

GAME AND FISH DEPARTMENT LICENSES PROVIDED TO ENTITIES FOR THE PURPOSE OF FUNDRAISING - BACKGROUND MEMORANDUM

Section 5 of 2015 House Bill No. 1081 ([appendix](#)) directs the Legislative Management to study Game and Fish Department licenses provided to entities for the purpose of fundraising. The study must include a review of the law in North Dakota and other states and the desirability and feasibility of allowing the Game and Fish Department to issue these licenses through certain procedures and with certain limits created by the Legislative Assembly.

HISTORY AND SUMMARY OF NORTH DAKOTA CENTURY CODE PROVISIONS RELATING TO GAME AND FISH DEPARTMENT SPECIAL ALLOCATION LICENSES

The Legislative Assembly first authorized the Governor to issue orders and proclamations under the game and fish title when it enacted North Dakota Century Code Section 20-08-01 in 1923. In 1961 the Legislative Assembly enacted Section 20-08-03, which detailed the contents to be included in any order or proclamation by the Governor relating to the taking of game birds, fish, or animals. Title 20 of the Century Code was repealed in 1973, and the contents of Section 20-08-01 were moved into the newly enacted Section 20.1-08-01. The contents of Section 20-08-03 were moved to Section 20.1-08-04.

In 1973 the same year that Title 20 was repealed and Title 20.1 was enacted, the Legislative Assembly enacted Section 20.1-04-07. This section initially allowed for the Governor, by proclamation, to provide for the taking of wild turkeys through a lottery. The provision was amended in 2007 to allow the Governor, by proclamation, to make one wild turkey license available per year to the National Wild Turkey Federation through a raffle or auction. The provision was amended again by the 2015 Legislative Assembly to add an additional two wild turkey licenses annually, through gubernatorial proclamation, to the Outdoor Adventure Foundation to make available for use by qualified youths who have cancer or a life-threatening illness.

In 1977 Section 20.1-08-04.1 was enacted to allow the Governor, by proclamation, to make a big horn sheep license available annually through the use of a lottery. This provision was amended in 1985 to allow the Governor, by proclamation, to auction a license to hunt big horn sheep to the highest bidder. The provision was again amended in 2007 to allow the Governor to make one license available to the Minnesota-Wisconsin Chapter of the Foundation for North American Wild Sheep through raffle or auction.

Section 20.1-08-04.2 was enacted in 1977 to allow the Governor, by proclamation, to provide for the taking of a moose through a lottery. A 1993 amendment allowed for the Governor to provide a license through the Game Warden Association. The amendment required a raffle to be held for the license. Ten percent of the gross proceeds could be used to promote the raffle. Fifteen percent of the net proceeds were to be remitted to the Game and Fish Department to be used for moose management and related projects in the state. All remaining proceeds were required to be used for the construction and maintenance of the North American Wildlife Enforcement Officers Association Game Warden Museum located at the International Peace Garden. The amendment limited the Governor to issuing only one license per year, and five licenses total under the provision. A 1997 amendment changed the maximum number of licenses allowed under the provision from 5 to 10. An amendment in 2015 allowed the Governor to make an additional license available, by proclamation, under Section 20.1-08-04.13.

In 1987 Section 20.1-08-04.6 was enacted to allow the Governor to make a proclamation to provide for the taking of an elk through a lottery. The provision was amended in 1991 to allow for a license to be made available to the Rocky Mountain Elk Foundation through proclamation. The amendment required a raffle for the license. Ten percent of the gross proceeds were to be used to promote the raffle. The remaining net proceeds were required to be used for elk management and related projects in North Dakota as described under the Rocky Mountain Elk Foundation policies and objectives. A 2015 amendment allowed the Governor to make an additional license available, by proclamation, under Section 20.1-08-04.13.

Section 20.1-08-04.8 was enacted in 2003 to allow a gubernatorial proclamation to provide for the taking of a mule deer through the Mule Deer Foundation. A single license was to be made available through raffle or auction.

In 2007 Sections 20.1-08-04.12 and 20.1-08-04.13 were enacted. Section 20.1-08-04.12 allowed for the taking of one antelope per year through a raffle process held by the North Dakota Hunters Education Association. Section 20.1-08-04.13 made available to one nonprofit 501(c)(3) organization per year, through gubernatorial

proclamation, up to eight deer licenses and four antelope licenses. These licenses were for use by qualified children with terminal illnesses. A 2015 amendment to Section 20.1-08-04.13 made the licenses available to the Outdoor Adventure Foundation. The amendment also added one elk license and one moose license. The amendment changed the number of deer licenses available from eight to seven, and the number of antelope licenses available from four to two.

In 2011 Section 20.1-02-04(15) was enacted to allow the Director of the Game and Fish Department to provide four any deer licenses to the Wounded Warrior Project annually. The provision was amended in 2013 to allow for four any deer licenses and six any white tailed deer licenses annually to the Injured Military Wildlife Project.

Section 20.1-08-04.14 was enacted in 2015 to provide a license to hunt elk to Annie's House at Bottineau Winter Park. The provision requires a raffle to be held to determine the recipient of the license.

The Governor has utilized his authority to issue special allocation licenses, via proclamation, for each of the relevant provisions. The number of special allocation licenses available through the Game and Fish Department are included in, and not in addition to, the total number of licenses made available for each species each year. Organizations issuing the special allocation licenses made available are required to report to the Game and Fish Department certain information including the name of the recipient of the special allocation license, the net expenses of any raffle or auction, the gross proceeds, and the net proceeds.

CURRENT NORTH DAKOTA CENTURY CODE PROVISIONS RELATING TO GAME AND FISH DEPARTMENT LICENSES PROVIDED TO ENTITIES FOR THE PURPOSE OF FUNDRAISING

20.1-02-04. Duties of director.

The director shall:

15. Issue four any deer licenses and six any white-tailed deer licenses annually to the injured military wildlife project of North Dakota for distribution. A license issued under this subsection is valid during the period of the deer bow season.

20.1-04-07. Governor's proclamation concerning the taking of wild turkeys - National wild turkey federation raffle - Youth spring wild turkey licenses - Outdoor adventure foundation licenses.

1. By proclamation the governor may provide for a permit season to take wild turkeys in the manner, number, places, and times deemed in the state's best interests; however:
 - a. By proclamation the governor may make available to the national wild turkey federation one license per year to hunt wild turkeys in the spring in the manner, places, and times as the governor prescribes. The national wild turkey federation shall hold a raffle or may auction to the highest bidder, whether resident or nonresident, a license to hunt wild turkeys. If an individual receives a wild turkey license through the raffle or the auction, the individual is not eligible to apply for a wild turkey license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Ten percent of the net proceeds of the raffle or auction may be retained by the local, state, or national wild turkey federation entity conducting the raffle or auction. All remaining net proceeds must be deposited in the national wild turkey federation superfund and used for wild turkey management and related projects in this state. The national wild turkey federation shall submit reports concerning the raffle or auction as the director requires.
 - b. By proclamation the governor also may allow individuals who are first-time youth spring wild turkey hunters to receive one spring wild turkey license valid for the regular spring wild turkey season. To be eligible to receive a spring wild turkey license, an individual must be fifteen years of age or younger on the opening day of the spring wild turkey season and have never received a spring wild turkey license.
 - c. By proclamation the governor may make available to the outdoor adventure foundation up to two licenses to hunt a turkey in the spring season. The foundation shall make one license available to each qualified youth to hunt as provided in the governor's proclamation. A qualified youth receiving a license under this section must comply with hunter education requirements and if under the age of eighteen must be accompanied by an adult twenty-one years of age or older. As used in this section, "qualified youth" means an individual who has cancer or a life-threatening illness, is of legal age to hunt a turkey, is under twenty-five years of age, is a resident, and is sponsored by the foundation. The foundation must

provide the department supporting documentation demonstrating compliance with this section. The director may adopt rules to implement this section.

20.1-08-04.1. Governor's proclamation concerning the hunting of bighorn sheep - Minnesota-Wisconsin chapter of the foundation for North American wild sheep raffle or auction - Certain license recipients not eligible to apply again.

The governor may by proclamation provide for a season to hunt bighorn sheep in the manner, number, places, and times as the governor prescribes. Licenses to hunt bighorn sheep must be issued by lottery; however, the governor may by proclamation make available to the Minnesota-Wisconsin chapter of the foundation for North American wild sheep a license to hunt bighorn sheep in the manner, 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 state lottery. One license to hunt bighorn sheep may be issued to a nonresident participating in the state 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 state lottery. If all of the licenses to hunt bighorn sheep made available through the state lottery are issued to residents, then a nonresident is not eligible to be issued a license to hunt bighorn sheep through the state lottery. The Minnesota-Wisconsin chapter of the foundation for North American wild sheep shall hold either a raffle or an auction under rules adopted by the director with residents and nonresidents eligible to participate. Ten percent of gross raffle proceeds may be retained by the Minnesota-Wisconsin chapter of the foundation for North American wild sheep and ninety percent of gross raffle proceeds must be remitted to the department. All auction proceeds must be remitted to the department. Individuals who receive a license through the raffle or auction may not transfer the license. Individuals may participate in the state lottery and the raffle or auction; however, individuals may not receive more than one license in any one year. An individual may only receive one license to hunt bighorn sheep through the state lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.2. Governor's proclamation concerning the hunting of moose - Raffle.

The governor may by proclamation provide for a season to hunt moose in a manner, number, places, and times as the governor prescribes. Licenses to hunt moose must be issued by lottery, except as provided under subsection 8 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation one license per year to hunt moose in a manner, places, and times as the governor prescribes. In addition, the governor may by proclamation make available a license under section 20.1-08-04.13. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation 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. Fifty percent of all net proceeds must be used for elk management or other wildlife and in conservation-related projects in this state as described under rocky mountain elk foundation policies and objectives. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall submit reports concerning the raffle as the director requires. A person may only receive one license to hunt moose issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle.

The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. In addition, the governor may by proclamation make available a license under section 20.1-08-04.13. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky

mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. An owner of farmed elk who is experiencing elk depredation problems may contact the director. Upon investigation, the director may issue special elk depredation management licenses. The governor by proclamation shall establish a procedure to issue elk depredation management licenses in a timely manner. Except for landowners who receive a license under subsection 7 of section 20.1-03-11 and landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11, and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

20.1-08-04.8. Governor's proclamation concerning the hunting of mule deer - Mule deer foundation raffle and auction.

By proclamation, the governor may make available to the mule deer foundation one license per year to hunt mule deer in the manner, places, and times as the governor prescribes. The mule deer foundation shall hold a raffle or by proclamation the governor may auction to the highest bidder, whether resident or nonresident, a license to hunt mule deer in the manner, places, and times the governor prescribes. If an individual receives a mule deer license through the raffle or the auction, the individual is not eligible to apply for a mule deer license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle and all proceeds of the auction must be used for mule deer management and related projects in North Dakota. The mule deer foundation shall submit reports concerning the raffle as the director requires.

20.1-08-04.12. Governor's proclamation concerning the hunting of antelope - North Dakota hunter educators association raffle.

By proclamation, the governor may make available to the North Dakota hunter educators association one license per year to hunt antelope in the manner, places, and times as the governor prescribes. The North Dakota hunter educators association shall hold a raffle under rules adopted by the director. Only residents are eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle must be used for sponsoring mentored hunts for youth who may otherwise not have the means to go afield to hunt; establishing a statewide network of shooting locations for youth to become familiar with archery equipment and firearms under the supervision of a certified volunteer hunter education instructor; and purchasing advertising in news media during hunting season concerning firearms safety and hunting ethics and the promotion of safe and responsible hunting. If an individual receives an antelope license through the raffle, the individual is not eligible to apply for an antelope license through the game and fish department that year. The North Dakota hunter educators association shall submit reports concerning the raffle as the director requires.

20.1-08-04.13. Governor's proclamation concerning once-in-a-lifetime big game hunts for youth with cancer or a life-threatening illness - Rules.

By proclamation, the governor may make available annually to the outdoor adventure foundation one any elk license, one any moose license, up to seven deer licenses, and up to two antelope licenses to hunt the species indicated on the license in the manner, places, and times as the governor prescribes. The foundation shall make one license available to each qualified youth to hunt the species of big game indicated on the license as provided in the governor's proclamation. A qualified youth receiving a license under this section must comply with hunter education requirements and if under the age of eighteen must be accompanied by an adult twenty-one years of age or older. As used in this section, "qualified youth" means an individual who has been diagnosed with cancer or a life-threatening illness, is of legal age to hunt the species for which the license is valid, is under twenty-five years of age, is a resident, and is sponsored by the foundation. The foundation must provide the department supporting documentation demonstrating compliance with this section. The director may adopt rules to implement this section.

20.1-08-04.14. (Effective through June 30, 2017) Governor's proclamation concerning the hunting of elk - Annie's house at Bottineau winter park raffle.

The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to Annie's house at Bottineau winter park a license to hunt elk in a manner,

places, and times as the governor prescribes. Annie's house at Bottineau winter park shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all remaining net proceeds must be used to support the operations of Annie's house at Bottineau winter park. Annie's house at Bottineau winter park shall submit reports concerning the raffle as the director requires. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to receive a license under this section.