

## CHAPTER 302—H. F. No. 81

*An act relating to wild animals, providing for the issuance of resident licenses.*

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

**Section 1. Resident licenses to non-residents in certain cases.**—A resident license for the taking of fish may be issued by and in the discretion of the director of the division of game and fish to any soldier, sailor, marine or other person in the military service or civilian conservation corps of the United States, who has been officially transferred to and is stationed in the state of Minnesota, or to any person officially employed in the game and fish or conservation department of another state or of the United States who is in the state of Minnesota to assist, consult or cooperate with the director of game and fish or the commissioner of conservation.

**Sec. 2. Shall be marked "Courtesy Resident Licenses."**—Any person licensed hereunder shall be deemed to be a resident within the meaning and provisions of all laws or regulations governing fish and any license issued hereunder shall be plainly marked with the words "Courtesy Resident License"; provided, further, that the director of game and fish may require the submission of certified copies of transfer orders or affidavits relative to residence intent or purpose of presence in the state or any other evidence he may deem desirable to demonstrate the fact that the applicant for such license comes within the terms of this act.

Approved April 18, 1941.

## CHAPTER 303—H. F. No. 350

*An act relating to wild animals and regulating commercial fishing in the Lake of the Woods, Rainy Lake and Namekan Lake; amending Mason's Minnesota Statutes of 1927, Section 5598, as amended.*

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

**Section 1. Law amended.**—Mason's Minnesota Statutes of 1927, Section 5598, as amended by Laws 1931, Chapter 180, is hereby amended to read as follows:

"5598. **Open season for fishing.**—Any variety of fish, except black bass, rockbass, muskellunge, crappies, sturgeon and sunfish, may be taken by residents of Minnesota who are citizens of the United States, by means of pound nets, gill nets and fyke nets, except during the months of *January to May inclusive*, in Lake of the Woods and during the months of November, April and the first 15 days in May in Rainy Lake and Namekan Lake, provided a license to do so shall first be obtained from the *director of game and fish*; provided that if the season for the commercial taking of any such fish shall be open in the Canadian portion of *Rainy Lake and Namekan Lake* during any time when the season is closed in the Minnesota portion thereof, as herein provided, the *director of game and fish* may, in his discretion, open the season in the Minnesota portion of said waters during all or any part of such Canadian open season. *Provided further the director of game and fish may, by order, prohibit the taking of tullibees during the months of November and December from Lake of the Woods whenever the numbers of said fish are reduced to a point where in his judgment the additional protection so extended is necessary to protect that species against undue depletion.*

Subdivision 1. Such license shall be procured from the *director of game and fish*. The applicant shall make a written application to the *director of game and fish*, stating the location in which he desires to fish, size, and kind of each net he proposes to use, and shall pay the following license fees:

(a) For each pound net, the sum of \$35.00.

(b) For fyke nets with four-foot hoop or less, the sum of \$5.00, over four to six-foot hoop the sum of \$10.00, over six to eight-foot hoop, the sum of \$15.00;

(c) Provided, that in Lake of the Woods the fees for fyke nets shall be as follows, according to the height of the wings and lead, based on whichever thereof is the highest, four feet or less \$5.00, and an additional \$5.00 for each additional two feet or fraction thereof, but not exceeding \$25.00 for any one net.

(d) For each 100 feet of gill net, the sum of \$1.50.

(e) *In addition to the foregoing fees, each licensed fisherman on the Lake of the Woods shall pay the sum of \$20.00 each year, which sum shall be so earmarked when remitted to and deposited in the state treasury and credited to the proper fund as to be available only for the maintenance and operation of the state-owned fish hatchery located at Baudette,*

*Minnesota, in Lake of the Woods county, and said sum so earmarked may be used only for the operation and maintenance of said hatchery.*

If a license is revoked or cancelled, it shall not be issued to any other applicant during the year for which it was originally issued. No license herein provided for shall be granted an applicant until the *director of game and fish* is satisfied that such applicant has equipped himself in accordance with the requirements of this section as hereinafter provided.

Subdivision 2. The size of the nets and the size of mesh of nets shall be as follows: Pound nets, not less than one and one-half inches bar measure or three inches stretched measure in the pound. Pound nets may be set in strings in Lake of the Woods, but there shall not be more than two nets to each such string. The shore lead shall not exceed 60 rods and the leads between the pots shall not exceed 50 rods. A licensee shall not set single pound nets or a string of two pound nets, less than 2500 feet from another single pound net or string of pound nets, either of his own or from the nets of some pound net licensee. Only one pound net licensee shall fish his pound nets in the same section of water, nor shall more than one such licensee operate from, sort his fish in, or in any other way pertaining to his fishing enterprise, use the same pound net station. In lakes other than Lake of the Woods, not more than one license shall be issued for any one section. A pound net licensee shall remove from the water all his pound net stakes, to which his nets have been attached, before December 30th in the year of his license. If a pound net licensee intends to operate his pound nets during the winter season he may have such stakes as he intends to use, in the water, provided he has first secured in writing the permission of the *director of game and fish* so to do.

Gill Nets: Not less than four inches stretched measure for taking pickerel *wall-eyed pike, saugers or sand pike and perch* and not less than five inches for taking whitefish. There shall be no limitation on the length of any gill net excepting the limit provided in the license of the user, *but no gill net used shall have a greater depth than 50 meshes*. No gill net shall be set within 2,500 feet of a duly licensed pound net provided the pound net is in its rightful location under license, and is in operation. No person who is not himself the holder of a gill net license under this act *except he be the holder of a "helper's license" as hereinafter provided* shall in any manner assist any holder of such license in setting, lifting, or otherwise operating any gill net for taking fish under this act,

provided, however, that in the event of the holder of a gill net license becoming incapacitated the local game warden may authorize some person to lift any net that may have been set by the holder of such license.

**Fyke Nets:** Not less than two inches extension measure. The hoop of such nets shall not be more than eight feet in height. The wings leading from the hoop shall not be more than 100 feet in length and said wings shall not be any higher than the hoop. It shall be optional with the user of fyke nets to use either wings or one lead, or both, but said lead shall not be more than 300 feet in length and no higher than the hoop, provided, that in waters of Lake of the Woods there shall be no restrictions as to height of leads or wings on fyke nets, and leads may be not more than 400 feet in length.

**Subdivision 3.** Licenses for more than six pound nets, or for more than 4,000 feet of gill nets or for more than ten fyke nets shall not be issued to any one applicant, provided that license for only 1,000 feet of gill net shall be issued to anyone having a license for 10 fyke nets; provided, however, that a license for only six fyke nets shall be issued to anyone having a license for more than 1,000 feet of gill nets. No licensee shall operate more than one pound net station, nor shall such licensee be interested directly or indirectly, either by contract, lease or otherwise, in the ownership, control or operation of any other station than his own. A pound net station is the buildings, where and in which a pound net licensee keeps his fishing equipment, nets and boats, and sorts or preserves his fish. No pound net license shall be granted until the applicant shall have satisfied the *director of game and fish* that he has equipped himself with a pound net station. An applicant may lease a station and equipment from anyone who is not a pound net licensee. No pound net licensee shall use or permit to be used his fishing equipment, nets or boats at any such station other than his own or the one he operates under a lease, except in cases of emergency. Each licensee shall designate in his application the approximate location at which he intends to set gill, pound or fyke nets and he shall not set the same elsewhere, except with the consent of the *director of game and fish*. Licenses shall not be issued in excess of the following for each body of water named:

Lake of the Woods: 60 pound nets, 90,000 feet of gill nets, 100 fyke nets.

Rainy Lake: 20 pound nets, 20,000 feet of gill nets.

Namekan Lake: 5 pound nets, 12,000 feet of gill nets.

No person shall be granted licenses to fish both pound and gill nets, or pound and fyke nets, but holders of gill net licenses may be licensed to fish fyke nets. All licenses for pound, gill, or fyke nets shall become void and nets used under such license shall be subject to seizure and confiscation, and license revert to the state, except as hereinafter specified unless the licensee devotes his personal attention to fishing under such licenses. Unless a licensee begins fishing his nets within 30 days after the opening of the season, his license shall be cancelled by the *director of game and fish*. Personal attention to fishing is hereby defined to mean that the licensee shall, in person, attend to the sorting, caring for, and packing of fish caught in his nets in the station to which said fish are first brought, and to the marketing thereof, with such assistance as he may need to carry on his fishing enterprise. The provisions of this paragraph relating to the holding of both pound, gill and fyke nets by the same licensee, shall not apply to Rainy Lake, and tributary waters thereof.

No license issued hereunder shall be transferable, and an assignment or attempted transfer of any rights under such license shall subject it to cancellation. No licensee shall assign, transfer, or attempt so to do, any license or any rights therein issued to him. A commercial fisherman holding a license to fish shall not sell in his own name any fish caught by another such licensee, or caught by anyone not holding such a license. *Every person assisting the holder of a commercial fishing license, except another licensed commercial fisherman, in going to and from the fishing locations or who assists in setting and lifting of nets or removal of fish from nets shall have a license so to do, which license shall be designated as a "helper's license" which shall be procured by the holder of a commercial fishing license and for which there shall be paid the sum of \$1.00. Such licenses may be transferred upon application made by the holder of the commercial fishing license without any additional charge. Application for the helper's license shall be made to the director of game and fish and shall give the name and residence of the applicant, name of the person holding the commercial fishing license employing him, if a resident of Minnesota and a citizen of the United States. No such license shall be issued for any non-resident or for any alien who has not duly declared his intention of becoming a citizen of the United States or who has failed to qualify as a citizen within the length of time in which he may legally do so.*

Subdivision 4. Numbered metal tags shall be furnished by the *director of game and fish* to each person to whom a

license is issued. One such tag shall be attached by the licensee to each pound and fyke net and two tags to each gang of gill net, and shall be kept thereon during all the time the same are in use. The year for which the licenses are issued shall be stamped on each metal tag. Any pound, fyke, or gill nets fished without tags shall be contraband and subject to confiscation.

All gill net licenses may have double the amount of gill nets *authorized for the taking of pike and for the taking of white fish* in running feet in his possession that his license calls for, but no more; but he shall at no time fish any more nets than the amount stated in his license. The *director of game and fish* shall issue two metal tags, numbered and stamped "A" for each 1,000 feet of gill net granted an applicant, and two tags, numbered and stamped "B" for an additional 1,000 feet of gill net the owner of a license is allowed to have in his possession. If a licensee desires to fish strings of gill nets shorter than 1,000 feet he may make application in writing to the *director of game and fish* for "A" and "B" tags for such length of net that he wished to operate, and the *director of game and fish* may issue such additional tags. These tags shall be fastened to a buoy attached to each end of each 1,000 feet of net, said buoy to extend at least two feet above water when the net is in use, with a white flag not less than 12 by 12 inches at the top end of each buoy. These tags, "A" and "B", as the case may be, shall be on the buoys of the nets that are in the water fishing and on the nets that are on the shore drying, and the tags on the gangs of nets shall be so attached as to be visible when the nets are in boxes or on the net reel. Any nets not tagged in the possession of a licensee, in his boat or building, or on his premises, shall be contraband, and the same may be confiscated.

Subdivision 5. No net shall be used or set within 500 feet of the mouth of any stream, nor any net within two miles of the mouth of the Warroad River in Lake of the Woods. The mouth of the Warroad River in Lake of the Woods is hereby designated and fixed at the outside end of the breakwater therein. No nets shall be used within two miles of the mouth of Rainy River. The mouth of the Rainy River is hereby designated and fixed at a point in the international boundary line east of the eastern extremity of Oak Point. Said limit shall not apply to Four Mile Bay. *No nets shall be used within 80 rods of Morris' Gap in Lake of the Woods. Morris' Gap is hereby designated as the span of water between the easterly tip of Morris' Point and the westerly tip of Pine Island.* No nets shall be used elsewhere than as stated in the license,

except the written consent of the *director of game and fish* be first obtained. Fish houses may be erected and used in such fishing, subject to the laws relating to fish houses in other waters.

Subdivision 6. Fish so taken may be had in possession, transported, bought and sold during such fishing season, and may be transported, possessed, bought and sold, but not taken for a period of seven days after the close of the fishing season. Such fish may be frozen or cured during the open season and said frozen or cured fish may be transported, bought, and sold at any time.

Subdivision 7. No person other than the licensee or his agent, shall take or remove any fish nets duly licensed hereunder by the *director of game and fish*, nor remove any fish from such nets, nor shall any person knowingly injure, obstruct, disturb, or interfere with such nets. A licensee shall not, knowingly, set his fyke nets, or his gang of gill nets within 500 feet from another licensee's fyke or gill nets, provided such fyke or gill nets are in their rightful place in the water and fishing.

Subdivision 8. Written reports, on or before fifteen days after the close of each season herein named, shall be made to the *director of game and fish* on blanks prepared by him, at the end of each season, stating in detail the total amount and kinds of fish caught, the amount for which such fish were sold, and the total value of each kind. A licensee who wilfully fails or neglects to make such reports shall not be granted a license, as provided for in this section, for one year thereafter.

All persons licensed to take fish for commercial purposes in international waters shall, as a condition of such licenses, when requested of them by the *director of game and fish*, and when it can be done in connection with licensed commercial fishing, take eggs of fish for propagation purposes under such rules and regulations as the *director of game and fish* may prescribe.

Subdivision 9. The *director of game and fish* shall grant all applications for license to fish not to exceed 100 feet of gill net or one fyke net in Lake of the Woods, and Rainy Lake, for domestic use of the applicant and his family, irrespective of the provisions of the section covering the amount of gill and fyke nets to be used in commercial fishing, if the applicant is otherwise entitled to a license, but no such licenses shall be granted to any commercial fisherman.

Subdivision 10. The *director of game and fish* is hereby authorized to close the season when sturgeon may be taken

to conform with the laws or rules of the Department of Game and Fish of the Province of Ontario, Canada.

Subdivision 11. No person, company, or corporation shall engage in the business of buying fish *direct from the licensed fisherman operating* under commercial fishing licenses in international waters for the purpose of shipping and reselling such fish, and no fish peddler shall engage in the business of peddling such fish until he, or they, as the case may be, shall have procured a license to do so from the *director of game and fish*.

Fees payable to the *director of game and fish* for such license shall be as follows: For a wholesale fish buyer's license who buys his fish direct from licensed fishermen, \$25.00. For a resident fish buyer's license who ships such fish from one place to another on international waters only \$10.00. For a fish peddler's license who peddles such fish with the use of a motor vehicle, \$5.00. Such fish buyers' licenses shall be issued for the commercial fishing period in international waters; but no such license shall be required by a commercial fisherman who sells or peddles his own fish. All fish buyers shall furnish to the *director of game and fish* such reports as he may require for statistical purposes, on blanks furnished them for that purpose.

Subdivision 12. Any person, company, or corporation granted a license to buy fish shall keep books and records which shall correctly set forth the names of those persons from whom fish are bought, the amount and kind of fish bought, with the amount paid for each kind of fish.

Subdivision 13. A fish buyers license shall at all reasonable hours allow the *director of game and fish*, or any authorized employee of the State Game and Fish Department, to enter and inspect the premises and buildings where fish buying is being carried on under this section and to inspect the books and records of such licensee relating thereto.

Subdivision 14. No fish shall be taken in international waters, killed, possessed, bought, or sold, of less size than hereinafter provided. All such undersized fish shall be returned unharmed to the water immediately upon being taken from the net. Whitefish, not less than 16 inches in length; walleyed pike, *not less than 15 inches in length*; and pickerel, not less than 18 inches in length; and sand pike or sauger, not less than 12 inches in length; perch, *not less than 8 inches in length*; bullheads, not less than ten inches in length, measurements to be made from tip of the nose to fork of tail. *Provided*

*further that in Lake of the Woods no walleyed pike longer than 27 inches may be possessed, bought or sold.*

Subdivision 15. No one shall throw overboard, carry, leave or deposit, or cause to be thrown overboard, carried, left or deposited in international waters, upon the shore, beach, or bank or upon any island of said waters, dead fish, remains or offal of fish, or leave decayed or decaying fish in any net; provided that such dead fish, remains or offal thereof, may be buried ashore, or may be disposed of in such manner as the *director of game and fish* may prescribe.

Subdivision 16. A person who buys, offers to buy, sells, offers for sale, takes, possesses or transports any fish in violation of this section, or who violates any provision of, or fails to perform any duty imposed by this section, or any person who attempts to do so, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 or imprisonment in the county jail for not less than 60 days. Upon conviction of any person for any violation under any license issued to such person under this section such person shall pay a fine of not less than fifty dollars or imprisonment in the county jail for not less than 60 days, and upon conviction, any license issued to any person under this section shall become null and void, and no such license shall be issued to any such person for a period of one year from such conviction, *unless the director of game and fish shall find that the re-issuance or reinstatement of any such license shall not conflict with the public interest.*

Subdivision 17. *Possession of any net or equipment declared illegal under the provisions of this act by any person at any place within ten miles of any portion of the Lake of the Woods, Rainy Lake or Namekan Lake, shall be unlawful and subject to seizure whenever found. All equipment including boats, motors, motor boats, used and possessed in violation of the provisions of this act are hereby declared to be a public nuisance and subject to seizure and confiscation in accordance with law and the provisions of this act. All motors, motor boats, declared to be a public nuisance under the provisions of this act, shall be seized and held subject to the order of the district court of the county in which the offense was committed and may be confiscated after conviction, if the court shall so direct. Provided, however, that the director of game and fish, his deputy or game wardens or agents, prior to any order directing confiscation, shall have made and filed with the court a separate complaint against such property, describing the same and charging the use thereof in violation of the*

provisions of this act, specifying substantially the time and place of such unlawful use. A copy of such complaint shall be served upon the defendant or person in charge of such property at the time of seizure, if any. If the person so arrested shall be acquitted, the court shall dismiss the complaint against such property and order the same returned to the person or persons legally entitled thereto. Upon conviction of any person so 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 such property and to persons unknown claiming any such right, title, interest or lien, describing such property and stating that the same was seized and that a complaint against the same charging violation of the provisions of this act has been filed with the court and requiring such persons to file with the clerk of said court their answer to said complaint, setting forth any claim they may have to any right or title to or 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 said time, such property will be ordered sold by the director of game and fish or his agents and the proceeds of such sale paid in to the state treasury and credited to the game and fish fund. The court shall cause said order to be served upon any such person known or believed to have any such 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 within the time prescribed, the court shall, upon affidavit by the clerk of said court being filed in his office setting forth such fact, order such property sold by the director of game and fish or his agents and the proceeds of such sale, after deducting the expense of keeping the property and fees and costs of sale, paid in to the state treasury and 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 other civil actions. If the court shall find that said property or any part thereof was used in violation of the provisions of this act, 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 such property was used or intended to be used in violation of the act. 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 said hearing as being bona fide and as existing without the lienor having any notice or knowledge that any such property was being used or was to be used for or in connection with any violation of this act and shall pay the balance of the proceeds in to the state treasury, there 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 and all liens thereon. An appeal from such order of the district court will lie to the supreme court as in other civil actions.*

Subdivision 18. No person shall ship by common carrier within or without the state, any fish of any variety, in any package, sack, box, crate, trunk, or other receptacle or covering unless there shall be plainly marked on the same the name and address of the consignor and consignee with the number of pounds of each kind of fish contained therein.

Approved April 18, 1941.

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#### CHAPTER 304—H. F. No. 531

*An act relating to the appointment and salaries of deputies and other employees in the sheriff's office of counties of 380,000 or more inhabitants; amending Mason's Supplement 1940, Section 923-4.*

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

Section 1. **Law amended.**—Mason's Supplement 1940, Section 923-4, is hereby amended to read as follows:

**"923-4. Deputies in sheriff's office in Ramsey County.**—*In any county of the state containing 380,000 or more inhabitants, the sheriff shall appoint and employ one chief deputy who shall be paid the sum of \$3,270 per annum; one tavern inspector deputy who shall be paid the sum of \$2,400 per annum to inspect licenses and the operation of taverns, road-houses and places where non-intoxicating beverages and/or intoxicating liquors are sold; one assistant chief deputy and auditor who shall be paid the sum of \$2,350 per annum; one assistant bookkeeper who shall be paid the sum of \$1,987 per annum; one special deputy who shall be paid the sum of \$1,762*