

CHAPTER 609—H. F. No. 1324

An act relating to the department of conservation, the administration thereof and to the conservation and control of natural resources and to wild animals and amending Minnesota Statutes 1945, Section 97.40, Subdivision 12; Section 97.45, Subdivision 4 and Subdivision 13; Section 97.48, Subdivision 1 and Subdivision 4 and adding Subdivision 9; Section 97.50, Subdivision 2; Section 97.55, Subdivision 2; Section 98.46, Subdivision 1, Subdivision 2 and Subdivision 3; Section 98.47, Subdivision 4, Subdivision 5 and Subdivision 9; Section 98.48; Section 98.51, Subdivision 1 and Subdivision 2; Section 99.25, Subdivision 7 and Subdivision 8; Section 99.26, Subdivision 1; Section 100.27, Subdivision 3 and Subdivision 6; Section 100.29, Subdivision 1; Section 101.42, Subdivision 3 and Section 84.025, Subdivision 5.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1945, Section 97.40, Subdivision 12, is hereby amended to read as follows:

97.40. **Definitions.** Subd. 12. **Minnows.** "Minnows" includes chubs, shiners, dace, stonerollers, mudminnows, blunt-nose, fat-head, and other small fish commonly used for bait which have only one dorsal fin, and suckers, redhorse, bull-heads, and perch not over seven inches in length.

Sec. 2. Minnesota Statutes 1945, Section 97.45, Subdivision 4, is hereby amended to read as follows:

97.45. **Transportation restricted.** Subd. 4. Any licensed resident may transport by common carrier to any point in the county of his residence, consigned to himself only, not more than three separate shipments of undressed birds, each of which may contain all of the birds which could lawfully be taken within the state on any single day, but not to contain more than a single day's limit of any species. Such resident may transport during any one open season *and the next following two days one deer*, which has been lawfully taken and possessed, and may transport the head or hide of such deer for mounting or tanning purposes to a point within or without the state, provided that all such shipments shall be accompanied by shipping coupons to be detached from the licenses.

Sec. 3. Minnesota Statutes 1945, Section 97.45, Subdivision 13, is hereby amended to read as follows:

97.45. **Transportation restricted.** Subd. 13. No protected wild animals, taken in any other state or country, except

big and small game *other than fur bearing animals*, shall be transported through this state, except by comon 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.

Sec. 4. Minnesota Statutes 1945, Section 97.48, Subdivision 1, is hereby amended to read as follows:

97.48. **General powers of commissioner.** 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 per cent of the named lakes or streams of any county.*

Sec. 5. Minnesota Statutes 1945, Section 97.48, Subdivision 4, is hereby amended to read as follows:

97.48. **General powers of commissioner.** Subd. 4. The commissioner is authorized to take rough fish, turtles, *ciscoes, herring 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 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 fish.*

Sec. 6. Minnesota Statutes 1945, Section 97.48, is hereby amended by adding thereto a new Subdivision 9 to read as follows:

97.48. **General powers of commissioner.** Subd. 9. *The commissioner shall have the power to authorize the maintenance and operation of private fish hatcheries under such rules and regulations as the commissioner shall prescribe.*

Sec. 7. Minnesota Statutes 1945, Section 97.50, Subdivision 2, is hereby amended to read as follows:

97.50. **Police powers.** Subd. 2. The commissioner, director, game refuge patrolmen and game wardens shall seize all motor vehicles, trailers, and airplanes, used in violation of Section 100.29, subdivision 1, (10) or (11), 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, subdivision 1, (20), (21), (22), or (23), or in violation of Sections 102.26, 102.27, or 102.28, or in violation of any order, rule, or regulation of the commissioner relating thereto, and hold them, subject to the order of the district court of the county in which the offense was committed. Such *property* so held shall be confiscated after conviction of the person from whom *the same 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 the same 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 so arrested shall be acquitted, the court shall dismiss the complaint against the property and order the same returned to the persons legally entitled thereto. 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 such property, and to persons unknown claiming any such right, title, interest or lien, describing the property and stating that the same was seized and that a complaint against the same, charging *the specified* violation, has been filed with the court, and requiring such 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 any such property, within ten days after the service of such order as herein provided, and notifying them in substance that if they fail to so 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 as and within the time prescribed, the court, shall, upon affidavit by the clerk of the court, setting forth such fact, order the

property sold by the commissioner or his agents, and the proceeds of the sale, after deducting the expense of keeping the property and fees and costs of sale, paid into the state treasury, to be credited to the game and fish fund. If answer is filed as and within the time herein 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 so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions. If the court shall find that the property, or any part thereof, was used in *any such violation as specified in the complaint*, he shall order the property so unlawfully used, sold as herein provided, unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that the property was used or intended to be used in *any such violation*. The officer making any such 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 such property was being used or was intended to be used for or in connection with any *such violation as specified in the order of the court*, and shall pay the balance of the proceeds into the state treasury to the credit of the game and fish fund. Any sale under the provisions of this section shall operate to free the property sold from any and all liens thereon, and appeal from such order of the district court will lie to the supreme court as in other civil actions. At any time after seizure of the articles specified in this subdivision, and before the hearing herein provided for, the property shall be returned to the owner or person having a legal right to possession thereof, 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.

Sec. 8. Minnesota Statutes 1945, Section 97.55, Subdivision 2, is hereby amended to read as follows:

97.55. Violations; penalties. Subd. 2. Gross misdemeanors. (1) 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 \$1,000, 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.

(2) The following shall be guilty of a gross misdemeanor:

(a) Every person who shall falsely impersonate a game warden 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;

(b) Every person who violates any provision relating to set guns or swivel guns;

(c) Every person who shall unlawfully take, buy, sell, transport or possess beaver, marten, otter, fisher, moose, elk or caribou;

(d) Every person violating the provisions of Section 100.29, subdivision 1, (10) or (11), relating to using an artificial light to locate wild animals, while in possession of a *firearm capable of killing big game animals, or knowingly transporting a big game animal illegally taken, or provisions relating to buying or selling deer or buying fur bearing animals or raw furs*;

(e) Every person violating the provisions of Section 100.29, subdivision 1, (6), relating to hunting while visibly intoxicated, under the influence of narcotics, or who is an habitual user of narcotics.

Sec. 9. Minnesota Statutes 1945, Section 98.46, Subdivision 1, is hereby amended to read as follows:

98.46. Licenses, fees. Subdivision 1. Subject to all applicable provisions of Chapters 97 to 102, the following licenses shall be issued to residents only, upon payment of the fees herein specified:

(1) To take small game, \$1.00;

(2) To take deer with firearms and bow and arrows, \$2.25;

(3) To trap fur bearing animals, except beaver, \$1.00;

- (4) To take fish, \$1.00;
- (5) Sportsmen's license, to include all the privileges granted by licenses issued under (1), (2), (4) and (12), \$5.00, plus any additional fee the licensee, at his option, desires to pay;
- (6) Combination husband and wife, to take fish, \$1.50;
- (7) Individual or family license to harvest wild rice, \$1.00. Identification cards shall be issued without fee to each member of the immediate family of the purchaser of a license to harvest wild rice. The term "immediate family" shall include husband and wife and minor children having their abode and domicile with the parent or legal guardian;
- (8) To *buy* or *sell* raw furs at a definitely established place of business, \$5.00;
- (9) To *buy* or *sell* raw furs anywhere within the state, \$10.00;
- (10) To trap beaver during an open season or by permit when doing damage, \$2.50;
- (11) To take moose, \$5.25;
- (12) To spear fish from a dark house, \$1.00;
- (13) To net whitefish, tullibees or herring from inland lakes or international waters, for domestic use only, for each net, \$1.00;
- (14) To conduct a taxidermist business, \$2.00;
- (15) To maintain fur and game farms, including deer, \$5.00;
- (16) To net for commercial purposes in the boundary waters between Wisconsin and Minnesota from Lake St. Croix to the Iowa border:
 - (a) For each 100 feet of seine not exceeding 500 feet, \$1.00;
 - (b) For each 100 feet of seine in excess of 500 feet, but not over 1,000 feet, \$2.00;
 - (c) For each 100 feet of seine in excess of 1,000 feet, but not over 1,500 feet, \$3.00;
 - (d) For each 100 feet of seine in excess of 1,500 feet but not over 2,000 feet, \$4.00;

- (e) For each 100 feet of seine in excess of 2,000 feet, but not over 2,500 feet, \$5.00;
 - (f) For each 100 feet of seine in excess of 2,500 feet, but not over 4,000 feet, \$6.00;
 - (g) For each gill net not exceeding 500 feet in length, \$2.50;
 - (h) For each gill net exceeding 500 feet, but not over 1,000 feet, \$5.00;
 - (i) For each fyke net or hoop net, \$5.00;
 - (j) For each bait or turtle net, \$1.00;
 - (k) For each set line, \$5.00;
 - (l) *For helper's license, \$5.00;*
- (17) To take mussels or claims, \$5.00;
- (18) To take rough fish with set lines, or seines, in the Mississippi River from the St. Croix River Junction to St. Anthony Falls:
- (a) For each seine, \$10.00;
 - (b) For each set line, \$5.00;
 - (c) *For helper's license, \$5.00;*
- (19) To take rough fish with one set line, containing not more than ten hooks in the Minnesota River from Mankato to its junction with the Mississippi River, and in the Mississippi River from St. Anthony Falls to the St. Croix Junction, for domestic use, \$1.00;
- (20) To net fish in Lake of the Woods:
- (a) For each pound net or trap net, \$35.00;
 - (b) For each fyke net, with both wings or lead, four feet or less, \$5.00;
 - (c) For each fyke net with either wings or lead, over four feet, an additional \$5.00 for each additional two feet or fraction thereof;
 - (d) For each 100 feet of gill net, \$1.50;
 - (e) For helper's license, \$5.00;
- (21) To net fish in Rainy Lake:
- (a) For each pound net, \$35.00;
 - (b) For each 100 feet of gill net, \$1.50;
 - (c) For helper's license, \$5.00;

- (22) To fish commercially in Lake Superior:
 - (a) From a boat 18 feet or less in length, \$10.00;
 - (b) From a boat over 18 feet, but not more than 24 feet in length, \$25.00;
 - (c) From a boat over 24 feet in length, but not more than 35 feet in length, \$50.00;
- (23) To fish commercially in Namakan Lake:
 - (a) For each 100 feet of gill net, \$1.50;
 - (b) For helper's license, \$5.00.

Sec. 10. Minnesota Statutes 1945, Section 98.46, Subdivision 2, is hereby amended to read as follows:

98.46. Licenses, fees. Subd. 2. Subject to all applicable provisions of Chapters 97 to 102, the following licenses shall be issued to non-residents upon payment of the fees herein specified:

- (1) To take small game and unprotected quadrupeds *with firearms and bow and arrows*, \$25.00;
- (2) To take deer *and unprotected quadrupeds* with firearms and bow and arrows, \$50.25;
- (3) To take deer *and unprotected quadrupeds* with a bow and arrows only, \$10.25;
- (4) To take moose in the Northwest Angle, \$50.25;
- (5) To take fish, \$3.00;
- (6) Combination husband and wife, to take fish, \$4.50;
- (7) To *buy or sell* raw furs, \$200.

Sec. 11. Minnesota Statutes 1945, Section 98.46, Subdivision 3, is hereby amended to read as follows:

98.46. Licenses, fees. Subd. 3. Subject to all applicable provisions of Chapters 97 to 102, the following licenses shall be issued to either residents or non-residents upon payment of the fees herein specified.

- (1) To sell live minnows:
 - (a) Local minnow dealer, \$2.50;
 - (b) Itinerant minnow dealer, \$25.00;
- (2) To raise fish in a private hatchery, \$5.00;
- (3) To buy wild rice for the purpose of resale from a person who has harvested the same, \$1.00, if the amount

purchased in a single year does not exceed 1,000 pounds; in excess of 1,000 pounds, \$25.00;

(4) To buy fish from licensed commercial fishermen on Lake Superior for the purpose of resale, \$25.00;

(5) To buy fish from licensed commercial fishermen on Lake of the Woods, Namakan, or Rainy Lake:

(a) Wholesale fish buyer's license, \$100;

(b) Fish buyer's license to ship from one place to another on international waters only, \$10.00;

(c) Fish peddler's license to peddle fish with the use of a motor vehicle, within the state only, \$5.00;

(6) To tan or dress raw furs, \$2.00.

Sec. 12. Minnesota Statutes 1945, Section 98.47, Subdivision 4, is hereby amended to read as follows:

98.47. **Exceptions to license requirements.** Subd. 4. A courtesy non-resident license for taking fish or game may be issued in the discretion of the commissioner, without charge, to any person officially employed in the game and fish or conservation department of another state or of the United States, who is within the state to assist or consult or cooperate with the commissioner, or to the officials of other states, the United States, *foreign countries, or officers, or representatives of conservation organizations or publications while in the state as guests of the governor or commissioner.*

Sec. 13. Minnesota Statutes 1945, Section 98.47, Subdivision 5, is hereby amended to read as follows:

98.47. **Exceptions to license requirements.** Subd. 5. *Licenses to take fish or small game in or upon any boundary waters may be granted to non-residents upon the same terms and conditions as licenses granted by the adjacent state or province to non-residents of such state or province for such waters; provided, that the fees for such licenses granted by this state shall not be less than the fees for corresponding resident licenses.*

Sec. 14. Minnesota Statutes 1945, Section 98.47, Subdivision 9, is hereby amended to read as follows:

98.47. **Exceptions to license requirements.** Subd. 9. *Helpers' licenses shall be issued under Section 98.46, subdivision 1 (16) (1), (18) (c), (20) (e), (21) (c), and (23) (b), to the holder of a master's license, and shall be transferable*

upon his application. Every person assisting the holder of a master's license, in going to and from fishing locations, or in setting or lifting nets, or removing fish from nets, shall have a helper's license, unless he be the holder of a master's license.

Sec. 15. Minnesota Statutes 1945, Section 98.48, is hereby amended to read as follows:

98.48. **Special permits.** The commissioner may, in his discretion, issue special permits under such rules and regulations and in such form as may be prescribed by him, but without fee, except as authorized in (4) and (6), as follows:

(1) To collect specimens of eggs, nests, or wild animals for scientific or exhibition purposes, to any municipal corporation, incorporated society of natural history, high school, college or university, maintaining a zoological collection;

(2) To hold field dog trials by any responsible association organized for that purpose;

(3) To take, possess and transport protected wild animals for scientific, educational or exhibition purposes, or for use as pets, provided no wild or native deer may be taken or possessed for propagation, exhibition or pet purposes, except those now lawfully possessed for such purposes. All animals possessed under authority of this provision, as well as deer now contained on game farms, private and public parks and zoos, and their progeny, or possessed as pets, may be disposed of only as prescribed by the commissioner;

(4) To take any unprotected wild animals or fur bearing animals from game refuges or state parks in accordance with rules, regulations or fees as prescribed by the commissioner;

(5) To take any protected wild animals which are doing damage to private or public property, except that as to beaver the regular license and seal provisions shall apply;

(6) To take muskrats from shallow marshes or sloughs when in danger of freezing out or starving in the winter, in accordance with rules, regulations or fees as prescribed by the Commissioner;

(7) To keep and possess a raccoon and to use the same for the purpose of training dogs for hunting raccoons;

(8) To establish and conduct rifle ranges or trap shooting premises by duly organized gun clubs of ten or more members on lands owned or leased for that purpose by such clubs within two miles of any city of the first class;

(9) To gather or harvest any aquatic plants or bulbs other than wild rice from public waters of the state, to transplant the same into other public waters, or to destroy any aquatic vegetation or plants in public waters;

(10) To take animals on which the state pays a bounty from an airplane;

(11) *To authorize the director of the United States Fish and Wildlife Service and his duly authorized agents or any other authorized officer or agent of the United States to conduct fish cultural operations, rescue work, and all fishing and other operations necessary therefor, any other laws of the state to the contrary notwithstanding.*

Sec. 16. Minnesota Statutes 1945, Section 98.51, Subdivision 1, is hereby amended to read as follows:

98.51. Reports and records. Subdivision 1. Every person who has taken any protected quadruped or bird shall on or before the last day of January each year, mail or deliver to the commissioner a written report on a form furnished him, stating the number and kind of each protected quadruped or bird taken during the preceding calendar year.

Sec. 17. Minnesota Statutes 1945, Section 98.51, Subdivision 2, is hereby amended to read as follows: .

98.51. Reports and records. Subd. 2. Every person who is required by Chapters 97 to 102 to obtain a license for buying or selling any wild animals *or other things or substances, or for tanning or dressing raw furs, or mounting specimens of wild animals*, shall keep a correct and complete book record in the English language of all transactions *and activities covered by the license* as carried on by the licensee. Such records shall show from whom obtained and to whom disposed of, giving the postoffice addresses, together with the date of receipt, shipping or sale of such animals, a detailed account as to the number and kinds thereof contained in each shipment, purchase, or sale, and the serial number of each seal, tag, or permit, where such seal, tag, or permit is required to be affixed to the wild animals handled. Provided a licensed fur dealer, buying for one employer only, at his established place of business, need not keep a separate book record if the employer shall first notify the commissioner in writing of the fact of such employment and his agreement to identify in his own records each transaction of the employee so excepted. All records required hereby shall be open for inspection by the commissioner, director, or their agents at all

reasonable hours. They shall be kept intact for a period of two years after the expiration of any license issued.

Sec. 18. Minnesota Statutes 1945, Section 99.25, Subdivision 7, is hereby amended to read as follows:

99.25. **Game refuges; establishment and vacation.** Subd. 7. No state game refuge shall become effective as such until the boundaries thereof have been posted with notices consisting of black letters upon a white background at least 12 inches in diameter. Such signs shall proclaim the area as a state park, or state game refuge, as the case may be, and shall be posted at intervals of not more than 30 rods around the boundaries, as well as at all public road entrances to such areas. The certificate of the *commissioner, the director, or a game warden, refuge supervisor or patrolman, or other authorized officer or employee* stating the completion of such posting, or a certified copy of such certificate filed with the *commissioner or director* shall be prima facie evidence of such posting.

Sec. 19. Minnesota Statutes 1945, Section 99.25, Subdivision 8, is hereby amended to read as follows:

99.25. **Game refuges; establishment and vacation.** Subd. 8. Any state game refuge may be vacated, or modified as to boundary, by order of the commissioner, upon observance of the same formalities as are required for its establishment; *provided, that any refuge established under subdivision 2 or 3 may be vacated or modified by order of the commissioner, in his discretion*

Sec. 20. Minnesota Statutes 1945, Section 99.26, Subdivision 1, is hereby amended to read as follows:

99.26. **Game refuges, protection on.** Subdivision 1. Except as otherwise permitted by Chapters 97 to 102, no person shall take any wild animal, except fish, upon any state game refuge, nor carry any firearm thereon *unless unloaded and contained in a case or unloaded and broken down.*

Sec. 21. Minnesota Statutes 1945, Section 100.27, Subdivision 3, is hereby amended to read as follows:

100.27. **Seasons.** Subd. 3. The following animals may be taken and possessed, subject to all other provisions of Chapters 97 to 102, between the dates set opposite the species:

(1) Grey and fox squirrels, October 15th and December 31st;

- (2) Raccoon, *November 1st* and December 1st;
- (3) Skunk and badger, *November 1st* and March 1st;
- (4) *Jack rabbits, cottontail rabbits and varying hare or snowshoe rabbits, September 16th and March 1st.*

Sec. 22. Minnesota Statutes 1945, Section 100.27, Subdivision 6, is hereby amended to read as follows:

100.27. Seasons. Subd. 6. All migratory game birds, *excepting mourning doves* may be taken and possessed whenever and so long as the taking or possession is not prohibited by federal laws or regulations, subject, however, to all requirements of Chapters 97 to 102, *provided that it shall be unlawful to take any migratory game birds at any time in violation of any federal law or regulation. Mourning doves shall not be taken and possessed in the state.*

Sec. 23. Minnesota Statutes 1945, Section 100.29, Subdivision 1, is hereby amended to read as follows:

100.29. Restrictions and prohibitions. Subdivision 1. It shall be unlawful:

(1) To take protected wild animals, except raccoon, with the use of a gun or bow and arrows between sunset and one-half hour before sunrise;

(2) To take protected wild animals with a gun larger in bore than a 10 gauge or not fired from the shoulder;

(3) To have in possession out of doors, unless unloaded and contained in a gun case, or unloaded and broken down, any rifle, or shotgun with slugs, in any territory wherein there is an open season for taking deer with firearms, for a period of ten days preceding and five days succeeding such season;

(4) To use, own or possess any type of silencer for a firearm, or to possess any firearm equipped to have a silencer attached;

(5) To take any wild animal or discharge any firearm thereat from a motor vehicle or airplane, or to transport any firearm except a pistol or revolver in a motor vehicle or airplane, unless the same is unloaded in both barrels and magazine and taken apart or contained in a gun case;

(6) To hunt protected wild animals with a firearm or bow and arrows while visibly intoxicated, under the influence of narcotics, or if an habitual user of narcotics;

(7) To hunt deer during the bow and arrows season while in possession of, or having under control, any firearm, or with any bow drawn, held or released by a mechanical device, or to hunt deer with any poisoned arrow or arrow with explosive tip or with an arrow other than a sharpened steel, broad head blade, not less than seven-eighths inches nor more than one and one-half inches in width;

(8) To hunt or trap, or assist therein, in any territory open for the taking of deer with the use of firearms, during such open season, unless at least 50 per cent of the visible portion of the hunting cap, and at least 50 per cent of the jacket, excluding the sleeves, shall be red or covered with red, *providing that from and after October 1, 1949, the visible portion of the hunting cap or jacket shall be scarlet or bright red or covered therewith, and any hunting coat shall be scarlet or bright red or made of a material the area of which is at least three quarters solid scarlet or bright red.*

(9) To take deer or any other wild animal during deer season in open deer hunting territory with a rifle or firearm which discharges a projectile, the diameter of which is less than twenty-three hundredths of an inch, or to use any cartridge less than one and three-fourths inches in length, and not containing a soft point or expanding bullet, the measurement to include the cartridge or shell and the bullet seated in the usual manner, provided cartridges of 35 caliber or larger may be used, regardless of length, or to use shells containing buckshot, or fine shot except for game birds;

(10) To throw or cast the rays of a spotlight, headlight or other artificial light on any highway, or in any field, woodland, or forest, for the purpose of spotting, locating or taking any wild animal, except raccoons when treed with the aid of dogs, while having in possession or under control, either singly or as one of a group of persons, any firearm or other implement whereby big game could be killed, unless the same is unloaded in both barrels and magazine and properly encased or broken down;

(11) To knowingly transport, either singly or as one of a group of persons, any big game animal taken in violation of Chapters 97 to 102 or *fur bearing animal or raw fur illegally purchased*;

(12) To take deer with the aid of any snare, trap, set gun or swivel gun;

(13) To snare for wolves or other wild animals in any runway used by deer, or to use any snare with a greater

maximum diameter than 12 inches, or with the top of the loop higher than 24 inches above the ground, or to use a spring pole with any snare;

(14) To take deer from any artificial scaffold, platform, or other construction higher than six feet above the ground, or with the aid of dogs or horses;

(15) To take any raccoon in any manner in a den or hollow tree or cut down any tree inhabited or occupied by raccoon; or to set any trap for raccoon in or under water or in any muskrat runway; or to set fire to any tree or use smoke to take raccoons or squirrels;

(16) To trap, net or snare any protected birds, or to use any bird lime, swivel or set gun, for taking such birds; to flush protected birds by dragging a rope, wire or other instrumentality across a field inhabited by them.

(17) To take migratory waterfowl and rails in open water when the hunter is not within a natural growth of weeds, rushes, flags or other vegetation sufficient to partially conceal the hunter or boat, or from a permanent artificial blind or sink box built in public waters, provided pursuing or shooting wounded birds in open water in a boat or canoe is permitted;

(18) To place decoys or erect blinds in public waters more than one hour before the open season for waterfowl.

Sec. 24. Minnesota Statutes 1945, Section 101.42, subdivision 3, is hereby amended to read as follows:

101.42. **Restrictions and prohibitions.** Subd. 3. Except as otherwise specifically permitted, it shall be unlawful:

(1) To take fish of any kind in any manner, by the use or with the aid of artificial lights of any kind;

(2) To take fish with the use of any snagline or snaggpole, snaghook or cluster of fish hooks, designed to be placed in or drawn through the water for the purpose of catching such hooks into the body of fish;

(3) To take minnows with a seine more than 25 feet in length or more than four feet in depth, or from waters inhabited by trout; to possess or transport minnows for sale except with the use of equipment approved by regulations of the commissioner; to take minnows from any lake contain-

ing game fish from one hour after sunset to one-half hour before sunrise;

(4) To use game fish, gold fish or carp minnows, or any live minnows imported from other states for bait purposes, or to possess or transport the same for sale;

(5) To buy or sell any fish taken from the waters of this state, except rough fish and minnows, fish raised in a private hatchery when tagged or labeled as prescribed by the commissioner, fish taken under licensed commercial fishing operations, or lawfully taken and subject to sale from other states or countries; provided, black bass, rock bass, muskellunge, crappies, sturgeon and sunfish may not be bought or sold in this state;

(6) To take trout, except lake trout, between 9:00 o'clock P. M., Central Standard Time, and one hour before sunrise;

(7) To take fish of any variety from any stream designated by order of the commissioner as a trout stream, except during the open season for taking trout;

(8) To place carp of any size in any public waters of the state, or to return carp to any such waters after they are caught;

(9) To take fish by means of explosive, drugs, poisons, lime, medicated bait, fish berries, or other deleterious substances, or by nets, traps, tip-ups, trot lines, set lines, wires, springs, ropes or cables, except as expressly authorized. Possession of any such substances or contrivances by any persons on any waters of this state, their shores or islands, shall be presumptive evidence that the same are possessed in violation of this provision; provided, a line with a single hook, used for angling through the ice, shall not be deemed a set line if the owner of the line is within sight of the line;

(10) To possess any fish net, except minnow nets, landing nets, dip nets, or nets held in stock for sale by dealers, unless there is attached a tag or seal issued by the commissioner for the current year, in accordance with regulations to be prescribed by him. Nets so tagged or sealed may not be loaned to, transferred to, or possessed by another, except upon written permission from the commissioner;

(11) To construct or maintain any dam in any public stream or river without complying with all written directions of the commissioner concerning the construction or modification of any fishway around or over such dam;

(12) To take any fish within 50 feet of any fishway;

(13) To take fish from any waters designated or marked as spawning beds or fish preserves, or to remove or mutilate any such posted notices, except under the direction of the commissioner;

(14) To use a dark house without the number of the dark house license, and the name of the owner, plainly marked on its exterior; *or to angle from a dark house; or to angle from a fish house or shelter unless the door thereto is latched so as to be opened from the outside at all times and no person shall permit a house to remain on the ice more than 15 days after the close of the season. Any person may, and it shall be the duty of every game warden to summarily destroy any house left on the ice more than 15 days after the close of the season.*

(15) To throw or allow to run into any of the waters of this state any refuse, sawdust, shavings, tan bark, lime, or other deleterious or poisonous substances or chemicals in quantities injurious to fish life therein, or injurious to the propagation of fish therein. Each day during which an act or operation in violation of this provision occurs shall constitute a separate and distinct offense. Recurrent violations shall be deemed a public nuisance and an action may be brought by the attorney general on the request of the commissioner to enjoin and abate such nuisance.

Sec. 25. Minnesota Statutes 1945, Section 84.025, Subdivision 5, is hereby amended to read as follows:

84.025. Creation and organization. Subd. 5. Assistants. The commissioner may employ such other assistants as may be necessary for his administrative staff and for the performance of such other functions of the commissioner or the department as are not assigned to the several divisions.

Sec. 26. Severable. The omission from any section or subdivision of this act of any amendment to such section or subdivision made by any other act passed at the same session of the legislature shall not be construed as modifying, superseding, or repealing such amendment.

Approved April 28, 1947.