottery. If a nonresident is issued a license to hunt bighorn sheep, no other nonresident may be issued a license to hunt bighorn sheep through the lottery. If all of the licenses to hunt bighorn sheep made available through the lottery are issued to residents, then a nonresident is not eligible to be issued a license to hunt bighorn sheep through the lottery. Each person who has received a license to hunt bighorn sheep is not eligible to apply for another ~~such~~ bighorn sheep license.

Approved March 22, 1993

Filed March 23, 1993

## CHAPTER 235

HOUSE BILL NO. 1277  
(Representatives D. Olsen, Shide, Brown)  
(Senator Mutch)

**GAME WARDEN ASSOCIATION MOOSE LICENSE RAFFLE**

AN ACT to amend and reenact section 20.1-08-04.2 of the North Dakota Century Code, relating to creation of a North Dakota game warden association moose license raffle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> 20.1-08-04.2. Governor's proclamation concerning the hunting of moose - License recipients not eligible to apply again North Dakota game warden association raffle. The governor may by proclamation provide for a season to hunt moose in such manner, number, places, and times as he shall prescribe the governor prescribes. Licenses to hunt moose must be issued by lottery with only residents eligible to apply; however, the governor may by proclamation make available to the North Dakota game warden association one license per year to hunt moose in a manner, places, and times as the governor prescribes. The North Dakota game warden association shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. The person who receives the license from the raffle may not transfer the license. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Fifteen percent of all net proceeds must be remitted to the department and used for moose management and related projects in this state. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement officers association game warden museum located at the international peace garden. Each The governor may not make more than a total of five licenses available to the North Dakota game warden association under this section. A person who has received a may only receive one license to hunt moose is not eligible to apply for another such license issued by lottery and one license to hunt moose through the North Dakota game warden association raffle in a lifetime.

Approved March 22, 1993  
Filed March 23, 1993

<sup>1</sup> NOTE: Section 20.1-08-04.2 was also amended by section 4 of House Bill No. 1495, chapter 233.

## CHAPTER 236

SENATE BILL NO. 2228

(Human Services Committee)

(At the request of the Office of Management and Budget)

### STATE TOXICOLOGIST OFFICE TRANSFER

AN ACT to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to the powers and duties of the state toxicologist within the state department of health and consolidated laboratories; to amend and reenact subsections 2 and 4 of section 20.1-13.1-08, subsection 6 of section 20.1-13.1-10, subsections 2 and 4 of section 20.1-15-08, subsection 8 of section 20.1-15-11, subsection 1 of section 28-32-01, subsections 2 and 4 of section 39-20-05, and subsection 8 of section 39-20-07 of the North Dakota Century Code, relating to the merger of the office of the state toxicologist with the state department of health and consolidated laboratories; and to repeal section 15-12-21 of the North Dakota Century Code, relating to the office of the state toxicologist.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsections 2 and 4 of section 20.1-13.1-08 of the North Dakota Century Code are amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns the prohibition from operating a motorboat or vessel for operating a motorboat or vessel while having an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting warden or officer had probable cause to believe the person had been operating a motorboat or vessel in violation of section 20.1-13-07; whether the person was placed under arrest; whether the person was tested in accordance with section 20.1-13.1-01 or 20.1-13.1-04 and, if applicable, section 20.1-13.1-03; and whether the chemical test results show the person had an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood, urine, or saliva sample from ~~the office of~~ the state toxicologist, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol, other drug, or a combination thereof concentration shown therein. Whether the person was informed that that person may be prohibited from operating a motorboat or vessel based on the results of the chemical test is not an issue.
4. At a hearing under this section, the regularly kept records of the director may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, any copy of a certified copy of an analytical report of a blood, urine, or

saliva sample received by the director from ~~the office of~~ the state toxicologist or a game warden or a law enforcement officer, a certified copy of the checklist and test records received by the director from a certified breath test operator, and any copy of a certified copy of a certificate of ~~the office of~~ the state toxicologist relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol, other drug, or a combination thereof concentration received by the director from ~~the office of~~ the state toxicologist or the clerk of district court, are regularly kept records of the director.

**SECTION 2. AMENDMENT.** Subsection 6 of section 20.1-13.1-10 of the North Dakota Century Code is amended and reenacted as follows:

6. A certified copy of the analytical report of a blood, urine, or saliva test issued by ~~the office of~~ the state toxicologist must be accepted as prima facie evidence of the results of a chemical test performed under this chapter.

**SECTION 3. AMENDMENT.** Subsections 2 and 4 of section 20.1-15-08 of the North Dakota Century Code are amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns suspension of hunting privileges for being afield with a gun or other firearm or a bow and arrow while having an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting warden or officer had reasonable grounds to believe the person had been afield with a gun or other firearm or bow and arrow in violation of section 20.1-01-06; whether the person was placed under arrest; whether the person was tested in accordance with section 20.1-15-01 or 20.1-15-04 and, if applicable, section 20.1-15-03; and whether the chemical test results show the person had an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood, urine, or saliva sample from ~~the office of~~ the state toxicologist, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol, other drug, or a combination thereof concentration shown therein. Whether the person was informed that the privilege to hunt might be suspended based on the results of the chemical test is not an issue.
4. At a hearing under this section, the regularly kept records of the director may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, any copy of a certified copy of an analytical report of a blood, urine, or saliva sample received by the director from ~~the office of~~ the state toxicologist or a game warden or a law enforcement officer, a certified copy of the checklist and test records received by the director from a certified breath test operator, and any copy of a certified copy of a certificate of ~~the office of~~ the state toxicologist relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol, other drug, or a combination thereof concentration received

by the director from ~~the office of~~ the state toxicologist or the clerk of district court, are regularly kept records of the director.

**SECTION 4. AMENDMENT.** Subsection 8 of section 20.1-15-11 of the North Dakota Century Code is amended and reenacted as follows:

8. A certified copy of the analytical report of a blood, urine, or saliva test issued by ~~the office of~~ the state toxicologist must be accepted as prima facie evidence of the results of a chemical test performed under this chapter.

**SECTION 5.** A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Duties of state toxicologist. The state toxicologist must be maintained in connection with the state department of health and consolidated laboratories. The department shall employ the services of a qualified toxicologist who must be the state toxicologist. The state toxicologist with the approval of the state health officer may designate such qualified deputy state toxicologists as may be necessary to exercise the authority and responsibility prescribed by law for the state toxicologist. The state toxicologist may charge fees for services rendered. The results of toxicological or chemical testing or analysis, other than provided for in section 39-20-13, made by the state toxicologist at the request of law enforcement agencies for criminal investigation or at the request of physicians for clinical evaluation and treatment may not be disclosed directly or indirectly by the state toxicologist or any agent or employee of the state department of health and consolidated laboratories to anyone other than the person or agency requesting the test or analysis or to any other person upon whom the toxicological or chemical test was performed or the person's authorized representative, except the state toxicologist may permit the inspection of the reports of any such tests or analysis results by any other person having a proper interest therein. Any customer, employee, or agency affected by the transfer of the state toxicologist from North Dakota state university of agriculture and applied science to the department must be given at least ninety days' notice before the physical transfer occurs.

<sup>1</sup> **SECTION 6. AMENDMENT.** Subsection 1 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, or employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency shall be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
  - a. The office of management and budget except with respect to rules relating to the central personnel system as authorized under section

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<sup>1</sup> NOTE: Subsection 1 of section 28-32-01 was also amended by House Bill Nos. 1047, 1193, 1264, 1336, and 1400 and Senate Bill No. 2215, chapters 135, 186, 328, 327, 80, and 173.

54-44.3-07, rules relating to state purchasing practices as required under section 54-44.4-04, rules relating to records management as authorized or required under chapter 54-46, and rules relating to the central microfilm unit as authorized under chapter 54-46.1.

- b. The adjutant general with respect to the division of emergency management.
- c. The council on the arts.
- d. The state auditor.
- e. The department of economic development and finance.
- f. The dairy promotion commission.
- g. The education factfinding commission.
- h. The educational telecommunications council.
- i. The board of equalization.
- j. The board of higher education.
- k. The Indian affairs commission.
- l. The industrial commission with respect to the activities of the Bank of North Dakota, the North Dakota housing finance agency, the North Dakota municipal bond bank, and the North Dakota mill and elevator association.
- m. The department of corrections and rehabilitation.
- n. The board of pardons.
- o. The parks and tourism department.
- p. The parole board.
- q. The superintendent of public instruction except with respect to rules prescribed under section 15-21-07, rules relating to teacher certification, and rules relating to professional codes and standards approved under section 15-38-18.
- r. The state board of public school education while administering the state school construction fund.
- s. The state fair association.
- t. The state ~~toxicologist~~ department of health and consolidated laboratories with respect to the state toxicologist.
- u. The board of university and school lands except with respect to activities under chapter 47-30.1.
- v. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans'

home and the implementation of programs or services provided by the veterans' home.

- w. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.

<sup>2</sup> **SECTION 7. AMENDMENT.** Subsections 2 and 4 of section 39-20-05 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the commissioner and at a time and place designated by the commissioner. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance; whether the person was placed under arrest; whether the person was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood, urine, or saliva sample from ~~the office of~~ the state toxicologist, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the blood alcohol concentration shown therein. Whether the person was informed that the privilege to drive might be suspended based on the results of the test is not an issue.
4. At a hearing under this section, the regularly kept records of the commissioner may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, any copy of a certified copy of an analytical report of a blood, urine, or saliva sample received by the commissioner from ~~the office of~~ the state toxicologist or a law enforcement officer, a certified copy of the checklist and test records received by the commissioner from a certified breath test operator, and any copy of a certified copy of a certificate of ~~the office of~~ the state toxicologist relating to approved methods, devices, operators, materials, and checklists used for testing for blood alcohol concentration received by the commissioner from ~~the office of~~ the state toxicologist or the clerk of district court, are regularly kept records of the commissioner.

**SECTION 8. AMENDMENT.** Subsection 8 of section 39-20-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. A certified copy of the analytical report of a blood, urine, or saliva analysis issued by ~~the office of~~ the state toxicologist must be accepted as prima facie evidence of the results of a chemical analysis performed under this chapter.

<sup>2</sup> NOTE: Section 39-29-05 was also amended by section 5 of House Bill No. 1098, chapter 387, and section 3 of Senate Bill No. 2136, chapter 389.

**SECTION 9. REPEAL.** Section 15-12-21 of the 1991 Supplement to the North Dakota Century Code is repealed.

Approved April 12, 1993  
Filed April 12, 1993

## CHAPTER 237

HOUSE BILL NO. 1405  
(Representatives Tollefson, Torgerson)  
(Senator Krebsbach)

### WINDSURFING AND BOARDSAILING

AN ACT to amend and reenact subsection 3 of section 20.1-13-10 of the North Dakota Century Code, relating to windsurfing or boardsailing.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 20.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

3. The provisions of subsections 1 and 2 do not apply to a performer engaged in a professional exhibition or a person ~~or persons~~ engaged in an activity authorized under section 20.1-13-11, and the provisions of subsection 1 do not apply to a person sixteen years of age or older engaged in windsurfing or boardsailing.

Approved April 9, 1993  
Filed April 9, 1993