

# GAME, FISH, PREDATORS, AND BOATING

## CHAPTER 192

### HOUSE BILL NO. 1343

(Representatives Hanson, Porter)  
(Senator Fischer)

## UNLAWFUL TAKING OF BIG GAME

AN ACT to amend and reenact section 20.1-01-03 of the North Dakota Century Code, relating to unlawfully taking big game animals; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 20.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-03. Ownership and control of wildlife is in the state - Damages - Schedule of monetary values - Civil penalty.** The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided. Any person catching, killing, taking, trapping, or possessing any wildlife protected by law at any time or in any manner is deemed to have consented that the title thereto remains in this state for the purpose of regulating the taking, use, possession, and disposition thereof. The state, through the office of attorney general, may institute and maintain any action for damages against any person who unlawfully causes, or has caused within this state, the death, destruction, or injury of wildlife, except as may be authorized by law. The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission. The director shall adopt by rule a schedule of monetary values of various species of wildlife, the values to represent the replacement costs of the wildlife and the value lost to the state due to the destruction or injury of the species, together with other material elements of value. In any action brought under this section, the schedule constitutes the measure of recovery for the wildlife killed or destroyed. Notwithstanding the director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of five thousand dollars for a bighorn sheep, three thousand dollars for an elk, and two thousand dollars for a moose. For a male bighorn sheep, elk, or moose over two and one-half years of age, the civil penalty for the replacement value of the animal is an additional fifty percent of the penalty. The funds recovered must be deposited in the general fund, and devoted to the propagation and protection of desirable species of wildlife.

Approved March 26, 2003

Filed March 26, 2003

**CHAPTER 193****SENATE BILL NO. 2401**

(Senators Christmann, Freborg)  
(Representatives Clark, Kreidt, Porter)

**TAKING RACCOONS WITH FLASHLIGHTS**

AN ACT to amend and reenact sections 20.1-01-08 and 20.1-01-09 and subsection 3 of section 20.1-05-04 of the North Dakota Century Code, relating to the use of flashlights in taking raccoons.

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

**SECTION 1. AMENDMENT.** Section 20.1-01-08 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-08. Hunting with artificial light prohibited - Exception.** It is unlawful for ~~any person~~ an individual to pursue, shoot, kill, take or attempt to take any wildlife between sunset of one day and sunrise of the next, with the aid of a spotlight or any other artificial light. This section does not make it unlawful for ~~any person~~ an individual to use a lantern, spotlight, or other artificial light to assist the person in pursuing and shooting on the person's premises any coyote, fox, skunk, mink, raccoon, weasel, owl, rabbit, or other predatory animal or bird, attacking and attempting to destroy the person's poultry, livestock, or other property. It is permissible to use an artificial light with a power source of not more than ~~two cells in the aggregate of four~~ six volts while hunting afoot for raccoon during the open season on ~~such~~ the animal. A red or amber filter must be placed on any artificial light used in the hunting of raccoon, except when taking a raccoon treed or at bay.

**SECTION 2. AMENDMENT.** Section 20.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-09. Types of guns lawfully usable in taking raccoon with flashlight - Penalty.** In the killing, shooting, pursuing, taking or in attempting to take raccoon with the use of a flashlight with a power source of not over ~~two cells in the aggregate of four~~ six 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~~ An individual who violates this section is guilty of a class 1 noncriminal offense.

**SECTION 3. AMENDMENT.** Subsection 3 of section 20.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

3. Engage in the practice commonly known as shining for deer. ~~Any person~~ An individual who shines any area commonly frequented by big game animals with any artificial light, between the hours of sunset and sunrise, is in violation of this section. However, ~~any person~~ an individual may use a flashlight with a power source of not over ~~two cells in the aggregate of four~~ six volts to take raccoon.

## CHAPTER 194

### SENATE BILL NO. 2237

(Senators Heitkamp, G. Lee)

(Representatives Amerman, Carlson, R. Kelsch, Nelson)

### CROSSBOW HUNTING BY BLIND

AN ACT to amend and reenact subsection 12 of section 20.1-02-05 of the North Dakota Century Code, relating to the power of the director of the game and fish department to issue special crossbow hunting permits.

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

<sup>86</sup> **SECTION 1. AMENDMENT.** Subsection 12 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue to ~~any person~~, an individual who is blind, is a paraplegic, or who has lost the use of one or both arms; a special permit to hunt game with a crossbow if that ~~person~~ individual otherwise complies with and qualifies under the licensing and other provisions of this title. For purposes of this subsection, an individual who is blind means an individual who is totally blind, whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or in whom the widest diameter of the visual field is no greater than twenty degrees.

Approved March 25, 2003

Filed March 25, 2003

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<sup>86</sup> Section 20.1-02-05 was also amended by section 1 of House Bill No. 1224, chapter 196, section 2 of House Bill No. 1050, chapter 202, section 1 of House Bill No. 1358, chapter 197, and section 1 of Senate Bill No. 2322, chapter 195.

## CHAPTER 195

### SENATE BILL NO. 2322

(Senators Nelson, Andrist, Christenson, Every)  
(Representatives Ekstrom, Nelson)

## NONRESIDENT STUDENT HUNTING

AN ACT to amend and reenact subsection 13 of section 20.1-02-05 and section 20.1-03-07.1 of the North Dakota Century Code, relating to hunting by nonresident students.

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

<sup>87</sup> **SECTION 1. AMENDMENT.** Subsection 13 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted 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 that person 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; ~~or;~~ to any nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college. Except for a license issued to a nonresident full-time student living in this state who is a resident of a state that is a member of the midwest student exchange program or the western undergraduate exchange program attending an institution under the jurisdiction of the state board of higher education or a tribal college, a license may not be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection does not apply to lottery permits, except that the director 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.

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<sup>87</sup> Section 20.1-02-05 was also amended by section 1 of House Bill No. 1224, chapter 196, section 2 of House Bill No. 1050, chapter 202, section 1 of House Bill No. 1358, chapter 197, and section 1 of Senate Bill No. 2237, chapter 194.

<sup>88</sup> **SECTION 2. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-07.1. Nonresident waterfowl hunting license required.** Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that person first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, any period of seven consecutive days, or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing one 7-day hunting period allows hunting statewide. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

Approved April 9, 2003  
Filed April 9, 2003

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<sup>88</sup> Section 20.1-03-07.1 was also amended by section 3 of House Bill No. 1050, chapter 202, section 3 of House Bill No. 1358, chapter 197, and section 1 of Senate Bill No. 2242, chapter 198.

**CHAPTER 196****HOUSE BILL NO. 1224**

(Representatives Porter, Bernstein, Drovdal, Herbel)  
(Senator Tollefson)

**WATERFOWL RESTING AREAS**

AN ACT to create and enact a new subsection to section 20.1-02-05 of the North Dakota Century Code, relating to waterfowl resting areas.

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

<sup>89</sup> **SECTION 1.** A new subsection to section 20.1-02-05 of the North Dakota Century Code is created and enacted as follows:

Carry out a program that targets waterfowl resting areas within the private lands initiative program which includes payments to private landowners for lease of waterfowl resting areas on private lands that during the term of the lease provides limited public access for the hunting of waterfowl.

Approved March 25, 2003  
Filed March 25, 2003

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<sup>89</sup> Section 20.1-02-05 was also amended by section 2 of House Bill No. 1050, chapter 202, section 1 of House Bill No. 1358, chapter 197, section 1 of Senate Bill No. 2237, chapter 194, and section 1 of Senate Bill No. 2322, chapter 195.

## CHAPTER 197

### HOUSE BILL NO. 1358

(Representatives Porter, Carlson, Hanson, Nelson)  
(Senators Fischer, Tollefson)

## NONRESIDENT HUNTING AND FISHING LICENSE FEES

AN ACT to amend and reenact subsection 27 of section 20.1-02-05, subsection 1 of section 20.1-03-07, and sections 20.1-03-07.1, 20.1-03-12, and 20.1-03-12.1 of the North Dakota Century Code, relating to nonresident hunting and fishing licenses and fees; to provide an appropriation; to provide a statement of legislative intent with respect to a short-term lease program; and to provide an effective date.

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

<sup>90</sup> **SECTION 1. AMENDMENT.** Subsection 27 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

27. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates provided under subsection ~~53~~ 52 of section 20.1-03-12 and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the licenseholder is convicted of a felony or found to have violated any provision of this title.

**SECTION 2. AMENDMENT.** Subsection 1 of section 20.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

1. Hunt, catch, take, or kill any small game without a nonresident small game license. The nonresident small game license entitles the nonresident to hunt small game for any period of ten consecutive days or any two periods of five consecutive days each. The hunting period for which the license is valid must be designated on the license. A nonresident small game license is not required to hunt waterfowl under section 20.1-03-07.1. A nonresident may purchase more than one nonresident small game license per year.

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<sup>90</sup> Section 20.1-02-05 was also amended by section 1 of House Bill No. 1224, chapter 196, section 2 of House Bill No. 1050, chapter 202, section 1 of Senate Bill No. 2237, chapter 194, and section 1 of Senate Bill No. 2322, chapter 195.

<sup>91</sup> **SECTION 3. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-07.1. Nonresident waterfowl hunting license required.** Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that person first obtains a nonresident waterfowl hunting license, ~~in addition to a nonresident small game hunting license.~~ The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, any period of seven consecutive days, or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing one 7-day hunting period allows hunting statewide. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

<sup>92</sup> **SECTION 4. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, ~~seventy-five~~ eighty-five dollars.
3. For a resident big game hunting license, 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, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.

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<sup>91</sup> Section 20.1-03-07.1 was also amended by section 3 of House Bill No. 1050, chapter 202, section 1 of Senate Bill No. 2242, chapter 198, and section 2 of Senate Bill No. 2322, chapter 195.

<sup>92</sup> Section 20.1-03-12 was also amended by section 5 of House Bill No. 1050, chapter 202, section 1 of House Bill No. 1391, chapter 201, section 5 of House Bill No. 1358, chapter 197, and section 2 of Senate Bill No. 2363, chapter 200.

7. For a nonresident fishing license, twenty-five dollars.
8. For a nonresident short-term seven-day fishing license, fifteen dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
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 comparable license in that person's state of residence, or fifty dollars, whichever is greater.
15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
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 that person's home or to points outside this state, three dollars.
19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
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, 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-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
21. To operate watercraft used for hire, the following license fees 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.
- ~~22.~~ 22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
- ~~23.~~ 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, ten dollars for each unit.~~
- ~~24.~~ 24. For a resident paddlefish tag annual license, three dollars per tag.
- ~~25.~~ ~~24.~~ 24. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
- ~~26.~~ ~~25.~~ 25. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
- ~~27.~~ ~~26.~~ 26. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
- ~~28.~~ ~~27.~~ 27. For an annual license to operate a private fish hatchery, seventy-five dollars.
- ~~29.~~ ~~28.~~ 28. For a resident commercial frog license, fifty dollars.
- ~~30.~~ ~~29.~~ 29. For a nonresident commercial frog license, two hundred dollars.
- ~~31.~~ ~~30.~~ 30. For a resident frog license, three dollars.
- ~~32.~~ ~~31.~~ 31. For a resident husband and wife frog license, five dollars.
- ~~33.~~ ~~32.~~ 32. 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].
- ~~34.~~ ~~33.~~ 33. For an annual license to guide for both hunting and fishing, one hundred fifty dollars.
- ~~35.~~ ~~34.~~ 34. For an annual license to guide only for hunting, one hundred dollars.
- ~~36.~~ ~~35.~~ 35. For an annual license to guide only for fishing, one hundred dollars.

- ~~37.~~ 36. For a nonresident waterfowl hunting license, ~~ten~~ eighty-five dollars.
- ~~38.~~ 37. For a nonresident husband and wife fishing license, thirty-five dollars.
- ~~39.~~ 38. For a nonresident short-term three-day fishing license, ten dollars.
- ~~40.~~ 39. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
- ~~41.~~ 40. For a combination license, twenty-seven dollars.
- ~~42.~~ 41. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
- ~~43.~~ 42. For a resident swan license, five dollars.
- ~~44.~~ 43. For a nonresident swan license, twenty-five dollars.
- ~~45.~~ 44. For a resident and nonresident sandhill crane license, five dollars.
- ~~46.~~ 45. For a resident commercial clam license, one hundred dollars.
- ~~47.~~ 46. For a nonresident commercial clam license, one thousand dollars.
- ~~48.~~ 47. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
- ~~49.~~ 48. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
- ~~50.~~ 49. For a bighorn sheep license issued to a nonresident, five hundred dollars.
- ~~51.~~ 50. For a nonresident reciprocal trapping license, two hundred fifty dollars.
- ~~52.~~ 51. For a nonresident spring white goose license, fifty dollars.
- ~~53.~~ 52. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

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.

<sup>93</sup> **SECTION 5. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>93</sup> Section 20.1-03-12 was also amended by section 5 of House Bill No. 1050, chapter 202, section 4 of House Bill No. 1358, chapter 197, section 1 of House Bill No. 1391, chapter 201, and section 2 of Senate Bill No. 2363, chapter 200.

**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, seventy-five dollars.
3. For a resident big game hunting license, 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, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, ~~twenty-five~~ thirty-five dollars.
8. For a nonresident short-term seven-day fishing license, ~~fifteen~~ twenty dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
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 comparable license in that person's state of residence, or fifty dollars, whichever is greater.
15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
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 that person's home or to points outside this state, three dollars.

19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
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, 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-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
21. To operate watercraft used for hire, the following license fees 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.
22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
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, ten dollars for each unit.~~
- ~~24.~~ For a resident paddlefish tag annual license, three dollars per tag.
- ~~25.~~ 24. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
- ~~26.~~ 25. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
- ~~27.~~ 26. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
- ~~28.~~ 27. For an annual license to operate a private fish hatchery, seventy-five dollars.

- ~~29.~~ 28. For a resident commercial frog license, fifty dollars.
- ~~30.~~ 29. For a nonresident commercial frog license, two hundred dollars.
- ~~31.~~ 30. For a resident frog license, three dollars.
- ~~32.~~ 31. For a resident husband and wife frog license, five dollars.
- ~~33.~~ 32. 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].
- ~~34.~~ 33. For an annual license to guide for both hunting and fishing, one hundred fifty dollars.
- ~~35.~~ 34. For an annual license to guide only for hunting, one hundred dollars.
- ~~36.~~ 35. For an annual license to guide only for fishing, one hundred dollars.
- ~~37.~~ 36. For a nonresident waterfowl hunting license, ten dollars.
- ~~38.~~ 37. For a nonresident husband and wife fishing license, ~~thirty-five~~ forty-five dollars.
- ~~39.~~ 38. For a nonresident short-term three-day fishing license, ~~ten~~ fifteen dollars.
- ~~40.~~ 39. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
- ~~41.~~ 40. For a combination license, ~~twenty-seven~~ thirty-two dollars.
- ~~42.~~ 41. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
- ~~43.~~ 42. For a resident swan license, five dollars.
- ~~44.~~ 43. For a nonresident swan license, twenty-five dollars.
- ~~45.~~ 44. For a resident and nonresident sandhill crane license, five dollars.
- ~~46.~~ 45. For a resident commercial clam license, one hundred dollars.
- ~~47.~~ 46. For a nonresident commercial clam license, one thousand dollars.
- ~~48.~~ 47. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.

- ~~49.~~ 48. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
- ~~50.~~ 49. For a bighorn sheep license issued to a nonresident, five hundred dollars.
- ~~51.~~ 50. For a nonresident reciprocal trapping license, two hundred fifty dollars.
- ~~52.~~ 51. For a nonresident spring white goose license, fifty dollars.
- ~~53.~~ 52. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

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 6. AMENDMENT.** Section 20.1-03-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-12.1. Habitat restoration stamp required - Use of revenue - Land purchases not allowed.** Except for licenses issued under section 20.1-03-07.3, a habitat restoration stamp is required for every resident and nonresident general game license for which a stamp fee of ~~five~~ ten dollars must be charged. The habitat restoration stamp fee is in addition to the annual general game license fee charged under section 20.1-03-12. Land may not be purchased with habitat restoration stamp moneys. All moneys generated by habitat restoration stamp fees must be placed in the game and fish private land habitat and access improvement fund with five dollars of the fee allocated to the private land open to sportsmen program.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the game and fish fund in the state treasury, not otherwise appropriated, the sum of \$3,300,000, or so much of the sum as may be necessary, to the game and fish department for the purpose of increasing funding for the private land open to sportsmen program, for the biennium beginning July 1, 2003, and ending June 30, 2005. The game and fish department is authorized an additional five full-time equivalent employees to carry out the private land open to sportsmen program.

**SECTION 8. LEGISLATIVE INTENT.** It is the intent of the fifty-eighth legislative assembly that the game and fish department use the funds appropriated in section 7 of this Act to create a new short-term lease program that targets the best access areas in portions of the state that are most impacted with hunting access problems within the private land open to sportsmen program.

**SECTION 9. EFFECTIVE DATE.** Section 5 of this Act becomes effective on April 1, 2004.

Approved April 7, 2003  
Filed April 7, 2003

**CHAPTER 198****SENATE BILL NO. 2242**

(Senators Heitkamp, Espegard, Fischer)  
(Representatives Amerman, Gulleson, Nelson)

**NONRESIDENT GOOSE HUNTING**

AN ACT to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to hunting of Canada geese by nonresidents; and to provide an expiration date.

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

<sup>94</sup> **SECTION 1. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-07.1. Nonresident waterfowl hunting license required.** Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that person first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, any period of seven consecutive days, or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing one 7-day hunting period allows hunting statewide. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year. The fourteen-day, seven-day, and two 7-day hunting period restrictions do not apply to nonresidents hunting in Richland and Sargent Counties during the early September Canada goose season.

**SECTION 2. EXPIRATION DATE.** This Act is effective through December 31, 2007, and after that date is ineffective.

Approved April 9, 2003  
Filed April 9, 2003

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<sup>94</sup> Section 20.1-03-07.1 was also amended by section 3 of House Bill No. 1050, chapter 202, section 3 of House Bill No. 1358, chapter 197, and section 2 of Senate Bill No. 2322, chapter 195.

## CHAPTER 199

### HOUSE BILL NO. 1380

(Representatives Monson, Froelich, D. Johnson, Nelson)  
(Senator Fischer)

### GRATIS DEER HUNTING LICENSES

AN ACT to amend and reenact subsection 3 of section 20.1-03-11 of the North Dakota Century Code, relating to gratis licenses to hunt deer.

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

<sup>95</sup> **SECTION 1. AMENDMENT.** Subsection 3 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

3. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a person who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt deer without charge, or if that person is a nonresident upon payment of the fee requirement for a nonresident big game license, upon filing a signed application describing that land. The land must be within a unit open for the hunting of deer. The license must include a legal description of the eligible land described in the completed application and may be used to hunt deer only upon that land. A license issued under this subsection is valid for the deer bow, deer gun, and muzzleloader seasons until filled. However, a person, that person's spouse, and their children who have a license issued under this subsection may hunt together on land described in any of the affidavits making them eligible for the license. Family members hunting together under this provision shall hunt within the same unit within which the land described in the affidavit making them eligible for the license is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A person who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with that person, but no more than one license may be issued under this subsection for any qualifying land. A person transferring eligibility under this subsection may not receive a license under this subsection for the season for which the eligibility was transferred. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license.

Approved March 17, 2003  
Filed March 17, 2003

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<sup>95</sup> Section 20.1-03-11 was also amended by section 1 of Senate Bill No. 2215, chapter 204, and section 1 of Senate Bill No. 2363, chapter 200.

## CHAPTER 200

### SENATE BILL NO. 2363

(Senators Erbele, Heitkamp, Thane)  
(Representatives Froelich, Gulleson, Weisz)

## NONRESIDENT DEER HUNTING

AN ACT to amend and reenact subsection 4 of section 20.1-03-11 and subsection 4 of section 20.1-03-12 of the North Dakota Century Code, relating to deer hunting by nonresidents.

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

<sup>96</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

4. 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, including licenses issued to nonresidents under subsection 3, must be allocated for nonresidents. Notwithstanding the number of licenses allocated under this subsection, upon payment of the fee requirement for a nonresident ~~big game license~~ who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, a nonresident may participate on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents.

<sup>97</sup> **SECTION 2. AMENDMENT.** Subsection 4 of section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~For~~ Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, 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. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.

Approved April 23, 2003  
Filed April 23, 2003

<sup>96</sup> Section 20.1-03-11 was also amended by section 1 of House Bill No. 1380, chapter 199, and section 1 of Senate Bill No. 2215, chapter 204.

<sup>97</sup> Section 20.1-03-12 was also amended by section 5 of House Bill No. 1050, chapter 202, section 4 of House Bill No. 1358, chapter 197, section 5 of House Bill No. 1358, chapter 197, and section 1 of House Bill No. 1391, chapter 201.

## CHAPTER 201

### HOUSE BILL NO. 1391 (Representatives DeKrey, Weisz)

#### BIG GAME HUNTING LICENSE FEES

AN ACT to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to big game hunting license fees; and to declare an emergency.

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

<sup>98</sup> **SECTION 1. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, seventy-five dollars.
3. For a resident big game hunting license, 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 two hundred fifty-five~~ ~~one two hundred fifty-five~~ dollars, and for a nonresident bow license, ~~one two 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, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, twenty-five dollars.
8. For a nonresident short-term seven-day fishing license, fifteen dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.

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<sup>98</sup> Section 20.1-03-12 was also amended by section 5 of House Bill No. 1050, chapter 202, section 4 of House Bill No. 1358, chapter 197, section 5 of House Bill No. 1358, chapter 197, and section 2 of Senate Bill No. 2363, chapter 200.

11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
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 comparable license in that person's state of residence, or fifty dollars, whichever is greater.
15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
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 that person's home or to points outside this state, three dollars.
19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
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, 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-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
21. To operate watercraft used for hire, the following license fees 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.
22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
  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, ten dollars for each unit.
  24. For a resident paddlefish tag annual license, three dollars per tag.
  25. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
  26. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
  27. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
  28. For an annual license to operate a private fish hatchery, seventy-five dollars.
  29. For a resident commercial frog license, fifty dollars.
  30. For a nonresident commercial frog license, two hundred dollars.
  31. For a resident frog license, three dollars.
  32. For a resident husband and wife frog license, five dollars.
  33. 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].
  34. For an annual license to guide for both hunting and fishing, one hundred fifty dollars.
  35. For an annual license to guide only for hunting, one hundred dollars.
  36. For an annual license to guide only for fishing, one hundred dollars.
  37. For a nonresident waterfowl hunting license, ten dollars.

38. For a nonresident husband and wife fishing license, thirty-five dollars.
39. For a nonresident short-term three-day fishing license, ten dollars.
40. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
41. For a combination license, twenty-seven dollars.
42. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
43. For a resident swan license, five dollars.
44. For a nonresident swan license, twenty-five dollars.
45. For a resident and nonresident sandhill crane license, five dollars.
46. For a resident commercial clam license, one hundred dollars.
47. For a nonresident commercial clam license, one thousand dollars.
48. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
49. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
50. For a bighorn sheep license issued to a nonresident, five hundred dollars.
51. For a nonresident reciprocal trapping license, two hundred fifty dollars.
52. For a nonresident spring white goose license, fifty dollars.
53. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

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. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

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

Approved April 21, 2003

Filed April 21, 2003

## CHAPTER 202

### HOUSE BILL NO. 1050

(Legislative Council)  
(Judiciary B Committee)

### GUIDE AND OUTFITTER LICENSING

AN ACT to create and enact sections 20.1-03-36.1, 20.1-03-36.2, 20.1-03-38, 20.1-03-39, and 20.1-03-40 of the North Dakota Century Code, relating to the licensing of guides and outfitters; to amend and reenact sections 20.1-01-02, 20.1-02-05, 20.1-03-07.1, 20.1-03-11.2, 20.1-03-12, 20.1-03-36, and 20.1-03-37 of the North Dakota Century Code, relating to guides and outfitters and nonresident waterfowl hunters; to provide a penalty; to provide for application; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 20.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-02. Definitions.** In this title, unless the context or ~~subject matter~~ otherwise requires:

1. "Afield" means being away from one's home or camp. The term does not include driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance.
2. "Any part thereof" or "the parts thereof" includes the hide, horns, or hoofs of any animal specified and the plumage, skin, and every other part of any bird specified.
3. "Associated equipment" means:
  - a. Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;
  - b. Any accessory or equipment for, or appurtenance to, a boat; and
  - c. Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but
  - d. Excluding radio equipment.
4. "Big game" means deer, moose, elk, bighorn sheep, mountain goats, and antelope.
5. "Boat" means any vessel:
  - a. Manufactured or used primarily for noncommercial use;

- b. Leased, rented, or chartered to another for the latter's noncommercial use; or
  - c. Engaged in the carrying of six or fewer passengers.
6. "Confiscate" or "confiscated" means to hold subject to the order of a court of competent jurisdiction.
7. "Consideration" means something of value given or done in exchange for something of value given or done by another.
8. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.
9. "Department" means the game and fish department.
- ~~8.~~ 10. "Deputy director" means the deputy director of the department.
- ~~9.~~ 11. "Director" means the director of the department.
- ~~10.~~ 12. "Endangered species" means any species whose prospects of survival or recruitment within the state are in jeopardy due to any of the following factors:
- a. The destruction, drastic modification, or severe curtailment of its habitat.
  - b. Its overutilization for scientific, commercial, or sporting purposes.
  - c. The effect on it of disease, pollution, or predation.
  - d. Other natural or manmade factors affecting its prospects of survival or recruitment within the state.
  - e. Any combination of the foregoing factors.
- The term also includes any species classified as endangered pursuant to the Endangered Species Act of 1973, Public Law 93-205.
- ~~44.~~ 13. "Established road or trail" means any public highway or road, improved or otherwise, dedicated for public ingress or egress, or any other road or trail normally used for travel but does not include temporary trails across cultivated land used for agricultural purposes.
- ~~42.~~ 14. "Fur-bearers" includes mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, and red or gray foxes.
- ~~43.~~ 15. "Game birds" includes all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.

- ~~14.~~ 16. "Guide" or "~~outfitter~~" means ~~any resident an individual who holds that person out to the public as a guide or outfitter, and who provides, for compensation, transportation, equipment, arrangement of lodging, or that person's 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 are not entitled to act as guides or outfitters in this state is employed by or contracts with a licensed outfitter to help the outfitter furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed.~~
- ~~15.~~ 17. "Gun dogs" includes any dog used to hunt protected wildlife.
- ~~16.~~ 18. "Harmful wild birds" includes blackbirds, magpies, English sparrows, and starlings.
- ~~17.~~ 19. "Harmless wild birds" includes all wild birds not defined herein as "harmful wild birds" or "game birds".
- ~~18.~~ 20. "Hunt" or "hunting" means shooting, shooting at, pursuing, taking, attempting to take, or killing any game animals and game birds; searching for or attempting to locate or flush any game animals and game birds; luring, calling, or attempting to attract game animals and game birds; hiding for the purpose of taking or attempting to take game animals and game birds; and walking, crawling, or advancing toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds. The term does not include possessing or using photographic equipment.
- ~~19.~~ 21. "Manufacturer" means any person engaged in:
- a. The manufacture, construction, or assembly of boats or associated equipment.
  - b. The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.
  - c. The importation into the state for sale of boats, associated equipment, or components thereof.
- ~~20.~~ 22. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion. The term does not include a vessel having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.
- ~~21.~~ 23. "Motor-driven vehicle" means any land vehicle, with or without wheels, that is propelled by any motor.
- ~~22.~~ 24. "Operate" means to navigate or otherwise use a motorboat or a vessel.
- ~~23.~~ 25. "Outfitter" means an individual who, while engaging in any of the acts enumerated in this subsection in any manner, advises or otherwise holds the individual's business operation out to the public for hire or consideration; provides facilities or services for consideration; or maintains, leases, or otherwise uses equipment or accommodations for

consideration for the conduct of outdoor recreational activities, including hunting animals or birds and fishing on lakes, reservoirs, rivers, and streams. An outfitter may act as a guide. The term does not include a person holding title or an equitable interest in business operations if the primary purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities.

26. "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.
- ~~24.~~ 27. "Passenger" means every person carried on board a vessel other than:
- a. The owner or the owner's representative.
  - b. The operator.
  - c. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.
  - d. Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that person's carriage.
- ~~25.~~ 28. "Person" includes every partnership, association, corporation, and limited liability company. No violation of this title may be excused because it was done as the agent or employee of another, nor because it was committed by or through an agent or employee of the person charged.
- ~~26.~~ 29. "Personal watercraft" means a motorboat that is powered by an inboard motor powering a water jet pump or by an inboard or outboard marine engine and which is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in a conventional manner of sitting or standing inside a motorboat.
- ~~27.~~ 30. "Possession" means control, actual possession, and constructive possession of the article or thing specified.
- ~~28.~~ 31. "Private fish hatchery" means a body of water, whether natural or artificial, and any other facilities used, maintained, or operated by any private person, firm, corporation, or limited liability company for the propagation and production of fish for sale or planting in other waters. Except in the case of trout, walleye, northern pike, and crappie, which may be raised in a private fish hatchery without the director's approval, the director may, by rule, regulate the species of fish which may be raised in a private fish hatchery. No waters stocked by any state or federal governmental agency may be considered a private fish hatchery.

- ~~29.~~ 32. "Public waters" means waters to which the general public has a right to access.
- ~~30.~~ 33. "Resident" means any person who has actually lived within this state or maintained that person's home therein for at least six months immediately preceding the date that residence is to be determined. A "nonresident" is any person who has not done so.
- ~~31.~~ 34. "Resident species" means any species nearly all of whose individuals in this state are located within this state for at least three-fourths of annual cycle of the species.
- ~~32.~~ 35. "Retrieve" means to have taken possession and made ready for transportation.
- ~~33.~~ 36. "Sell" and "sale" means any sale or offer to sell, or possession with intent to sell, use, or dispose of, the article or thing specified, contrary to law.
- ~~34.~~ 37. "Shooting preserve" or "preserve" means any privately owned or leased acreage [hectarage] on which hatchery-raised game birds are released to be hunted for a fee over an extended season.
- ~~35.~~ 38. "Sinkbox" or "sunken device" means a raft or any type of low floating device having a depression that affords a hunter a means of concealing that person below the surface of the water.
- ~~36.~~ 39. "Slow or no wake speed" means the slowest possible speed necessary to maintain steerage.
- ~~37.~~ 40. "Small game" includes all game birds and tree squirrels.
- ~~38.~~ 41. "Species" includes any subspecies of wildlife and any other group of wildlife of the same species or smaller tax in common spatial arrangement that interbreed when mature.
- ~~39.~~ 42. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future and includes any species classified as threatened pursuant to the Endangered Species Act of 1973, Public Law 93-205.
- ~~40.~~ 43. "Undocumented vessel" means a vessel which does not have a valid marine document as a vessel of the United States.
- ~~41.~~ 44. "Vessel" means any watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- ~~42.~~ 45. "Waterfowl" includes all varieties of geese, brant, swans, ducks, rails, and coots.
- ~~43.~~ 46. "Waters" when not qualified means waters not open to the general public.
- ~~44.~~ 47. "Waters of the state" means all waters of this state, including boundary waters. This title extends to and is in force and effect over, upon, and in all such waters.

- ~~45-~~ 48. "Wildlife" means any member of the animal kingdom including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals as defined by section 36-01-00.1 or birds or animals held in private ownership.

<sup>99</sup> **SECTION 2. AMENDMENT.** Section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-02-05. Powers of director.** The director may:

1. Fix the salaries and the necessary travel and other expenses of department personnel subject to law and legislative appropriations.
2. Employ any part-time personnel necessary to run the director's office and remove the employees at will. Salaries and necessary traveling and other expenses of these appointees must be authorized, audited, and paid in the same manner as salaries and expenses of state officers.
3. Accept from any person, or gather, or purchase, fish, spawn, or fry, for distribution in state waters.
4. Take alive at any time, under the director's personal supervision or under the personal supervision of any of the director's bonded appointees, any birds or animals for propagation purposes or for exchange with other states and foreign countries for game birds and animals of other species.
5. Order additional protection for any fish with an open season when, after investigation, the director finds danger of extinction, undue depletion in any waters, or to aid in the propagation and protection of immature fish, by prescribing how, how many, where, and when the fish may be taken. The orders have the force of law.
6. Take or cause to be taken at any time from any state public waters any suckers, carp, or pickerel.
7. With the governor's approval, purchase, lease, or condemn real estate, when it is required to carry out this title, and sell it when it is no longer required, in the name of the state.
8. Lease up to ninety-nine years any department land, for the purpose of development and improvement, to any nonprofit corporation, upon consideration of specified improvements to be made by the corporation and other improvements the department and the corporation may agree upon. The lease must provide that all funds received by the corporation

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<sup>99</sup> Section 20.1-02-05 was also amended by section 1 of House Bill No. 1224, chapter 196, section 1 of House Bill No. 1358, chapter 197, section 1 of Senate Bill No. 2237, chapter 194, and section 1 of Senate Bill No. 2322, chapter 195.

through lease of the property be expended upon the leased premises for development and improvements. The corporation has the authority, subject to approval by the director, to sublease the premises for cabin sites and other recreational purposes. Upon termination of the lease, the leased property, together with all improvements, reverts to the department.

9. With the governor's approval, enter ~~into~~ agreements with the bureau of reclamation for the management of lands in the Heart Butte area acquired by the bureau for the construction of dams on lakes or streams. Revenues derived from the management of these lands or received from any federal agency for expenditure upon these lands may not be commingled with other game and fish funds, but must be deposited by the director in a separate account. These funds are ~~hereby~~ appropriated for expenditure for purposes as may be agreed upon by the bureau of reclamation, the United States fish and wildlife service, the national park service, and the director. The authority ~~herein~~ granted by this subsection is effective only until the lands are resold to the former landowners by the bureau of reclamation.
10. Secure specimens of game birds, animals, and fish for breeding purposes by purchase or otherwise and by exchange with the game commissions or state game wardens of other states or countries.
11. Issue 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, and if used to hunt on lands controlled by the board of university and school lands, must designate the land on which the individual intends to hunt. The permittee must have permission from the lessee and the commissioner of university and school lands to hunt on lands controlled by the board of university and school lands. A permit issued under this subsection allows the permittee to drive, or to be driven, onto 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 if 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 lessee to hunt on the land in the manner provided in this title.
12. Issue to any ~~person~~ individual, who is a paraplegic or who has lost the use of one or both arms, a special permit to hunt game with a crossbow if that ~~person~~ individual otherwise complies with and qualifies under the licensing and other provisions of this title.
13. Issue any resident license prescribed by this title to ~~a person~~ an individual who has come to the state with a bona fide intention of becoming a resident, even though that ~~person~~ individual has not been a resident of this state for the required time period immediately preceding the application for the license, or to any ~~person~~ individual 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 may be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection does not apply to lottery permits, except that the director 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.

14. Adopt rules, and issue permits for the transporting or introducing of fish, fish eggs, small game, big game, or fur-bearers after determining that the fish, fish eggs, birds, or animals have been properly inspected for disease, and that the transplanting or introduction will be in compliance with state laws and rules. No person may transplant or introduce any fish or fish eggs into any of the public waters of this state, or transplant or introduce any species of small game, big game, or fur-bearers into this state without obtaining a permit from the director.
15. Pursuant to section 4-01-17.1, cooperate with the agriculture commissioner, the United States fish and wildlife service, and other agencies in the destruction of predatory animals, destructive birds, and injurious field rodents. The director ~~is hereby authorized to~~ may adopt rules in accordance with organized and systematic plans of the department of the interior for the destruction of these birds and animals. The director may determine the necessity and issue permits and rules and regulations therefor for the operation and use of private aircraft to assist in the destruction of the above birds and animals and aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.
16. Exercise authority to establish programs and rules and administer state and federal funds provided to the state for the preservation and management of resident species determined by the director to be threatened or endangered species of wildlife. The authority exercised must be in compliance with the Endangered Species Act of 1973, Public Law 93-205. Any person who violates rules ~~established~~ adopted under this subsection is guilty of a class B misdemeanor.
17. ~~Subject to chapter 28-32, adopt rules for the licensing of guides or outfitters and may require records and reports as the director determines necessary. The director may, after due hearing as provided in chapter 28-32, revoke or refuse to renew the license of a person who violates the rules or fails to provide the records and reports.~~
- ~~48.~~ Provide for the funding of a private land habitat and access improvement program with moneys derived from the interest earned on the game and fish fund and habitat restoration stamp fees. The director shall place these funds in a special fund called the "game and fish department private land habitat and access improvement fund".
- ~~49.~~ 18. Carry out a private land habitat and access improvement program by:

- a. Entering ~~into~~ cost-sharing, habitat enhancement, and access agreements with landowners or agencies working on private land to help defray all or a portion of their share of local, state, or federally sponsored conservation practices considered beneficial to fish and wildlife.
  - b. Leasing and developing fish and wildlife habitat or sport fishing areas on private land. Public access to leased land may not be prohibited.
  - c. Carrying out practices that will alleviate depredations caused by predatory animals and big game animals.
  - d. Publishing a brochure on an annual basis describing areas funded from the game and fish department private land habitat and access improvement fund which are open to public access in this state.
  - e. Receiving advice from the game and fish advisory board concerning expenditures from the game and fish private land habitat and access improvement fund.
- ~~20.~~ 19. Subject to prior approval of the attorney general, lease or exchange lands under the director's jurisdiction or control which are deemed necessary for the improved management of wildlife resources.
- ~~21.~~ 20. Subject to prior approval of the attorney general, impose any conditions or reservations to the leases or exchanges as the director determines necessary.
- ~~22.~~ 21. Adopt rules and issue permits for conducting fishing contests involving public waters of the state. The director by rule shall define the term "fishing contest" and shall set criteria for which a fishing contest permit is required. The director may deny permits. No person may conduct a fishing contest on public waters without first receiving a permit issued by the director.
- ~~23.~~ 22. Issue duplicates of lost or destroyed game and fish licenses or permits. The procedure for reissuing the licenses or permits and fees to be charged must be prescribed by the director by rule.
- ~~24.~~ 23. Establish noncriminal penalties for any rules adopted by the director. The maximum noncriminal penalty that may be set by the director 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.
- ~~25.~~ 24. Issue, as a means of encouraging and promoting economic development in this state, complimentary fishing licenses to nonresident visiting dignitaries. The circumstances and conditions of complimentary fishing licenses issued must be determined by the director. The number of complimentary licenses may not exceed fifty licenses per year. The director shall determine the visiting dignitaries to be of national or international stature before they are eligible for complimentary licenses.
- ~~26.~~ 25. Carry out a coyote depredation prevention program by conducting practices that will alleviate depredations caused by coyotes.

~~27.~~ 26. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates ~~provided under subsection 53 of section 20.1-03-12~~ and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the license holder is convicted of a felony or found to have violated any provision of this title.

<sup>100</sup> **SECTION 3. AMENDMENT.** Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-07.1. Nonresident waterfowl hunting license required.** Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that ~~person~~ individual first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, ~~any period of seven consecutive days,~~ or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. ~~A license authorizing one 7-day hunting period allows hunting statewide.~~ A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

**SECTION 4. AMENDMENT.** Section 20.1-03-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-11.2. Certified guides and Hunting outfitters - White-tailed deer licenses - Fees.** The governor shall make one-half of the antlered white-tailed deer licenses and permits allocated to nonresidents under subsection 4 of section 20.1-03-11, up to a maximum of one hundred licenses, available to ~~certified guides or hunting outfitters~~ certified guides or hunting outfitters licensed in this state. A ~~certified guide or hunting outfitter~~ certified guide or hunting outfitter may not purchase or obtain more than five white-tailed deer licenses under this section in any one year. A ~~certified guide or hunting outfitter~~ certified guide or hunting outfitter shall pay the fee required for a white-tailed deer license sold to ~~guides or outfitters~~ guides or outfitters and provided by them to nonresidents for each license purchased under this section. A ~~certified guide or hunting outfitter~~ certified guide or hunting 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.

<sup>100</sup> Section 20.1-03-07.1 was also amended by section 3 of House Bill No. 1358, chapter 197, section 1 of Senate Bill No. 2242, chapter 198, and section 2 of Senate Bill No. 2322, chapter 195.

<sup>101</sup> **SECTION 5. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, seventy-five dollars.
3. For a resident big game hunting license, 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, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, twenty-five dollars.
8. For a nonresident short-term seven-day fishing license, fifteen dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For a wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
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 comparable license in that person's state of residence, or fifty dollars, whichever is greater.

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<sup>101</sup> Section 20.1-03-12 was also amended by section 4 of House Bill No. 1358, chapter 197, section 5 of House Bill No. 1358, chapter 197, section 1 of House Bill No. 1391, chapter 201, and section 2 of Senate Bill No. 2363, chapter 200.

15. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
16. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
17. For an annual license to practice taxidermy, twenty-five dollars.
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 that person's home or to points outside this state, three dollars.
19. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
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, 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-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
21. To operate watercraft used for hire, the following license fees 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.
22. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
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, ten dollars for each unit.
24. For a resident paddlefish tag annual license, three dollars per tag.
25. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.

26. For an annual resident license to sell minnows or other live bait at wholesale, thirty dollars.
27. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
28. For an annual license to operate a private fish hatchery, seventy-five dollars.
29. For a resident commercial frog license, fifty dollars.
30. For a nonresident commercial frog license, two hundred dollars.
31. For a resident frog license, three dollars.
32. For a resident husband and wife frog license, five dollars.
33. 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].
- ~~34.~~ ~~For an annual license to guide for both hunting and fishing, one hundred fifty dollars.~~
- ~~35.~~ ~~For an annual license to guide only for hunting, one hundred dollars.~~
- ~~36.~~ ~~For an annual license to guide only for fishing, one hundred dollars.~~
- ~~37.~~ For a nonresident waterfowl hunting license, ten dollars.
- ~~38.~~ 35. For a nonresident husband and wife fishing license, thirty-five dollars.
- ~~39.~~ 36. For a nonresident short-term three-day fishing license, ten dollars.
- ~~40.~~ 37. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
- ~~41.~~ 38. For a combination license, twenty-seven dollars.
- ~~42.~~ 39. For a white-tailed deer license sold to ~~certified guides or hunting~~ outfitters and provided by them to nonresidents, two hundred fifty dollars.
- ~~43.~~ 40. For a resident swan license, five dollars.
- ~~44.~~ 41. For a nonresident swan license, twenty-five dollars.
- ~~45.~~ 42. For a resident and nonresident sandhill crane license, five dollars.
- ~~46.~~ 43. For a resident commercial clam license, one hundred dollars.

47. 44. For a nonresident commercial clam license, one thousand dollars.
48. 45. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
49. 46. For an annual nonresident license to sell minnows or other live bait at wholesale, two hundred dollars.
50. 47. For a bighorn sheep license issued to a nonresident, five hundred dollars.
51. 48. For a nonresident reciprocal trapping license, two hundred fifty dollars.
52. 49. For a nonresident spring white goose license, fifty dollars.
53. 50. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.

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 6. AMENDMENT.** Section 20.1-03-36 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-36. Certified guides Guides and outfitters - Requirements to be licensed.** ~~An individual may not be issued a certified guide license without first providing the director:~~

1. ~~Proof that the individual is covered by general liability insurance against loss or expense due to accident or injury from guiding or outfitting services, at a minimum of one hundred thousand dollars per individual and three hundred thousand dollars per incident;~~
2. ~~Proof that the individual is currently certified in adult cardiopulmonary resuscitation or its equivalent; and~~
3. ~~Proof that the individual is currently certified in standard first aid or its equivalent. An individual may not act as a guide or outfitter or advertise or otherwise represent to the public as a guide or outfitter without first securing a license in accordance with this chapter and the rules of the director.~~

**SECTION 7.** Section 20.1-03-36.1 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-36.1. Fee for license.**

1. The annual fee to receive a hunting guide license is one hundred dollars for a resident and four hundred dollars for a nonresident.
2. The annual fee to receive a fishing outfitter license is one hundred dollars for a resident and four hundred dollars for a nonresident. The annual fee to receive a fishing outfitter license is fifty dollars for a resident and two hundred dollars for a nonresident if the individual

applying for the license has paid for a hunting guide or outfitter license for the same year.

3. The annual fee for a resident to receive a hunting outfitter license is two hundred fifty dollars for under ten thousand acres [4046.86 hectares] and five hundred dollars for ten thousand acres [4046.86 hectares] and over on which the outfitter provides services. The annual fee for a nonresident to receive a hunting outfitter license is two thousand dollars. The acreage must be presented by the county with a list of lessors by county in every application for outfitter licensure. The annual permit fee for day leasing is two hundred dollars. The acreage day leased by county for the preceding year must be provided to receive a day leasing permit.
4. A license is not required for a person to provide services on real property that person owns or leases for the primary pursuit of bona fide agricultural interests or for a nonprofit organization registered with the secretary of state. The director shall determine the number of acres by county exempted from licensure by this subsection and shall publish the results. The director shall provide written information to the public on the possible liability exposure for outfitting under this subsection and on the benefits of liability insurance and proper training.

**SECTION 8.** Section 20.1-03-36.2 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-36.2. Licenses.**

1. Each licensee shall carry the license while afield and show the license to any law enforcement officer upon request.
2. Hunting guide and fishing outfitter licenses are not transferable.
3. Guide and outfitter licenses expire on December thirty-first of each year unless revoked at earlier date.
4. The department shall deposit in the game and fish department private habitat and access improvement fund any funds collected under section 20.1-03-36.1 or this section from hunting guides and outfitters which are not used for the administration of this chapter.

**SECTION 9. AMENDMENT.** Section 20.1-03-37 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-37. Guides and outfitters - Rules - Restrictions License qualifications.**

1. An individual ~~may not:~~
4. ~~Act as a guide or outfitter or advertise or otherwise represent to the public that the individual is a guide or outfitter without first securing a license in accordance with this title and the applicable rules of the director;~~

- ~~2.~~ Act as a certified guide or outfitter or advertise or otherwise represent to the public that the individual meets the qualifications of being certified without first complying with section 20.1-03-36;
- ~~3.~~ Act as a hunting guide or outfitter on land owned by or private land enrolled by the department for the purpose of hunting;
- ~~4.~~ Provide guiding or outfitting services to a person who has not obtained the appropriate license for the species sought by that person; or
- ~~5.~~ Willfully and substantially misrepresent that person's facilities, prices, equipment, services, or hunting or fishing opportunities as a guide or outfitter who is eighteen years of age or more may apply for a guide or outfitter license.
2. An applicant for a hunting guide license and an outfitter acting as a guide shall provide the director proof that the individual is certified in adult cardiopulmonary resuscitation or its equivalent and in standard or first aid or its equivalent.
3. An applicant for a hunting outfitter or fishing outfitter license shall provide to the director proof that the individual and the individual's business operation are covered by general liability insurance against loss or expense due to accident or injury from outfitting services, at a minimum of one hundred thousand dollars per individual and three hundred thousand dollars per accident.
4. An individual must hold a hunting guide license for two years to be eligible to apply for a hunting outfitter license.
5. The director may not issue a license to an individual who been convicted of a state or federal criminal game or fish violation in the last three years or whose license to hunt or fish is under suspension or revocation. As used in this chapter, "conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of a sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt which is reversed on appeal.
6. If an application is for a business association, the applicant must be an agent of the association to be held personally responsible for the conduct of the licensed outfitter's operations, in addition to the association.
7. An applicant for a hunting guide license must have legally hunted for part of each of any three years in a manner directly contributing to the individual's experience and competency as a guide.

**SECTION 10.** Section 20.1-03-38 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-38. Licensing by the department.**

1. The director may license guides and outfitters and may adopt rules to regulate guides and outfitters. If the director requests a trade secret or proprietary information, the director shall request the information on a separate form, and that information is confidential and is not a public record subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The director may release this information, however, if it is aggregated so as not to identify any guide, outfitter, or client. Before engaging in rulemaking activities with respect to guides and outfitters, the director shall appoint a committee composed of guides, outfitters, and interested individuals and shall consult with the committee when preparing rules.
2. The director shall periodically inspect or cause to be inspected all outfitter businesses. All records, facilities, and equipment kept or used by the outfitter are open to inspection by the director or a game warden.
3. The director shall perform a background search for criminal and game and fish violations on each applicant on initial application and on each renewal.
4. The director may not issue a license to an individual to be a hunting guide or hunting outfitter unless the individual is proficient in the application of state and federal laws on the hunting of wild game. The director shall create and administer a written examination to test proficiency of hunting guides and outfitters in these laws. The director shall administer examinations at least twice a year; however, an examination may not be given within ninety days after the previous examination.

**SECTION 11.** Section 20.1-03-39 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-39. Restrictions - Administrative sanctions.**

1. The license of a guide or outfitter may be denied, revoked, or suspended, or placed on probation by the director if:
  - a. The licensee, while carrying out the business of guiding or outfitting, engages in conduct detrimental to the image and professional integrity of the guiding and outfitting industry;
  - b. The licensee willfully and substantially misrepresented that person's facilities, prices, equipment, services, or hunting or fishing opportunities as a guide or outfitter;
  - c. The licensee has been convicted of an offense not listed in subsection 2 which is determined by the director to have a direct bearing on the licensee's ability to serve the public as a guide or outfitter;
  - d. The licensee is addicted to the use of intoxicating liquors, narcotics, or stimulants to the extent the licensee's performance of professional duties is affected; or

- e. The licensee has become not qualified, or has violated any rule for the licensing of a guide or outfitter by the director.
2. The license of a guide or outfitter may be revoked if:
    - a. The licensee is convicted of violating state or federal criminal law pertaining to hunting, fishing, or trapping;
    - b. The licensee acted as a hunting guide or hunting outfitter on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments; or
    - c. The licensee provided guiding or outfitting services to a person that had not obtained the appropriate license for the species sought by that person.
  3. For the purpose of administrative sanctions, an outfitter is liable if a guide intentionally violates a state or federal criminal law pertaining to hunting, fishing, or trapping if the outfitter knowingly aids in the violation or knows of the violation but fails to report the violation to the department within a reasonable time. A guide is liable if a client violates a state or federal criminal law pertaining to hunting, fishing, or trapping if the guide knowingly aids in the violation or knows of the violation and the guide or client fail to report the violation to the department within a reasonable time.
  4. Notwithstanding chapters 45-11 and 47-25, another person may not use a name, business name, fictitious name, trade name, internet address, world wide web uniform resource identifier, place of business, or telephone number of an outfitter who has been convicted of a violation at least three years from the time of the conviction except on permission from the director after a determination by the director that the new business is significantly separate from the previous business.

**SECTION 12.** Section 20.1-03-40 of the North Dakota Century Code is created and enacted as follows:

**20.1-03-40. Penalty.** Any individual providing guide or outfitter services without a license is guilty of a class B misdemeanor. Each client guided is subject to separate and distinct offenses. In addition to this penalty, the director may initiate civil action in a court of competent jurisdiction as necessary to enforce this chapter or any rule adopted under this chapter, including an injunction to restrain a violation, without proof of actual damages sustained by any person. Any individual guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual who commits for remuneration or compensation an act of fraud involving hunting or fishing or any individual who illegally takes or causes death to fish or wildlife for remuneration or compensation may be prosecuted for theft, fraud, or conspiracy under title 12.1 and is, upon conviction, liable for the higher amount between the actual compensation received or the value of the fish or wildlife illegally taken or killed.

**SECTION 13. APPLICATION - EFFECTIVE DATE.** Licenses issued by the director under section 20.1-02-05 are valid for the term of issuance and an individual with this license is entitled to a one-time irrevocable decision to be an outfitter before the term of the license ends regardless of any experience requirement in this Act.

Approved April 23, 2003

Filed April 23, 2003

**CHAPTER 203****HOUSE BILL NO. 1223**

(Representative Porter)  
(Senators Cook, Trenbeath)

**PHEASANT HUNTING**

AN ACT to create and enact a new section to chapter 20.1-04 and a new section to chapter 20.1-08 of the North Dakota Century Code, relating to the opening date of pheasant season and the hunting of pheasants on certain lands in the state.

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

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

**Pheasant season - Opening.** The open or lawful season on pheasant and the open or lawful season on duck may not commence on the same weekend. The open or lawful season on pheasant may not open earlier than one-half hour before sunrise and the season may not commence earlier than the first Saturday of October of any given year.

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

**Small game proclamation - Pheasants.** The governor, in the governor's proclamation, shall prohibit a nonresident from hunting for the first seven days of the pheasant season on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments.

Approved April 18, 2003

Filed April 18, 2003

## CHAPTER 204

### SENATE BILL NO. 2215

(Senators Wardner, Fischer)  
(Representatives Hanson, F. Klein)

### MOOSE AND ELK LICENSE RAFFLES

AN ACT to amend and reenact subsections 7 and 8 of section 20.1-03-11 and sections 20.1-08-04.2 and 20.1-08-04.6 of the North Dakota Century Code, relating to the moose and elk hunting license raffles.

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

<sup>102</sup> **SECTION 1. AMENDMENT.** Subsections 7 and 8 of section 20.1-03-11 of the North Dakota Century Code are amended and reenacted as follows:

7. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt elk upon filing a signed application describing that land and payment of the fee requirement for a resident big game license. The land must be within a unit open for the hunting of elk. The license must include a legal description of the eligible land described in the completed application and may be used to hunt elk within the district or unit in which the land described in the completed application is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility 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. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. 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 22; 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-six north, range ninety-seven west; township one hundred forty-seven north, range ninety-seven west;

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<sup>102</sup> Section 20.1-03-11 was also amended by section 1 of House Bill No. 1380, chapter 199, and section 1 of Senate Bill No. 2363, chapter 200.

township one hundred forty-eight north, range ninety-seven west of the fifth principal meridian, in Dunn County; 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 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. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting an elk under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. A person who receives a second license under this subsection is not 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 completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The director may issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt national park upon payment of the fee requirement for a resident big game license. The provisions of this section governing the number of licenses issued for each designated district or unit for hunting elk do not apply to special elk depredation management licenses and a person who receives such a license under this subsection is eligible to apply for a license to hunt elk in future years and is eligible to participate in the ~~rocky mountain elk foundation~~ raffle under section 20.1-08-04.6.

8. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt moose without charge upon filing a signed application describing that land. The land must be within a unit open for the hunting of moose. The license must include a legal description of the eligible land described in the completed application and may be used to hunt moose only upon that land. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or a legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A

resident transferring eligibility 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. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. 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 person who receives a license under this subsection and who is successful in harvesting a moose 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. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting a moose under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, an additional license to hunt moose in future years. A person who receives a second license under this subsection is not eligible to participate in the ~~North Dakota game warden association~~ raffle under section 20.1-08-04.2. 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 completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The governor's proclamation may restrict the area of land within a unit open for the hunting of moose for which a preferential license is issued under this subsection. If the proclamation restricts the area for issuance of preferential licenses, an applicant must own or lease land within the restricted area to be eligible to apply for a license to hunt moose upon payment of the fee required for a resident big game license. The license may be used to hunt moose within the entire unit in which the land described in the completed application is located. A successful applicant from a restricted area may not return an unused license to regain eligibility for a license to hunt moose in future years.

**SECTION 2. AMENDMENT.** 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 - ~~North Dakota game warden association raffle~~ 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 Dakota game warden association~~ 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. The ~~North Dakota game warden association~~ 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. ~~Fifteen~~ Fifty percent of all net

proceeds must be ~~remitted to the department and used for moose elk management and 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 ~~officers association game warden museum memorial museum and educational center~~ located at the international peace garden. ~~The governor may not make more than a total of ten licenses available to the North Dakota game warden association under this section~~ 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 ~~and one license to hunt moose through the North Dakota game warden association raffle~~ in a lifetime.

<sup>103</sup> **SECTION 3. AMENDMENT.** Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

**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. 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 ~~commissioner~~ director with ~~only~~ 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 and 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 ~~commissioner~~ director requires. Except for 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 ~~and one nontransferable license to hunt elk through the rocky mountain elk foundation raffle~~ in a lifetime.

Approved April 8, 2003  
Filed April 9, 2003

<sup>103</sup> Section 20.1-08-04.6 was also amended by section 14 of Senate Bill No. 2046, chapter 48.

**CHAPTER 205****HOUSE BILL NO. 1122**

(Representative Keiser)

**MULE DEER LICENSE RAFFLE**

AN ACT to create and enact a new section to chapter 20.1-08 of the North Dakota Century Code, relating to establishing a mule deer license raffle and auction.

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

**SECTION 1.** A new section to chapter 20.1-08 of the North Dakota Century Code is created and enacted as follows:

**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.

Approved March 7, 2003

Filed March 7, 2003

**CHAPTER 206****SENATE BILL NO. 2323**

(Senators Traynor, Freborg, Heitkamp)  
(Representatives Nelson, Pollert)

**CHRONIC WASTING DISEASE**

AN ACT to create and enact two new sections to chapter 20.1-08 of the North Dakota Century Code, relating to the governor's authority to restrict cervidae carcass imports due to chronic wasting disease and the governor's authority to declare an animal health emergency; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 20.1-08 of the North Dakota Century Code is created and enacted as follows:

**Governor's proclamation concerning restrictions on cervidae carcass importation due to chronic wasting disease.** The governor, through proclamation or executive order, may restrict the importation and disposition of the carcass or carcass parts of any animal in the family cervidae taken from any areas within states or provinces that have documented cases of chronic wasting disease in wild populations or taken from captive hunt or farm facilities.

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

**Governor's executive order or proclamation declaring animal health emergency.** In accordance with chapter 37-17.1, the governor may declare an animal health emergency upon determining that the wildlife of this state are at risk from diseases imported by foreign animals, a foreign animal disease, bioterrorism event, or an emerging animal disease. Upon the declaration of an animal health emergency the governor, after consultation with the state veterinarian or board of animal health, may order the sampling, destruction, and disposition of wildlife populations, as the governor deems necessary to abate the animal health emergency.

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

Approved April 11, 2003  
Filed April 14, 2003