

Game and Fish
CHAPTER 97
GAME AND FISH

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97.40 DEFINITIONS.

Subdivision 1. For the purposes of chapters 97 to 102 the following terms shall have the meanings given them in this section.

Subd. 2. "Commissioner" means the commissioner of natural resources of the state of Minnesota.

Subd. 3. "Division" means the division of game and fish of the department of natural resources of the state of Minnesota.

Subd. 4. "Director" means the director of the division of game and fish.

Subd. 5. "Wild animals" means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.

Subd. 6. "Protected wild animals" includes all wild animals which are accorded some measure of protection in the time or manner of taking, other than restrictions in the use of artificial lights or poison.

Subd. 7. "Fur bearing animals" includes all protected mammals, except bear, deer, moose, elk and caribou.

Subd. 8. "Big game" includes deer, moose, elk, bear, and caribou.

Subd. 9. "Small game" includes all protected wild mammals and birds not included in "big game."

Subd. 10. Every provision relating to any wild animal shall be deemed to apply to any part thereof with the same force and effect as it applies to the whole.

Subd. 11. "Rough fish" includes carp, buffalofish, suckers, redhorse, sheepshead, dogfish, eelpout, tullibees, garfish, goldeyes, and bullheads.

Subd. 12. "Minnows" includes all members of the minnow family (Cyprinidae), except carp and goldfish; mudminnows; all members of the sucker family (Catostomidae) not over 12 inches in length; bullheads, tullibees, herring, whitefish, goldeyes and mooneyes not over seven inches in length. For purposes of any law regulating the taking, sale or transportation thereof, a leech shall be considered a minnow; except that no license shall be required of any resident individual under the age of 18 years engaging in the business of taking, transporting or selling leeches at retail.

Subd. 13. "Open season" means the period during which protected wild animals may be taken.

Subd. 14. "Closed season" means the period during which protected wild animals may not be taken.

Subd. 15. "Taking" includes pursuing, shooting, killing, capturing, trapping, snaring and netting wild animals, and all lesser acts such as disturbing, harrying or worrying or placing, setting, drawing or using any net, trap or other device used to take wild animals, and includes every attempt to take and every act of assistance to any other person in taking or attempting to take wild animals.

Subd. 16. "Possession" means both actual and constructive possession and any control of the things referred to.

Subd. 17. "Transport, transportation" means carrying or moving by any instrumentality, causing to be carried or moved by any instrumentality, attempting to do so, or accepting or receiving wild animals for transportation or shipment.

Subd. 18. "Sale, sell" includes barter, exchange for consideration, offer to sell, or possession with intent to sell.

Subd. 19. "Buy" includes barter, exchange for consideration, offer to buy, or attempt to buy.

Subd. 20. "Person" includes any individual, and except when used in reference to issuing licenses to take wild animals, any firm, copartnership, joint stock company, association, or municipal or private corporation.

Subd. 21. "Resident" means any citizen of the United States or resident alien who has maintained a legal residence in the state of Minnesota for a period of 60 days immediately preceding the date of application for license, a domestic corporation, or a foreign corporation authorized to do business in the state which has conducted the business licensed at an established place within the state for a period of at least ten years.

Subd. 22. "Waters of this state" includes all boundary and inland waters.

Subd. 23. "Dark house" is a structure set on the ice and so darkened as to permit the discernment of fish in the water beneath such structure.

Subd. 24. "Contraband" means any wild animal taken, bought, sold, transported, or possessed in violation of chapters 97 to 102, and all instrumentalities and devices used in taking wild animals in violation thereof as are subject to confiscation.

Subd. 25. "Undressed birds" means birds with heads and feet intact, but does not prohibit the removal of entrails or feathers, other than on the head. However, migratory waterfowl may have the head and feet removed, but one fully feathered wing must remain attached.

Subd. 26. "Undressed fish" means fish with heads, tails, fins and skins intact, whether entrails, gills, or scales are removed or not.

Subd. 27. "Minnow retailer" includes any person who is engaged in the business of selling minnows at retail from an established place of business, or transporting minnows in excess of 12 dozen from a place of wholesale purchase to his place of business. "Minnow dealer" includes any person engaged in taking minnows for sale, buying minnows for resale, selling minnows at wholesale, or transporting minnows for sale within the state.

Subd. 28. All dates specified in chapters 97 to 102 and all periods prescribed as open season or for the doing of certain things shall be inclusive, unless otherwise specified.

Subd. 29. "Motor vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle, whether operated upon a highway, railroad track, on the ground, in the water, or in the air.

Subd. 30. "Camp" means the temporary abode of any hunter, fisherman, trapper, tourist or vacationist while on a hunting, fishing, or trapping trip or on a tour or vacation trip, including resorts, tourist camps, and other establishments providing temporary lodging for such persons.

Subd. 31. "Hunting" includes pursuing, shooting, killing, capturing, and trapping birds or quadrupeds and all lesser acts, such as disturbing, harrying, or worrying or placing, setting, drawing, or using any device commonly used to take birds or quadrupeds; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take birds or quadrupeds.

Subd. 32. "Angling" means taking fish by hook and line in hand, or rod in hand, with not to exceed more than one bait attached thereto, nor with more than one line or rod except that not more than two lines and two baits may be used to take fish through the ice.

Subd. 33. "Commercial fishing" means the taking of fish for resale, except minnows.

Subd. 34. "Firearm" means any gun from which shot or a projectile is discharged by means of an explosive, gas, or compressed air.

Subd. 35. "Conviction" means (1) a final conviction either after trial or upon a plea of guilty; (2) forfeiture of cash or collateral deposited to guarantee a defendant's appearance in court, which forfeiture has not been vacated or the defendant has not within 15 days of such forfeiture secured from the court the reinstatement of the trial; or (3) a breach of a condition of release without bail.

History: 1945 c 248 s 1; 1947 c 300 s 1; 1947 c 609 s 1; 1949 c 150 s 1; 1949 c 388 s 1-3; 1951 c 155 s 1; 1957 c 540 s 1; 1967 c 41 s 1; 1967 c 91 s 1; 1967 c 316 s 1; 1969 c 158 s 1; 1969 c 1129 art 10 s 2; 1971 c 354 s 1; 1974 c 356 s 1; 1975 c 107 s 1; 1976 c 55 s 1; 1977 c 110 s 1; 1978 c 594 s 1; 1979 c 244 s 1,2; 1980 c 571 s 1; 1981 c 356 s 280

97.41 CONSTRUCTION.

Subdivision 1. Any of the provisions of chapters 97 to 102 inconsistent with the existing code of criminal procedure or of penal law shall be effective for the purposes of chapters 97 to 102 only.

Subd. 2. All provisions of chapters 97 to 102 shall be construed as subject to, and not changing or modifying the authority of the commissioner to delegate powers, duties and functions as conferred by sections 84.083 and 84.088.

History: 1945 c 248 s 1; 1949 c 150 s 2

97.42 OWNERSHIP OF WILD ANIMALS, AQUATIC VEGETATION.

The ownership of wild animals, and of all wild rice and other aquatic vegetation growing in the public waters of the state, insofar as they are capable of ownership, is in the state in its sovereign capacity for the benefit of all its people, and no person shall acquire any property therein, or destroy the same, except as authorized by chapters 97 to 102 or sections 84.09 to 84.15 and Laws 1939, Chapter 231.

History: 1945 c 248 s 1; 1949 c 150 s 3

97.43 GENERAL RESTRICTIONS.

No person shall at any time, take, buy, sell, transport, or possess any protected wild animals except as permitted by Laws 1949, Chapter 150. The legal title to all wild animals shall remain in the state, except where it has been lawfully acquired by permission of Laws 1949, Chapter 150, and the title to any wild animals lawfully

acquired shall revert to the state whenever any law relating to its sale, transportation or possession is violated.

History: 1945 c 248 s 1; 1949 c 150 s 4

97.431 INDIAN RESERVATIONS; SPECIAL PROVISIONS RELATING TO HUNTING, FISHING, TRAPPING AND WILD RICING RIGHTS OF INDIANS.

Subdivision 1. Purpose. The purpose of this section is to give recognition and effect to the rights of the Leech Lake Band of Chippewa Indians which are preserved by federal treaty and which relate to hunting, fishing, and trapping, and to the gathering of wild rice on the Leech Lake Indian reservation. These rights have been recognized and given effect by the decision of the United States District Court in the following entitled actions: Leech Lake Band of Chippewa Indians, et al v. Robert L. Herbst, No. 3-69 Civ. 65; and United States of America v. State of Minnesota, No. 3-70 Civ. 228. The state of Minnesota desires to settle all outstanding issues and claims relating to the above rights.

Subd. 2. Definitions. For the purposes of this section the following terms have the meanings given them:

- (a) "Band" means the Leech Lake Band of Chippewa Indians;
- (b) "Committee" means the reservation business committee of the Leech Lake Band of Chippewa Indians;
- (c) "Reservation" means the Leech Lake Indian reservation as described in the settlement agreement;
- (d) "Settlement agreement" means the document entitled "Agreement and Settlement" on file and of record in the United States District Court for the District of Minnesota, Third Division, in the following entitled actions: Leech Lake Band of Chippewa Indians, et al v. Robert L. Herbst, No. 3-69 Civ. 65; and United States of America v. State of Minnesota, No. 3-70 Civ. 228.

Subd. 3. Ratification of settlement agreement. Notwithstanding the provisions of any other law to the contrary, the state of Minnesota by this section ratifies and affirms the agreement set forth in the settlement agreement.

Subd. 4. Commissioner's powers and duties. Notwithstanding the provisions of any other law to the contrary, the commissioner of natural resources, on behalf of the state of Minnesota, shall take all actions, by order or otherwise, which are necessary to carry out the duties and obligations of the state of Minnesota arising from the agreement entered into by the parties to the settlement agreement. These actions include but are not limited to the following:

- (a) The implementation of the exemption of members of the band and other members of the Minnesota Chippewa tribe from state laws relating to hunting, fishing, trapping, the taking of minnows and other bait, and the gathering of wild rice while within the reservation, together with exemption from related possession and transportation laws, to the extent necessary to effectuate the terms of the settlement agreement;
- (b) The establishment of a system of special licenses and related license fees for persons who are not members of the Minnesota Chippewa tribe for the privilege of hunting, fishing, trapping, or taking minnows and other bait, within the reservation. All money collected by the commissioner for special licenses shall be deposited in the state treasury and credited to the Leech Lake Band and White Earth Band special license account, which is hereby created. All money in the state treasury credited to the Leech Lake Band and White Earth Band special license account, less any deductions for administrative costs authorized by the terms of the settlement

agreement, is appropriated to the commissioner who shall remit the money to the committee pursuant to the terms of the settlement agreement;

(c) To the extent necessary to effectuate the terms of the settlement agreement, the promulgation of regulations for the harvesting of wild rice within the reservation by non-Indians;

(d) To the extent necessary to effectuate the terms of the settlement agreement, the establishment of policies and procedures for the enforcement by conservation officers of the conservation code adopted by the band; and

(e) The arbitration of disputes arising under the terms of the settlement agreement.

History: 1973 c 124 s 1; 1980 c 614 s 81

97.432 AMENDMENT TO LEECH LAKE SETTLEMENT AGREEMENT.

The commissioner may enter into an agreement with the reservation business committee of the Leech Lake Indian Reservation to amend the settlement agreement adopted in section 97.431 by providing that in lieu of collecting any additional fee in connection with the state waterfowl stamp for the privilege of hunting waterfowl on the Leech Lake Indian Reservation an amount equal to five percent of the proceeds from the sale of said stamp shall be credited to the Leech Lake Band and White Earth Band special license account established by section 97.431 and shall be remitted to the Leech Lake reservation business committee in the manner and subject to the terms and conditions provided in section 97.431.

History: 1977 c 317 s 2; 1980 c 614 s 82

97.433 AGREEMENTS WITH THE LEECH LAKE AND WHITE EARTH BANDS OF CHIPPEWA INDIANS RELATING TO HUNTING AND FISHING LICENSES AND FEES.

Subdivision 1. Agreement with the White Earth Band of Chippewa Indians. The commissioner may enter into an agreement with authorized representatives of the White Earth Band of Chippewa Indians on substantially the same terms as the agreement adopted by section 97.431 and amended pursuant to section 97.432; except that in lieu of the system described in section 97.431, subdivision 4, clause (b), of special licenses and related license fees for persons who are not members of the Minnesota Chippewa tribe, for the privilege of hunting, fishing, trapping, or taking minnows and other bait within the reservation, the agreement shall provide that an amount equal to 2-1/2 percent of the proceeds from the sale of all licenses sold in the state of Minnesota for hunting, fishing, trapping, or taking of minnows or other bait shall be credited to the special license account established by section 97.431, and shall be remitted to the White Earth Band in the manner and subject to the terms and conditions that may be mutually agreed upon. An agreement negotiated pursuant to this subdivision shall be for a term of at least four years following the date of its execution.

Subd. 2. Amendment to the Leech Lake settlement agreement. The commissioner may enter into an agreement with authorized representatives of the Leech Lake Band of Chippewa Indians to amend the settlement agreement adopted by section 97.431 and previously amended pursuant to section 97.432 by providing that in lieu of the system of special licenses and license fees for persons who are not members of the Minnesota Chippewa tribe for the privilege of hunting, fishing, trapping, or taking minnows and other bait within the reservation, an amount equal to five percent of the proceeds from the sale of all licenses sold in the state of Minnesota for hunting, fishing, trapping, or taking minnows and other bait shall be credited to the special license account established by section 97.431 and shall be

remitted to the Leech Lake Band in the manner and subject to the terms and conditions that may be mutually agreed upon.

Subd. 3. **Source of payments.** Money to make payments to the Leech Lake Band and White Earth Band special license account pursuant to sections 97.431, subdivision 4, and 97.432, is annually appropriated for that purpose in a ratio of 60 percent from the game and fish fund and 40 percent from the general fund.

History: 1980 c 614 s 83; 1984 c 655 art 1 s 16

97.44 POSSESSION RESTRICTED.

Subdivision 1. No person shall possess within this state any wild animal which has been unlawfully taken, bought, sold or possessed outside of the state, or unlawfully shipped therefrom into the state.

Subd. 2. No person shall possess within this state any protected wild animal except during the open season and for five days thereafter, without having obtained permission from the commissioner or his authorized agent so to do, in such form as the commissioner may prescribe, and when so permitted, they may be retained indefinitely, subject, however, to the exceptions contained in section 100.27, subdivision 6, and section 102.23.

Subd. 3. Wild animals lawfully taken, bought, sold or possessed outside this state may be brought or shipped into this state, whether taken in or out of the period prescribed for the open season in Minnesota, and possessed during the periods prescribed in subdivision 2 upon obtaining the commissioner's permit.

Subd. 4. No person except the commissioner or his agents shall place or store or receive or accept for storage in a commercial cold storage warehouse, any protected wild animals except fish or furs lawfully taken. Protected wild animals lawfully taken and possessed may be stored in refrigerators or cooling rooms in butcher shops or in locker plants or other places not classified as commercial cold storage warehouses, but all packages of protected wild animals so stored shall be plainly marked in ink, showing the name and address of the owner, the number of license under which they were taken, and the number and species therein.

Subd. 5. Protected wild animals may be disposed of by gift, without consideration, and when so disposed of, may be possessed or transported without license, provided, if they are transported beyond the boundaries of the county in which the possessor lives, there shall be attached a tag marked in ink, showing the name and address of the owner and the number of the license under which they were taken, or in lieu thereof the possessor shall furnish an affidavit showing the name and address of the donor, but subject to all other restrictions and limitations on possession, transportation and sale imposed by Laws 1949, Chapter 150.

Subd. 6. Mounted specimens of wild animals, deer horns, tanned hides, and dressed furs lawfully taken, are excepted from the provisions of this section.

Subd. 7. Licensed tanners, upon receipt of any raw beaver or muskrat hides or pelts, shall immediately procure a tag or seal, as prescribed by the commissioner, which tag or seal shall be attached to the hide or pelt and remain thereon during the entire process of tanning and dressing, and so long as retained in the possession of the tanner.

History: 1945 c 248 s 1; 1949 c 104 s 1; 1949 c 150 s 5

97.45 TRANSPORTATION RESTRICTED.

Subdivision 1. No person shall transport any wild animals taken, bought, sold or possessed in violation of chapters 97 to 102. When transported, any wild animals, or any package, container, or receptacle in which they are contained, shall

be tagged, sealed, or otherwise marked and identified as prescribed by law or commissioner's order. A licensed resident may transport during any one open season and the next following two days, or at any time thereafter under conditions which the commissioner may prescribe by order, one deer, one bear, and one moose which have been lawfully taken and possessed.

Subd. 2. Any person may transport within the state, or from a point within to a point without, during the open season, any protected wild animals which may be lawfully sold, except as otherwise expressly prohibited.

Subd. 3. A licensed resident who accompanies the shipment may transport wild animals lawfully taken and possessed, including undressed game birds and dressed or undressed fish, to any place in the state in any vehicle or as baggage on a common carrier. A licensed resident who accompanies the shipment may transport the head or hide of a deer, bear, or moose, lawfully taken and possessed, to any place within or outside the state for the purpose of mounting or tanning. A common carrier may transport wild animals as baggage as provided in this subdivision when accompanied by the licensed resident shipper except an employee of the common carrier while engaged in the performance of his duties.

Subd. 4. A licensed resident who does not accompany the shipment may transport by common carrier to any point in the state, consigned to himself only, the following wild animals lawfully taken and possessed: (a) not more than three separate shipments of undressed birds, each of which shipment may contain the number of birds which could lawfully be taken within the state on any single day, but not more than a single day's limit of any species; (b) big game animals as prescribed in subdivision 1. The licensed resident may transport the head or hide of the deer, bear, or moose to a place within or outside the state for the purpose of mounting or tanning; and (c) dressed or undressed fish.

Subd. 4a. A big game animal which has been registered by the licensee in accordance with requirements established by the commissioner may be transported by the most direct route from one location to another by a person other than the licensee provided there is a tag attached to the animal marked in ink containing the address, license number, and signature of the licensee, and the locations from which and to which the animal is being transported.

Subd. 5. [Repealed, 1984 c 621 s 15]

Subd. 6. (1) A licensed nonresident who does not accompany the shipment may transport by common carrier to a place within or outside this state one shipment of fish lawfully taken and possessed in any one licensing year upon obtaining a shipping permit from the commissioner or his agent. The shipment may contain: (a) not more than 25 pounds of undressed fish; (b) one undressed fish of any size; or (c) not more than 15 pounds of filleted or dressed game fish. A shipping permit shall be issued upon request and without payment of a fee, and shall be cancelled as prescribed by the commissioner by the agent of the carrier to whom the shipment is first delivered. In the case of a nonresident combination angling license, each licensee shall be eligible for one shipping permit for each licensing year.

(2) A licensed nonresident who accompanies the shipment may transport dressed or undressed fish lawfully taken or possessed in any vehicle or on a common carrier to any place within or outside the state.

(3) A licensed nonresident who does not accompany the shipment may transport filleted or dressed game fish by common carrier only if shipped in a container which bears the name and license number of the shipper; the name of the person preparing the container for shipment and the license number of that person as issued under section 98.46, subdivision 5; and the number, species and net weight of the fish in the container.

(4) Each licensee authorized to prepare dressed game fish for shipment shall maintain a permanent record of the name, address and license number of each licensed fisherman making a shipment, the name and address of the consignee, the number, species and net weight of fish contained in the shipment. The records shall be available for inspection by conservation officers at all times.

(5) Notwithstanding any law to the contrary, a nonresident under the age of 16 may take fish by angling without procuring a license, if the nonresident's parent or guardian has obtained the appropriate fishing license. Fish so taken shall be included in the daily and possession limit of the parent or legal guardian.

Subd. 7. (a) A licensed nonresident who accompanies the shipment may transport the following wild animals, other than fish, lawfully taken and possessed in any vehicle or as baggage on a common carrier to any place within or outside this state: (1) the number of undressed game birds which he is entitled to possess at any one time; (2) one deer and one bear; and (3) other wild animals lawfully taken and possessed in Minnesota. A common carrier may carry wild animals as baggage as provided in this clause.

(b) A licensed nonresident who does not accompany the shipment may transport the wild animals, other than fish, as described in clause (a) by common carrier to any place within or outside the state when the shipment is consigned to the licensed nonresident, provided that a shipping permit must be obtained from the commissioner or his agent for the transportation of any undressed game birds. The permit shall be issued upon request and without payment of a fee, and canceled as prescribed by the commissioner by the agent of the carrier to whom the shipment is first delivered. Deer and bear may be transported only during the time provided in subdivision 4, clause (b).

Subd. 8. Wild animals, lawfully taken and possessed in Canada and lawfully entered into the state, may be shipped from Minnesota to any point within or without the state by either residents or nonresidents provided all such shipments shall bear such shipping coupons as would be required if the shipment originated from the province where the animals were taken. Game fish lawfully taken and possessed in Canada, may be brought into the state for the purpose of filleting and packing, and may be transported to any point within or without the state.

Subd. 9. Undressed game birds, lawfully taken and possessed in adjacent states, may be brought into the state, and may then be shipped by common carrier to any point within the state by residents of this state, or by nonresidents to any point without the state, provided each such shipment shall be tagged or sealed by a state conservation officer in the manner prescribed by the commissioner. Licensed residents or nonresidents may ship game birds or one fish lawfully in their possession to any point within or without the state to any person upon procuring a permit so to do from the commissioner or his authorized agent under such regulations as the commissioner may prescribe.

Subd. 10. All wild animals, while in transit, or at their destination after shipment, shall be deemed in the possession of the shipper.

Subd. 11. No shipment of small or big game, under subdivisions 4 or 7, shall be accepted by any carrier until the agent thereof shall have examined the license of the shipper.

Subd. 12. All protected wild animals transported by common carrier, including shipments carried as baggage, shall have attached a statement signed by the licensee showing his name, address and license number and the number and species of wild animals contained in the shipment, including fish. The shipment shall have attached to it any tag, shipping coupon or permit required by law or commissioner's order.

Subd. 13. No protected wild animals, taken in any other state or country, except big and small game, shall be transported through this state, except by common carrier, during the closed season for the taking of such animals in Minnesota, or in excess of the possession limit as prescribed by chapters 97 to 102, unless the same are tagged, sealed, or otherwise marked as prescribed by the commissioner.

Subd. 14. All wild animals being transported shall be made available to full inspection by any conservation officer upon his demand, and in the absence of the licensee, any receptacle or container may be opened by such conservation officer by such means as is reasonably necessary for the purpose of inspection and counting. The way bill or receipt issued by any common carrier to a shipper shall specify the number and species of wild animals so shipped.

Subd. 15. The following restrictions on the transportation of minnows apply only to quantities in excess of 24 dozen. The following restrictions do not apply to minnows being transported through the state pursuant to a permit issued by the commissioner under section 101.42, subdivision 6. No person shall transport any minnows beyond the boundaries of the state, except leeches, suckers, and fathead minnows, which may be transported without the state by any resident minnow dealer holding an exporting minnow dealers license or by any licensed nonresident exporting minnow hauler bearing a bill of lading issued by a dealer holding an exporting license, on forms furnished by the department. Said bill of lading shall contain the exporter's name and address, route of exit to be used leaving the state, amount and type of bait, time of issuance and 24 hours to exit the state. Except for a licensed and authorized nonresident hauler transporting minnows in accordance with this subdivision, no motor vehicle which is not registered and licensed in this state and which is not licensed under section 98.46, subdivision 5, clause 11, shall contain minnows or be used to transport minnows in Minnesota. A minnow retailer who transports minnows from a place of wholesale purchase to his place of business shall transport the minnows by the most convenient and direct route.

History: 1945 c 248 s 1; 1947 c 609 s 2,3; 1949 c 150 s 6; 1953 c 51 s 1; 1953 c 534 s 1; 1955 c 307 s 1; 1955 c 564 s 1; 1955 c 782 s 1; 1957 c 581 s 1; 1957 c 676 s 1; 1959 c 363 s 1; 1961 c 39 s 1; 1961 c 103 s 1; 1961 c 477 s 1; 1961 c 609 s 1; 1967 c 905 s 9; 1969 c 942 s 1; 1971 c 607 s 1; 1973 c 449 s 1-5; 1976 c 55 s 2; 1978 c 594 s 2; 1979 c 70 s 1; 1984 c 621 s 1-8

97.46 CONFISCATION OF COMMINGLED GOODS.

Confiscation of any part of a shipment shall include the entire shipment, and when two or more wild animals of the same or different species are possessed or contained in the same package, bag, crate, box, automobile, airplane, vehicle, room, or other receptacle, or are in any other way mixed or commingled, and one or more thereof are contraband, then the whole shipment or parcel shall be deemed contraband.

History: 1945 c 248 s 1; 1949 c 150 s 7

97.47 WANTON WASTE.

Except as expressly permitted, no person shall wantonly waste or destroy any usable part of any protected wild animal.

History: 1945 c 248 s 1; 1949 c 150 s 8

97.48 COMMISSIONER, GENERAL POWERS.

Subdivision 1. The commissioner may extend protection to any species of wild animal in addition to that accorded by chapters 97 to 102, by further limiting or closing open seasons, areas of the state, or by reducing limits with respect to any or all areas of the state, whenever he finds such action necessary to guard against undue depletion or extinction, or to promote the propagation and reproduction of such animals, provided he shall not restrict or prohibit the taking of game fish or any species thereof by angling or spearing through the ice so as to close at any given time not more than 50 percent of the named lakes or streams of any county, nor shall he limit or close any regular statutory season for the taking of any species of game fish by spearing through the ice in any designated waters unless in the same order he limits or closes the next following regular statutory season for the taking of said species by angling in the same waters in the same proportion, nor shall he reduce the limits for the taking or possession of such species by spearing through the ice in any designated waters during any regular statutory season therefor below the limits prescribed for the taking or possession of said species by angling in the same waters during the next following regular statutory season therefor.

Subd. 2. The commissioner is authorized to enter into contracts with North and South Dakota, Wisconsin and Iowa, relating to the removal of rough fish in boundary waters between Minnesota and those states, and providing for the letting of contracts to remove such fish, and for the inspection and division of proceeds of such work, and for regulating matters relating to such fishing in such boundary waters, provided, if no such agreement can be made, the commissioner may remove rough fish from such boundary waters in the same manner as he is authorized to remove them from any of the waters of this state.

Subd. 3. The commissioner is authorized and shall have the power to make any and all regulations for the taking, possession and transportation of wild animals, fish and mussels from any boundary waters between Minnesota and adjacent states, and from international waters. These regulations may include but need not be limited to the following: Restrictions on the limits of fish which may be taken, possessed, or transported from Minnesota-Canada boundary waters by a person possessing both a Minnesota angling license and an angling license from a Canadian province adjacent to Minnesota which has jurisdiction over the taking, possession, and transportation of fish.

Subd. 4. Except as otherwise expressly provided, the commissioner is authorized to take rough fish, turtles, ciscoes, herring, whitefish and smelt from any of the waters of this state by means of day labor, contract or permit through the use of seines, nets, or any other devices, under such rules, regulations, contracts or permits as he shall prescribe. All rough fish, turtles, ciscoes, herring, whitefish and smelt so removed by the commissioner shall be disposed of in such form and in such manner as he, by regulation, contract or permit shall prescribe. The provisions of this subdivision shall supersede the provisions of Laws 1939, Chapter 431, as amended, so far as applicable to the letting or making of contracts for taking or sale of rough fish or other species hereunder. In awarding any contract for the removal of such rough fish or other species, the commissioner shall take into consideration the qualifications of the applicant, his equipment, his knowledge of the affected waters, and his general ability to perform the work well, and in view thereof shall fix the contractor's compensation at such rate or rates as the commissioner deems reasonable without competitive bidding.

Subd. 5. The commissioner is authorized to close any areas of the state to mussel fishing and to prescribe any other rules, regulations or orders relating to the taking thereof, but not more than 50 percent of the mussel producing waters of the state shall be closed during the open season at any one time.

Subd. 6. The commissioner is authorized to close any waters of the state to the taking of minnows for commercial purposes if a survey discloses that such action is necessary to guard against undue depletion or extinction.

Subd. 7. The commissioner shall be charged with the execution and the enforcement of all the laws of this state relating to wild animals.

Subd. 8. The commissioner shall do all things deemed by him desirable in the preservation, protection and propagation in their natural state, and artificially, of all desirable species of wild animals. The commissioner shall make special provisions for the management of fish and wildlife to insure recreational opportunities for anglers and hunters.

Subd. 9. The commissioner shall dispose of or destroy, as he deems advisable, undesirable or predatory wild animals.

Subd. 10. The commissioner shall acquire by purchase, gift, exchange, or other arrangement, wild animals or their eggs, for breeding or stocking purposes.

Subd. 11. The commissioner shall set aside and reserve for any period he deems advisable, public waters of the state, in the aid of propagation and protection of any wild animals. The commissioner shall have the further authority to designate and manage public waters for their primary wildlife use and benefit after giving notice and holding a public hearing, provided that this authority shall not be used to restrict fishing methods or fishing seasons. The hearing shall be held in the county where the major portion of the waters are located. Notice of the hearing shall be published once in a legal newspaper within each county where the waters are located not less than seven days before the hearing. The commissioner may enter into agreements with riparian owners, pursuant to section 105.39, subdivision 5, and may exercise the powers provided in section 105.48, when necessary to accomplish management objectives related to waters so designated.

Subd. 12. The commissioner shall acquire by gift, lease, purchase, or condemnation in the manner prescribed under sections 117.011 to 117.232, in the name of the state, any personal or real property required for game farms or hatcheries, and to construct, maintain, operate and alter suitable buildings or other works thereon.

Subd. 13. The commissioner shall acquire by gift, lease, easement, purchase, or condemnation in the manner prescribed under sections 117.011 to 117.232, in the name of the state, lands or any interest in lands suitable and desirable for establishing and maintaining public hunting grounds, game refuges and food and cover planting areas, and to make all improvements thereon deemed by him advisable, provided that at least two-thirds of the total area so acquired in any county for a public hunting grounds, game refuge, food and cover planting area, or other wildlife management area shall be open to public hunting. The commissioner may designate lands or interests in lands acquired pursuant to this subdivision as wildlife management areas for the purposes of the outdoor recreation system.

Subd. 14. The commissioner shall sell or dispose of any land acquired for public hunting grounds and found to be not necessary or suitable therefor, at a price not less than that for which they were purchased, or to exchange such lands for lands of equal value, which are suitable for rounding out, enlarging, filling in, or adding to areas upon which public shooting grounds have been established, providing all such sales or exchanges shall first receive the approval of the executive council.

Subd. 15. The commissioner shall acquire by gift, lease, purchase, or condemnation in the manner prescribed by chapter 117, in the name of the state, state water access sites, not to exceed seven acres, adjacent to public waters to which the public theretofore had no access or where the access is inadequate and upon which the public has a right to hunt and fish, and such easements and rights of way as may be

required to connect such sites with public highways, provided, no acquisition by condemnation shall be made without first obtaining the approval of the executive council, and provided further that the authority herein granted shall not extend to lakes completely surrounded by lands owned and maintained for the purpose of conducting an educational or religious institution, or to lakes which are unmeandered or which contain less than 200 acres within the meander lines; provided, that in the case of any lake containing less than 200 acres but not less than 150 acres within the meander lines, the authority herein granted shall apply where the lands, easements, or rights of way required are acquired by gift or purchase but not by condemnation and provided further, that public easements and public right of way may be acquired other than by condemnation to lakes of any size which are to be thereafter managed intensively for fishing. All sites, easements, and rights of way acquired hereunder shall be maintained by the commissioner, except that the commissioner may make agreements with the county board if the connecting public highway is a county state-aid highway or county highway and the town board if the connecting public highway is a town road for the maintenance of the easements and rights of way to the sites. The county board and town board may expend money from their respective road and bridge funds for such maintenance in accordance with the agreement.

Subd. 16. The commissioner shall rescue, transfer, or otherwise dispose of or sell fish found in waters, which by reason of their shallowness, will endanger such fish to smothering in winter, or by published order, or in cases of emergency by notice posted conspicuously around the shores upon any such waters, to authorize the taking of fish in any quantity and in any manner, except with the use of seines, hoop nets, fyke nets, or explosives, by residents of the state of Minnesota, for personal use only, except that bullheads and rough fish may be sold. The above provisions shall also apply to waters in which fish toxicants will be used for the purpose of reclamation.

Subd. 17. The commissioner shall prohibit the taking of turtles during such period as he may deem necessary, from any waters of the state in which he is conducting operations in aid of the fish propagation program.

Subd. 18. The commissioner shall prescribe rules and regulations for the harvesting and possession of wild rice.

Subd. 18a. The commissioner may set such seasons and establish whatever regulations he deems necessary for the conservation of wild ginseng.

Subd. 19. The commissioner shall collect, compile, disseminate and publish statistics, bulletins and information germane to conservation.

Subd. 20. The commissioner shall adopt reasonable rules and regulations designed to encourage organizations of local sportsmen to engage in the propagation of game fish by use of rearing ponds; prescribe reasonable methods for the lawful acquisition of brood stock for such ponds from the public waters by seining; prescribe reasonable rules and regulations for the ownership and use by such sportsmen's organizations of seines and other equipment to be used for rearing pond propagation; and prescribe regulations for the planting of the young fish so produced in the public waters of the state, giving first consideration to the needs of the community in which the same are produced and the desires of the organizations operating such rearing ponds.

Subd. 21. The commissioner may issue permits to take turtles or frogs at any time with the use of artificial lights in any waters designated in such permits.

Subd. 22. The commissioner shall authorize the maintenance and operation of private fish hatcheries under such rules and regulations as the commissioner shall prescribe for the raising and disposition of any fish indigenous to Minnesota waters.

No license shall be required of any person for taking fish by angling at a licensed private fish hatchery operated in accordance with the rules and regulations of the commissioner, or from an artificial pool containing only fish purchased from a private fish hatchery, provided the operator shall furnish to each person taking such fish a written certificate in such form as the commissioner shall prescribe, giving the number and description of the fish taken and such other information as the commissioner requires, whereupon such fish may be possessed, shipped, or transported within the state in like manner as fish taken by a resident under a license. Any person making a false statement in any such certificate shall be guilty of a misdemeanor and subject to the same penalties as prescribed for violations of section 97.55, subdivision 11.

Subd. 23. If the date of the opening of the season for the taking of any protected wild animals, except those under federal regulations as prescribed by law, falls on any day other than a Saturday, the commissioner of natural resources may designate the nearest Saturday to said date as the opening day of the season. If the statutory closing date falls on a Saturday, the commissioner of natural resources may extend it through the following day.

Subd. 24. The commissioner may limit the number of persons who may hunt deer or bear in any areas, when he determines that it is necessary to prevent an overharvest or to provide for a suitable distribution of hunters, and he may establish by order any practicable method, including a drawing, for impartially determining the persons who may hunt in such areas. Beginning with data available for the 1981 seasons, the commissioner shall give preference to hunters who have previously unsuccessfully applied for the license in question.

Subd. 25. The commissioner may, for purposes of identification, post any land under his jurisdiction acquired for public hunting grounds, food and cover planting areas, game refuges, wildlife lands and conservation area lands, so as to indicate the management purpose thereof.

Subd. 26. The commissioner may designate all or part of any lake or stream, but in aggregate not more than 100 lakes and 25 streams at any one time, as experimental waters and, notwithstanding any other provision of law, may establish by order the seasons, limits and methods for the taking of fish therefrom and such other regulations relating thereto as he deems desirable; provided the above may be done only on waters to which the public has free access after a public meeting has been held in the county where the lake or stream, or major portion thereof, is located. In the case of a named lake having a water area of more than 1,500 acres, a public meeting shall be held in the seven-county metropolitan area, as defined in section 473.121, subdivision 2. Notice of the public meeting shall be published once in a legal newspaper within the county or counties where the lake or stream is located not less than seven days prior to the meeting. The commissioner shall establish methods and criteria for citizen initiation of experimental waters designation and for citizen participation in the evaluation of waters designated as experimental waters.

Subd. 26a. The commissioner may develop a system of classification under which waters which have been designated as experimental waters pursuant to subdivision 26 and other waters intrinsically suitable therefor are classified as primarily intended for use as trophy lakes, family fishing lakes, special species management lakes, or other categories of special use designated by the commissioner.

Subd. 27. The commissioner is authorized, notwithstanding any law to the contrary, to enter into agreements with private landowners to improve or develop wildlife habitat on such private lands by providing financial, technical, professional and material assistance.

Subd. 28. Notwithstanding the provisions of any other law, any moneys appropriated to the commissioner of administration for the acquisition of wildlife land under subdivision 13, and section 97.481, shall be expended in the same manner as similar expenditures are made by the commissioner of natural resources under such statutory provisions. In order to qualify for federal Pittman-Robertson funds, the commissioner of administration may transfer any of these moneys to the commissioner of natural resources for expenditure for wildlife land acquisition, and any such transfers are hereby reappropriated for such purpose.

History: 1945 c 248 s 1; 1947 c 469 s 1; 1947 c 609 s 4-6; 1949 c 150 s 9; 1949 c 407 s 1; 1949 c 671 s 1; 1951 c 135 s 1; 1951 c 349 s 1; 1951 c 572 s 1; 1953 c 171 s 1; 1953 c 280 s 1; 1955 c 306 s 1; 1955 c 558 s 1; 1957 c 582 s 1; 1961 c 228 s 1; 1961 c 294 s 1; 1963 c 175 s 1; 1963 c 191 s 1; 1963 c 482 s 1; 1965 c 248 s 1; 1965 c 276 s 1; 1965 c 430 s 1; 1965 c 900 s 1; Ex1967 c 45 s 1; 1969 c 210 s 1; 1969 c 335 s 1; 1969 c 1129 art 10 s 2; 1971 c 587 s 1; 1971 c 612 s 1; Ex1971 c 3 s 62; 1973 c 35 s 24,25; 1973 c 98 s 1; 1975 c 167 s 1; 1975 c 353 s 16-18; 1976 c 2 s 49; 1976 c 16 s 4; 1979 c 94 s 2; 1982 c 462 s 1; 1982 c 543 s 2; 1983 c 356 s 1-4

97.481 ACQUISITION OF WILDLIFE LANDS.

Subdivision 1. The commissioner of natural resources is hereby authorized and empowered to acquire, in the name of the state, by gift, lease, purchase and transfer of state lands, any such wildlife lands, such as marsh or wetlands, and the margins thereof, including ponds, small lakes and stream bottom lands, which he finds desirable to acquire in the interests of water conservation relating to wildlife development programs, and, he may also acquire for this purpose from any state agency, itself included, lands now in state ownership or tax-forfeited which are suitable for wildlife purposes, and when such lands are so acquired, he is authorized to develop the same in the interest of wildlife, recreational or public hunting areas as he shall deem desirable. In the determination of which lands will be acquired as wildlife lands, the commissioner shall assign highest priority to parcels containing type 3 or 4 wetlands, as defined in U.S. Fish and Wildlife Service Circular No. 39 (1971 edition), which were previously determined to be public waters. The commissioner in the purchase of such wetlands must recognize that when a majority of land owners, or owners of a majority of the land in the watershed, petition for a drainage outlet, that the state should not interfere, or unnecessarily delay such drainage proceedings when such proceedings are conducted according to the Minnesota Drainage Code. In no case should state lands, so purchased, or leased, be used to produce crops unless such crops are needed to sustain wildlife. No lands described herein shall be acquired unless there is acquired simultaneously therewith a right-of-way or easement from said lands to a public road so as to make entry upon said lands available to the public. The commissioner may designate lands or interests in lands acquired pursuant to this section as wildlife management areas for the purposes of the outdoor recreation system.

Subd. 2. **Procedure.** Before the commissioner acquires lands by purchase or lease pursuant to this section, he shall proceed in accordance with this subdivision.

(a) The commissioner shall notify the board of county commissioners in each county and the town officers in each town where land is to be acquired and shall furnish the board and the town officers a description of the land to be acquired. The county board shall approve or disapprove the proposed acquisition within 90 days after the commissioner has notified the county board and the town officers of the proposed acquisition and furnished the description of the land involved. An extension of time, not to exceed 30 days, may be given by the commissioner to a county board. In a county in which a soil and water conservation district is organized, the supervisors will act as counselors to the county board regarding the

best utilization and capability of the land proposed for acquisition, including the questions of drainage and flood control.

(b) If the county board approves an acquisition within the 90-day period or extension thereof, the commissioner may proceed with the acquisition.

(c) If the county board disapproves an acquisition, it shall, at the time of its decision, set forth valid reasons for disapproval. The landowner or the commissioner may appeal the county board's disapproval to the district court in the county in which any of the lands are situated. If the district court, or an appellate court, finds that the county board's disapproval is arbitrary or capricious or that the reasons stated for disapproval are invalid, or if the county board fails to give any reasons or fails to act to approve or disapprove of the acquisition within the 90-day period or extension thereof, the commissioner or the owner of the land which the commissioner seeks to acquire may submit the proposed acquisition to the land exchange board which shall consider the interests of the county, the state, and the landowner and determine whether the acquisition will be in the public interest.

(d) The land exchange board shall conduct a hearing upon each acquisition submitted to it after giving notice to all interested parties, including, but not limited to, the board of county commissioners in the county where the land to be acquired is located, the commissioner, and the owner of the land. The land exchange board shall hold its hearing and make its decision within 60 days after submission of the proposed acquisition to it.

If a majority of the members of the land exchange board approves the acquisition, the commissioner may proceed with the acquisition. If a majority of the members of the land exchange board disapproves the acquisition, the commissioner shall not acquire the property.

History: 1957 c 644 s 1; 1969 c 637 s 1; 1969 c 1129 art 10 s 2; 1975 c 353 s 19; 1976 c 83 s 1; 1980 c 515 s 1; 1983 c 247 s 41

97.482 SURCHARGE ON SMALL GAME HUNTING LICENSES APPROPRIATED.

Subdivision 1. To provide funds for the purpose of carrying out the provisions of sections 97.481 to 97.484, there is hereby imposed upon all small game hunting licenses a surcharge of \$4, which shall be added to such license fee, and which surcharge shall be free from any commissions and so stated on the back of the small game hunting licenses, together with the following statement: "This \$4 surcharge is being paid by sportsmen for the acquisition and development of wildlife lands."

Subd. 2. The commissioner may expend money for use in developing, preserving, restoring and maintaining the water fowl breeding grounds in Canada, under agreement or contract with any nonprofit organization dedicated to the construction, maintenance, and repair of such projects which are acceptable to the governmental agency having jurisdiction over the land and water affected by such projects. Such agreements and contracts may be entered into if the commissioner is satisfied that the use of such funds will be beneficial to the migration of waterfowl into the state of Minnesota.

History: 1957 c 644 s 2; 1971 c 867 s 2; 1979 c 333 s 84; 1981 c 356 s 281

97.483 WILDLIFE ACQUISITION FUND ESTABLISHED.

There shall be established in the state treasury a separate fund known as the "Wildlife Acquisition Fund" into which the proceeds derived from the surcharge shall be deposited and all moneys so deposited shall be used by the commissioner of

natural resources for the purposes of sections 97.481 to 97.484, in accordance with appropriations made by the legislature.

History: 1957 c 644 s 3; 1969 c 1129 art 10 s 2

—**97.484 ASSESSMENTS TO BE PAID FROM FUND.**

Any assessments against the State of Minnesota under the provisions of sections 106.381, or 106.671 and 106.672, shall be paid from moneys in the Wildlife Acquisition Fund herein created on all such lands or properties heretofore or hereafter acquired for wildlife habitat.

History: 1957 c 644 s 4

97.4841 MIGRATORY WATERFOWL STAMPS.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them:

- (a) "Migratory waterfowl" means brant, ducks, geese and swans.
- (b) "Stamp" means the state migratory waterfowl stamp issued by the commissioner.
- (c) "Development" includes, but is not limited to, the construction of dikes, water control structures and impoundments, nest cover, rough fish barriers, acquisition of sites necessary to allow for development, and any and all facilities for the management of existing migratory waterfowl habitat and the creation of migratory waterfowl management lakes.

Subd. 2. **Stamp required.** Except for residents under the age of 18 and over the age of 65 years, no person who is otherwise required to possess a Minnesota small game license shall hunt or take migratory waterfowl within this state without first purchasing a stamp and having the stamp in possession while hunting or taking migratory waterfowl. Each stamp shall be validated by the signature of the licensee written across its face. The commissioner shall determine the form of the stamp and shall furnish and distribute stamps to county auditors for sale by them and their authorized subagents as prescribed by order of the commissioner. The commissioner shall encourage the purchase of stamps by nonhunters who are interested in the preservation and development of habitat for migratory waterfowl. People who are hunting on their own property shall not be required to possess a Minnesota waterfowl stamp.

Subd. 3. **Fee.** A stamp shall be issued to each small game hunting license applicant or other person interested in waterfowl conservation upon the payment of a fee of \$3. Stamps shall be issued annually and shall be valid from March 1 through the last day of the following February.

Subd. 4. **Use of revenue.** The commissioner shall approve projects for the following purposes:

- (a) Development of state wetlands and designated waterfowl management lakes for maximum migratory waterfowl production;
- (b) Protection and propagation of migratory waterfowl;
- (c) Development, restoration, maintenance or preservation of migratory waterfowl habitat;
- (d) Acquisition of structure sites and access thereto; and
- (e) Necessary related administrative costs in an amount not to exceed ten percent of the annual deposits into the game and fish fund attributable to the sale of stamps.

History: 1977 c 317 s 1; 1982 c 543 s 3

97.4842 TROUT AND SALMON STAMP.

Subdivision 1. **Stamp required.** No person over the age of 16 and under the age of 65 years who is otherwise required to possess a Minnesota fishing license shall angle in any stream designated by the commissioner as a trout stream, in any lake designated by the commissioner as a trout lake, or in Lake Superior, without first purchasing a stamp and having the stamp in his possession while angling in any designated trout stream, designated trout lake, or Lake Superior. Each stamp shall be validated by the signature of the licensee written across its face. The commissioner shall determine the form of the stamp and shall furnish and distribute stamps to county auditors for sale by them and their authorized subagents as prescribed by order of the commissioner. The commissioner shall encourage the purchase of stamps by any persons who are interested in the improvement of trout and salmon streams and lakes.

Subd. 2. **Fee.** A stamp shall be issued to each fishing license applicant or other person interested in improvement of trout and salmon streams and lakes upon the payment of a fee of \$3. Stamps shall be issued annually and shall be valid from March 1 through the last day of the following February.

Subd. 3. **Use of revenue.** The commissioner shall approve projects for the following purposes:

(a) Development, restoration, maintenance or preservation of trout streams and lakes;

(b) Rearing and stocking of trout and salmon in trout streams and lakes and Lake Superior; and

(c) Necessary related administrative costs in an amount not to exceed ten percent of the annual deposits into the game and fish fund attributable to the sale of stamps.

History: 1981 c 356 s 306; 1982 c 543 s 16; 1984 c 621 s 10

97.4843 PHEASANT STAMPS.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them:

(a) "Pheasant" means the Phasianus colchicus.

(b) "Stamp" means the state pheasant stamp issued by the commissioner.

(c) "Development" means, but is not limited to, the establishment of nesting cover, winter cover, and reliable food sources.

Subd. 2. **Stamp required.** Except for residents under the age of 18 years or over the age of 65 years, no person who is otherwise required to possess a Minnesota small game license shall hunt or take pheasants within this state without first purchasing a stamp and having the stamp in possession while hunting or taking pheasants. Each stamp shall be validated by the signature of the licensee written across its face. The commissioner shall determine the form of the stamp and shall furnish and distribute stamps to county auditors for sale by them and their authorized subagents as prescribed by order of the commissioner. The commissioner shall encourage the purchase of stamps by any persons interested in the improvement of pheasant habitat.

Subd. 3. **Fee.** A stamp shall be issued to each small game hunting license applicant or other person interested in the improvement of pheasant habitat upon payment of a fee of \$5. Stamps shall be issued annually and shall be valid from March 1 through the last day of the following February.

Subd. 4. **Use of revenue.** The commissioner may approve projects only for the following purposes:

(a) Promotion and practice of development, restoration, maintenance and preservation of suitable habitat for pheasants on public and private lands and the reimbursement of landowners for setting aside lands for pheasant habitat and the expenditure of funds on public and private lands to provide pheasant habitat;

(b) Necessary related administrative and personnel costs in an amount not to exceed ten percent of the annual deposits into the game and fish fund attributable to the sale of stamps.

History: 1983 c 65 s 1

97.485 FISH STOCKING PROHIBITED WHERE PUBLIC DOES NOT HAVE ACCESS.

The department of natural resources or any other state agency shall not stock, restock or plant fish in any waters to which the public is denied free access and use.

History: 1957 c 662 s 1; 1969 c 1129 art 10 s 2

97.486 [Repealed, 1973 c 720 s 61 subd 2]

97.4861 [Repealed, 1979 c 242 s 3]

97.487 PREDATOR CONTROL PROGRAM.

Subdivision 1. **Purpose.** The purpose of this section is to systematically control predatory wild animals doing damage to public or private property.

Subd. 2. **Definitions.** (a) For the purpose of this section, the following terms have the following meanings given them.

(b) "Predator" means a timber wolf, coyote, brush wolf, fox, lynx or bobcat.

(c) "Controller" means a person certified by the commissioner to take or kill predators pursuant to this section.

Subd. 3. **Investigation of predation.** If the commissioner has reason to believe that a predator or predators are causing damage to domestic or wild animals and if he determines that corrective action is necessary, he shall request the controllers to take predators causing the damage by any method authorized for the taking of unprotected wild animals. The commissioner shall specify the county or other defined area in which the predator control activities are to be conducted, the objectives to be achieved, payments to be made, and he shall approve the methods to be used. All of the controllers shall cease their activities when the objective is achieved or when so directed by the commissioner.

Subd. 4. **Certification of predator controllers.** The commissioner shall designate one division within the department to implement, enforce, and control the program conducted pursuant to this section. The commissioner shall certify as a predator controller all persons who meet qualifications as to experience, ability and reliability which the commissioner shall prescribe. The commissioner shall establish application procedures, prescribe forms and maintain a list of said controllers. Application procedures shall provide for reports from conservation officers and other department field personnel as to the ability and reliability of the applicants.

Subd. 5. **Predator control payments.** Upon satisfactory proof being made to the commissioner by a controller, the commissioner shall pay him the amount prescribed by order for each predator taken. The commissioner shall not pay in excess of \$60 nor less than \$25 for each wolf, brush wolf or coyote taken in the county or defined area. The commissioner shall make payments for other predators according to the provisions of this section as he may determine. The commissioner may require the controller to submit a signed statement of information concerning the predators taken, where he deems it necessary.

Subd. 6. **Unlawful acts; penalty.** A person who unlawfully or fraudulently claims or obtains any payment for the taking of a predator under this section or who otherwise violates the provisions of this section is guilty of a misdemeanor. A person convicted of violating a provision of this section is thereafter prohibited from acting as a controller under the provisions of this section.

History: 1969 c 787 s 1; 1971 c 786 s 1,2

97.488 PROTECTION OF THREATENED AND ENDANGERED SPECIES.

Subdivision 1. **Prohibition.** Notwithstanding any other provision of law, the taking, import, transport, or sale of any endangered species of wild animal, plant or parts thereof, or the sale or possession with intent to sell any article made in whole or in part from the skin, hide, or any parts of any endangered species of wild animal or plant is prohibited, except as provided in subdivisions 1a and 6.

Subd. 1a. **Application.** The provisions of subdivision 1 do not apply to plants on land classified for property tax purposes as class 3 or 3b agricultural land pursuant to section 273.13, or on ditches and roadways. The provisions of subdivision 1 do not apply to noxious weeds designated pursuant to sections 18.171 to 18.315 or to weeds otherwise designated as troublesome by the department of agriculture. When control of noxious weeds is necessary, it takes priority over the protection of endangered plant species, as long as reasonable effort is taken to preserve the endangered plant species first.

The taking or killing of an endangered plant species on land adjacent to class 3 or 3b agricultural land as a result of the application of pesticides or other agricultural chemical on the class 3 or 3b land shall not be a violation of subdivision 1, as long as reasonable care is taken in the pesticide or other chemical application to avoid impact on adjacent lands.

The accidental taking of an endangered plant, where the existence of the plant is not known at the time of the taking, shall not be a violation of subdivision 1.

For the purpose of this subdivision, class 3 or 3b agricultural land does not include timber land, waste land, or any land for which the owner receives a state paid wetlands or native prairie tax credit.

Subd. 2. **Designation.** The commissioner of natural resources, not later than January 1, 1984, by adoption of rules pursuant to chapter 14, shall designate any species of wild animal or plant as:

(1) Endangered, upon a showing that such species is threatened with extinction throughout all or a significant portion of its range; or

(2) Threatened, upon a showing that such species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range; or

(3) Species of special concern, upon a showing that while a species is not endangered or threatened, it is extremely uncommon in Minnesota, or has unique or highly specific habitat requirements and deserves careful monitoring of its status. Species on the periphery of their range which are not listed as threatened may be included in this category along with those species which were once threatened or endangered but now have increasing or protected, stable populations.

For purposes of this section, the range of the species in Minnesota shall be a factor in determining its status as endangered, threatened or of special concern. A designation by the secretary of the interior that a species is threatened or endangered shall be a prima facie showing for the purpose of this section. Until the commissioner adopts rules, those species designated as endangered by Section 4 (c) (3) of the

Endangered Species Act of 1973 (PL 93-205) at the time of enactment thereof shall be considered endangered within the meaning of this section.

The commissioner shall reevaluate the designated species list every three years after it is first adopted and make appropriate changes. In particular, the review shall consider the need for further protection of species on the species of special concern list. Species may be withdrawn from designation in the same manner that species are designated pursuant to this subdivision.

Subd. 3. Studies. The commissioner of natural resources may conduct such investigations as he shall deem appropriate to determine the status and requirements for survival of any resident species of wild animal or plant.

Subd. 4. Management. Notwithstanding any other provision of law, whenever any resident species of wild animal or plant has been designated as threatened or endangered pursuant to this section, the commissioner of natural resources may undertake management programs and in connection therewith may issue orders, related to wild animals, and adopt rules as he deems necessary to bring the species to a point at which it is no longer threatened or endangered. Subject to the provisions of subdivision 6, management programs for endangered or threatened species may include, but need not be limited to, methods and procedures such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation and regulated taking.

Subd. 5. Enforcement. Any peace officer or conservation officer, pursuant to chapter 626, may execute a warrant to search for and seize any goods, merchandise, plant or animal taken, sold or offered for sale in violation of this section, or any thing used in connection with a violation of this section. Seized property shall be held pending judicial proceedings. Upon conviction, seized property is forfeit. Goods, merchandise, plants or animals shall be offered to a scientific or educational institution or destroyed.

Subd. 6. General exceptions. The commissioner may permit, on prescribed conditions, any act otherwise prohibited by subdivision 1 if:

- (1) The act is for the purpose of zoological, educational or scientific study;
- (2) The act enhances the propagation or survival of the affected species;
- (3) The act prevents injury to persons or property; or
- (4) The social and economic benefits of the act outweigh the harm caused by it.

No member of an endangered species may be destroyed pursuant to clause (3) or (4) until all alternatives, including but not limited to live trapping and transplantation, have been evaluated and rejected. The commissioner may permit, on prescribed conditions, the propagation of a species or subspecies for its preservation. A member of a threatened or endangered species may be captured or destroyed without permit by any person when necessary in an emergency to avoid an immediate and demonstrable threat to human life or property.

The commissioner shall give any approval under this subdivision for forest management, including as part of a permit, sale, or lease of land for timber harvesting.

Subd. 7. Application. This section shall not apply retroactively or so as to prohibit importation into this state and subsequent possession, transport and sale of wild animals or, wild plants or parts thereof legally imported into the United States or legally acquired and exported from another territory, state, possession or political subdivision of the United States.

Subd. 8. Violations. A violation of this section is a misdemeanor.

History: 1971 c 825 s 1; 1974 c 465 s 1; 1981 c 285 s 1; 1982 c 424 s 17,130

97.49 FUNDS.

Subdivision 1. All unexpended balances and moneys hereafter received from licenses of any kind issued by the commissioner on behalf of the division, together with all receipts from fines, sale of contraband or property of any kind, including wild animals, under the control of the division, reimbursements of expenditures or contributions to the division and all other moneys accruing to the state by virtue of chapters 97 to 102, shall be credited by the state treasurer to a special fund known as the game and fish fund, and all such moneys are hereby annually appropriated for the maintenance and conduct of the activities of the division, subject, however, to any special provisions which may be contained from time to time in appropriation acts.

Subd. 1a. (a) For purposes of this subdivision, "deer license" means a license issued by the commissioner under the provisions of section 98.46, subdivision 2, clauses (2) and (3) and subdivision 14, clauses (2) and (3).

(b) It is the policy of this state that at least \$2 from each deer license issued by the commissioner shall be used for the purpose of deer habitat improvement.

Subd. 1b. (a) For the purposes of this subdivision, "resident deer license" means a license issued by the commissioner under the provisions of section 98.46, subdivision 2, clauses (2) and (3), and "resident bear license" means a license issued by the commissioner under the provisions of section 98.46, subdivision 2, clause (7).

(b) It is the policy of this state that at least \$1 from each resident deer license and each resident bear license shall be used to fund deer and bear management programs, including the computerized licensing system.

Subd. 2. [Repealed, 1967 c 64 s 2]

Subd. 3. A sum equal to: (1) 35 percent of the gross receipts from all special use permits and leases of lands acquired for public hunting grounds and game refuges, or (2) 50 cents per acre on purchased land actually used for public hunting grounds and game refuges, or (3) three-quarters of one percent of the appraised value of purchased land actually used for public hunting grounds and game refuges, whichever amount is the greater, shall be paid out of the game and fish fund annually to the county in which said lands are located, to be distributed by the county treasurer among the county and the respective towns and school districts wherein such grounds and refuges lie, on the same basis as if the payments were received as taxes on such lands, payable in the current year, but this provision shall not apply to state trust fund lands or any other state lands not purchased for game refuge and public hunting ground purposes. The county's share of the proceeds shall be deposited in the county general revenue fund. For the purpose of determining the applicability of payments pursuant to clause (3) above, the appraised value of the lands acquired shall be deemed to be the purchase or acquisition price thereof during the first five years following acquisition. After the expiration of five years from the date of acquisition or, in the case of lands acquired prior to July 1, 1974, within 90 days after July 1, 1979, and thereafter at five year intervals, a current appraisal of the land shall be made by the appropriate county assessor, and shall govern payments.

Subd. 4. All moneys received from the sale of fish and turtles taken under rough fish removal operations shall be continuously available for continuing the work of rough fish removal.

Subd. 5. All fines and forfeited bail collected in any prosecution under any provision of chapters 97 to 102, 348, sections 84.09 to 84.15, 84.81 to 84.88, and Laws 1939, Chapter 231, or any other law relating to wild animals or to wild rice or other aquatic vegetation shall be paid to the treasurer of the county where the prosecution was had. One-half of such receipts shall be transmitted by that officer

to the commissioner, who shall pay the same into the state treasury to be credited to the game and fish fund. The remaining half shall be credited to the general revenue fund of the county, but the board of county commissioners of any county may, by resolution, direct the payment of all such funds to the state, and where such county action has been taken, the cost of keeping and maintaining prisoners for violating any such law shall be reimbursed to the county from the game and fish fund upon monthly itemized statements certified by the county auditor to the commissioner.

Subd. 6. In the case of any county having over 39,000 and less than 42,000 inhabitants according to the 1950 federal census, any sums to be distributed by the county treasurer in accordance with subdivision 3 shall be distributed only among the various funds of the respective towns and school districts wherein such grounds and refuges lie on the same basis as if payments were received as taxes on such lands payable in the current year would be distributed among said funds.

Subd. 7. (a) In any county where the state has acquired and owns for wild goose management purposes more than 1,000 acres of crop land, there shall be paid to the county annually, a sum equivalent to what the taxes on said land would have been assessed on the same basis as comparable to privately owned land adjacent thereto.

(b) All lands coming within provisions of (a) shall be exempt from taxation under section 272.01 as amended by Extra Session Laws 1959, Chapter 1, Section 1, and also exempt from taxation under section 273.19 as amended by Extra Session Laws 1959, Chapter 1, Section 2.

(c) Payments under this subdivision shall be made from any moneys in the game and fish fund not otherwise appropriated or designated for specific purposes and the necessary sums are hereby annually appropriated therefor. Money so paid shall be distributed as provided by subdivision 3.

(d) Payments made to the county under this subdivision shall be a credit against any amount payable under subdivision 3.

(e) The first payment of moneys under this subdivision shall be made on July 1, 1961, in lieu of the taxes on said land which would have been levied in the year 1960, and would have been payable in the year 1961. Thereafter, such payments shall be made on July 1 of each ensuing year.

History: 1945 c 248 s 1; 1949 c 150 s 10; 1953 c 336 s 1; 1953 c 741 s 38; 1955 c 393 s 1; 1961 c 470 s 1,2; 1961 c 587 s 1; 1963 c 820 s 1; 1967 c 64 s 1; 1969 c 695 s 11; 1971 c 562 s 1; 1974 c 223 s 1; 1979 c 301 s 8; 1980 c 571 s 2; 1982 c 462 s 2,3; 1982 c 543 s 4

97.50 POLICE POWERS.

Subdivision 1. **Powers.** The commissioner, director, game refuge patrolmen, and conservation officers are authorized to:

(1) execute and serve all warrants and processes issued by any court having jurisdiction under any law relating to wild animals, wild rice, use of water, conservation, protection or control of public waters, state-owned dams or other works affecting public waters or water pollution, in the same manner as a constable or sheriff;

(2) arrest, without a warrant, any person detected in the actual violation of any provisions of chapters 84, 97 to 102, 105 and 106, and section 609.68; and

(3) take the person before any court in the county in which the offense was committed and make proper complaint.

When a person who is arrested for any violation of the provisions of law listed in clause (2), which is punishable as a misdemeanor, is not taken into custody and

immediately taken before a court, the arresting officer shall prepare, in quadruplicate, written notice to appear before a court. The notice shall be in the form and has the effect of a summons and complaint. It shall contain the name and address of the person arrested, the offense charged, and the time and the place he is to appear before the court. This place must be before a court which has jurisdiction within the county in which the offense is alleged to have been committed.

In order to secure release, without being taken into custody and immediately taken before the court, the arrested person must give his written promise to appear before the court by signing, in quadruplicate, the written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy marked "SUMMONS" to the person arrested. The officer shall then release the person from custody.

On or before the return day, the officer shall return the notice or summons to the court before whom it is returnable. If the person summoned fails to appear on the return day, the court shall issue a warrant for his arrest. Upon his or her arrest, proceedings shall be had as in other cases.

Subd. 2. The commissioner, director, game refuge patrolmen, and conservation officers are hereby authorized and empowered to enter upon any lands within the state for the purpose of carrying out the duties and functions of the division, or to make investigations of any violations of the game and fish laws, and in aid thereof to take affidavits upon oath administered by them, and to cause proceedings to be instituted if proofs at hand warrant it.

Subd. 3. The commissioner, director, game refuge patrolmen, and conservation officers are hereby authorized and empowered to enter and inspect any commercial cold storage warehouse and any hotel, restaurant, ice house, locker plant, butcher shop or other plant or building used for the storage of dressed meats, game or fish, for the purpose of determining whether wild animals are kept or stored therein in violation of chapters 97 to 102; to examine and inspect the books and records of all persons, firms or corporations which they have reason to believe have violated the laws relating to wild animals; and to open, enter and examine all camps, vessels, boats, wagons, automobiles, airplanes, or other vehicles, cars, stages, tents, suitcases, valises, packages, crates, boxes and other receptacles and places where they have reason to believe wild animals unlawfully taken, or possessed, are to be found.

Subd. 4. The commissioner, director, game refuge patrolmen, and conservation officers are hereby authorized and empowered to enter and inspect at all reasonable times the premises whereon is being conducted any business or activity requiring a license under provisions of chapters 97 to 102.

Subd. 5. The commissioner, director, game refuge patrolmen, and conservation officers are hereby authorized and empowered to seize and confiscate in the name of the state, any wild animals or wild rice or other aquatic vegetation taken, bought, sold, transported or possessed in violation of chapters 84 and 97 to 102, and to seize, confiscate and dispose of all guns, firearms, bows and arrows, nets, boats, lines, rods, poles, fishing tackle, lights, lanterns, snares, traps, spears, dark houses, or wild rice harvesting equipment used, by the owner or any other with his knowledge, in unlawfully taking or transporting such wild animals or wild rice or other aquatic vegetation. Articles which have no lawful use may be summarily destroyed. All other articles may be retained for use of the division, or sold at the highest price obtainable, in the manner prescribed by the commissioner.

Subd. 6. **Violation; permits.** The commissioner, director, game refuge patrolmen, and conservation officers shall seize all motor vehicles, trailers, and airplanes, used in violation of section 100.29, subdivisions 10 or 11, or section 97.45, subdivision 15, and all boats, motors and motor boats used or possessed in violation of section 98.45 with respect to the licenses, operations, or species of fish specified in

section 98.46, subdivisions 10, 11, 12 and 13, or in violation of sections 102.26, 102.27, or 102.28, or in violation of any order or rule of the commissioner relating to those sections, and hold them, subject to the order of the district court of the county in which the offense was committed. The property held shall be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure:

The commissioner, director, or his agents, shall file with the court a separate complaint against the property, describing it and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint shall be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right or title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest or lien, describing the property and stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, and requiring those persons to file with the clerk of the court their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within ten days after the service of the order, and notifying them in substance that if they fail to file their answer within that time, the property will be ordered sold by the commissioner or his agents. The court shall cause the order to be served upon any person known or believed to have any right, title, interest or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the clerk of the court, setting forth that fact, order the property sold by the commissioner or his agents. The proceeds of the sale, after deducting the expense of keeping the property and fees and costs of sale, shall be paid into the state treasury, to be credited to the game and fish fund. If an answer is filed within the time provided, the court shall fix a time for hearing, which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil cases. If the court finds that the property, or any part of it, was used in any violation as specified in the complaint, he shall order the property unlawfully used, sold unless the owner shows to the satisfaction of the court that he had no notice, knowledge, or reason to believe that the property was used or intended to be used in the violation. The officer making the sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation as specified in the order of the court. He shall pay the balance of the proceeds into the state treasury, to be credited to the game and fish fund. Any sale under the provisions of this section shall operate to free the property sold from any liens on it. Appeal from the order of the district court will lie as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property shall be returned to the owner or person having a legal right to possession of it, upon execution by him of a good and valid bond to the state of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of seizure.

Subd. 7. **Search warrant.** Upon complaint made to any judge, who has authority to issue warrants in criminal cases, by any person that he knows or has good reason to believe that any wild animal taken, bought, sold, transported or possessed contrary to the provisions of chapters 97 to 102, or any article declared contraband therein, is concealed or illegally kept in any place, not otherwise authorized herein to be entered, inspected and searched, the judge shall issue a search warrant and cause a search to be made of the place. He may direct that the place be entered, broken open, and examined. Property seized under the warrant shall be safely kept under the direction of the court so long as necessary for the purpose of being used as evidence on any trial, and subsequently disposed of as otherwise provided.

Subd. 8. Courts in counties contiguous to boundary waters, and law enforcement officers of the division, shall have jurisdiction over the entire boundary waters. Concurrent jurisdiction of the courts and administrative officers of North Dakota, South Dakota, Iowa, Wisconsin, and Michigan, over all such boundary waters, is hereby recognized.

Subd. 9. The commissioner, director, and conservation officers are hereby authorized and empowered to stop and detain for a reasonable time, any vehicle used for transporting minnows, in order to properly inspect the same.

Subd. 10. [Repealed, 1969 c 1044 s 6]

History: 1945 c 248 s 1; 1947 c 609 s 7; 1949 c 150 s 11; 1955 c 93 s 1; 1957 c 617 s 1; 1961 c 477 s 2,3; 1965 c 76 s 1; 1965 c 99 s 1; 1965 c 125 s 1; 1967 c 905 s 9; 1973 c 171 s 1; 1973 c 548 s 1; 1983 c 247 s 42; 1983 c 359 s 4,5

97.501 RECIPROCITY WITH OTHER STATES IN APPOINTING OFFICERS.

Subdivision 1. **Reciprocal effect.** The provisions of this section or any part thereof shall be in effect with respect to any other state or the United States whenever, so long as, and so far as, there are in force therein, respectively, reciprocal provisions of law of like effect with respect to this state as the provisions of this section or the corresponding part thereof.

Subd. 2. **Officers of other states or the United States as special conservation officers.** Upon request or with the approval of the proper authority of another state or of the United States, respectively, to continue in effect as provided by the laws thereof, the commissioner may appoint as a special conservation officer of this state in the unclassified service thereof any salaried and bonded officer of such other state or of the United States who is authorized to enforce any provision of the laws thereof relating to wild animals, to serve at the pleasure of the commissioner and subject to his supervision and control. Except as otherwise expressly provided by law or directed by the commissioner, every such special conservation officer shall have the same powers and be subject to the same liabilities as regular conservation officers of this state, but shall receive no compensation from this state.

Subd. 3. **Officers of this state as officers of other states or the United States.** Upon request or with the approval of the commissioner and under such conditions as he may prescribe, to continue in effect at his pleasure, any conservation officer or other officer of this state who is authorized to enforce the laws relating to wild animals may accept appointment and serve in a like capacity under another state or under the United States as may be provided by the laws thereof, respectively, so far as is not incompatible with his duties as an officer of this state.

History: 1961 c 541 s 1; 1967 c 905 s 9

97.51 REWARDS.

Rewards may be paid by the commissioner to others than salaried conservation officers or peace officers, for information leading to the arrest and conviction of any person for violating provisions relating to big game, or to threatened or endangered species of wildlife, in a sum not to exceed \$1,000; for violating provisions relating to other wild animals, not to exceed \$500. The rewards shall only be paid out of any funds donated to the commissioner for these purposes.

History: 1945 c 248 s 1; 1949 c 150 s 12; 1967 c 905 s 9; 1981 c 324 s 1

97.52 ENFORCEMENT.

Subdivision 1. County attorneys, constables and all other peace officers are hereby required, and it is made their duty, to enforce the provisions of chapters 97 to 102.

Subd. 2. No person shall wilfully hinder, resist, or obstruct the commissioner, director, conservation officers, agents or other employees of the division in the performance of their official duties, or refuse to submit any wild animals, firearms in the field or any motor vehicle, boat, aircraft or other conveyance used therein, and licenses in his possession to inspection.

Subd. 3. In addition to criminal prosecution, a civil action in the name of the state to recover damages resulting from violation of subdivision 2, and to enjoin the continuance thereof, may be instituted against any person violating that subdivision, by the attorney general, on the request of the commissioner.

History: 1945 c 248 s 1; 1949 c 150 s 13; 1957 c 579 s 1; 1967 c 905 s 9

97.53 PUBLICATION OF ORDERS AND LAWS.

Subdivision 1. As soon as practicable after each legislative session, the commissioner, under the direction of the attorney general, shall make a compilation of the laws relating to wild animals, brought up to date and properly indexed. This compilation shall be printed in pamphlet form of pocket size, and 50 copies distributed to each senator, 25 copies to each representative, and ten copies to each county auditor. Not more than 10,000 copies in addition shall be printed for general distribution. The commissioner shall also prepare syllabi of the laws and deliver to county auditors a sufficient supply to furnish one copy to each person procuring a hunting, fishing, or trapping license. At the beginning of these syllabi, under the heading "Trespass", the commissioner shall summarize the text of section 100.273.

Subd. 2. All orders and all rules and regulations promulgated by the commissioner or the director which affect matters in more than three counties, shall be published once in a qualified legal newspaper in Minneapolis, St. Paul and Duluth. All such orders, rules and regulations not affecting more than three counties shall be published once in a qualified legal newspaper in each county affected. No order, rule or regulation shall be effective until seven days after such publication, and when so executed and published, shall have the force and effect of law, and violation shall entail the same penalties as though such order, rule or regulation had been duly adopted by the legislature.

Subd. 3. In addition to the publication requirements of this section, notice of opening of the netting season on whitefish, tulibee, and herring may be given by posting the date and time in the public places deemed most appropriate by the commissioner not less than 48 hours prior to the opening of the netting season.

History: 1945 c 248 s 1; 1949 c 150 s 14; 1978 c 794 s 1; 1983 c 356 s 5

97.54 PROSECUTIONS AND BURDEN OF PROOF.

Subdivision 1. No prosecution under chapters 97 to 102 shall be commenced more than three years after commission of the offense complained of.

Subd. 2. In any prosecution, under the provisions of chapters 97 to 102, the burden of establishing the fact that animals alleged to have been unlawfully taken, bought, sold, transported or possessed, were domesticated or were reared in a private preserve, raised in a private fish hatchery, taken for scientific purposes, or lawfully taken without this state, shall rest upon the defendant.

Subd. 3. Possession of wild animals more than five days after the close of the season, or in excess of the limits prescribed herein, shall be presumptive evidence that the same were unlawfully taken, except as to those tagged, sealed or identified as provided by chapters 97 to 102.

History: 1945 c 248 s 1; 1949 c 150 s 15

97.55 VIOLATIONS, PENALTIES.

Subdivision 1. Unless a different penalty or punishment is specifically prescribed, a person who takes, buys, sells, transports or possesses any wild animal in violation of any provisions of chapters 97 to 102, or who aids, or assists in such violation, or knowingly shares in the proceeds thereof, or who fails to perform any duty or comply with any of the requirements or provisions imposed by chapters 97 to 102, or who violates any duly adopted order, rule or regulation of the commissioner or director, or who attempts to do so, is guilty of a misdemeanor. Each wild animal taken, bought, sold, transported or possessed in violation of law shall constitute a separate and distinct offense, provided that an acquittal in any case shall constitute a bar to any subsequent prosecution upon a charge of a like offense based upon another animal involved in the same transaction.

Subd. 2. The punishment for violating any of the provisions of law or commissioner's order, relating to commercial fishing, shall be as provided by law for a misdemeanor.

Subd. 3. Except where it becomes a gross misdemeanor under subdivision 5, a person who takes, transports, or possesses deer in violation of any of the provisions of chapters 97 to 102, is guilty of a misdemeanor.

Subd. 4. Violation of any provision relating to game and fur farms, to unlawfully taking or possessing wild animals on state parks, to hunting deer with bow and arrows, to hunting with prohibited types of guns or ammunition, or of section 101.42, subdivisions 11 and 12, relating to certain prohibited methods of fishing, is guilty of a misdemeanor.

Subd. 5. Any person convicted of violating any provisions of chapters 97 to 102, which are defined as gross misdemeanors, shall be punished by a fine of not less than \$100 nor more than \$3,000 or by imprisonment in the county jail for not less than 90 days nor more than one year or by both such fine and imprisonment.

Subd. 6. Every person who shall falsely impersonate a conservation officer or a game refuge patrolman or other officer acting by or under authority of laws relating to wild animals, or who shall falsely claim to have special authority under those laws to perform any act affecting the rights or interests of another, or who, without authority, shall assume any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character shall do an act purporting to be official whereby another is injured or defrauded shall be guilty of a gross misdemeanor.

Subd. 7. Every person who violates any provision relating to set guns or swivel guns shall be guilty of a gross misdemeanor.

Subd. 8. Every person who shall unlawfully take, buy, sell, transport, or possess marten, otter, fisher, wolverine, moose, elk, or caribou shall be guilty of a gross misdemeanor.

Subd. 9. Every person violating the provisions of section 100.29, subdivisions 10 or 11, relating to using an artificial light to locate wild animals while in possession of a firearm, bow or other implement capable of killing big game animals; knowingly transporting a big game animal illegally taken; taking or illegally possessing a big game animal during the closed season; or provisions relating to buying or selling deer or buying fur bearing animals or raw furs is guilty of a gross misdemeanor.

Subd. 10. Every person violating the provisions of section 100.29, subdivision 6, relating to hunting while visibly intoxicated, under the influence of narcotics, or who is an habitual user of narcotics shall be guilty of a gross misdemeanor.

Subd. 11. Any person making a false statement in any affidavit given in connection with a game law violation or in any application for any license authorized to be issued under chapters 97 to 102 shall be guilty of a misdemeanor. Any license agent who knowingly antedates a game and fish license or issues a game and fish license to a person whom he knows is not entitled to such license shall be guilty of a misdemeanor.

Subd. 12. MS 1961 [Renumbered 97.55, subd 13]

Subd. 12. Any person who shall at any time alter in any material manner any license issued under the provisions of chapters 97 to 102 shall be guilty of a misdemeanor.

Subd. 13. Every person who buys, sells, transports, or possesses minnows in violation of any provisions of chapters 97 to 102, or who violates any duly adopted order, rule, or regulation of the commissioner pertaining to the buying, selling, transporting, or possession of minnows shall be guilty of a misdemeanor.

Subd. 14. Every person who violates the provisions of section 101.42, subdivision 11, is guilty of a gross misdemeanor.

Subd. 15. Except as provided in section 102.23, every person who unlawfully buys or sells game fish or small game where the total amount of the sale or sales is \$50 or more, and where no penalty is provided in subdivision 8 or 9, is guilty of a gross misdemeanor.

Subd. 16. Every person who illegally buys or sells game fish, big game, or small game, when the total amount of the sale or sales is \$300 or more, is guilty of a gross misdemeanor punishable by a fine of not less than \$700 nor more than \$10,000 or by imprisonment in the county jail for not less than 90 days or more than one year or by both such fine and imprisonment.

History: 1945 c 248 s 1; 1947 c 609 s 8; 1949 c 150 s 16; 1951 c 274 s 1,2; 1957 c 533 s 1; 1959 c 122 s 1; 1961 c 477 s 4; 1965 c 346 s 1; 1967 c 315 s 1; 1967 c 905 s 9; 1974 c 185 s 1; 1976 c 16 s 5-8; 1976 c 55 s 3; 1983 c 356 s 6-8; 1983 c 369 s 1; 1984 c 628 art 3 s 11

97.56 REMOVAL OF BEAVER FROM STATE OWNED LANDS.

In any county in the state where the board of county commissioners shall by resolution request him to do so, the commissioner of natural resources may take necessary steps to remove beaver, at state expense, from state owned lands located in that county.

History: 1953 c 633 s 1; 1969 c 1129 art 10 s 2; 1977 c 310 s 1

97.57 DESTRUCTION OF BEAVER DAMS.

Subdivision 1. In any county with unanimous consent of the county board of commissioners, and approval of the land owner, the department of natural resources shall take such action as the county board, commissioner of natural resources and land owner agree upon for the destruction or alteration of any beaver dam or for removal of beaver from any waterway, stream, or ditch where drainage is being impaired. Such action must be financially feasible. All state parks, state game refuges, and federal game preserves are excluded from this provision.

Subd. 2. In those cases where there is a threat to person or a serious threat to property resulting from a beaver dam, and where the consent required by subdivision 1 cannot be obtained, upon petition a district court may order the department of natural resources to take such actions as are appropriate to ameliorate or mitigate the threat or damage.

History: 1953 c 633 s 2; 1969 c 1129 art 10 s 2; 1982 c 462 s 4

97.61 [Repealed, 1961 c 736 s 13]

97.611 EXHIBITION OF WILDLIFE; STANDARDS, PERMITS, PENALTIES, INSPECTIONS, EXCEPTIONS.

Subdivision 1. For the purposes of this section "wildlife" means any wild mammal, wild bird, reptile, or amphibian.

Subd. 2. (a) No person in connection with any commercial enterprise shall possess any wildlife in captivity for public exhibition purposes, except as provided in clause (b).

(b) The commissioner of natural resources shall adopt, in the manner provided in chapter 14, reasonable standards for the care and treatment of captive wildlife for public display purposes, including standards of sanitation. The commissioner, upon application of any person qualified by education or experience in the care and treatment of wildlife, may issue a permit at a cost of \$10 to the person, under terms and conditions as he prescribes, to possess wildlife for public exhibition purposes, in accordance with such standards. Each application for a permit shall include the following: (1) a statement regarding the applicant's education or experience in the care and treatment of wildlife and the education or experience of any individual employed by the applicant for that purpose; (2) a description of the facilities used to keep the wildlife in captivity; (3) a statement of the number of species or subspecies of wildlife to be covered by the permit and a statement describing where and from whom the wildlife was acquired; (4) a signed agreement that the standards prescribed by the commissioner will be adhered to; and (5) other information as the commissioner deems appropriate.

Subd. 3. Anyone who violates any provision of this section or the lawful rules and regulations promulgated thereunder shall be guilty of a misdemeanor.

Subd. 4. Each permit issued under this section shall include a condition authorizing anyone authorized to enforce this section to enter upon and inspect the facilities where the wildlife covered by the permit are held in captivity. If, upon inspection, a violation is found, adequate time, as determined by the commissioner, shall be given by notice to allow the permittee to abate the violation. If, upon the expiration of that time, the violation has not been abated, the commissioner may request the attorney general to bring an action in the appropriate court to abate the violation.

Subd. 5. The provisions of this section do not apply to any municipal, county, state or other publicly owned zoo or wildlife exhibit, privately owned traveling zoo or circus, or pet shop.

History: 1974 c 3 s 1; 1982 c 424 s 130

97.62 [Repealed, 1961 c 736 s 13]

97.63 [Repealed, 1961 c 736 s 13]

97.64 [Repealed, 1961 c 736 s 13]

97.65 [Repealed, 1961 c 736 s 13]

97.66 [Repealed, 1961 c 736 s 13]

97.67 [Repealed, 1961 c 736 s 13]

97.68 [Repealed, 1961 c 736 s 13]

97.69 [Repealed, 1961 c 736 s 13]

97.70 [Repealed, 1961 c 736 s 13]

97.71 [Repealed, 1961 c 736 s 13]

97.72 [Repealed, 1961 c 736 s 13]

97.73 [Repealed, 1961 c 736 s 13]

97.81 SAFE USE OF FIREARMS, INSTRUCTIONS IN USING.

Subdivision 1. The commissioner of natural resources is authorized and directed to publish rules and regulations establishing a state-wide program of instruction in the safe use of firearms.

Such regulations shall provide for courses of instruction in every municipality or school district in this state by the commissioner of natural resources in cooperation with organizations, groups, associations and any private or public corporation or political subdivision of the state, the United States, or any federal agency. The courses shall instruct the youth of the state in the commonly accepted principles of safety in hunting and in the handling of all types of common hunting firearms.

Subd. 2. The commissioner or his authorized agent shall issue a certificate of satisfactory completion of the course of instruction required by Laws 1957, Chapter 537, to any person entitled thereto. The form and content of the certificate shall be as prescribed by the commissioner.

History: 1957 c 537 s 1; 1959 c 442 s 1,2; 1969 c 1129 art 10 s 2

97.82 ADMINISTRATION, SUPERVISION AND ENFORCEMENT.

The conservation officer service of the department of natural resources shall be the commissioner's authorized agent to administer, supervise, and enforce sections 97.81 to 97.85. The commissioner shall appoint a qualified person from the conservation officer service according to civil service regulations, as conservation officer supervisor of hunting safety and shall prescribe his duties and responsibilities. The commissioner shall provide the conservation officer service with such assistants and clerical help as the commissioner shall determine necessary. The commissioner may appoint one or more county directors of hunting safety in each county of the state. Such county director shall be responsible to the conservation officer service, and shall serve on a voluntary basis without compensation. The conservation officer service may appoint such instructors as may be necessary to carry out the purposes of Laws 1957, Chapter 537, who shall serve without compensation.

History: 1957 c 537 s 2; 1959 c 442 s 3; 1961 c 560 s 11; 1967 c 905 s 9; 1969 c 1129 art 10 s 2

97.83 USE OF FIREARMS IN TAKING WILD ANIMALS, WHEN FORBIDDEN.

Subdivision 1. Except as hereinafter provided, it is unlawful for any person under the age of 16, unless accompanied by a parent or guardian, to have in his possession or under his control any firearm or air gun of any kind for hunting or target practice or any other purpose. Any person between the ages of 14 to 16, who has a certificate herein provided for is hereby exempted. No certificate shall be issued to a person under 12 years of age. A person aged 11 may take the course for the certificate and if successful may receive the certificate upon becoming age 12. However, this section shall not apply to any person using firearms on land owned or occupied as a usual place of abode, by himself, parent or guardian. The provisions of section 98.47, subdivision 10 and section 609.66 are not affected hereby, except that it is lawful for any person participating in the foregoing course of instruction to carry a properly encased and unloaded firearm to and from class and to handle the same during such instruction. Also, such person shall be allowed participation in organized target shooting programs conducted under qualified adult supervision. For the purposes of this subdivision the word "guardian" is defined as legal guardian or any other person over the age of 18 who has been selected by the parent or legal guardian to supervise the person under the age of 16 while he has in his possession or under his control any firearm or air gun of any kind for hunting or target practice or any other purpose.

Subd. 2. Any law enforcement officer is authorized and directed in the name of the state to seize and hold any firearm used in violation of Laws 1957, Chapter 537. Firearms so seized shall be tagged with the name and address of the youth from whom it was taken and a receipt given therefor. The firearm shall be placed in the custody of the state conservation officer in whose area the seizure was made.

Subd. 3. The conservation officer in whose custody a firearm seized under Laws 1957, Chapter 537 is deposited shall hold the firearm until 90 days after the next commencing date of a firearm training course in the county, and if, during such time, the youth from whom the weapon was taken presents a certificate of completion of the course of instruction provided for in Laws 1957, Chapter 537, the firearm shall be returned to him. However, after the firearm has been held for such time, if no valid demand has been made for the return thereof, the firearm is contraband and forfeited to the state and shall be disposed of as the commissioner may prescribe.

History: 1957 c 537 s 3; 1959 c 442 s 4; 1961 c 311 s 1; 1965 c 51 s 16; 1965 c 324 s 1; 1967 c 905 s 9; 1973 c 725 s 4

97.84 [Repealed, 1959 c 442 s 7]

97.85 EXPENSE OF FIREARMS SAFETY PROGRAM; LIABILITY INSURANCE.

Subdivision 1. For the purpose of defraying the expense of the program within the state, the division of enforcement shall collect a sum not to exceed \$5 from each person who has received the courses of instruction herein provided, and shall deposit the money with the state treasurer, who shall credit the game and fish fund. The division of enforcement shall supply materials necessary for the volunteer instructors and directors to carry out the program.

Subd. 2. The commissioner shall procure insurance against all liability incurred by the county directors and instructors by reason of any claim for bodily injury, death or property damage made upon any such director or instructor by reason of the performance of their duties under Laws 1957, Chapter 537. Such

policy of insurance shall contain a waiver of governmental immunity and such immunity shall not be raised as a defense by the insured, the state, or the county.

History: 1957 c 537 s 5; 1959 c 442 s 5,6; 1982 c 594 s 1

97.86 IMPROVEMENT OF FISHING RESOURCES.

Subdivision 1. **License surcharge.** A surcharge of \$2.50 shall be added to the annual license fee for each license issued pursuant to section 98.46, subdivision 2, clauses (4) and (5), subdivision 2a, subdivision 5, clause (3), and subdivision 15. The proceeds of the surcharge shall be credited to the game and fish fund.

The commissioner may spend the proceeds of the surcharge for the following purposes:

(a) Rehabilitation and improvement of marginal fish producing waters administered on a cost sharing basis under agreements between the commissioner and other parties interested in sport fishing.

(b) Expansion of fishing programs including, but not limited to, aeration, stocking of marginal fishing waters in urban areas, shore fishing areas, and fishing piers. In the expenditure of funds pursuant to this clause, preference shall be given to local units of government and other parties willing and able to share costs.

(c) Upgrading of fish propagation capabilities in order to improve the efficiency of fish production, expansion of walleyed pike production from waters subject to winter kill for stocking in more suitable waters, introduction of new species where deemed biologically appropriate by the commissioner, and purchase of fish from private hatcheries for stocking purposes.

(d) Financing the preservation and improvement of fish habitat. First priority shall be given to expansion of habitat improvement programs approved by the commissioner and implemented in cooperation with other interested parties.

(e) Increasing enforcement through use of covert operations, workteams, and added surveillance, communication, and navigational equipment.

(f) Purchase by the commissioner of the walleyed pike quota of commercial fishermen as prescribed in section 102.26, subdivision 3d.

(g) Not more than ten percent of the money available under this subdivision may be used for administrative or permanent personnel costs.

Subd. 2. **Interim study.** The house environment and natural resources committee and the senate agriculture and natural resources committee shall review issues and trends in the management and improvement of fishing resources, using information obtained by and presented to the committees by public and private agencies and organizations, and other parties interested in management and improvement of fishing resources. The committees may make recommendations to the commissioner on programs and projects for management and improvement of fishing resources.

The commissioner shall prepare an annual work plan for the expenditure of money under subdivision 1 and provide copies of the plan and any subsequent amendments to the committees and to other parties interested in management and improvement of fishing resources.

History: 1983 c 356 s 9; 1984 c 621 s 11