

CHAPTER 97A

GAME AND FISH

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97A.015 DEFINITIONS.

[For text of subs 1 to 11, see M.S.1994]

Subd. 12. Contraband. "Contraband" means:

(1) a wild animal taken, bought, sold, transported, or possessed in violation of the game and fish laws, and all instrumentalities and devices used in taking wild animals in violation of the game and fish laws that are subject to confiscation; and

(2) wild rice and other aquatic vegetation harvested, bought, sold, transported, or possessed in violation of chapter 84.

[For text of subs 13 to 27, see M.S.1994]

Subd. 28. Migratory waterfowl. "Migratory waterfowl" means brant, ducks, geese, tundra swans, trumpeter swans, and whooper swans.

[For text of subs 29 to 51, see M.S.1994]

Subd. 52. Unprotected birds. "Unprotected birds" means English sparrow, blackbird, starling, magpie, cormorant, common pigeon, chukar partridge, quail other than bob-white quail, mute swan, and great horned owl.

[For text of subs 53 to 55, see M.S.1994]

History: *1Sp1995 c 1 s 15-17*

97A.045 COMMISSIONER, GENERAL POWERS AND DUTIES.

[For text of subd 1, see M.S.1994]

Subd. 2. Power to protect wild animals. (a) The commissioner may protect a species of wild animal in addition to the protection provided by the game and fish laws, by further limiting or closing seasons or areas of the state, or by reducing limits in areas of the state, if the commissioner determines the action is necessary to prevent unnecessary depletion or extinction, or to promote the propagation and reproduction of the animal.

(b) The commissioner may protect a species of wild animal in the state by emergency rule adopted under section 84.027, subdivision 13, by prohibiting or allowing taking of the animal whether or not the animal is protected under the game and fish laws. The commissioner must make findings of the necessity of a rule authorized under this paragraph and may authorize taking by special permit with or without fee under conditions prescribed in the rule by the commissioner.

(c) The commissioner may protect a species of wild animal in the state by emergency rule adopted under section 84.027, subdivision 13, by allowing importation, transportation, or possession of the wild animal or prohibiting these activities except by special permit with or without fee under conditions prescribed in the rule by the commissioner.

[For text of subs 3 to 9, see M.S.1994]

Subd. 10. Reciprocal agreements on violations. The commissioner, with the approval of the attorney general, may enter into reciprocal agreements with game and fish authorities in other states and the United States government to provide for:

(1) revocation of the appropriate Minnesota game and fish licenses of Minnesota residents for violations of game and fish laws committed in signatory jurisdictions which result in license revocation in that jurisdiction;

(2) reporting convictions and license revocations of residents of signatory states for violations of game and fish laws of Minnesota to game and fish authorities in the nonresident's state of residence; and

(3) release upon signature without posting of bail for residents of signatory states accused of game and fish law violations in this state, providing for recovery, in the resident jurisdiction, of fines levied if the citation is not answered in this state.

As used in this subdivision, "conviction" includes a plea of guilty or a forfeiture of bail.

History: 1995 c 233 art 2 s 56; 1Sp1995 c 1 s 18

97A.0451 AUTHORITY FOR USE OF EMERGENCY RULES PROCEDURE; EXPIRATION OF AUTHORITY.

Subdivision 1. When to use emergency rulemaking. When the commissioner is directed by statute, federal law, or court order to adopt, amend, suspend, or repeal a rule in a manner that does not allow for compliance with sections 14.14 to 14.28, or if the commissioner is expressly required or authorized by statute to adopt emergency rules, the commissioner shall adopt emergency rules in accordance with sections 97A.0451 to 97A.0459.

Subd. 2. 180-day time limit. Unless the commissioner is directed by federal law or court order to adopt, amend, suspend, or repeal a rule in a manner that does not allow for compliance with sections 14.14 to 14.28, the commissioner may not adopt an emergency rule later than 180 days after the effective date of the statutory authority, except as provided in section 84.027, subdivision 13. If emergency rules are not adopted within the time allowed, the authority for the rules expires. The time limit of this section does not include any days used for review by the attorney general. If the 180-day period expires while the attorney general is reviewing the rule and the attorney general disapproves the rule, the commissioner may resubmit the rule to the attorney general after taking corrective action. The resubmission must occur within five working days after the commissioner receives written notice of disapproval. If the rule is again disapproved by the attorney general, it is withdrawn.

History: 1995 c 233 art 2 s 40

97A.0452 NOTICE OF PROPOSED ADOPTION OF EMERGENCY RULE.

The proposed emergency rule must be published with a notice of intent to adopt emergency rules in the State Register, and the same notice must be mailed to all persons registered with the commissioner to receive notice of any rulemaking proceedings. The notice must include a statement advising the public that a free copy of the proposed rule is available on request from the commissioner and that notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive the notice. For at least 25 days after publication the commissioner shall afford all interested persons an opportunity to submit data and views on the proposed emergency rule in writing. The notice must also include the date on which the 25-day comment period ends.

History: 1995 c 233 art 2 s 41

97A.0453 NOTICE TO COMMITTEES FOR FEES FIXED BY RULE.

Before the commissioner submits notice to the State Register of intent to adopt emergency rules that establish or adjust fees, the commissioner shall comply with section 16A.128, subdivision 2a.

History: 1995 c 233 art 2 s 42

97A.0454 MODIFICATIONS OF PROPOSED EMERGENCY RULE.

The proposed emergency rule may be modified if the modifications are supported by the data and views submitted to the commissioner.

History: 1995 c 233 art 2 s 43

97A.0455 SUBMISSION OF PROPOSED EMERGENCY RULE TO ATTORNEY GENERAL.

Subdivision 1. **Submission.** The commissioner shall submit to the attorney general the proposed emergency rule as published, with any modifications. On the same day that it is submitted, the commissioner shall mail notice of the submission to all persons who requested to be informed that the proposed emergency rule has been submitted to the attorney general. If the proposed emergency rule has been modified, the notice must state that fact, and must state that a free copy of the proposed emergency rule, as modified, is available upon request from the commissioner.

Subd. 2. **Review.** The attorney general shall review the proposed emergency rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the commissioner. The attorney general shall send a statement of reasons for disapproval of the rule to the commissioner, the chief administrative law judge, the legislative commission to review administrative rules, and to the revisor of statutes.

The attorney general shall disregard any error or defect in the proceeding due to the commissioner's failure to satisfy any procedural requirement imposed by law or rule if the attorney general finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the commissioner has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Subd. 3. **Costs.** The attorney general shall assess the commissioner for the actual cost of processing rules under this section. The commissioner shall include in the department's budget money to pay the attorney general's assessment. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.

History: 1995 c 233 art 2 s 44

97A.0456 EFFECTIVE DATE OF EMERGENCY RULE.

The emergency rule takes effect five working days after approval by the attorney general. The attorney general shall file two copies of the approved emergency rule with the secretary of state. The secretary of state shall forward one copy of each approved and filed emergency rule to the revisor of statutes. Failure of the attorney general to approve or disapprove a proposed emergency rule within ten working days is approval.

History: 1995 c 233 art 2 s 45

97A.0457 PUBLICATION OF APPROVAL.

As soon as practicable, notice of the attorney general's decision must be published in the State Register and the adopted rule must be published in the manner as provided for adopted rules in section 14.18.

History: 1995 c 233 art 2 s 46

97A.0458 EFFECTIVE PERIOD OF EMERGENCY RULE.

Emergency rules adopted under sections 97A.0451 to 97A.0459 shall be effective for the period stated in the notice of intent to adopt emergency rules which may not be longer than 180 days. The emergency rules may be continued in effect for an additional period of up to 180 days if the commissioner gives notice of continuation by publishing notice in the State

Register and mailing the same notice to all persons registered with the commissioner to receive notice of any rulemaking proceedings. The continuation is not effective until these notices have been mailed. No emergency rule may remain in effect on a date 361 days after its original effective date. The emergency rules may not be continued in effect after 360 days without following the procedure of sections 14.14 to 14.28.

History: 1995 c 233 art 2 s 47

97A.0459 APPROVAL OF FORM OF EMERGENCY RULE.

No approved emergency rule shall be filed with the secretary of state or published in the State Register unless the revisor of statutes has certified that the emergency rule's form is approved.

History: 1995 c 233 art 2 s 48

97A.115 ESTABLISHMENT OF SHOOTING PRESERVES.

[For text of subd 1, see M.S.1994]

Subd. 2. **Species available.** Species that may be released and hunted in a licensed shooting preserve must be specified in the license and are limited to unprotected birds, adult pheasant, and bob-white quail for private shooting preserves and adult pheasant, bob-white quail, turkey, mallard duck, black duck, and other species designated by the commissioner for commercial shooting preserves. These game birds must be pen hatched and raised.

[For text of subs 3 to 5, see M.S.1994]

History: 1995 c 186 s 27

97A.205 ENFORCEMENT OFFICER POWERS.

An enforcement officer is authorized to:

(1) execute and serve court issued warrants and processes relating to wild animals, wild rice, public waters, water pollution, conservation, and use of water, in the same manner as a constable or sheriff;

(2) enter any land to carry out the duties and functions of the division;

(3) make investigations of violations of the game and fish laws;

(4) take an affidavit, if it aids an investigation;

(5) arrest, without a warrant, a person who is detected in the actual violation of the game and fish laws, a provision of chapters 84, 84A, 85, 86A, 88 to 97C, 103E, 103F, 103G, sections 86B.001 to 86B.815, 89.51 to 89.61; or 609.66, subdivision 1, clauses (1), (2), (5), and (7); and 609.68; and

(6) take an arrested person before a court in the county where the offense was committed and make a complaint.

Nothing in this section grants an enforcement officer any greater powers than other licensed peace officers.

History: 1Sp1995 c 1 s 19

97A.221 SEIZURE AND CONFISCATION OF PROPERTY.

Subdivision 1. **Property subject to seizure and confiscation.** (a) An enforcement officer may seize:

(1) wild animals, wild rice, and other aquatic vegetation taken, bought, sold, transported, or possessed in violation of the game and fish laws or chapter 84; and

(2) firearms, bows and arrows, nets, boats, lines, poles, fishing rods and tackle, lights, lanterns, snares, traps, spears, dark houses, fish houses, and wild rice harvesting equipment that are used with the owner's knowledge to unlawfully take or transport wild animals, wild rice, or other aquatic vegetation and that have a value under \$1,000 are subject to this section.

(b) An item described in paragraph (a), clause (2), that has a value of \$1,000 or more is subject to the provisions of section 97A.225.

(c) An enforcement officer must seize nets and equipment unlawfully possessed within ten miles of Lake of the Woods or Rainy Lake.

Subd. 2. Seizure of commingled shipments. A whole shipment or parcel is contraband if two or more wild animals are shipped or possessed in the same container, vehicle, or room, or in any way commingled, and any of the animals are contraband. Seizure of any part of a shipment includes the entire shipment.

Subd. 3. Procedure for confiscation of property seized. The enforcement officer must hold the seized property. The property held may be confiscated when:

- (1) the person from whom the property was seized is convicted; or
- (2) the property seized is contraband consisting of a wild animal, wild rice, or other aquatic vegetation.

Subd. 4. Disposal of confiscated property. Confiscated property may be disposed of or retained for use by the commissioner, or sold at the highest price obtainable as prescribed by the commissioner. Upon acquittal or dismissal of the charged violation for which the property was seized, all property, other than contraband consisting of a wild animal, wild rice, or other aquatic vegetation, must be returned to the person from whom the property was seized.

History: 1Sp1995 c 1 s 20

97A.401 SPECIAL PERMITS.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. Taking, possessing, and transporting wild animals for certain purposes. (a) Except as provided in paragraph (b), special permits may be issued without a fee to take, possess, and transport wild animals as pets and for scientific, educational, rehabilitative, and exhibition purposes. The commissioner shall prescribe the conditions for taking, possessing, transporting, and disposing of the wild animals.

(b) A special permit may not be issued to take or possess wild or native deer for exhibition or propagation.

(c) The commissioner shall establish criteria for issuing special permits for persons to possess wild and native deer as pets.

[For text of subds 4 to 7, see M.S.1994]

History: 1Sp1995 c 1 s 21

97A.451 LICENSE REQUIREMENTS AND EXEMPTIONS RELATING TO AGE.

[For text of subd 2, see M.S.1994]

Subd. 3. Persons under age 16; small game. (a) A person under age 16 may not obtain a small game license but may take small game by firearms or bow and arrow without a license if the person is a resident:

- (1) age 14 or 15 and possesses a firearms safety certificate;
- (2) age 13, possesses a firearms safety certificate, and is accompanied by a parent or guardian; or
- (3) age 12 or under and is accompanied by a parent or guardian.

(b) A resident under age 16 may take small game by trapping without a small game license, but a resident 13 years of age or older must have a trapping license. A resident under age 13 may trap without a trapping license.

[For text of subds 4 to 7, see M.S.1994]

History: 1Sp1995 c 1 s 22

97A.475 LICENSE FEES.

[For text of subds 1 to 5, see M.S.1994]

Subd. 6. **Resident fishing.** Fees for the following licenses, to be issued to residents only, are:

- (1) to take fish by angling, for persons under age 65, \$13;
- (2) to take fish by angling, for persons age 65 and over, \$4.50;
- (3) to take fish by angling, for a combined license for a married couple, \$17.50;
- (4) to take fish by spearing from a dark house, \$13; and
- (5) to take fish by angling for a 24-hour period selected by the licensee, \$7.50.

Subd. 7. **Nonresident fishing.** Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take fish by angling, \$27.50;
- (2) to take fish by angling limited to seven consecutive days selected by the licensee, \$19;
- (3) to take fish by angling for a 72-hour period selected by the licensee, \$16;
- (4) to take fish by angling for a combined license for a family, \$37.50;
- (5) to take fish by angling for a 24-hour period selected by the licensee, \$7.50; and
- (6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, \$27.50.

[For text of subs 8 to 43, see M.S.1994]

History: *1Sp1995 c 1 s 23,24*

97A.531 SHIPMENT OF WILD ANIMALS TAKEN IN CANADA.

[For text of subd 1, see M.S.1994]

Subd. 2. [Repealed, 1995 c 220 s 141; 1995 c 224 s 126; 1Sp1995 c 1 s 48]

Subd. 3. [Repealed, 1995 c 220 s 141; 1995 c 224 s 126; 1Sp1995 c 1 s 48]

Subd. 4. [Repealed, 1995 c 220 s 141; 1995 c 224 s 126; 1Sp1995 c 1 s 48]

Subd. 5. [Repealed, 1995 c 220 s 141; 1995 c 224 s 126; 1Sp1995 c 1 s 48]

Subd. 6. [Repealed, 1995 c 220 s 141; 1995 c 224 s 126; 1Sp1995 c 1 s 48]

Subd. 7. **Possession of fish on Lake of the Woods.** While in Minnesota, a person permitted to take and possess fish in Minnesota and licensed by the province of Ontario to take and possess fish may possess the daily limit of fish allowed by the Ontario border water conservation tag, if the fish taken in Ontario were taken on Ontario waters of Lake of the Woods north of Big Island.

History: *1995 c 224 s 51; 1Sp1995 c 1 s 25*

NOTE: Subdivision 7, as added by Laws 1995, chapter 224, section 51, and First Special Session chapter 1, section 25, is repealed December 31, 1995. See Laws 1995, chapter 224, section 127, and First Special Session chapter 1, section 49.

97A.552 FISHING REGULATIONS; EXECUTIVE ORDER.

Subdivision 1. **Order authorized.** (a) The governor may by executive order:

- (1) require that fish that are lawfully taken by angling and possessed in Canada be brought into the state in-the-round;
- (2) authorize fish lawfully taken by angling in Canada to be transported within the state or out of the state by a nonresident;
- (3) require that a Minnesota resident transporting in Minnesota fish that have been taken by angling in Canada possess a Minnesota angling license; and
- (4) require that any advertisement of fishing resorts or facilities in Canada in printed or broadcast form originating or distributed within the state must contain a summary of the requirement of clause (1) and penalty for noncompliance.

(b) An executive order issued under paragraph (a) is effective the day following the filing of a certified copy thereof in the office of the secretary of state, and remains in effect until rescinded by order of the governor.

Subd. 2. **Penalty for noncompliance.** A violation of an executive order imposing the requirement in subdivision 1, paragraph (a), clause (1), is a misdemeanor, and in addition to

any criminal penalty imposed, fish brought into or transported within the state contrary to that executive order must be confiscated, and a penalty of \$10 for each fish must be imposed.

History: *1995 c 224 s 52; 1Sp1995 c 1 s 26*

NOTE: This section, as added by Laws 1995, chapter 224, section 52, and First Special Session chapter 1, section 26, is effective May 1, 1996. See Laws 1995, chapter 224, section 127, and First Special Session chapter 1, section 49.